

## Myth Busters

**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,<sup>1</sup> 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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<sup>1</sup> See 42 CFR §§ 2.62 – 2.67.