

**The HIPAA E-Tool®**  
**Privacy Rule**  
**2024 Privacy Rule & Substance Use Disorder Confidentiality Modifications**

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## **Part 2 and The HIPAA Privacy Rule**

### **Part 2**

42 C.F.R. Part 2, commonly referred to as “Part 2,” regulates the Confidentiality of Substance Use Disorder (SUD) Patient Records. Part 2 is administered by the U.S. Department of Health & Human Services (HHS) through the Substance Abuse and Mental Health Services Administration (SAMHSA). Part 2 regulations governing the Confidentiality, Use and Disclosure of an Individual’s SUD are separate from and more strict than HIPAA Rules governing Protected Health Information (PHI). HHS’s Office for Civil Rights (OCR) administers the HIPAA Rules.

### **Background**

Part 2 regulations were created in 1975 when no other national privacy and security standards for health information existed. They impose strict Confidentiality protections to help address concerns that discrimination and fear of prosecution deter people from seeking SUD treatment.

The HIPAA Privacy Rule establishing permitted and required Uses and Disclosures of Protected Health Information (PHI) became effective in 2003.

Inconsistencies in the two health privacy regulations blocked Health Care Providers from sharing SUD information. This prohibited integration of significant behavioral health information with other medical records to improve patient health outcomes.

In 2020, Congress passed legislation requiring HHS to align certain aspects of Part 2 with the HIPAA Privacy Rule.

### **2024 - Part 2 and HIPAA Privacy Rule Modifications**

On February 8, 2024, HHS, SAMHSA and OCR announced a new rule modifying Part 2 SUD Confidentiality regulations to reduce conflicts between Part 2 and HIPAA and promote coordinated care.

On April 16, 2024, OCR announced the HIPAA Privacy Rule to Support Reproductive Health Care Privacy. Despite its name, the rule contains two other significant Privacy Rule modifications; one requires modifications to the Notice of Privacy Practices (NPP), and the second coordinates Part 2 SUD Confidentiality with HIPAA.

### **Impact and Timing**

Part 2 covered providers will be subject to civil and criminal penalties that also apply to HIPAA violations. They must develop and implement new policies and procedures, including provision of a Notice of Privacy Practices (NPP) and Breach Notifications. The effective date of Part 2 modifications is April 16, 2024. However, compliance is not mandatory until February 16, 2026, giving them ample time to make modifications and train their Workforce.

HIPAA Covered Entities must modify their NPP. Covered Entities that also provide Part 2 SUD Treatment may consider modifying their NPP to include SUD Privacy Practices or creating a separate NPP for SUD patients. The effective date of Privacy Rule modifications is June 25, 2024, and compliance is mandatory by December 22, 2024.

### **The HIPAA E-Tool®**

The HIPAA E-Tool® will post updated Policies, Procedures and Forms reflecting modifications to Part 2 and the Privacy Rule before both mandatory compliance dates and create Workforce Training resources.

## **HIPAA and Part 2 Information**

[HHS Fact Sheet 42 CFR Part 2 Final Rule](#)

[OCR & SAMHSA YouTube Webinar: Part 2 Final Rule – Confidentiality for SUD Patient Records](#)

[HHS HIPAA Privacy Rule Final Rule to Support Reproductive Health Care Privacy: Fact Sheet](#)



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