

The logo features the letters 'KHIE' in a bold, sans-serif font. The letter 'H' is uniquely designed, with an upward-pointing arrow forming its left vertical stem and a downward-pointing arrow forming its right vertical stem. The 'K' and 'E' are dark blue, while the 'H' is a lighter blue. The background is a light blue gradient with decorative blue arrow shapes on the left and right sides.

KHIE

KENTUCKY

HEALTH INFORMATION EXCHANGE

Connecting Kentucky. Improving Healthcare.

Objectives

1. Know why 42 CFR Part 2 information is included in KHIE
2. Confirm your organization is a Program
4. SAMHSA New Final Rule, March 2020
5. Understand getting 'consent' to share the health information
6. View KHIE's 'Consent to share in an HIE' Form
7. Understand Disclosure of SUD records
8. Links to Key Information

Benefit of including this data in KHIE?

To promote integrated care to improve treatment and care coordination.



Is your organization a 42 CFR Part 2 Program?

1. Is the primary function of your organization to provide diagnosis, treatment, or referral for treatment for a substance use disorder (SUD)?

Yes _____ No _____

2. Does your organization advertise that it treats substance use disorder?

Do you have an awning on your door or notice on your window that states you provide diagnosis, treatment, or referral for treatment for a SUD?

Yes _____ No _____

3. Is your organization federally funded for anything?

Yes _____ No _____



SAMHSA New Final Rule July 13, 2020

SAMHSA issued new final rules that **better align** SUD regulations and HIPAA privacy requirements; it also aligns with the CARES Act that passed in March 2020.

The final rule introduced several *changes to the SUD Regulations*:

SUD patients may consent to have their Part 2 Program treatment records disclosed to an entity <i>without naming a specific recipient</i> ;	Provides examples of permissible disclosures of Part 2 Program <i>treatment records for payment and healthcare operations</i> , and clarifies additional allowable disclosures for audit and evaluation activities;
Permits disclosure of SUD information for public health activities by Part 2 Programs or other lawful holders of Part 2 Program SUD information, to <i>state prescription drug monitoring programs (PDMPs)</i> ; and	Allows certain non-Part 2 Program providers with a treating provider relationship to <i>access a central registry to see if a patient is already receiving opioid treatment</i> .



How do we get the data?

42 CFR Part 2 requires 'consent to share' from the patient.

Patients must give written permission to healthcare providers to *share* information with anyone, including KHIE.

The Participant is responsible for obtaining patient consent to share 42 CFR Part 2 data in KHIE.

- Specific Consent form must be used.
 - KHIE provides the form and the training for the use of the form.



Patient consents to share in an HIE

- KHIE trains the Participant on specific 'consent' form
 - Participant's clinical staff obtains patient consent
 - Participant's clinical staff must educate patient
 - About KHIE as an HIE (info sheet available)
 - How to access KHIE website to see list of KHIE Participants
- Disclosure of patient records in KHIE
 - A disclosure statement is included on all 42 CFR Part 2 information
- Participant adds KHIE info to Notice of Privacy Practices

Patient doesn't consent to share in an HIE

- Participant's responsible to ensure EMR/EHR vendor prevents data from flowing for those patients who don't sign consent to share in an HIE

Overview: Process of Obtaining Consent



▼ Redisclosure

- When Part 2 records are shared with a patient's consent, the records must be accompanied by a notice prohibiting re-disclosure, so that the recipient knows re-disclosure of the information is not permitted.

Disclosure of Substance Use Disorder Patient Records

Specific Disclosure language must be included on the document.

Documents must contain one of the following disclosure statements:

- This record which has been disclosed to you is protected by federal confidentiality rules ([42 CFR part 2](#)). The federal rules prohibit you from making any further disclosure of this record unless further disclosure is expressly permitted by the written consent of the individual whose information is being disclosed in this record or, is otherwise permitted by [42 CFR part 2](#). A general authorization for the release of medical or other information is NOT sufficient for this purpose (see § 2.31). The federal rules restrict any use of the information to investigate or prosecute with regard to a crime any patient with a substance use disorder, except as provided at §§ 2.12(c)(5) and 2.65;

OR

- 42 CFR Part 2 prohibits unauthorized disclosure of these records.



Review of the KHIE Consent Form

Participant must use the designated consent form

- No language can be removed from the consent form
- Information may be added to the consent form
- Consent resides with the Participant



The Consent form includes the following information:

- Amount and Kind of Information
 - The information that will be released in the HIE is a summary of the patient's clinical health information. It may include but may not be limited to:

Patient Demographics

- Insurance Information
- Health Care Providers

Problems & Diagnoses

- Medications
- Vital Signs
- Laboratory Results

Medical Care

- Alcohol & Substance Abuse
- Mental or Behavioral Health Information



- Disclosure
 - From Whom
 - Release of 'all or none' of the providers
 - To Whom
 - Any provider who is treating and participating in KHIE
 - MUST provide patient with a list of KHIE participants
 - Accessible at khie.ky.gov
- Purpose of sharing Part 2 health information in KHIE
 - To aid in treatment and care coordination by integrating primary care with behavioral health



- Revocation
 - Revoke at any time with written notice
 - Records that require additional consent will not be included in KHIE
 - Does not stop disclosure of health information that is otherwise permitted by law
- Effective Period
 - Specified time frame or one year from the date signed
- Signature
 - Patient, parent, legal representative



- Fact Sheet: SAMHSA 42 CFR Part 2 Revised Rule
- <https://www.samhsa.gov/newsroom/press-announcements/202007131330>
- Disclosure of SUD Patient Records
- <https://www.samhsa.gov/sites/default/files/does-part2-apply.pdf>
- How do I Exchange Part 2 Data?
- <https://www.samhsa.gov/sites/default/files/how-do-i-exchange-part2.pdf>

