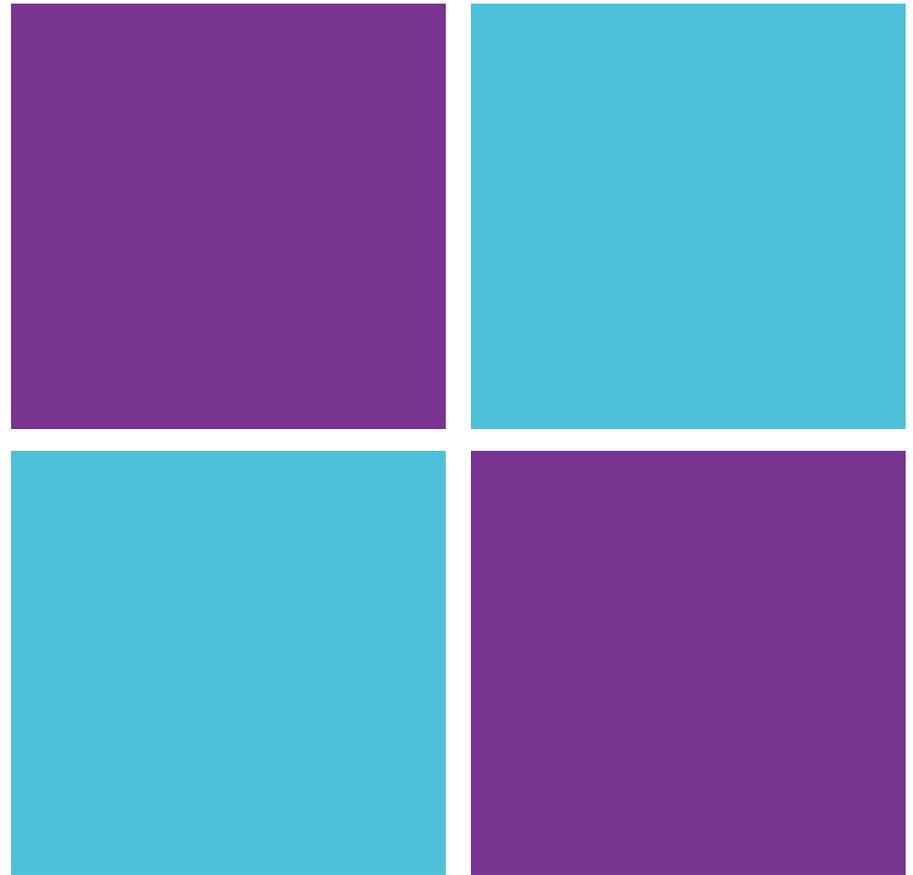


# **Rural Health Clinic Technical Assistance Webinar**

This webinar is brought to you by the National Association of Rural Health Clinics and is supported by cooperative agreement UG6RH28684 from the Federal Office of Rural Health Policy, Health Resources and Services Administration (HRSA). It is intended to serve as a technical assistance resource based on the experience and expertise of independent consultants and guest speakers.

*The contents of this webinar are solely the responsibility of the authors and do not necessarily represent the official views of HRSA.*



# New HIPAA Privacy Rule What RHCs Need to Know

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These are PROPOSED RULES

Many of the proposals are  
CLARIFICATIONS of existing  
rules

# Individual Right of Access



- Reduces individual's barriers to accessing their PHI
- Individuals will have the right to take notes, photos, and videos of their own PHI

# Individual Right of Access



- Reduces the amount of time a covered entity has to respond to a request from 30 calendar days to 15 calendar days
- No undue delay
- Ex – Lab results

# Individual Right of Access



- Addressing the form of access
- Readily producible:
  - In the form and format requested
  - Or in a readable hard copy form
  - Or as agreed to by individual and covered entity

# Individual Right of Access



- Addresses requests to disclose to third-parties
  - Mandatory vs Permissive
  - Manner of request
  - Form and format
  - Fees

# Fees for Records



- Defines permissible and impermissible charges
- Inspection is always free; internet
- Reasonable cost-based fee
- Third-party direct copy fee

# Fees for Records



- Give notice to the individual of what the fee for the copies will be
- Post fee schedule (on your website if you have one)

# Business Associate Agreements and Access



- BAA must clarify when BA must provide access/disclosure

# Patient Identification Verification



- Clarifies language on unreasonable ID verification measures
- Personal representative verification
- Does NOT remove your obligation to properly identify the individual's identity





# Creating an Exception to Minimum Necessary Standard



- Flexible
  - Example – Covered healthcare provider may determine that it is reasonable to rely on the representations from a health plan and a health plan may rely on representations from a public health authority

# Creating an Exception to Minimum Necessary Standard



- Treatment Exception
  - Example – Hospital disclosure to rehabilitation hospital
- Internal Use and disclosure

# Creating an Exception to Minimum Necessary Standard



- Care coordination and case management
  - Example: Diabetes patients
- Health Plans restricted greater on care coordination and case management

# Creating an Exception to Minimum Necessary Standard



- Adds an express exception for care coordination and case management
- Would only apply at the individual level

# Creating an Exception to Minimum Necessary Standard



- Covered Entities responsible for meeting the minimum necessary standard
  - disclosures other than individual-level
  - disclosures other than healthcare providers and plans
  - uses for care coordination and case management, T or O
  - uses, requests, and disclosures for other purposes, population-based

# Creating an Exception to Minimum Necessary Standard



- CURES Act Final Rule
  - Prohibits healthcare provider from limiting permissible disclosure to minimum necessary
  - Provider can honor individual request for restrictions

# Third Party Disclosures



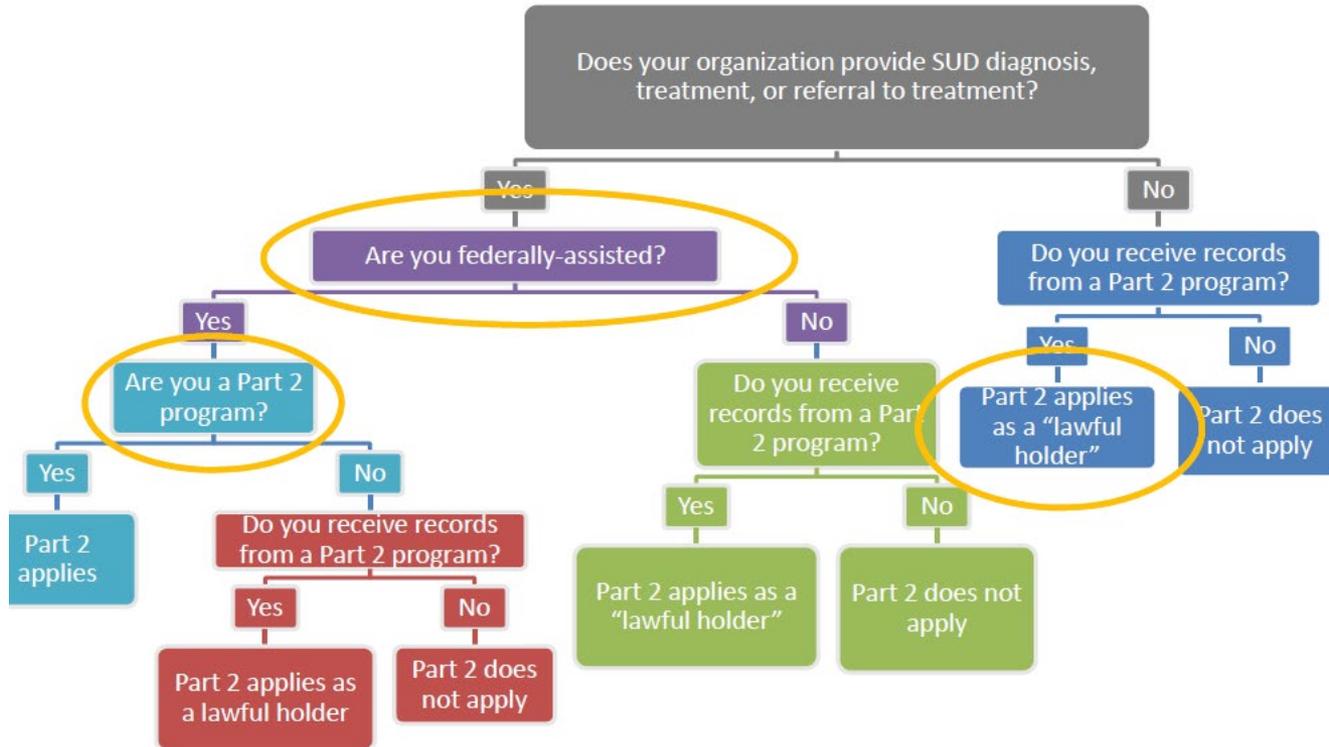
- Adds subsection 164.506(c)(6)
  - Expressly permit CEs to disclose PHI to non-CEs such as:
    - Social Service Agencies
    - Community based organizations
    - HCBS providers
    - Similar 3rd-parties that provide health-related services

# PHI Disclosures - SUD



- Proposed changes to Substance Use Disorders and Serious Mental Illness may affect RHCs too!

# Part 2 Applicability



# PHI Disclosures - SUD



- Support
  - First Proposal
    - Exercise of professional judgement vs Good Faith Belief
  - Second Proposal
    - Serious and Imminent Threat vs Serious and Reasonably Foreseeable Threat Standard

# PHI Disclosures - SUD



- Replacing Professional Judgement with Good Faith Belief
  - Improve coordination of care
  - Professional judgement presupposes that professional vs a workforce member
    - workforce member disclosure limited to knowledge

# PHI Disclosures - SUD



- Presumption of Good Faith Belief
  - Improve timeliness of disclosures of threats
  - Facts and circumstances surrounding disclosures
  - Policies/Procedures: Obtain the privacy preferences at known risk BEFORE they become incapacitated

# PHI Disclosures - SUD



- Identity Verification
  - Policies and Procedures
  - Reasonable designed to verify identity and authority of requestor of PHI
  - Good Faith; in the patients' best interest

# How does Part 2 play into coordinated care and case management?



- Part 2 also applies to:
  - “Lawful Holders”
    - Other recipients of Part 2 information, such as Third-party payers/Health Plans
    - Other providers; Other entities coordinating care
    - Entities having direct administrative control over Part 2 programs
      - Exceptions to Lawful Holders: Department of Veterans affairs; Armed forces; QSOs

# NPP requirements



- Remove the requirement for acknowledgement
  - Also removes the retention of acknowledgement records
- Replace the written acknowledgement with individual right to discuss the NPP
  - Modify NPP to include this right

# NPP requirements



- Modifying NPP header
  - How to access PHI
  - How to file a HIPAA complaint
  - Right to receive the NPP and discuss contents
  - Designated person
    - Are they onsite
    - Contact information (phone and email)

# NPP requirements



- Fully understand rights of access
- Optional section for third party disclosures

# Hearing Impaired, Deaf/Blind, Speech Disability



- Express consent to disclose PHI to TRS systems
  - BAA NOT needed
    - New subsection proposed to exclude TRS systems from the definition of BA

# Submitting Comments on the Proposed Rule

<https://www.hhs.gov/hipaa/for-professionals/regulatory-initiatives/index.html>



# HIPAAtrek

Guiding Your HIPAA Compliance

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**Compliance is Quality Patient Care!**

# CRHCP Code

## ■ DFW4M

- Please note that this code is only for those that are certified rural health clinic professionals (CRHCP) and need to maintain their CRHCP certification