

Family Support for Behavioral Health Across the Lifespan: A 3-Part Learning Series

Session 3: How to Empower Our Children Who Experience Mental Health and/or Substance Use Challenges



Lindsey Vuolo

Vice President, Health Law and Policy
Partnership to End Addiction



Molly Bobek

Clinical Implementation Specialist
Partnership to End Addiction



Meri Viano

Associate Director
Parent/Professional Advocacy League (PPAL)

Disclaimer

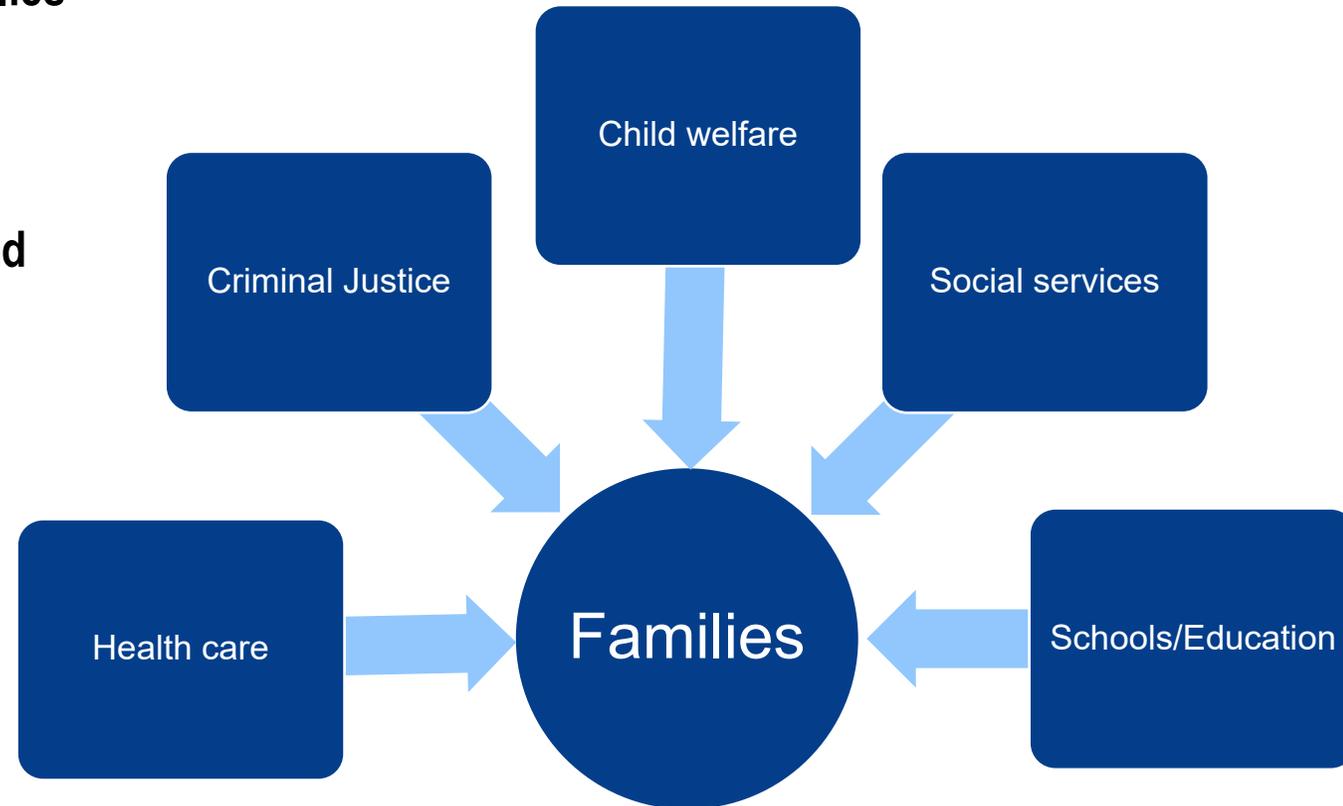
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Policy Barriers

Policies are the ways in which *systems* interact with families through rules, laws, regulations, training, guidance, mandates, funding, etc.

Policy barriers are policies that are *harmful* to families and their loved ones.

- **Rooted in stigma** – predicated on a belief that addiction is a moral failing
- **Punitive** – seek to hold people accountable for their immoral behavior
- **Not supportive** – perpetuate shame, causing individuals and their families to avoid engaging with these systems



Overcoming Policy Barriers

Education

- Familiarity with the laws/policies that are creating challenges for you
- Understand systemic challenges
- Look for resources, find trusted experts
- Know your rights

Advocacy

- advocacy - speak up
 - Assert your rights
 - Share your story
- Advocacy - join larger movement for policy change
 - Learn more at <https://drugfree.org/advocate-for-change/>



Confidentiality Laws

State Laws

- Age of consent laws
- Privacy laws
 - Confidentiality requirements for records relating to certain medical conditions

Federal Laws

- HIPAA
- 42 CFR part 2
- FERPA

Resource: [American Academy of Pediatrics Confidentiality Laws](#)



Confidentiality (State Laws)

State laws can allow minors to consent to receiving behavioral health care without parental consent.

- 31 states have laws that allow minors to consent to mental health services
- Nearly all states have laws that allow minors to consent for substance use treatment

State law can also dictate when parents have the right to access their child's health information.

State law can add additional confidentiality/privacy protections for records related to mental health or substance use treatment.

Resource: Contact state mental health agencies and associations



Confidentiality (HIPAA)

Health Insurance Portability and Accountability Act (HIPAA)

- Federal law that governs the sharing of health information
- For minors, HIPAA generally allows providers to disclose information about the child's treatment to parents.
 - BUT State law determines age when child can consent to treatment without parental consent and whether provider can disclose information to parent. If state law is silent, provider needs child's permission ([HHS FAQ 2093](#); [HHS FAQ 2092](#))
- HIPAA requires health entities to obtain patient's consent to disclose information, with exceptions.
- In some situations, health professionals can share limited information with a patient's loved one:
 - Crisis situations (e.g., emergency department physicians treating a mental health crisis or an overdose) ([HHS guidance on HIPAA and opioid overdoses](#); [HHS FAQ 2090](#); [HHS FAQ 3001](#))
 - Provider believes patient presents serious danger to self or others and provider believes disclosure is necessary to prevent/lessen threat of harm ([HHS FAQ 516](#))
 - Information that is directly relevant to the family member's involvement in the patient's care or payment of care, if the patient doesn't object
- Resources: [HHS Guidance on Child's Personal Representative](#); [HHS: What Parents Need to Know about HIPAA](#); [HHS HIPAA Helps Caregiving Connections](#); [Decision Tree on Obtaining Loved One's Treatment Information](#)

Confidentiality (42 CFR part 2)

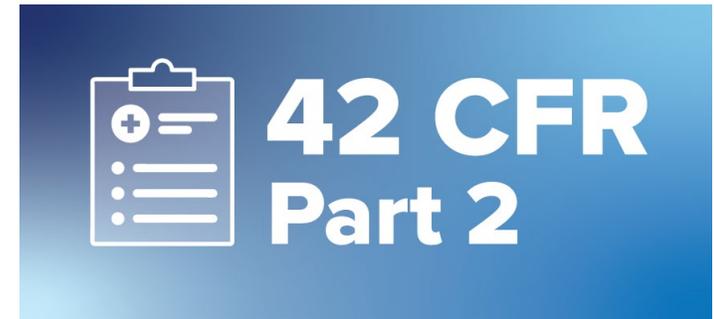
Federal substance use disorder privacy law and regulations (42 CFR Part 2)

Federal law that applies only to federally assisted substance use disorder treatment program records

Records for minors receiving treatment in a part 2 program ([42 CFR § 2.14](#))

- If state laws allow minor to consent to SUD treatment without parental consent, minor must provide written consent for disclosure of information, even to parent
- Program may disclose information without minor's consent if necessary to reduce a substantial threat to life or well-being of minor or another individual

Re-disclosure of information released by consent is prohibited – recipient is bound by Part 2's confidentiality requirements.



Confidentiality (FERPA & IDEA)

Family Educational Rights and Privacy Act (FERPA)

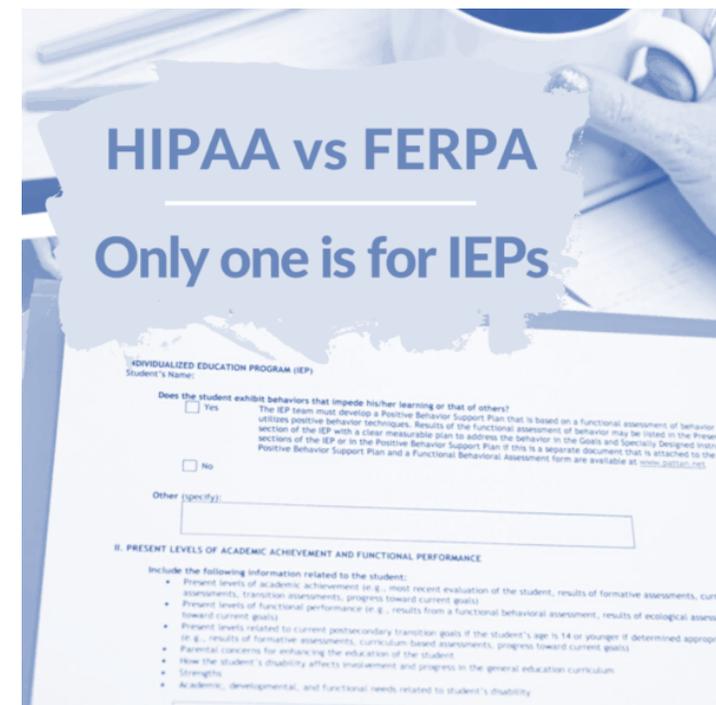
- Federal law that protects confidentiality of student education records
- Governs medical records in a school setting
- FERPA [permits](#) a college or university to let parents of students under 21 know when the student has violated any law or policy concerning the use or possession of alcohol or a controlled substance

Individuals with Disabilities in Education Act (IDEA)

- Provides additional privacy protections for students who are receiving special education and related services (34 CFR 300.560-300.577)

Resources

- [Understanding Student Privacy Protections](#)
- [Center of Excellence for Protected Health Information](#)
- [FERPA Guidance for Parents](#)
- [FERPA and Special Education Records](#)



Insurance Coverage

Mental Health Parity and Addiction Equity Act (Parity Act)

- Federal law requiring most health plans to cover mental health and substance use disorder treatment the same way they cover treatment for any other disease
 - Plan cannot put more restrictive visit limits, impose higher cost sharing or apply more onerous prior authorization or concurrent review requirements on MH/SUD benefits as compared to similar medical or surgical benefits
- Good law with strong legal protections but not well implemented or enforced
- Enforcement framework relies on consumers to identify parity violations and file complaints
 - Work is underway to change the enforcement framework
- Do not accept denials from your insurer – always appeal!
 - Resources: [How to File an Insurance Appeal](#); [How to Properly Document Your Contact with Your Insurance Company](#)
- File a parity complaint with the insurance regulator: [How to File a Parity Complaint](#)
- Resources: Parity at 10 [resources](#) for patients and families

Other state insurance laws regarding coverage of SUD benefits

- Require coverage of certain SUD benefits; restrict prior authorization requirements; required medical necessity criteria

Educating Our Children

It's important for your child to learn about and become comfortable talking about behavioral health issues and the policies that impact them.

- **How can we prepare our children?**
 - For young children, the focus is often on emotion regulation.
 - As children get older, the focus shifts to learning how to communicate about emotional experiences and how to effectively relate to others, all the while maintaining autonomy.



Empowering Our Children

We can empower our children to connect with others and to learn to navigate their own support systems.

- How can we help our children establish a sense of agency as they go through behavioral health challenges?
 - Who might your child want involved in their support system?



We can teach our children the same advocacy skills WE have learned to navigate complex policies.

Breakout Rooms

- **How can parents/caregivers understand their rights as child(ren) move through the lifespan?**
- **What are some important changes to be aware of in relation to confidentiality around children's health information and status in treatment?**
- **What are important things to know about insurance access and coverage?**
- **How can we educate children so they are more prepared to deal with behavioral health challenges? What information is important to equip them with?**
- **How can we support our children to feel comfortable participating in decision making meetings that influence the support system they might need in dealing with behavioral health challenges?**

Let's Talk

- What were the major takeaways from breakout rooms?
- What is developmentally unique across age groups?
- What are core elements of the caregiver experience that cut across the entire lifespan?



Partnership to End Addiction Resources

For family support services, visit our website at [Get Support Now](#).

Helpline

- Partnership to End Addiction has a national helpline operated by trained specialists who provide support to parents, other family members, and friends who have a loved one struggling with substance use; accessed via digital platforms (live chats: text, email, Facebook messenger) or a scheduled phone call

Parent Coaching

- Family members who request Parent Coaching are paired with a peer coach and offered 5-6 one-hour weekly phone calls with their coach

Help & Hope Texting

- Free text messaging service for affected family members that delivers evidence-based skills, personalized guidance and support

Online Support Community

- Free online group meetings offering family members the opportunity to connect with others who are in a similar situation

Web Resources ([drugfree.org](#))

- A library of addiction-focused digital resources available for family members to reference (eBooks, guides, videos, articles, blogs, etc.)

Follow Up and Next Steps

In our follow up email, within 5 days, look for:

- A link to the recording of today's presentation
- Today's presentation slides
- Invitations to upcoming events
- Additional resources
- Ways to stay connected with us
- A letter of participation for your records

<https://www.nfstac.org>

