

MYTH: Providers may never disclose patient information that includes substance abuse information without the patient's consent.

FACT: Under 42 CFR Part 2, there are several circumstances in which a patient's consent is not required to disclose substance abuse information.

Identifying information about persons who have applied for or received substance abuse diagnosis or treatment at a federally assisted program ("federally assisted" is broadly defined, and includes programs that, for example, are Medicare providers or have a DEA number) may be disclosed without the patient's consent in the following circumstances.

Medical Emergencies. To medical personnel as needed to treat a patient in a medical emergency.

Research. To a qualified researcher whose research protocol has been approved by an institutional review board or similar organization.

Audits and Evaluations. For purposes of auditing or evaluating the program to the following entities:

- A governmental agency that funds or regulates the program (e.g., Medicare);
- Third-party payers covering program patients;
- A person financially assisting the program; and
- Quality Improvement Organizations (QIOs).

Court Orders Authorizing Disclosure. A court order may authorize disclosure for a variety of purposes,¹ each of which must comply with specific criteria. A subpoena is required to compel such disclosure; however, an authorizing court order must be issued before information may be disclosed, even when a subpoena compels its disclosure.

Direct Administrative Controls. As needed in connection with program personnel's duties arising out of patient care, limited to communications within the program itself or to an entity with direct administrative control over the program.

Qualified Service Organizations. To a QSO as necessary to perform services for the program. QSOs provide specialized services for programs (e.g., lab analyses or bill collecting) and have a written

arrangement with the program agreeing to comply with Part 2 regulations.

Crimes. Programs may disclose limited information to law enforcement officers that is directly related to crimes and threats to commit crimes on program premises or against program personnel.

Child Abuse/Neglect. Programs may make an initial report of suspected child abuse to appropriate state or local authorities in compliance with relevant state law.

Minors Lacking Capacity. Programs may disclose facts relevant to reducing a threat to the life or well-being of a minor for treatment (or other individual) to a person authorized to act on the minor's behalf. However, the program director must determine that the minor lacks capacity to make a rational choice to consent to such disclosure due to young age or mental or physical condition.

Cause of Death. Programs may disclose information relating to a patient's cause of death under laws requiring the collection of vital statistics or permitting inquiry into the cause of death.

For More Information:

- [Learn](#) about state and federal privacy laws.
- [Read](#) an overview of Part 2 & related resources.

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¹ See 42 CFR §§ 2.62 – 2.67.