

Report on Medicare Compliance Volume 29, Number 14. April 13, 2020 COVID-19 Legislative Surprise: Part 2 Rule Is Harmonized With HIPAA

By Theresa Defino

Over the years, HHS has revised the Confidentiality of Substance Use Disorder Patient Records regulation, doing as much as it could before it ran into the limits of the statute but never going as far as some people wanted, which is full alignment with HIPAA. Enter the COVID-19 pandemic relief legislative scramble and—voila—it happened. Yet that change has nothing to do with the pandemic, stemming instead from advocacy efforts by a family whose daughter died of an overdose because a new doctor prescribed her oxycodone not knowing she had previously been addicted to heroin.

A provision tucked into the Coronavirus Aid, Relief, and Economic Security (CARES) Act,^[1] which was enacted March 27, 2020, amends the federal law governing the confidentiality and disclosure of records for patients with substance use disorders who are being, or have been, treated by a program conducted, regulated, or directly or indirectly assisted by the federal government (42 C.F.R. § 2), known as Part 2, said attorney Thora Johnson, with Venable in Baltimore Maryland.

“The statute is now amended, and it more closely aligns with HIPAA,” she said. The CARES Act also requires HHS, within one year of signing the law, to amend applicable regulations to implement the statutory changes.

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)