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## 42 C.F.R. § 2.12

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### Applicability.

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(a) *General— (1) Restrictions on use and disclosure.* The restrictions on use and disclosure in the regulations in this part apply to any records which:

- (i) Would identify a patient as having or having had a substance use disorder either directly, by reference to publicly available information, or through verification of such identification by another person; and
- (ii) Contain substance use disorder information obtained by a federally assisted substance use disorder program after March 20, 1972 (part 2 program), or contain alcohol use disorder information obtained by a federally assisted alcohol use disorder or substance use disorder program after May 13, 1974 (part 2 program); or if obtained before the pertinent date, is maintained by a part 2 program after that date as part of an ongoing treatment episode which extends past that date; for the purpose of treating a substance use disorder, making a diagnosis for that treatment, or making a referral for that treatment.

(2) *Restriction on use or disclosure.* The restriction on use or disclosure of information to initiate or substantiate any criminal charges against a patient or to conduct any criminal investigation of a patient (42 U.S.C. 290dd-2(c)) applies to any information, whether or not recorded, which is substance use disorder information obtained by a federally assisted substance use disorder program after March 20, 1972 (part 2 program), or is alcohol use disorder information obtained by a federally assisted alcohol use disorder or substance use disorder program after May 13, 1974 (part 2 program); or if obtained before the pertinent date, is maintained by a part 2 program after that date as part of an ongoing treatment episode which extends past that date; for the purpose of treating a substance use disorder, making a diagnosis for the treatment, or making a referral for the treatment.

(b) *Federal assistance.* A program is considered to be federally assisted if:

- (1) It is conducted in whole or in part, whether directly or by contract or otherwise by any department or agency of the United States (but see paragraphs (c)(1) and (2) of this section relating to the Department of Veterans Affairs and the Uniformed Services);
- (2) It is being carried out under a license, certification, registration, or other authorization granted by any department or agency of the United States including but not limited to:
  - (i) Participating provider in the Medicare program;
  - (ii) Authorization to conduct maintenance treatment or withdrawal management; or
  - (iii) Registration to dispense a substance under the Controlled Substances Act to the extent the controlled substance is used in the treatment of substance use disorders;
- (3) It is supported by funds provided by any department or agency of the United States by being:

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