

February 2026 HIPAA Update for Substance Use Records

What mental health providers need to know

WHAT YOU NEED TO KNOW

- Federal privacy rules related to substance use disorder records were updated effective February 16, 2026.
- One written consent may authorize future uses and disclosures for treatment, payment, and health care operations.
- HIPAA breach notification rules apply to substance use disorder information.
- Consent is still required.
- Minimum necessary still applies.

WHAT CHANGED. WHAT DID NOT.

What changed

- One written consent may cover future disclosures for treatment, payment, and health care operations.
- Substance use disorder information may be included in the clinical record.
- Redisclosure is permitted under HIPAA once information is lawfully shared.
- HIPAA breach notification rules apply to substance use disorder information.

What did not change

- Consent is still required.
- Clients retain privacy rights.
- Minimum necessary still applies.
- Documentation should remain clinically relevant.
- Ethical and professional standards did not change.



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NOTICE OF PRIVACY PRACTICES LANGUAGE TO REVIEW

The language below reflects the February 2026 federal update. State laws may impose additional requirements.

Substance Use Disorder Information

Some health information maintained by this practice may relate to substance use disorder services and is protected by federal law.

Beginning February 16, 2026, substance use disorder information may be used or disclosed for treatment, payment, and health care operations when you have provided written consent, consistent with federal requirements. Once lawfully disclosed, this information may be redisclosed by the recipient as permitted under the HIPAA Privacy Rule.

You have the right to revoke your consent or request restrictions on certain uses or disclosures of your information. Any revocation or restriction applies going forward and does not affect disclosures already made in reliance on prior consent.

This practice applies the minimum necessary standard and professional judgment when using or disclosing sensitive information.

Shown for reference. Review within the context of applicable state law.

Many states have specific requirements for what must be included in a Notice of Privacy Practices. This insert should not be added to a generalized or boilerplate NPP without confirming your state's requirements.

Pro Tip:

Many EHR systems provide a sample NPP that is not customized to state law. Make sure your NPP has been reviewed and customized to remain compliant.



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COMMON MISTAKES TO AVOID

- Treating the update as permission to share substance use information more freely
- Removing consent language instead of reviewing it
- Over-documenting substance use details that are not clinically necessary
- Leaving outdated substance use confidentiality language in policies
- Forgetting that billers, assistants, and contractors are affected
- Assuming one consent applies to all sensitive information

Most risk comes from misunderstanding the update, not ignoring it.

FEBRUARY 2026 COMPLIANCE CHECKLIST

Use this checklist to identify whether updates are needed.

- Notice of Privacy Practices reviewed and updated as needed
- Consent language reviewed for substance use disclosures
- Documentation standards reviewed for clinical relevance
- Breach response policy reviewed to include substance use records
- Staff and contractors informed of the update
- Process identified for revocation or restriction requests
- State-specific requirements reviewed

If several items are unchecked, updates are likely needed.

FINAL NOTE

The February 2026 update simplifies certain processes.

It does not change professional responsibility.

If your policies, consent language, and documentation standards are aligned, no major overhaul is needed. If they are not, small updates now prevent bigger issues later.

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