



KEY QUESTIONS TO POSE BEFORE YOU DISCLOSE

SUBSTANCE ABUSE TREATMENT RECORDS

When is a patient authorization NOT required?

DRAFT

Who Must Comply?	 <p>Program</p>	<p>Emergency</p> <p>Research</p> <p>Court Order</p>	<p>Internal Communications by professionals for TX, service, or prevention</p>	<p>Qualified Service Organization Communication</p> <p>Required by Law</p> <p>Crime on Premises</p>
	 <p>Community Mental Health Provider</p>	<p>Court Order</p> <p>Required by Law</p>	<p>Emergency</p> <p>Child Abuse</p> <p>Elder Abuse</p>	<p>Internal Communications by professionals for TX, service, or prevention</p>
	 <p>General Medical Facility</p>	<p>Court Order</p> <p>Required by Law</p>	<p>Emergency</p> <p>Child Abuse</p> <p>Elder Abuse</p>	<p>Internal Communications by professionals for TX, service, or prevention</p>

Disclose What?	<p>Substance abuse treatment records: Alcohol and drug abuse records, patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse; any information, whether in writing, orally, electronically, or by other means. Disclosure: A communication of records containing “patient identifying information” (PII). PII: Includes name, address, social security number, fingerprints, photographs or other information by which patient’s identity can be determined with reasonable accuracy/speed identifying someone as having a past/current drug/alcohol problem and/or being a past or current patient in an alcohol/drug program.</p>	<p>The Information Practices Act (Civil Code § 1798-1798,78) applies to state agencies. Staff should check with their legal office regarding permissive uses and disclosures under the IPA.</p>
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"Please note that there may be other permitted or required disclosures under the law. Contact your attorney for advice."



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CalOHII does not provide advisory opinions or legal advice to private individuals. This document is intended to offer help to providers to know when an authorization for release of information is required before disclosing drug and alcohol treatment records.

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What Is A:



Program

Substance abuse program receiving state or indirect federal assistance is defined as: (a) An individual or entity (other than a general medical care facility) who holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment; or (b) An identified unit within a general medical facility which holds itself out as providing, and provides, alcohol or drug abuse diagnosis, treatment or referral for treatment; or (c) Medical personnel or other staff in a general medical care facility whose primary function is the provision of alcohol or drug abuse diagnosis, treatment or referral for treatment and who are identified as such providers. (See § 2.12(e)(1) for examples.)



Community
Mental
Health
Provider

Community mental health service provider as defined by [California Welfare and Institution Code 5328-5328.9](#) is a state hospital; a general acute hospital, an acute psychiatric hospital, a mental health rehabilitation center, a skilled nursing facility with a special treatment program for individuals with mental illness.



General
Medical
Facility

42 C.F.R. Part 2 FAQ 1 (2011) Hospitals, trauma centers, or federally qualified health centers generally are “general medical care” facilities. A practice comprised only of primary care providers could be a “general medical facility.” But even in a general medical facility, a provider is only a Part 2 “program” if the provider works in an identified unit that provides and holds itself out as providing alcohol/drug related services or personnel/staff has “primary function” of provision of alcohol/drug related services.

In All Cases:

- ✓ Limit the disclosure to what is described in the authorization
- ✓ Validate the identity and authority of the individual requesting the information
- ✓ Account for the disclosure within the patients record as required by the HIPAA Privacy Rule
- ✓ Develop internal written procedures and train employees on the requirements
- ✓ Designate individual(s) to process disclosure requests

Want Other Important Terms to Know?

Federal Assistance - For this purpose, an alcohol or drug abuse program is considered to be federally assisted if it receives any federal funds, whether they are related to these services or not, is licensed, certified, registered or otherwise authorized by the federal government, receives IRS assistance through tax exemption or deductions for contributions, or is conducted directly by the federal government or by a state or local government that receives federal funds which could be (but are not necessarily) spent for alcohol or drug abuse programs. Need an Authorization Template? Click here [HIPAA Privacy Authorization for Release of Information](#) Go to CalOHII’s website for more tools and information <http://www.ohii.ca.gov/calohi/Home.aspx>