

CHANGES TO HIPAA NOTICE OF PRIVACY PRACTICES DUE BY FEBRUARY 16, 2026



The HIPAA Privacy Rule generally requires covered entities (health plans, health care providers and health care clearinghouses) to provide individuals with a Notice of Privacy Practices (or Privacy Notice) to ensure they understand how their protected health information (PHI) may be used and disclosed, as well as their rights with respect to PHI.

A final rule issued by the U.S. Department of Health and Human Services (HHS) in April 2024 requires covered entities to **update their Privacy Notices** if they receive or maintain patient records regarding substance use disorder (SUD) treatment provided by a federally assisted treatment program (i.e., a "Part 2 program"). **The deadline for updating the Privacy Notice is February 16, 2026.** Covered entities that receive or maintain Part 2 program records must update their Privacy Notices to include:

- A description of any use or disclosure that is prohibited or materially limited by other applicable law, including the rules for Part 2 programs;
- A statement that SUD treatment records received from Part 2 programs cannot be used or disclosed in a civil, criminal, administrative or legislative proceeding against the individual without either the individual's written consent or a court order; and
- If a covered entity intends to use or disclose Part 2 program records for fundraising purposes, a statement that the individual must first be provided with a clear and conspicuous opportunity to elect not to receive any fundraising communications.

Until an updated Notice of Privacy Practices is formally issued by the government, an example of unofficial language, which should be reviewed and approved by legal counsel before implementing might look like:

Uses and Disclosures of Substance Use Disorder Patient Records

42 CFR Part 2 (Part 2) provides additional restrictions on the use and disclosure of Substance Use Disorder (SUD) related records, including:

- Records subject to Part 2 shall be used and disclosed such only as permitted by Part 2 and any applicable consent you give shall include any required prohibition on redisclosure notice with permitted disclosures. However, SUD records properly disclosed do have the potential to be "redisclosed" by the recipient following your authorization for disclosure, making the information no longer protected.
- Records received from Part 2 Programs will not be used or disclosed in civil, criminal, administrative or legislative proceedings against you unless based on your written consent, or a court order after notice and an opportunity to be heard is provided to you or the holder of the record.
- For fundraising purposes, if the information used or disclosed includes Part 2 Program records, you must first be provided with a clear and conspicuous opportunity to elect not to receive any fundraising communications.

Action Steps

Employers that maintain Privacy Notices for their health plans should consult with legal counsel to update and distribute the Notice with the changes to SUD treatment records by Feb. 16, 2026.

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