

## Optometry Coding & Billing Alert

### Reader Question: Higher Than HIPAA

**Question:** Does HIPAA specify how records dealing with chemical or alcohol dependency have to be handled?

California Subscriber

**Answer:** No, HIPAA does not specifically say anything regarding the handling of records for chemical and alcohol dependency and therefore would be considered part of the designated record set, says **Barry Herrin**, an attorney with the firm of Smith Moore in Atlanta.

While HIPAA goes out of its way to discuss the treatment and handling of psychotherapy notes, it does not do the same thing for drug and alcohol abuse records, he says.

But the story doesn't end there, Herrin says. "Remember that HIPAA sets the floor" on patient privacy, so that if there's a more stringent local, state or federal standard concerning medical privacy, that standard will trump HIPAA's provisions, he says. And when it comes to chemical and alcohol dependency records, there is a higher federal standard, Herrin says: 42 CFR Part 2 - "Confidentiality of Alcohol and Drug Abuse Patient Records."

This rigorous regulation - which has been around since 1987 - specifically states how healthcare providers can handle or disclose such records, he says. Because drug and alcohol records "are already covered by this other, more substantially strict federal regulation," providers must be certain to comply with this higher standard, Herrin says.

Note: To see 42 CFR Part 2, go online to [www.musc.edu/ccit/lanvision/Regulations\\_Policies\\_Guidelines/AlcoholDrugAbuseRecords42CFR2.pdf](http://www.musc.edu/ccit/lanvision/Regulations_Policies_Guidelines/AlcoholDrugAbuseRecords42CFR2.pdf).