

 HAWAII HEALTH SYSTEMS CORPORATION <i>Quality Healthcare for All</i>	Department: Compliance	Procedure No. CMP 0061B
		Supersedes Policy No.
PROCEDURE	Approved By:  By: Edward N. Chu Its: HHSC President & CEO	Approved Date: February 16, 2026 Last Reviewed: February 16, 2026
Subject: HHSC PART 2 PROGRAMS- Handling Part 2 Records		

I. PURPOSE:

To establish standardized processes that are compliant with 42 CFR Part 2 regulations regarding the confidentiality of substance use disorder (SUD) patient records while coordinating care and maintaining Health Insurance Portability Accountability Act (HIPAA) compliance.

II. DEFINITIONS:

“42 CFR Part 2 (“Part 2”)” means federal regulations that govern the confidentiality of SUD patient records created, maintained, or received by federally assisted programs providing SUD diagnosis, treatment, or referral for treatment.

“Court Order” means a legal directive issued by a judge that authorizes the disclosure of Part 2 Records under specific conditions outlined in 42 CFR Part 2 and Hawaii state law.

“Federally assisted” - For purposes of this procedure, “federally assisted” means:

- Conducted by contract on behalf of a federal department or agency;
- Being carried out pursuant to licensure, certification, registration or funding from a federal department or agency, including Medicare program participation, authorization to conduct maintenance treatment or withdrawal management, or controlled substance registration to the extent the controlled substance is used in the treatment of SUD;
- Supported by federal financial assistance; or
- Able to accept tax-deductible contributions and/or exempt from federal taxes.

“HIPAA” means the broad set of federal laws contained in the Health Insurance Portability and Accountability Act of 1996, the HITECH Act of 2009, and the subsequent Privacy and Security Rules located in 45 CFR Parts 160, 162, and 164.

“Part 2 Program” means any federally assisted person, program or entity that holds itself out as providing, and provides, SUD diagnosis, treatment or referral for treatment. Examples include: inpatient/residential rehab, outpatient counseling, methadone clinics.

“Part 2 Records Consent” means a consent to use and disclose Part 2 Records that meets all of the requirements laid out in this Procedure.

“Part 2 Records” means any records or information:

- created by a Part 2 Program or entity;
- that would identify a patient as having or having had a SUD, either directly or by reference to publicly available information, or through verification of such identification by another person; and

- that relate to the diagnosis, treatment or referral for treatment of a SUD.

Part 2 Records may include clinical notes, assessments, treatment plans, billing information, and other documentation related to SUD diagnosis or treatment.

“Part 2 Personal Representative” means a person who has authority under applicable law to act on behalf of an adult or an emancipated minor in making health care decisions.

“Qualified Service Organization” means a person or entity who provides services to a Part 2 Program, such as data processing, bill collecting, medical staffing and has entered into a Qualified Service Organization Agreement.

“Qualified Service Organization Agreement (QSOA)” means a formal agreement allowing a non-SUD organization to provide services to a Part 2 program while also agreeing to:

1. Maintain confidentiality and security of Part 2 Records in accordance with Part 2 regulations; and
2. If necessary, will resist in judicial proceedings any efforts to obtain access to Part 2 Records except as permitted by Part 2 regulations.

“Redisclosure” means any sharing or re-release of Part 2 records with someone else. These records may not be shared without the patient’s written consent, unless the law specifically allows it.

“Substance Use Disorder (SUD)” means a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using the substance despite significant substance-related problems such as impaired control, social impairment, risky use, and pharmacological tolerance and withdrawal. SUD does not include tobacco or caffeine use.

“SUD Counseling Notes” means notes recorded in any medium by a Part 2 Program provider who is a SUD or mental health professional documenting or analyzing the contents of conversation during a private SUD counseling session or group/joint/family SUD counseling session. SUD Counseling Notes does not include medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of diagnosis, functional status, treatment plan, symptoms, prognosis and progress to date.

“Workforce Members” means all employees, medical staff, contractors, volunteers, students, or other persons whose conduct, in the performance of work for the Part 2 Program, is under the direct control of the Part 2 program, whether or not they are paid by the Part 2 program.

III. APPLICABILITY:

This procedure applies to all Workforce Members of HHSC Part 2 Programs and to Part 2 Records created, received and maintained by HHSC Part 2 Programs.

Note: This procedure does not apply to general medical records unrelated to Part 2 Records, even if the Part 2 Program is a part of a hospital.

IV. PROCEDURE:

A. Identification of Part 2 Records

1. Part 2 Records must be flagged or labeled as “42 CFR Part 2 Protected Records.”

B. Restriction on Use and Disclosure of Part 2 Records. The use and disclosure of Part 2 Records is strictly prohibited unless the circumstances below apply.

C. Security and Access Control

1. All of HHSC policies and procedures relating to HIPAA security of patient records, including electronic security of patient records, apply to Part 2 Records to the extent that they do not conflict with this procedure.
2. Part 2 Records must be maintained in a secure, access-controlled environment.
3. Access to Part 2 records is more restrictive than standard HIPAA requirements and must be governed by both 42 CFR Part 2 and HIPAA. Access is limited to Workforce Members whose job duties require access to Part 2 records in connection with diagnosis, treatment, or referral for treatment, and only after verifying authorization/consent.
4. Role-based access must be enforced for both paper and electronic Part 2 records. Electronic systems must utilize role-based access controls or equivalent safeguards to prevent unauthorized access, use or disclosure of Part 2 Records.
5. Audit and Oversight: Access to Part 2 records may be monitored and logged internally to ensure compliance with confidentiality and disclosure requirements.

D. Use and Disclosure of Part 2 Records WITHOUT Patient Consent

Disclosure of Part 2 Records without patient consent are strictly limited to the following circumstances, as permitted by 42 CFR Part 2, HIPAA, and Hawaii state law. Any use and disclosure under this section is limited to the minimum amount of information necessary to achieve the purpose of the disclosure:

1. Medical Emergencies. Disclosure is allowed during a bonafide medical emergency to address immediate health risks if, in the professional judgment of the treating health care providers, necessary treatment cannot wait for the patient's written consent to disclosure. Disclosure is allowed to medical personnel of the Food and Drug Administration ("FDA") who assert a reason to believe that the health of any individual may be threatened by an error in a product under FDA jurisdiction.
 - a. Immediately following disclosure, documentation shall be entered into the patient's record including:
 - 1) the name of the person making the disclosure,
 - 2) the name and affiliation of medical personnel receiving the disclosure,
 - 3) the date and time of the disclosure, and
 - 4) the nature of the emergency or FDA error.
2. Administrative Control. Use and disclosure of Part 2 Records is allowed between HHSC Corporate Office, the HHSC Region having control over an HHSC Part 2 Program and that particular HHSC Part 2 Program, but is limited to a need to know basis.
3. Department of Health. Use and disclosure can be made to the Department of Health so long as the information has been de-identified and there is no reasonable basis to believe that the information can be used to identify the patient.
4. Qualified Service Organization. Use and disclosure can be made to a Qualified Service Organization if needed by the Qualified Service Organization to provide services to or on behalf of the Part 2 Program.

5. Crimes on Part 2 Premises or Against Part 2 Program Personnel. Use and disclosure of Part 2 Records may be made to law enforcement agencies or officials if they are directly related to a patient's commission of a crime on the premises of the Part 2 Program or against Part 2 Program personnel or if related to a threat to commit such a crime; and the information provided is limited to the circumstances of the incident.
6. Mandatory Child Abuse Reporting. Disclosures may be made to Child Welfare Services if there is reasonable suspicion of child abuse or neglect. However, use and disclosure restrictions remain as to the original Part 2 Records if a civil or criminal proceeding arises out of the report of child abuse or neglect.
7. Audits and Evaluations
 - a. Part 2 Records may be disclosed in the course of a review of records on the premises to any person who signs the applicable written agreement who:
 - 1) Performs the audit on behalf of:
 - (i) Any governmental agency that provides financial assistance to HHSC or is authorized by law to regulate the activities of HHSC; or
 - (ii) Any third party payer or health plan covering patients in a Part 2 Program, or a Quality Improvement Organization performing quality improvement review; or
 - (iii) HHSC; and
 - 2) Is determined by HHSC to be qualified to conduct an audit of HHSC.
 - b. If the person is conducting the review of the records on premises and does not download, copy, or remove the records or forward the records to another electronic system or device, they must sign the agreement attached as Exhibit A prior to Audit.
 - c. If the person conducting the review of the records will be copying, removing, downloading, or forwarding the patient records to another electronic system, they must sign the agreement attached as Exhibit B prior to audit.
8. Research. Disclosure may be permitted for research purposes only if certain conditions are met. If there is a request to use or disclose Part 2 Records for research purposes, contact HHSC Corporate Compliance Officer for assistance.

E. Patient Consent

1. Patient Consent for Disclosure of Part 2 Records. Patient consent to use or disclose Part 2 Records may be paper or electronic. See attachment C for a Sample Part 2 Records Consent.
 - a. A Part 2 Records Consent must be in writing, signed by the patient and include:
 - Patient's name
 - Specific name(s) of the person(s) or class of persons authorized to use or disclose information
 - Name(s) of the individual(s) or class of persons to receive information; if recipient is an intermediary, the consent must name the intermediary and its member participants or provide a general designation of a participant or class of participants having a treating provider relationship with the patient
 - Purpose of the use or disclosure
 - Specific and meaningful description of the information to be used or disclosed
 - Statement that consent is subject to revocation except for disclosures already made in reliance on the consent, and a description of how to revoke consent
 - Date/event when consent will expire
 - Patient's or Part 2 Personal Representative's signature and date

- Electronic signatures are acceptable.
 - Minor patients must sign for themselves.
 - For patients adjudicated to lack capacity to make their own health care decisions and deceased patients, a Part 2 Personal Representative may consent.
- If the use or disclosure is for treatment, payment or health care operations, the following statements must be included in the consent:
 - The records may be redisclosed by the recipient and no longer protected by Part 2;
 - The consequences to the patient of a refusal to sign the consent.
 - If the recipient is a covered entity or business associate, the consent must also include the following statement:
 - The patient's record or information may be redisclosed in accordance with HIPAA, except for uses and disclosures for civil, criminal, administrative, and legislative proceedings against the patient.
- b. Part 2 Records Consents must be maintained with the patient's Part 2 Records.
 - c. A single Part 2 Records Consent may be made for all future uses and disclosures for treatment, payment and health care operations.
 - d. A Part 2 Records Consent may be relied upon unless and until revoked.
 - 1) If a patient revokes consent, no further disclosure may be made under that consent.
 - 2) Revocations must also be maintained and documented in the Part 2 Records and reflected in the disclosure log.
 - e. A Part 2 Records Consent is not valid if:
 - 1) It has expired;
 - 2) It is incomplete, i.e. lacks any of the above listed requirements;
 - 3) It is known to have been revoked; or
 - 4) It is known to be materially false after a reasonably diligent inquiry appropriate to the circumstances.

F. Uses and Disclosures WITH Patient Consent. Part 2 Programs can make the following disclosures with a valid, effective Part 2 Consent. Every disclosure made with Patient Consent must be accompanied with one of the **Redisclosure Statements** in Section F of this Procedure as well as **a copy of the patient's written consent** or a clear explanation of the scope of the consent provided. Further, any use and disclosure under this section is limited to the minimum amount of information necessary to achieve the purpose of the disclosure.

1. Category of Persons Identified. A Part 2 Program may use and disclose Part 2 Records in accordance with the Part 2 Records Consent to any person or category of persons designated in the Part 2 Records Consent.
2. Treatment, Payment and Healthcare Operations. When the patient has signed a single Part 2 Records Consent for all future uses and disclosures for treatment, payment and health care operations, a Part 2 Program may use and disclose those records for treatment, payment, and health care operations unless and until the patient *revokes the consent in writing*.
3. To Prevent Multiple Enrollments. A Part 2 Program may disclose Part 2 Records to a central registry or to any withdrawal management or maintenance treatment program not more than 200 miles away for the purpose of multiple enrollment of the patient only if the following requirements are met:

- a. The disclosure is made when the patient is accepted for treatment, or when the type or dosage of the drug is changed, or when the treatment is interrupted, resumed, or terminated;
 - b. The disclosure is limited to patient identifying information, type and dosage of the drug, and relevant dates;
 - c. The Part 2 Records Consent is otherwise valid and:
 - 1) Contains the name and address of each central registry and each known withdrawal management or maintenance treatment program to which the disclosure is made;
 - 2) May authorize disclosure to any withdrawal management or maintenance treatment program established within 200 miles of the HHSC Part 2 program without individually naming all programs.
4. Disclosures to Criminal Justice System that Referred Patients. A Part 2 Program may disclose information about a patient to persons within the criminal justice system who made participation in the Part 2 Program a condition of the disposition of any criminal proceedings against the patient or of the patient's parole or other release of custody if:
- a. The disclosure is only made to those persons within the criminal justice system who have a need for the information in connection with their duty to monitor the patient's progress;
 - b. The patient has signed a written Part 2 Records Consent which states:
 - 1) The period during which it remains in effect, which must be reasonable and must account for :
 - i. the anticipated length of treatment;
 - ii. the type of criminal proceeding involved, the need for the information in connection with the final disposition of that proceeding, and when the final disposition will occur; and
 - iii. such other factors as the Part 2 program, the patient, and the person(s) within the criminal justice system who will receive the disclosure consider pertinent; and
 - 2) That the Part 2 Records Consent is revocable upon the passage of the specified amount of time or the occurrence of a specified ascertainable event, which can be no later than the final disposition of the conditional release or other criminal action in connection with which consent was given.
5. Disclosures to Prescription Drug Monitoring Programs ("PDMP"). A Part 2 Program may only report SUD medication it has prescribed or dispensed to a PDMP if the patient has consented to the disclosure and the report is required by state law.

G. SUD Counseling Notes

- 1. SUD Counseling Notes must be separated from the rest of the patient's SUD and medical record.
- 2. Patient Consent must be obtained in order to use or disclose any SUD Counseling Notes except for the following uses:
 - a. To carry out the following specific types of treatment, payment or healthcare operations:
 - 1) Use by the originator of the SUD Counseling Notes for treatment; or
 - 2) Use or disclosure by the Part 2 Program for its own training programs in which trainees in SUD treatment or mental health learn under the supervision to practice or improve their skills in group, joint, family, or individual SUD counseling; or
 - 3) Use or disclosure by the Part 2 Program to defend itself in a legal action or proceeding brought by the patient.

- b. Use or disclosure for deceased patients in accordance with Section M of this Procedure; or
 - c. Audits and evaluations in accordance with Section D.7 of this Procedure with respect to oversight of the originator of the SUD Counseling notes; or
 - d. Certain court orders. Part 2 Program staff should work with HHSC Legal Counsel to determine if the requirements of 42 CFR 2.64 and 42 CFR 2.63(a) are met.
3. A written consent for a use or disclosure of SUD Counseling Notes may only be combined with other consents for use and disclosures of SUD Counseling Notes.
 4. Part 2 Programs are prohibited from condition treatment on the patient signing a consent for using or disclosing SUD Counseling Notes.

H. Redisclosure Notice for Disclosures with Patient's Consent

1. Each disclosure made with the patient's written consent must be accompanied by one of the following written statements (See also Exhibit D) and a copy of the patient's consent:

Statement 1:

When to use: This statement should be used for disclosures of Part 2 records that may involve legal, administrative, or other circumstances where there is a risk of improper use or redisclosure of the patient's information.

Text: *"This record, which has been disclosed to you, is protected by Federal confidentiality rules (42 CFR Part 2). These rules prohibit you from using or disclosing this record, or testimony that describes the information contained in this record, in any civil, criminal, administrative, or legislative proceedings by any Federal, State, or local authority, against the patient, unless authorized by the consent of the patient, except as provided at 42 CFR 2.12(c)(5) or as authorized by a court in accordance with 42 CFR 2.64 or 2.65. In addition, the Federal rules prohibit you from making any other use or disclosure of this record unless at least one of the following applies:*

- *Further use or disclosure is expressly permitted by the written consent of the individual whose information is being disclosed in this record or as otherwise permitted by 42 CFR Part 2.*
- *You are a covered entity or business associate and have received the record for treatment, payment, or health care operations, or*
- *You have received the record from a covered entity or business associate as permitted by 45 CFR Part 164, Subparts A and E.*

A general authorization for the release of medical or other information is NOT sufficient to meet the required elements of written consent to further use or redisclose the record (see 42 CFR 2.31)."

Statement 2:

When to use: This statement is appropriate for general disclosures, especially those that are less likely to lead to legal actions or need for a complex explanation of redisclosure rules. It is typically used for routine disclosures where the recipient is a **covered entity** or **business associate** who is already subject to strict rules governing the use of protected health information (PHI).

Text: *"42 CFR Part 2 prohibits unauthorized use or disclosure of these records."*

2. One of these notices, and a copy of the patient's consent, must be attached to or included in **every** paper and electronic disclosure of a Part 2 record that is based on consent.
 3. Within a Part 2 program, or between a Part 2 program and an entity with direct administrative control over it, the redisclosure notice does not apply to communications between or among workforce members with a need for the information in connection with their duties that arise out of diagnosis, treatment or referral.
- I. Legal Proceedings.** Disclosure or use of Part 2 Records to initiate or substantiate criminal charges against a patient or to conduct any criminal investigation of a patient, or to use in any civil criminal administrative of legislative proceedings against a patient, including testimony, is strictly prohibited unless one of the following requirements are met:
1. Court Orders
 - a. A court of competent jurisdiction may enter a Court Order authorizing the use and disclosure of Part 2 information which would otherwise be prohibited. However, that Court Order alone does not compel use or disclosure, unless accompanied by a subpoena or similar legal mandate that compels the use or disclosure.
 - b. Due to the numerous types of court orders and associated requirements, Workforce Members must work with HHSC Legal Counsel before releasing any Part 2 Records pursuant to a court order, in order to determine whether the court order they received meets the legal requirements to compel the use or disclosure of Part 2 Records.
 2. Patient Consent
 - a. Part 2 Records may be disclosed in legal proceedings against a patient if the patient provides consent for the use and disclosure of Part 2 Records. The consent provided by the patient for this purpose cannot be combined with a consent to use and disclose a record for any other purpose.
- J. Minors**
1. Hawaii law allows minors to consent to alcohol or drug abuse counseling without the consent of a parent, custodian or guardian. As such a Part 2 Records Consent must be obtained from a minor patient, rather than their parent, custodian or guardian.
 - a. HHSC Part 2 Programs may condition provision of SUD treatment on the minor patient consenting to disclosure as necessary to obtain reimbursement.
 - b. Hawaii law forbids providers from obtaining reimbursement from or through the minor patient's parent, custodian or guardian if that person has no prior knowledge that the minor patient has consented to the provision of SUD services.
- K. Patients Who Lack Capacity**
1. If an adult patient is determined by a court to lack capacity to make their own health care decisions, then any Part 2 Records Consent that is required may be given by their Personal Representative.
 2. If an adult patient is deemed incapacitated by a medical professional, a Part 2 Program director may exercise the right of the patient to consent to use or disclose under a Part 2 Records Consent for the sole purpose of obtaining payment for services from a third-party payer or health plan.
- L. Personal Representatives**
1. Disclosure to a Part 2 Personal Representative is permitted only as specifically authorized by a Part 2 Records Consent.

2. Unlike personal representatives under HIPAA, a Part 2 Personal Representative does not automatically stand in the place of the patient for purposes of accessing Part 2 Records.
3. HHSC Part 2 Programs shall not condition treatment, payment, enrollment, or eligibility of benefits on the patient's agreement to permit disclosure of Part 2 Records to a Part 2 Personal Representative.

M. Deceased Patients

1. Disclosure of patient identifying information relating to cause of death to the Department of Health or the coroner's office is permitted without a specific written consent.
2. For any other use or disclosure of information identifying a deceased patient as having a SUD that requires a Part 2 Records Consent under this Procedure, the Consent may be given by the deceased patient's Part 2 Personal Representative.

N. Right to Request Privacy Protections

1. Patients are permitted to request that HHSC Part 2 Program restrict uses and disclosures about the patient to carry out treatment, payment or healthcare operations, even when the patient has signed a written consent for such disclosures.
2. A Part 2 Program is not required to agree to the restriction unless:
 - a. The disclosure is for the purpose of carrying out payment or health care operations and is not otherwise required by law; and
 - b. The record pertains solely to a healthcare item or service for which the patient or person other than the health plan on behalf of the patient, has paid the part 2 program in full.
3. A restriction that is agreed to by an HHSC Part 2 Program under this section is not effective to prevent uses or disclosures required by law or permitted by this procedure for purposes other than treatment, payment, and health care operations.

O. Disposition of Records

1. If an HHSC Part 2 program discontinues operations or is taken over or acquired, it will work with HHSC Legal Counsel to comply with 42 CFR 2.19 with respect to disposition and retention of its records.

P. Complaints of Non-Compliance

1. All persons have the right to file complaints of noncompliance with Part 2 requirements with the HHSC Part 2 Program.
2. HHSC Part 2 Programs must designate someone to handle complaints of noncompliance with Part 2 requirements within the Part 2 Program.
3. HHSC Part 2 Programs will not require patients to waive their rights to file complaints of noncompliance with Part 2 requirements as a condition of treatment, payment, enrollment or eligibility for any Part 2 program.
4. A person is also allowed to file a complaint with the Secretary of Health and Human Services for violation of Part 2 requirements.
5. HHSC Part 2 Program and Workforce Members will not intimidate, threaten, coerce, discriminate against or take any other retaliatory action against any patient for the exercise of their right to complain.

Q. Sanctions

1. Workforce Members who violate this procedure are subject to disciplinary action, up to and including termination, in accordance with CMP 0059B (Workforce Sanctions) as well as potential civil and criminal penalties under Federal law.

V. AUTHORITY:

- 42 CFR Part 2: Confidentiality of Substance Use Disorder Patient Records
- 42 U.S.C. §290dd-2: Confidentiality of records.
- HIPAA Privacy and Security Rules as modified by HITECH (42 C.F.R. Parts 160, 162 and 164).
- Hawaii Revised Statutes (HRS) § 334-5 Confidentiality of Records
- HRS §577-26 Alcohol or drug abuse relating to minors, diagnosis, counseling and related activities.

VI. RELATED POLICIES AND PROCEDURES:

- CMP 0014A - HIPAA Breach Notification
- CMP 0028B - Notice of Privacy Practices
- CMP0040A - HIPAA Patient Right to Accounting of Disclosures
- CMP 0058A - HIPAA Policy and Related Security and Confidentiality Procedures
- CMP 0059B - Workforce Sanctions
- CMP 0061A - 42 CFR Part 2 – Part 2 Program Records Policy
- CMP 0062B - NON-PART 2 PROGRAM- Handling Part 2 Records from External Sources

VII. ATTACHMENT(S):

- Exhibit A- Audit Agreement Part 2 Records: Records Not Copied or Removed
- Exhibit B- Audit Agreement Part 2 Records: Records May be Copied or Removed
- Exhibit C - Sample Consent to Disclose Substance Use Disorder Records - PDF only
- Exhibit D - Redisclosure Statements

EXHIBIT A

AUDIT AGREEMENT PART 2 RECORDS

RECORDS NOT COPIED OR REMOVED

I, Insert Name , am performing an audit or evaluation of HHSC on behalf of Insert Agency Name/Organization in order to provide an official inspection for the following audit or evaluation purpose: Insert Purpose .

As a condition of access, I understand and agree that I will not download, copy, or remove any Part 2 Records from the premises of HHSC or forward them electronically to another electronic system.

I understand and agree that these Part 2 Records will only be disclosed back to the HHSC facility from which they came, and will be used only for audit or evaluation in line with the purpose(s) stated above, or as authorized by a court order under 42 CFR §2.66.

Signature

Date

Name

EXHIBIT B

AUDIT AGREEMENT PART 2 RECORDS

RECORDS MAY BE COPIED OR REMOVED

I, Insert Name , am performing an audit or evaluation of HHSC on behalf of Insert Agency Name/Organization in order to provide an official inspection for the following audit or evaluation purpose: Insert Purpose .

I understand that I am allowed to copy or remove Part 2 Records for the above purpose, and as a condition of being allowed to do so, I agree:

1. **To maintain and destroy the Part 2 Records in a manner consistent with best practices of HIPAA covered entities;**
2. **To retain the Part 2 records in compliance with applicable federal, state, and local record retention laws;**
3. **That the Part 2 Records will only be disclosed back to the HHSC facility from which they came; and**
4. **That the Part 2 records will only be used for audit or evaluation in line with the purpose(s) stated above, or as authorized by a court order under 42 CFR §2.66.**

Signature

Date

Name

EXHIBIT C

SAMPLE HIPAA 42 CFR Part 2 Consent to Disclose Substance Use Disorder Records

Note: this can be combined with the HIPAA consent for release of records.

Authorization for payment or health care operations is voluntary and not required as a condition of receiving treatment, as further described below.

Patient Name: _____
Date of Birth: _____
Medical Record Number: _____

1. Purpose(s) and Recipient(s) of Disclosure

I authorize the Health Information Management Staff of **[Program/Provider Name]** to disclose my **substance use disorder (SUD) treatment records** to the following individual(s) or entity(ies) for the following purpose(s):

- Individual or Entity
Name/Organization: _____
Address/Phone: _____
Purpose: At the Patient's Request
 Treatment, Payment and Healthcare Operations
 Research (must comply with Part 2 research rules)
 Legal/Case Management
 Civil, Criminal, Administrative or Legislative Investigation or Proceeding* (if this box is checked, no other purposes may be checked)
 Other _____
- Class of Persons
 My treating providers, health plans, third-party payors, and people helping to operate **[Program/Provider Name]**
 Other Class of Persons: _____
Purpose: All future treatment, payment, and healthcare operations ("Single Consent")
 Treatment. Payment Healthcare operations
 Other _____
- Intermediary (Not a Part 2 Program, Covered Entity, or Business Associate)
 Intermediary Name: _____
 Name(s) of member participants: _____ OR
 Participant or class of participants (must be Patient's treating providers)

- Central Registry: Name and Address: _____
- Withdrawal management or maintenance treatment program: Name and Address:

Any withdrawal management or maintenance treatment program established within 200 miles of **[Program/Provider Name]**

Purpose: Preventing Multiple Enrollment

Criminal Justice System Representative

Name/Organization: _____

Address/Phone: _____

Purpose: Criminal Justice System Referral Requirement

Date of Expiration: _____

Date or Event when this Consent is Revocable: _____

(The date or event upon which the consent for Criminal Justice Referrals becomes revocable can be no later than the final disposition of the criminal action under which the consent was given)

Hawaii Prescription Drug Monitoring Program

Name/Address: _____

Purpose: Prescription Drug Monitoring Program Requirement

Other: [must specify Recipient and Purpose] _____]

2. Specific Description of Information to be Disclosed

All Records except SUD Counseling Notes Assessment/Diagnosis Treatment Plans Progress Notes

Medication Records Laboratory/Test Results Discharge Summary

SUD Counseling Notes (If this box is checked, all other boxes must be blank)****

Other: _____

3. How Information Will Be Shared (check all that apply)

Paper copy Electronic copy Verbal communication

4. Expiration and Revocation

- Expiration Date or Event: _____
 - I understand I may **revoke this consent at any time** by submitting a written request to **[Program Name]**.
 - Revocation will **not apply to information already disclosed** in reliance on this consent.
-

5. Redisclosure of Records

I understand that **42 CFR Part 2 prohibits the recipient from redisclosing my SUD information without my further consent**, except as permitted by law.

I understand that records disclosed for **treatment, payment or health care operations** purposes may be redisclosed by the recipient **without Part 2 protections**.

6. Voluntary Consent

I understand that:

- My treatment **cannot be conditioned** on signing this consent, except as allowed under Part 2.
- I may refuse to sign this consent. Potential consequences include: **[explanation of consequences]**

Patient Signature: _____

Date: _____

- OR -

Part 2 Personal Representative: _____ (attach authorizing document)

Date: _____

EXHIBIT D

[Sample]

Part 2 Redisclosure Prohibition Notice:

These Records are protected by 42 CFR Part 2. Please take note that redisclosure is prohibited by law, and carefully review the Notice checked below.

Statement 1:

"This record, which has been disclosed to you, is protected by Federal confidentiality rules (42 CFR Part 2). These rules prohibit you from using or disclosing this record, or testimony that describes the information contained in this record, in any civil, criminal, administrative, or legislative proceedings by any Federal, State, or local authority, against the patient, unless authorized by the consent of the patient, except as provided at 42 CFR 2.12(c)(5) or as authorized by a court in accordance with 42 CFR 2.64 or 2.65. In addition, the Federal rules prohibit you from making any other use or disclosure of this record unless at least one of the following applies:

- Further use or disclosure is expressly permitted by the written consent of the individual whose information is being disclosed in this record or as otherwise permitted by 42 CFR Part 2.**
- You are a covered entity or business associate and have received the record for treatment, payment, or health care operations.**
- You have received the record from a covered entity or business associate as permitted by 45 CFR Part 164, Subparts A and E.**

A general authorization for the release of medical or other information is NOT sufficient to meet the required elements of written consent to further use or redisclose the record (see 42 CFR 2.31)."

[When to use: Statement 1 should be used for disclosures of Part 2 records that may involve legal, administrative, or other circumstances where there is a risk of improper use or redisclosure of the patient's information.]

Statement 2:

"42 CFR Part 2 prohibits unauthorized use or disclosure of these records."

*[When to use: Statement 2 is appropriate for general disclosures, especially those that are less likely to lead to legal actions or need for a complex explanation of redisclosure rules. It is typically used for routine disclosures where the recipient is a **covered entity** or **business associate** who is already subject to strict rules governing the use of protected health information (PHI).]*