

<b>To:</b>	<b>BHS Contracted Service Providers</b>
<b>From:</b>	<b>Nadia Privara, Acting Director, Behavioral Health Services</b>
<b>Date:</b>	<b>September 15, 2025</b>
<b>Title</b>	<b>42 CFR Part 2 Delegation of Authority to OCR</b>

The federal Health and Human Services (HHS) Secretary issued a formal [Delegation of Authority](#) for enforcement of 42 CFR Part 2 to the federal Office of Civil Rights (OCR). This is the latest step in a process [initiated by the CARES Act](#) in 2020 to align the Part 2 substance use disorder privacy rule more closely with HIPAA. As part of those changes, the CARES Act revised the enforcement scheme so that the civil and criminal penalties applicable to HIPAA are also applicable to Part 2 violations (previously, Part 2 was purely enforceable through criminal authorities). HHS finalized the rule implementing the CARES Act changes in [February of last year](#). That rule clarified, consistent with the CARES Act, that violations of Part 2 would be subject to the same penalties as violations of HIPAA.

Now HHS has further implemented the change by delegating enforcement authority to OCR, which is the same entity that enforces HIPAA. They have also delegated Part 2 implementation and interpretation authority more broadly to OCR. The federal regulatory body enforcing Part 2 is now an agency with a specialized expertise in privacy and a broader toolkit of enforcement tools, including civil penalties in addition to criminal penalties. There is thought that over time there will be more investigation and enforcement of Part 2 violations, and the OCR will be highlighting that they are paying attention to substance use disorder privacy.

#### **Action for BHS Contracted Service Providers**

BHS highly recommends legal entities review their Part 2 Compliance Programs to ensure their organization is up to date with the substantial changes that have been made by the CARES Act. Compliance with all applicable federal regulations will be confirmed through routine Provider Compliance Attestation activities.

#### **For More Information:**

- BHS Quality Assurance Teams: [QIMatters.HHSA@sdcounty.ca.gov](mailto:QIMatters.HHSA@sdcounty.ca.gov)