

1. 42 CFR Part 2

- a. Date effective – 1975, amended in 1987, final version of the rule released 2018
- b. Purpose – provide comprehensive privacy protections in an effort to encourage people to seek treatment of substance abuse problems
- c. Scope - Almost all substance abuse programs are considered federally assisted; for example, a program is federally assisted if it is a Medicare provider, has a DEA number, or is licensed to provide methadone maintenance treatment
- d. Consent - The primary way in which patient substance abuse information may be disclosed is with a patient's written consent.
- e. Disclosure to SDHC
 - i. Yes – with a BAA & QSOA
- f. Disclosure from SDHC (without individual authorization)
 - i. Treatment – Emergency only
 - ii. Payment – No
 - iii. Operations - No
- g.

2. Lanterman-Petris-Short Act (WIC 5328.a.25)

- a. Date effective - 1972
- b. Purpose
 - i. To end the inappropriate, indefinite, and involuntary commitment of mentally disordered persons, people with developmental disabilities, and persons impaired by chronic alcoholism, and to eliminate legal disabilities;
 - ii. To provide prompt evaluation and treatment of persons with serious mental disorders or impaired by chronic alcoholism;
 - iii. To guarantee and protect public safety;
 - iv. To safeguard individual rights through judicial review;
 - v. To provide individualized treatment, supervision, and placement services by a conservatorship program for gravely disabled persons;
 - vi. To encourage the full use of all existing agencies, professional personnel and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures;
 - vii. To protect mentally disordered persons and developmentally disabled persons from criminal acts.
- c. Scope – Mental health treatment
 - i. Specifically regarding the inappropriate lifetime commitment of people with mental health disorders
- d. Consent
 - i. Information and records shall be disclosed only in any of the following cases:
 - 1. To a business associate or for health care operations purposes, in accordance with Part 160 (commencing with Section 160.101) and Part 164 (commencing with Section 164.102) of Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations.
- e. Disclosure to SDHC
 - i. Yes – with a BAA
- f. Disclosure from SDHC (without individual authorization)
 - i. Treatment – Yes

- ii. Payment – Yes
 - iii. Operations - No
- 3. Confidentiality of Medical Information Act (CMIA)
 - a. Date effective - 2011
 - b. Purpose
 - i. The Confidentiality of Medical Information Act (CMIA) is a state law that adds to the federal protection of personal medical records under the Health Information Portability and Accountability Act (HIPAA).
 - c. Scope
 - i. protects the confidentiality of individually identifiable medical information obtained by a health care provider
 - d. Consent
 - i. CMIA prohibits a health care provider, health care service plan, or contractor from disclosing medical information regarding a patient, enrollee, or subscriber without first obtaining an authorization, except as specified.
 - ii. CMIA requires a health care provider, health care service plan, pharmaceutical company, or contractor who creates, maintains, preserves, stores, abandons, destroys, or disposes of medical records to do so in a manner that preserves the confidentiality of the information contained within those records.
 - e. Disclosure to SDHC
 - i. Yes – with a BAA
 - f. Disclosure from SDHC (without individual authorization)
 - i. Treatment – Yes
 - ii. Payment – Yes
 - iii. Operations - Yes
- 4. CA Health Safety Code 11845.5
 - a. Date effective – 2013/2014
 - b. Purpose – Protects patients in California seeking alcohol and/or substance abuse treatment/prevention
 - c. Scope - Protect the identity, diagnosis, prognosis or treatment of patients treated for alcohol and/or substance abuse or prevention
 - d. Consent
 - i. The content of any records referred to in subdivision (a) may be disclosed in accordance with the prior written consent of the client with respect to whom the record is maintained, but only to the extent, under the circumstances, and for the purposes as clearly stated in the release of information signed by the client.
 - e. Disclosure to SDHC
 - i. Yes – if licensed from department of healthcare services/benefits
 - f. Disclosure from SDHC (without individual authorization)
 - i. For emergencies, research, program evaluation and abuse
- 5. HIPAA
 - a. Date effective
 - i. 1996

- b. Purpose
 - i. HIPAA incorporates a multifaceted approach to protect personal health information and medical records. The HIPAA Privacy Rule (Standards for Privacy of Individually Identifiable Information) defines and creates a national consensus for the protection of patient health data. The HIPAA Security Standards for the Protection of Electronic Protected Health Information (the Security Rule) addresses requirements and safeguards related to covered entities. The rule secures electronic protected health information (e-PHI).
- c. Scope
 - i. Any PHI that is transmitted and/or stored electronically is referred to as electronic protected health information (ePHI)
- d. Consent
 - i. Not needed for treatment, payment or operations
 - ii. Authorization (explicit) is needed for any access, use or disclosure of PHI beyond TPO
- e. Disclosure to SDHC
 - i. Yes – with a BAA
- f. Disclosure from SDHC (without individual authorization)
 - i. Treatment – Yes
 - ii. Payment – Yes
 - iii. Operations - Yes