

# Doc 2 Doc Dial-in Discussion Series

## Session 1:

Integration and Privacy: 42 CFR Now  
and in the Future

## Learning Objectives:

- Understand the difference between HIPAA and 42-CFR Part 2
- Understand how to effectively coordinate care within the limitations of federal and state privacy laws/regulations
- Learn strategies to integrating informed consent into their routine practice

# CONFIDENTIALITY

- Two Federal Laws govern the confidentiality of health information, including patient records:
  - **HIPAA**
    - Minimum of safeguards to protect privacy of protected health information (PHI)
    - Establishes patient rights
  - **42 C.F.R. Part 2**
    - Protects alcohol and drug treatment and prevention information
    - Applies to “programs” that are “federally assisted”

# 42 C.F.R. Part 2 Covered Programs

1. Individual or entity not part of a general medical facility that holds itself out as providing drug or alcohol diagnosis, treatment, or referrals.
  - Freestanding treatment program; Physician with drug treatment as primary practice
2. An identified unit in a general medical facility that...
  - Inpatient detoxification unit
3. Medical personnel in a general medical facility whose primary function is the provision of...
  - Addiction specialist in community health center

# 42 C.F.R. Part 2 Federally Assisted

- Receives federal funds in any form for any type of services, not just drug or alcohol treatment services
- Authorized, licensed, certified, or registered by the federal government
  - IRS tax-exempt status
  - Opioid Treatment Program certification
  - DEA registration
  - Medicaid or Medicare reimbursement

# 42 C.F.R. Part 2 Exemptions

- The following conditions permit disclosures:
  - Written consent
  - Internal communications
  - Medical emergencies
  - Qualified Service Organization Agreements
  - Crime on premises or against personnel
  - No patient-identifying information
  - Research / Audit
  - Mandated reporting of child abuse or neglect
  - Court order

# 42 C.F.R. Part 2 Written Consent

## Proper Format for Consent to Release Information:

1. Name of program making disclosure
2. Name of individual / entity receiving disclosure
3. Name of patient who is subject of disclosure
4. Purpose for disclosure
5. Description of how much and type of information
6. Right to revoke consent
7. Date / event / condition when expires
8. Date signed

# 42 C.F.R. Part 2 Consent Language

“This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.”

# 42 C.F.R. Part 2 Inadvertent Disclosures

- The following practices may protect against inadvertent disclosures:
  - Staff training on Confidentiality & 42 CFR
    - Include common scenarios with scripted language
  - Readily accessible forms & staff to assist
  - Specific notices to prohibit re-disclosure when releasing information to another provider



# The Future of 42 C.F.R. Part 2

- Remains critical to maintaining strong confidentiality protections for drug and alcohol treatment records
- Population-based health delivery models are based in improved communication and integration
- Electronic health record systems to be designed with specific elements and exemptions in mind

# 42 C.F.R. Part 2 Q & A

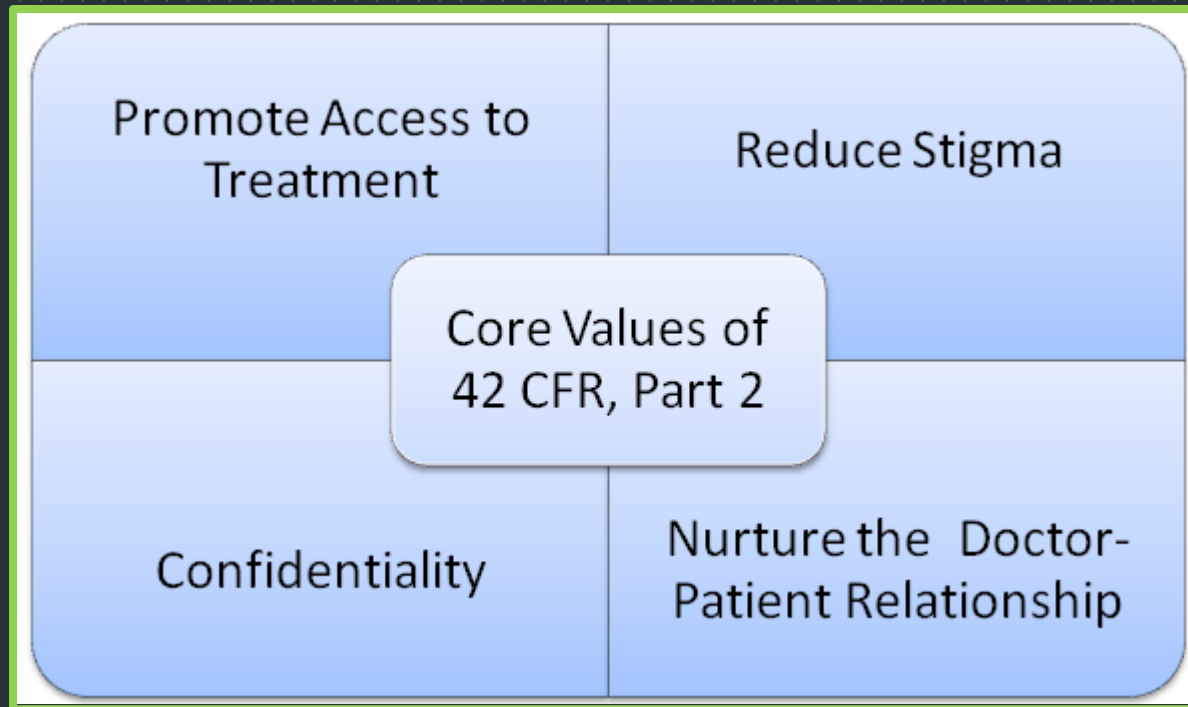


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