

What is 42 CFR Part 2?

42 CFR Part (Confidentiality of Substance Use Disorder Patient Records) is a federal regulation that governs confidentiality for individuals seeking treatment for substance use disorders, including drug and alcohol use, from federally assisted programs.

What is SAMHSA?

The Substance Abuse and Mental Health Services Administration (*SAMHSA*) is the agency within the U.S. Department of Health and Human Services that leads public health efforts to advance the behavioral health of the nation. <https://www.samhsa.gov/>

What is OASAS?

OASAS is the New York State Office of Alcoholism and Substance Abuse Services. The agency inspects and monitors the over 900 chemical dependence treatment programs to guarantee quality of care and to ensure compliance with state and national standards. OASAS is the single designated state agency responsible for the coordination of state-federal relations in the area of addiction services.

How do I know if I or my organization is subject to 42 CFR Part 2?

42 CFR Part 2 applies to any individual or entity that is federally assisted and holds itself out as providing and provides alcohol or drug abuse diagnosis, treatment or referral for treatment. The link below identifies those NYS licensed facilities that are subject to the 42 CFR Part 2 rules:

https://oasas.ny.gov/providerdirectory/index.dfm#search_results

What patient information is subject to 42 CFR Part 2?

The patient information that is protected by 42CFR Part 2 is any information disclosed by a covered program that identifies an individual directly or indirectly as having a current or past drug or alcohol problem, or as a participant in a covered program.

Whose responsibility is it to determine what staff members should have access to Part 2 data?

Each Participants Authorized Contact needs to make the determination based on the Authorized Users Purpose of Use.

Will all the staff in my office be allowed to access Part 2 information in HEALTHeLINK?

No, access to Part 2 information must be specifically requested by the Authorized Contact for participant(s) who:

- Have an existing HEALTHeLINK user account (“Authorized User”) and,
- Have a “Treating Provider Relationship” with those patients whose information is accessed for purposes of treatment through HEALTHeLINK

I am the HEALTHeLINK Authorized Contact for my group/practice. What are my responsibilities related to 42 CFR Part 2?

In order for Authorized Users to access Part 2 data within HEALTHeLINK, the Authorized Contact (AC) must complete an *AC Access to Part 2 Data Request Form* for the participant(s) after careful consideration of the following:

- The participant(s) must have a “Treating Provider Relationship” with patient(s) whose information is accessed for purposes of treatment through HEALTHeLINK.
- If there is reason to believe that an Authorized User does not have a “Treating Provider Relationship” or will access HEALTHeLINK for reasons other than treatment, the AC should not request access to Part 2 data for that user. In addition, if the Authorized User no longer has a “Treating Provider Relationship” with the patient(s), it is the responsibility of the AC to monitor and remove their access rights to Part 2 data.

As an “Authorized User”, how can I be sure I have a “Treating Provider Relationship” with these patients?

“Treating Provider Relationship” means that, regardless of whether there has been an actual in-person encounter:

1. A patient is, agrees to, or is legally required to be diagnosed, evaluated, and/or treated, or agrees to accept consultation, for any condition by an individual or entity, and;
2. The individual or entity undertakes or agrees to undertake diagnosis, evaluation, and/or treatment of the patient, or consultation with the patient, for any condition.

How is “Quality Improvement” defined?

“Quality Improvement” means activities designed to improve processes and outcomes related to the provision of health care services. Quality improvement activities include, but are not limited to, outcome evaluations, development of clinical guidelines; population based activities relating to improving health or reducing health care costs; clinical protocol development and decision support tools; case management and care coordination; reviewing the competence or qualifications of health care providers, but shall not include research.

One or more of my staff, provides clinical care and also is responsible for quality improvement activities during the course of the day. Can I request access to Part 2 data for these participants?

You have two choices:

- Don't allow access
- Request that HEALTHeLINK set up the Authorized User with a second set of credentials which allow access to all patient data.

I am an Authorized Contact. How to I request that specific users have access to Part 2 data?

Determine which Authorized Users (AU) need access to Part 2 data and determine each users Purpose of Use:

1. Where the users only use of HEALTHeLINK meets the requirements of Treatment Provider Relationship, request access to Part 2 data for that user
2. Where a user may us HEALTHeLINK in support of both a Treating Provider Relationship and for Quality Improvement purposes
 - a) Request access to Part 2 data for that user
 - b) Request a second user account for the user that without access to Part 2 data that would be used when accessing HEALTHeLINK for purposes other than a Treating Provider Relationship