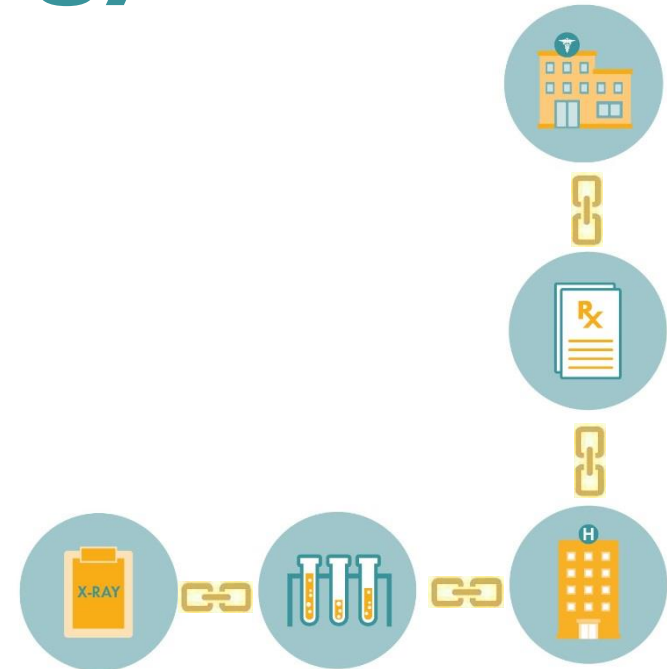




HEALTHeLINK™

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# 42 CFR Part 2 Data Strategy



# Agenda

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- Introductions and meeting purpose
- What is 42 CFR Part 2
- SAMHSA\* 2017 Final Rule
- HEALTHeLINK Part 2 Strategy
- Accessing Part 2 data

\* Substance Abuse and Mental Health Services Administration

# What is 42 CFR Part 2?

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Federal regulation that provides special protections to substance use disorder (SUD) services:

- Applies to a limited set of data
- Access requires patient consent
- Other required controls beyond HIPAA and state regulations and policies

# SAMHSA – What Data is Protected?

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- 42 CFR Part 2 rules apply 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 information protected by 42 CFR 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
- Generally, facilities licensed by the NYS Office of Alcoholism and Substance Abuse Services (OASAS) are subject to 42 CFR Part 2 regulations

# SAMHSA 2017 Final Rule

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Permitted the use of a “general designation” consent for identifying “to whom” disclosures may be made

- May be listed on a website, versus on the form
- Limited “purposes of use” when a “general designation,” a.k.a., community consent, is used
- Other consent form requirements

# HEALTHeLINK Part 2 Strategy

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- HEALTHeLINK segregates data from Participants subject to 42 CFR Part 2
- HEALTHeLINK consent form modified to be SAMHSA compliant
- Participant's Authorized Contact must specifically grant access to Part 2 data by an Authorized User
- Access to Part 2 data is only permitted:
  - By a HEALTHeLINK Authorized User
  - Where access where a "Treating Provider Relationship" exists
  - Where the patient has signed a HEALTHeLINK consent

# Permitted Purpose of Use - SAMHSA

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

- 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;
- 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.

# SHIN-NY Purposes of Use

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- Treatment
- Care Management
- Quality Improvement – generally not patient specific
  - “activities designed to improve processes and outcomes related to the provision of health care services”
- Treatment and Care Management typically align with the SAMHSA definition for Treating Provider Relationship.
- Quality Improvement likely does not.



# Process for Gaining Access to Part 2 Data

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1. Determine which Authorized Users (AU) need access to Part 2 data and determine each users' Purpose of Use:
  1. Treatment Provider Relationship only
  2. Quality Improvement only
  3. Mix of the two. There are two options:
    1. Do not permit access to Part 2 data
    2. Request a second set of user credentials to access Part 2 Data
2. For each AU, complete a HEALTHeLINK Part 2 Access Request Form

# Key Points for the Authorized Contact

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- Responsible to determine and attest to the users Purpose of Use.
- Periodically confirming user access to HEALTHeLINK is for permitted Purposes of Use
- Inform HEALTHeLINK in a timely manner if a user's access rights need to be modified

# Questions?

# SHIN-NY Definition



## Treatment

- Provision, coordination, or management of health care and related services among health care providers or by a single health care provider.
- May include providers sharing information with a third party.
- Consultation between health care providers regarding a patient and the referral of a patient from one health care provider to another also are included within the definition of treatment.



# SHIN-NY Definition



## Care Management

- Includes:
  - Assisting a patient in obtaining appropriate medical care,
  - Improving the quality of health care services provided to a patient
  - Coordinating the provision of multiple health care services to a patient, or
  - Supporting a patient in following a plan of medical care.
- Does not include utilization review or other activities carried out by a payer organization to determine whether coverage should be extended or payment should be made for a health care service.



# SHIN-NY Definition

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## Quality Improvement

- 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
- The use or disclosure of Protected Health Information for quality improvement activities may be permitted provided the accessing and disclosing entities have or had a relationship with the individual who is the subject of the Protected Health Information.

# Reference Material

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Available on the HEALTHeLINK web site:

<http://wnyhealthelink.com/physicians-staff/training-videos/>

- FAQ
- PPT Presentation
- Request form
- Reference sites:
  - SAMHSA 2017 Final Rule
  - Final Rule Comments and SAMHSA Responses
  - [https://oasas.ny.gov/providerdirectory/index.cfm#search\\_results](https://oasas.ny.gov/providerdirectory/index.cfm#search_results)