

Overview of HIPAA-Related Changes Going into Effect on February 16, 2026

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Effective February 16, 2026, hospices must revise their HIPAA Notices of Privacy Practices (NPPs) to address uses and disclosures of Part 2-protected Substance Use Disorder (SUD) records. If a hospice also qualifies as a Part 2 Program, it must amend their Part 2 NPPs as well, and may combine the two privacy notices into a single document.

Recent Rulemakings Affecting Part 2 Information

Part 2 imposes heightened confidentiality protections on SUD records. Part 2 applies to federally assisted "Programs" and to "lawful holders" that receive Part 2 records pursuant to patient consent or a Part 2 exception. The definition of "Programs" includes specialty SUD facilities, identified SUD units within general medical facilities, and medical personnel or staff whose primary function is the provision of SUD services. A "lawful holder" is defined as any person or entity bound by Part 2 because it received SUD records by written consent or under a Part 2 exception, which often includes health plans and non-Part 2 providers that receive such records, including potentially hospices.

On February 8, 2024, HHS and SAMHSA finalized sweeping updates to 42 C.F.R. Part 2 to implement Section 3221 of the CARES Act and more closely align Part 2 with HIPAA, with a compliance date of February 16, 2026. The Part 2 final rule modernized consent (including allowing a single consent for all future treatment, payment, and health care operations (TPO)), incorporated HIPAA's de-identification and breach notification frameworks, aligned enforcement with HIPAA, required an updated Part 2 Patient Notice/NPP, and created a fundraising opt-out right, among other changes.

Separately, in April 2024, HHS finalized HIPAA regulatory amendments that, among other things, required HIPAA NPP updates relating to Part 2-protected information, which will also go into effect on February 16, 2026.

Required Updates for Hospices

- Notice of uses and disclosures. Hospices' NPPs must explain how Part 2 SUD records may be used and disclosed, including that written patient consent is generally required for TPO.

- Transparency regarding legal proceedings. Include a statement that Part 2 records cannot be used in civil, criminal, administrative, or legislative proceedings against the patient without written consent specific to the proceeding or a court order.
- Part 2 rights and obligations. The NPPs should describe patients' Part 2-related rights and the hospice's obligations, including restrictions on redisclosure and the prohibition on using SUD records in legal proceedings absent consent or court order.
- Part 2 Programs-specific requirements. Hospices that are also Part 2 Programs must revise the Part 2 Patient Notice/NPP to include new required header language, updated description of permitted uses and disclosures with and without consent (including TPO uses), listing of Part 2 rights and duties, and the new standards for counseling notes, de-identification, and breach notification. Hospices may combine the Part 2 notice with the HIPAA NPP.

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