

Health Information Compliance Alert

READER QUESTIONS: LOOK TO STATES FOR CHEMICAL DEPENDENCY RULES

Question: Does HIPAA specify how medical records that document chemical or alcohol dependency have to be handled?

Answer: No, HIPAA does not specifically say anything regarding the handling of chemical and alcohol dependency records and therefore would be considered part of the designated record set, states **Barry Herrin**, an attorney with **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 for drug and alcohol abuse records, he reports.

But the story doesn't end there, warns Herrin. "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, then that standard will trump HIPAA's provisions, he explains. And when it comes to chemical and alcohol dependency records, there just so happens to be a higher federal standard, Herrin reports: 42 CFR Part 2 - "Confidentiality of Alcohol and Drug Abuse Patient Records."

This rigorous regulation--which has been around since 1987--specifically states how health care 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, informs Herrin.

Editor's Note: To see 42 CFR Part 2, go to www.musc.edu/ccit/lanvision/Regulations_Policies_Guidelines/AlcoholDrugAbuseRecords42CFR2.pdf.