

*****NEWS RELEASE*****

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HHS Proposal to Weaken Substance Abuse Privacy Rule Is the Wrong Direction for Patient Care

Citizens' Council for Health Freedom Says Rather Than HHS's Proposed Weakening of 42 CFR Part 2, All Patients Should Receive These 'Stronger-than-HIPAA' Protections of Private Medical Records

ST. PAUL, Minn.—An effort is under way to weaken the federal regulation that for nearly 40 years has kept information about drug and alcohol treatment private. This should be a concern to all Americans, says [Citizens' Council for Health Freedom \(CCHF\)](#), which exists to protect health care choices, individualized patient care, and medical and genetic privacy rights.

According to [Modern Healthcare](#), attorneys general, lawmakers and hospitals are pushing to overhaul the rule known as 42 CFR Part 2, which gives patients with substance-use history greater privacy for their own medical information than the general public. They want to align it with the permissive federal HIPAA data-sharing rule.

On Aug. 22, the U.S. Department of Health and Human Services released a [proposed rule](#) to relax confidentiality protections by permitting certain disclosures of patient data without patient consent.

But adopting this rule, says [CCHF](#), starts down the slippery slope of ending patient privacy rights altogether.

“We’re particularly concerned about the exemption for data transmitted orally, court-ordered access to patient data unrelated to a crime committed by the patient, sharing data with state government agencies for research, and the vast expansion of data-sharing that would be authorized under ‘audit and evaluation,’” said [CCHF](#) president and co-founder Twila Brase. *“Once the rule’s strong protections are breached in this way, it’s just a matter of time before they’re completely undone. Currently, 42 CFR Part 2 prohibits most disclosures of patient records concerning addiction treatment by federally assisted alcohol and drug abuse programs without the express written consent of the patient. These individuals have the privacy that all patients should have, but do not have, due to the sweeping, but little known, disclosures permitted under HIPAA. Chipping away at these protections will reduce today’s privacy rights.”*

Proponents of waiving 42 CFR Part 2 say their aim is for patient safety, “given the stakes with widespread opioid addiction,” reports [Modern Healthcare](#), claiming “it’s risky to ban doctors from sharing medical histories when appropriate.”

But [CCHF](#) says there’s a different safety issue to consider: failure to protect confidentiality rights will keep these patients from seeking the care they need, or seeking it in a timely manner. Brase said getting rid of or

relaxing 42 CFR Part 2 has many potential downfalls in addition to weakening confidentiality protections for addiction information.

“Information about drug or alcohol abuse treatment is extremely sensitive and should not be shared with third parties without patient consent, and that includes researchers and anyone who could have access under the expansive definitions proposed under the ‘audit and evaluation’ section,” she said. “If people with substance abuse are really to be helped, they must have the confidence they need to be able to first walk through the door. Part 2 protections need to be protected, not eliminated. In fact, since HIPAA is not a privacy rule, the current privacy and consent protections for patients with a history of substance abuse should be expanded to every other patient under every other scenario.”

Brase writes about patient privacy, the federal HIPAA “no-privacy” rule (Section IV) and the omnipresent electronic health record in her award-winning book, [**“Big Brother in the Exam Room: The Dangerous Truth About Electronic Health Records,”**](#) which also addresses socialized medicine as well as exposes how the mandated, government-certified EHR technology has negatively affected doctors and patients. Learn more at www.BigBrotherintheExamRoom.com.

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