PATIENT PRIVACY & CONFIDENTIALITY FOR SBIRT PROVIDERS

HIPAA, 42 C.F.R. Part 2, & Health Care Reform
Who is your trainer?

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Who is the Legal Action Center?

- Non-profit law & policy organization
- Anti-discrimination & privacy work
  - Substance use disorders
  - HIV/AIDS
  - Criminal records
Who is today’s audience?

- Providers offering Screening, Brief Intervention, and Referral to Treatment (“SBIRT”) in their practices
- Other SBIRT stakeholders
Handouts

- This PowerPoint

- Two sets of SAMHSA FAQs:
  - “Applying the Substance Abuse Confidentiality Regulations 42 CFR Part 2 (REVISED)” (2011)
  - “FAQS: Applying the Substance Abuse Confidentiality Regulations to Health Information Exchange (HIE)” (2010)

- Sample Qualified Service Organization Agreement

- 42 C.F.R. Part 2 (the regulations)
Today’s training is on...

- Follow up to Feb. 28, 2013 webinar titled, “Patient Privacy & Confidentiality in the Changing Health Care Environment”

- Review of federal confidentiality law regarding substance use disorder patient records, in particular:
  - Who is covered by 42 CFR Part 2?
  - Internal communications
  - Qualified Service Organization agreements
  - Insurance & billing
  - When is SBIRT covered by 42 CFR Part 2?
1. Review of 42 CFR Part 2

Regulations governing the confidentiality/privacy of alcohol/drug patient records
Review of 42 CFR Part 2

WHAT IS 42 C.F.R. PART 2?

☐ Federal (not state) law

☐ Governs confidentiality of alcohol and drug treatment and prevention patient information

☐ Regulations implement statutes enacted in 1970s
WHAT ABOUT HIPAA?

- 42 CFR Part 2 has been around much longer
- HIPAA offers a floor of protection—42 CFR Part 2 is more protective of privacy than HIPAA
- HIPAA does not require patient consent to disclose information for treatment, payment, or health care operations—42 CFR Part 2 does require consent
- If you are covered by both HIPAA and Part 2, must follow both; when they are different, follow the one that give patients more privacy protections
WHAT IS THE PURPOSE OF 42 CFR PART 2?

- Alcohol/drug patient information is different
  - Stigma and discrimination
  - Criminal legal consequences
  - Civil legal consequences (e.g., child custody)
  - Employment consequences
  - Housing consequences

- Encourage people to seek treatment without fear of arrest/prosecution, lost custody, lost jobs, etc.
WHAT DOES 42 CFR PART 2 ("PART 2") DO?

- If a provider is covered by Part 2, it generally may not—

- Disclose any info that identifies patient (directly or indirectly) as having a current or past drug or alcohol problem or participating in a drug/alcohol program

- **Unless:**
  - Patient consents in writing, or
  - Another exception applies

**Cont....**
WHAT DOES PART 2 DO? (cont’d…)

- This is true even if the person seeking the info:
  - Already has it
  - Has other ways to get it
  - Has some kind of official status
  - Has obtained a subpoena or warrant
  - Is authorized by state law
WHO MUST FOLLOW PART 2?

- Drug/alcohol treatment & prevention programs that are
- Federally assisted

*must follow 42 C.F.R. Part 2*
WHO MUST FOLLOW PART 2? (cont’d…)  

What is a “program”?  

3 definitions…..
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

What is a “program”?

Definition #1:

- Individual or entity
- other than general medical facility
- that holds itself out as providing, and does provide,
- drug/alcohol diagnosis, treatment, or referral for treatment.
What is a “program”? 

Definition #2:

- An identified unit
- within a general medical facility
- which holds itself out as providing, and does provide,
- drug/alcohol diagnosis, treatment, or referral for treatment.
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

What is a “program”?  
Definition #3:

- Medical personnel or other staff
- *in* a general medical care facility
- whose primary function is
- the provision of drug/alcohol diagnosis, treatment, or referral for treatment, and
- who are identified as such.
What is a “program”? (cont’d…)

- What does “holds itself out” mean?
  - Law does not define
  - SAMHSA FAQs give examples:
    - State licensing procedures, advertising or posting notices in office, certifications in addiction medicine, listings in registries, Internet statements, consultation activities for non-“programs,” info given to patients & families, any activity that would reasonably lead one to conclude those services are provided
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

POLL

☐ Jane receives treatment for her opiate addiction from the detox unit of a large hospital (assume the hospital and its detox unit are “federally assisted”).

☐ Is the hospital covered by 42 CFR Part 2?
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

POLL – CHOOSE AN ANSWER

- (A) Yes, the entire hospital is covered by 42 CFR Part 2.
- (B) No, only the detox unit is covered by 42 CFR Part 2.
- (C) No, neither the hospital nor the detox unit is covered by 42 CFR Part 2.
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

POLL – CORRECT ANSWER

☐ (B) No, only the detox unit is covered by 42 CFR Part 2.

☐ The detox unit is a “program” under Part 2 according to Definition #2: an identified unit within a general medical facility which holds itself out as providing, and does provide, drug/alcohol diagnosis, treatment, or referral for treatment.

☐ An entire general medical facility cannot be a Part 2 “program.”
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

When is a program “federally assisted”?

- Receives federal funds in any form (even if not used for drug/alcohol services), or
- Is authorized, licensed, certified, registered by the federal government, such as
  - assisted by IRS by grant of tax exempt status
  - has DEA registration to dispense controlled substances to treat drug/alcohol abuse
  - is authorized to provide methadone treatment
  - is certified to receive Medicaid or Medicare reimbursements
Dr. O’Neill is an addiction specialist working in a community health center that provides all types of health care (e.g., primary care, geriatric care, OB/GYN). Dr. O’Neill treats the community health center’s patients who have substance use disorders, and prescribes buprenorphine for opiate addiction as part of her practice.

Is Dr. O’Neill covered by 42 CFR Part 2?
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

POLL – CHOOSE AN ANSWER

☐ (A) Yes, Dr. O’Neill is covered by 42 CFR Part 2 because she is both a “program” and “federally assisted”

☐ (B) No, she is not covered by Part 2 because she is a “program” but she is not “federally assisted”

☐ (C) No, she is not covered by Part 2 because she is “federally assisted” but she is not a “program”

☐ (D) No, she is not covered by Part 2 because she is neither a “program” nor “federally assisted”
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

POLL – CORRECT ANSWER

☐ (A) Yes, Dr. O’Neill is covered by 42 CFR Part 2 because she is both a “program” and “federally assisted.”

☐ She is a “program” under Definition #3: she is medical personnel in a general medical care facility whose primary function is the provision of drug/alcohol diagnosis, treatment, or referral for treatment, and who is identified as such.

☐ She is “federally assisted” because she must have DEA registration to prescribe buprenorphine.
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

POLL – FOLLOW UP

☐ Is the community health center that Dr. O’Neill works in covered by 42 CFR Part 2?
Review of 42 CFR Part 2: Who must follow it? (cont’d…)

POLL – CHOOSE AN ANSWER

☐ (A) Yes
☐ (B) No
POLL – CORRECT ANSWER

☐ (B) No

☐ The community health center is not covered by Part 2 because it is a general medical facility, and an entire general medical facility cannot be a Part 2 “program”
REVIEW: WHO IS COVERED BY PART 2?

“PROGRAM”
(3 definitions)

“FEDERALLY
ASSISTED”

MUST
FOLLOW
PART 2!
42 CFR PART 2 & HIPAA: WHO MUST COMPLY WITH BOTH?

- The **vast majority** of alcohol/drug treatment programs must comply with both laws
Review 42 CFR Part 2 & HIPAA

42 CFR PART 2 & HIPAA: WHAT HAPPENS IF BOTH APPLY?

- General Rule: Follow the law that gives patients more privacy protections
Same General Rule: Follow the law that gives patients more privacy protections
Review 42 CFR Part 2 & HIPAA

42 CFR PART 2 & HIPAA:
WHAT DOES THIS MEAN FOR PROVIDERS?

- Know which laws you are covered by
- Generally follow the law that provides the most privacy protection to patients
WHAT INFORMATION IS PROTECTED BY 42 CFR PART 2?

- **Remember**: the general rule is *no disclosure* of information protected by Part 2 *unless*:
  - Patient provides **consent** in writing, or
  - Another **exception** applies
Review 42 CFR Part 2: What info is protected? (cont’d…)

A “disclosure” under Part 2 is:

- Communication (oral or written) of info that identifies someone as having a past or current drug/alcohol problem or being a past or current patient in a drug/alcohol program.

- Disclosure includes communications to people who already know the information.
Review of 42 CFR Part 2: Exceptions

HOW CAN YOU DISCLOSE INFO THAT IS PROTECTED BY 42 CFR PART 2?

☐ 10 Exceptions to the General Rule Against Disclosure:

[ 1) Proper written consent
  2) Internal communications
  3) Qualified Service Organization Agreement
  4) Medical emergency
  5) Non-patient identifying info]

Cont....
Review of 42 CFR Part 2: Exceptions (cont’d…)

HOW CAN YOU DISCLOSE INFO THAT IS PROTECTED BY 42 CFR PART 2? (cont’d…)

- 10 Exceptions (cont’d):
  - 6) Child abuse/neglect reporting
  - 7) Audit/evaluation
  - 8) Court-ordered disclosure
  - 9) Patient crime on program premises or against program personnel
  - 10) Research
Review of 42 CFR Part 2: Exceptions (cont’d…)

HOW CAN YOU DISCLOSE INFO THAT IS PROTECTED BY 42 CFR PART 2? (cont’d…)

☐ Today we will review two exceptions:

- Internal Communications
- Qualified Service Organization Agreement
Internal Communications Exception:

- OK to disclose info without patient consent to:
  - Other program staff, and/or
  - Entity that has administrative control over the program (e.g., records or billing department of a general hospital program is part of)

- But only to the extent the recipient needs info in connection with provision of drug/alcohol services.
Dr. Marton is the director of a detox unit in a federally-assisted hospital. One of her former patients is having hip surgery in another of the hospital’s units, and the surgeon would like to access all of the patient’s records held by the hospital, including those held by the detox unit.

May Dr. Marton share the patient’s records with the hip surgeon?
Review of 42 CFR Part 2: Exceptions (cont’d...)

POLL – CHOOSE AN ANSWER

☐ (A) Yes, Dr. Marton may disclose to the hip surgeon because the disclosure is for treatment purposes

☐ (B) Yes, Dr. Marton may disclose to the hip surgeon because it’s an internal communication

☐ (C) No, Dr. Marton may not disclose to the hip surgeon unless the patient consents in writing
Review of 42 CFR Part 2: Exceptions (cont’d…)

POLL – CORRECT ANSWER

☐ (C) No, Dr. Marton may not disclose to the hip surgeon unless the patient consents in writing

☐ The detox unit is a “program” covered by Part 2

☐ This is not an “internal communication” because it is not to other staff of the Part 2 “program,” nor does the hip surgeon’s unit have administrative control over the Part 2 program, nor does the hip surgeon need the info in connection with provision of drug/alcohol services

☐ Unlike HIPAA, Part 2 does not allow disclosure without consent for treatment purposes
Qualified Service Organization Agreement:

- OK to disclose **without patient consent** to certain outside organizations that provide services to the program or its patients

- 42 C.F.R. Pt. 2 calls these organizations **Qualified Service Organizations** ("QSOs")

- HIPAA calls these organizations **Business Associates** ("BAs")

- NOTE: Can have a combined BA/QSO Agreement

Cont....
Qualified Service Organization Agreement (cont’d…) 

- Examples of services provided by QSOs:
  - Medical services, data processing, dosage prep, lab analyses, vocational counseling, patient transport, legal or accounting services, electronic storage of patient records, etc.
Qualified Service Organization Agreement (cont’d…)

- Requires written agreement between the alcohol/drug program and the QSO

- Alcohol/drug program may only provide to the QSO info needed by the QSO to provide the services to the alcohol/drug program
POLL

- Recovery Inc. drug treatment program and Primary Inc. primary care services are both part of the same Accountable Care Organization (ACO). Recovery Inc. enters into a QSOA with Primary Inc. for Primary Inc. to provide primary care services to Recovery Inc.’s patients.

- John, a patient of Recovery Inc., makes an appointment for a physical with Primary Inc., and John’s Primary Inc. physician requests John’s drug treatment records from Recovery Inc. in order to provide appropriate care.

- **May Recovery Inc. disclose John’s records to Primary Inc. without John’s consent?**
POLL – CHOOSE AN ANSWER

(A) No, Recovery Inc. drug treatment program needs John’s consent to disclose his records to Primary Inc.

(B) Yes, Recovery Inc. can disclose the records without John’s consent because Recovery Inc. has a QSOA with Primary Inc.

(C) Yes, Recovery Inc. can disclose the records without John’s consent because it’s an internal communication

(D) Yes, Recovery Inc. can disclose the records without John’s consent because it’s for treatment
Review of 42 CFR Part 2: Exceptions (cont’d…)

POLL – CORRECT ANSWER

- **(B) Yes**, Recovery Inc. can disclose the records without John’s consent because Recovery Inc. has a QSOA with Primary Inc.

- Recovery Inc. must limit disclosure to the amount & type of info needed by the Primary Inc. physician to provide primary care services to John.

- This is not an internal communication because Primary Inc. is not part of the Part 2 “program,” nor does it have administrative control over it.

- Unlike HIPAA, Part 2 does not permit disclosure of patient info without consent for treatment purposes.
POLL – FOLLOW UP

- After Recovery Inc. provides John’s drug treatment records to Primary Inc. pursuant to the QSOA, Primary Inc. receives a request for John’s medical records from a family court where John is fighting a custody battle.

- May Primary Inc. disclose John’s drug treatment records from Recovery Inc. to the family court without John’s consent?
Review of 42 CFR Part 2: Exceptions (cont’d…)

POLL – CHOOSE AN ANSWER

☐ (A) No, Primary Inc. cannot disclose without John’s consent.

☐ (B) Yes, Primary Inc. may disclose without John’s consent because Primary Inc. is not a program covered by Part 2, Recovery Inc. is.

☐ (C) Yes, drug treatment records may always be disclosed without patient consent in a child custody dispute.
(A) No, Primary Inc. cannot disclose without John’s consent.

Primary Inc. is a QSO, and is obligated by its QSOA with Recovery Inc. to be fully bound by Part 2 and to resist any efforts to obtain access to the info it receives from Recovery Inc. except as permitted by Part 2. It cannot redisclose Part 2 protected info without patient consent.
Review of 42 CFR Part 2: Exceptions (cont’d…)

**POLL – FOLLOW UP**

- Recovery Inc. drug treatment program also has a QSOA with Lucky Laboratories for Lucky to conduct urinalysis testing on Recovery Inc.’s patients.

- John’s primary care physician at Primary Inc. requests John’s urinalysis test results, conducted for Recovery Inc., from Lucky Laboratories, in order for Primary Inc. to provide care to John.

- May Lucky Laboratories disclose the urinalysis results to Primary Inc. without John’s consent?
POLL – CHOOSE AN ANSWER

☐ (A) Yes, Lucky Laboratories may disclose to Primary Inc. because they both have a QSOA with Recovery Inc. drug treatment program.

☐ (B) No, Lucky Laboratories cannot disclose John’s results to Primary Inc. without his consent.
POLL – CORRECT ANSWER

(B) No, Lucky Laboratories cannot disclose John’s results to Primary Inc. without his consent.

A QSOA is a two-way agreement – info can only be disclosed between the alcohol/drug program and the QSO, not from the QSO to a third party (even if that third party is also a QSO of the same alcohol/drug program).

However, Primary Inc. could obtain the urinalysis results without John’s consent from Recovery Inc. rather than Lucky Labs, because it has a QSOA with Recovery Inc. and the info is needed to provide the QSOA services.
Qualified Service Organization Agreement (cont’d…) 

- Must an alcohol/drug program covered by 42 CFR Part 2 inform its patients that their records can be disclosed without their consent to the program’s QSOs?
  - **No**, Part 2 does not require the alcohol/drug program to tell its patients about its QSOAs.

- But: in order to foster trust and an effective treatment relationship, programs may want to consider informing patients even though it is not required by law.
Special Topics for Further Discussion

- Insurance & Billing
- SBIRT
How can a provider covered by 42 CFR Part 2 bill for its services?

- **Remember**: Part 2 info may **not** be shared without patient consent unless an exception applies.
- Unlike HIPAA, Part 2 does **not** contain an exception for payment.
- Therefore, Part 2 info may **not** be disclosed to insurers or other third party payers without patient consent.
  - This includes verification of benefits, pre-authorization, etc.
POLL

Kate receives treatment for alcoholism from Recovery Plus Treatment Program. Kate provides consent for Recovery Plus to disclose her records to her primary care doctor, Dr. Welby. Kate’s insurance company requests all of the records Dr. Welby has on Kate for billing purposes.

May Dr. Welby include the records she received from Recovery Plus in the information she sends to the insurer?
POLL – CHOOSE AN ANSWER

(A) Yes, Dr. Welby may send all records she has about Kate, including those received from Recovery Plus, to the insurer.

(B) Maybe – Dr. Welby may include the Recovery Plus records if she has Kate’s consent to do so

(C) No, records covered by 42 CFR Part 2 cannot be shared with insurers under any circumstances due to their sensitive nature
POLL – CORRECT ANSWER

- (B) Maybe – Dr. Welby may include the Recovery Plus records if she has Kate’s consent to do so.

- Third parties who receive alcohol/drug info from a Part 2 “program” pursuant to patient consent are not permitted to redisclose the Part 2 info except as permitted by Part 2.

- Since Part 2 only permits disclosure of covered info to insurers with patient consent, Dr. Welby may only disclose that part of Kate’s record if Kate consents.
What is SBIRT?

- **Screening**: Identifies patients with possible substance misuse or abuse problems; generally universal screening (for all patients)

- **Brief Intervention (or Brief Treatment)**: Patients who have moderate risky behaviors may be referred to brief intervention or brief treatment

- **Referral to Treatment**: Patients with more severe substance use disorders may be referred for either brief treatment or more intensive specialty treatment

Source: SAMHSA, TAP 33: Systems-Level Implementation of Screening, Brief Intervention, and Referral to Treatment (2013).
When are SBIRT services covered by 42 CFR Part 2?

- According to SAMHSA, the answer depends on whether the entity conducting the SBIRT activities is covered by Part 2 (i.e., is the entity a federally-assisted “program”?)

When are SBIRT services covered by Part 2 (cont.)?

- If the person/entity conducting the SBIRT services is covered by Part 2, then the SBIRT services are covered by Part 2

- If the person/entity conducting the SBIRT services is NOT covered by Part 2, then the SBIRT services are NOT covered by Part 2
When are SBIRT services covered by Part 2 (cont.)?

- How do you know if the person/entity conducting SBIRT services is covered by Part 2 (which would mean the SBIRT services are also covered)?

- Remember:

  “PROGRAM” (3 definitions) + “FEDERALLY ASSISTED” = MUST FOLLOW PART 2!
Dr. Samuels is a primary care physician. At every physical he conducts, he spends approximately 5 minutes asking his patients a list of universal screening questions for risky substance use. If a patient meets the criteria for risky substance use or a substance use disorder, Dr. Samuels has a short discussion with the patient about his/her substance use and, if appropriate, provides a referral for treatment. Dr. Samuels does not himself provide any substance use treatment.

Dr. Samuels includes the all the results of his SBIRT screenings in his patients’ medical records.
May Dr. Samuels share his patients’ medical records, which include the results of their SBIRT screenings, with other physicians in his practice?
SBIRT (cont’d…)

POLL – CHOOSE AN ANSWER

- (A) Yes, Dr. Samuels may share his patients’ records, including their SBIRT info, with other physicians for treatment purposes

- (B) Dr. Samuels may share his patients’ records with the other physicians, but must remove the SBIRT info first

- (C) No, Dr. Samuels may not share his patients’ records without consent, because they are now covered by 42 CFR Part 2
(A) Yes, Dr. Samuels may share his patients’ records, including their SBIRT info, with other physicians for treatment purposes
SBIRT (cont’d…)

POLL – CORRECT ANSWER (cont’d…)

- Dr. Samuels is not himself covered by Part 2, because he does not meet any of the 3 definitions of a “program” (making the question of whether he is federally assisted irrelevant) – e.g., he does not hold himself out as providing, nor does he provide, alcohol/drug treatment.

- Because Dr. Samuels is not covered by Part 2, the SBIRT info he obtains is not covered by Part 2.

- Because the results of his SBIRT screenings are not covered, he may share them according to HIPAA (e.g., for treatment purposes w/o consent), unless some other law applies (like state law).
A community health center has a physician certified in addiction medicine, Dr. Friedman, on staff to conduct SBIRT with all of the center’s patients. If indicated by a patient’s screening, Dr. Friedman conducts brief treatment. Patients with serious substance use disorders are referred elsewhere. The community health center accepts Medicaid and Medicare patients.

Are Dr. Friedman’s SBIRT activities covered by 42 CFR Part 2?
SBIRT (cont’d…)

POLL – CHOOSE AN ANSWER

- (A) No, Dr. Friedman’s SBIRT activities are not covered because the health center is not a Part 2 “program”
- (B) No, her SBIRT activities are not covered because Dr. Friedman is not a Part 2 “program”
- (C) Yes, Dr. Friedman’s SBIRT activities are covered because the health center is a Part 2 “program”
- (D) Yes, Dr. Friedman’s SBIRT activities are covered because she is a Part 2 “program”
(D) Yes, Dr. Friedman’s SBIRT activities are covered because she is a Part 2 “program”
Based on the description of Dr. Friedman’s work, she is probably a “program” (Definition #3):

- Her primary function is the provision of alcohol/drug diagnosis, treatment, or referral for treatment, and
- She is identified as such.

Dr. Friedman is “federally assisted” because the community health center accepts Medicaid & Medicare
POLL – CORRECT ANSWER (cont’d…)

The community health center is not a Part 2 program, even though its employee Dr. Friedman is, because:

- it does not meet any of the 3 definitions of a “program,” and
- it is probably a general medical facility, and general medical facilities cannot be Part 2 programs.
Because Dr. Friedman is covered by Part 2, her SBIRT services are also covered by Part 2
Can Dr. Friedman bill for her SBIRT services without patient consent?
POLL – CHOOSE AN ANSWER

☐ (A) Yes.
☐ (B) No.
(B) No.

Because Dr. Friedman is covered by Part 2, her SBIRT services are covered by Part 2.

Remember: Part 2 info cannot be disclosed to insurers or other third party payers without patient consent.
SBIRT (cont’d…)

POLL

☐ A federally qualified health center provides SBIRT services to its patients, with the components divided up among a team of several staff members (one staff member does screening, another does brief intervention, and another does referral to treatment). The primary function of the team is providing general health care.

☐ Are the team’s SBIRT services covered by Part 2?
SBIRT (cont’d…)

POLL – CHOOSE AN ANSWER

☐ (A) Yes
☐ (B) No
SBIRT (cont’d…)

POLL – CORRECT ANSWER

☐ (B) No – the SBIRT services are NOT covered by Part 2
The team is not a Part 2 “program” because it doesn’t meet any of the three definitions:

- NOT an individual, entity, or identified unit that holds itself out as providing and does provide alcohol/drug services – they provide SBIRT as a small part of their general health care services (definitions 1 & 2)

- NOT medical personnel or staff whose primary function is provision of alcohol/drug services and who are identified as such – again, SBIRT is small part of general health care services (definition 3)
Because the team itself is not covered by Part 2 (not a Part 2 “program”) its SBIRT services are also NOT covered by Part 2
Final Review

- Who’s covered by 42 CFR Part 2?
- Internal Communications
- QSOA
- Insurance/Billing
- SBIRT
Review: Who is covered by 42 CFR Part 2?

“PROGRAM” (3 definitions) + “FEDERALLY ASSISTED” = MUST FOLLOW PART 2! 
Also be aware of what other laws apply to you:

- HIPAA?
- State laws (e.g., mental health, HIV, etc.)?
- Do any contracts specify you must follow certain laws (e.g., your Single State Authority mandates you to follow Part 2 even though you otherwise would not need to)?
Review: Internal Communications

- Only applies:
  - Within the program covered by Part 2, and/or
  - Between the Part 2 program and an entity with direct administrative control over it

- Does not apply:
  - Between Part 2 program and other health care providers (even if part of the same broader entity)

- Must be limited to:
  - Amount and type of info needed in connection with the provision of alcohol/drug services
Review: Qualified Service Organization Agreement

- QSO provides services to Part 2 program (like a Business Associate under HIPAA)
- Must have written agreement in place
- Part 2 program can only disclose to QSO without consent the info needed by the QSO in order to provide the services
- The QSO must follow Part 2 in handling the Part 2-protected info it receives
- 2-way agreement (QSO may only disclose back to Part 2 program)
Patient consent is required in order to disclose info protected by Part 2 to an insurer or other third party payer
Review: SBIRT

- Whether SBIRT activities are covered by 42 CFR Part 2 depends on whether the person/entity conducting them is covered by Part 2
- If person/entity conducting SBIRT is covered by Part 2, the SBIRT activities are also covered
- If person/entity conducting SBIRT is NOT covered by Part 2, the SBIRT activities are also NOT covered