



Northwest (HHS Region 10)

MHTTC

Mental Health Technology Transfer Center Network


Funded by Substance Abuse and Mental Health Services Administration

BUILDING TELEHEALTH CAPACITY for BEHAVIORAL HEALTH

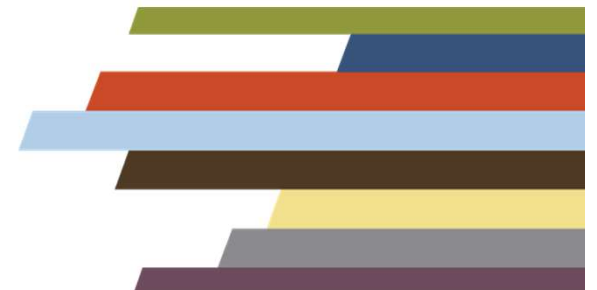
42 CFR Part 2 and HIPAA

BEHAVIORAL HEALTH INSTITUTE

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SAMHSA
Substance Abuse and Mental Health
Services Administration



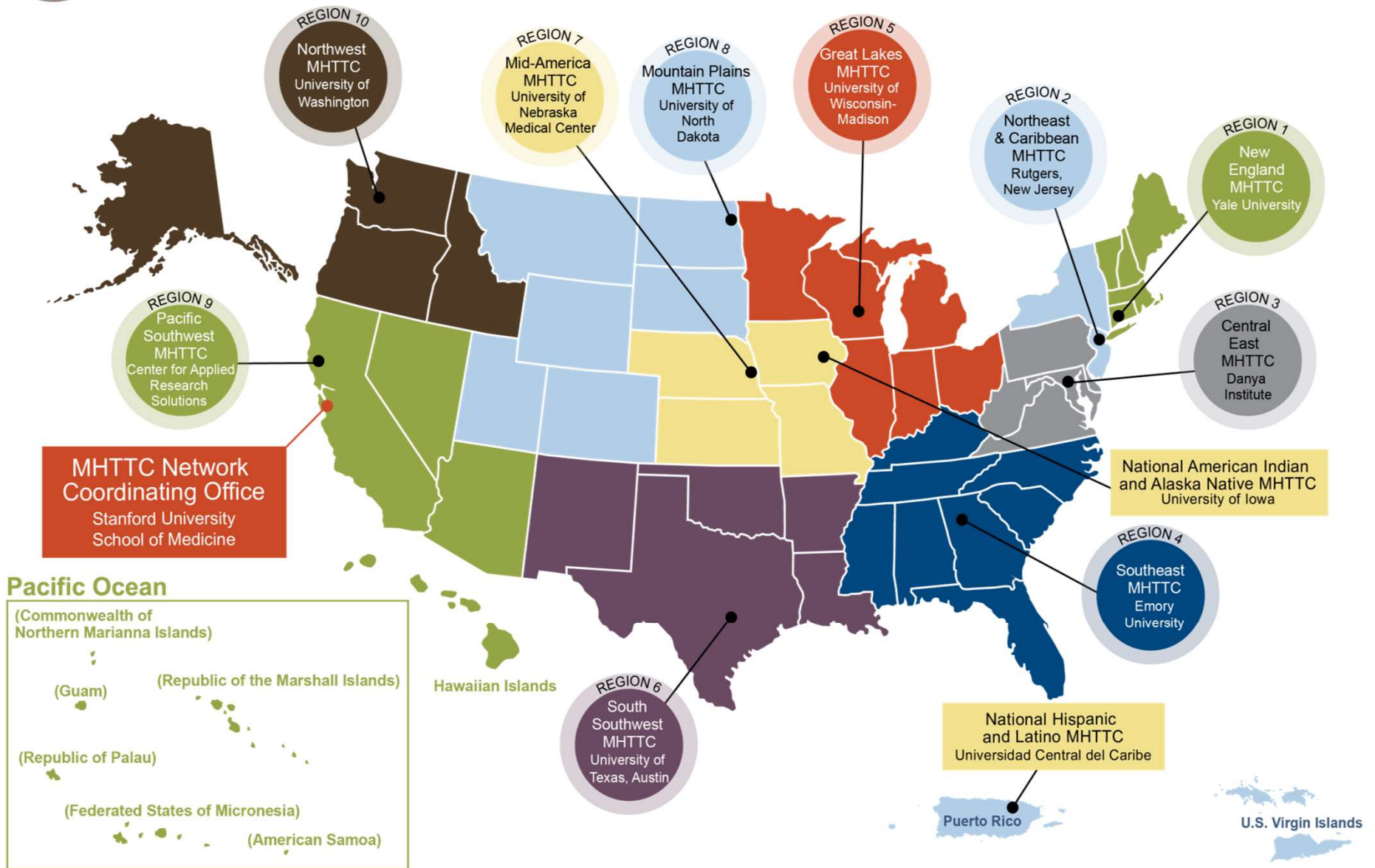


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Northwest Mental Health Technology Transfer Center

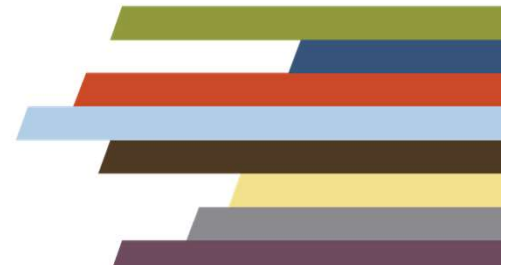
Our Role:

Provide training and technical assistance (TA) in evidence-based practices (EBP) to behavioral health and primary care providers, and school and social service staff whose work has the potential to improve behavioral health outcomes for individuals with or at risk of developing serious mental illness in SAMHSA's Region 10 (Alaska, Idaho, Oregon, and Washington).

Our Goals:

- Ensure availability and delivery of free, publicly-available training and TA to Region 10 providers.
- Heighten awareness, knowledge, and skills of the workforce addressing the needs of individuals with mental illness.
- Accelerate adoption and implementation of mental health-related EBPs across Region 10.
- Foster alliances among culturally diverse mental health providers, policy makers, family members, and clients.

www.mhttcnetwork.org/northwest



The use of affirming language inspires hope and advances recovery.

LANGUAGE MATTERS.

Words have power.

A graphic consisting of a central dark blue rectangle with the text "PEOPLE FIRST." in white, bold, sans-serif font. On either side of this rectangle are five horizontal white lines of varying lengths, creating a stylized, symmetrical design.

PEOPLE FIRST.

The MHTTC uses affirming language to promote the promises of recovery by advancing evidence-based and culturally informed practices.



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CHAT Box

- > We'll share info about logistics
- > Let us know if you are having tech issues
- > To you: from our training team
- > From you: only visible to hosts/panelists
- > NOT for content-related questions (see next slide)

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Questions – 2 options (participants are muted):

1. Type question into Q&A Window



OR

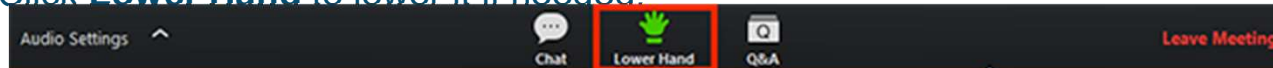
2. Raise hand (*will be called on/unmuted in order*)

Click **Raise Hand** in the Webinar Controls.




The host will be notified that you've raised your hand.

Click **Lower Hand** to lower it if needed.



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After today's session

Please complete the evaluation surveys

(LINK):

- > Will be shared in the chat box near the end & also emailed out
- > NEW: there will be an additional eval link from the presenters
- > Helps the presenters plan future sessions
 - *There will NOT be certificates or CEUs for this series.*
 - *Slides, recording & resources WILL be posted afterward*

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Behavioral Health Institute (BHI)

Training, Workforce and Policy Innovation Center

The Behavioral Health Institute (BHI) Is a Center of Excellence where innovation, research and clinical practice come together to improve mental health and addiction treatment. The BHI established initial priority programs which include:

- Improving care for youth and young adults with early psychosis
- Behavioral Health Urgent Care Walk in Clinic
- Expanded Digital and Telehealth Services
- Behavioral Health Training, Workforce and Policy Innovation Center

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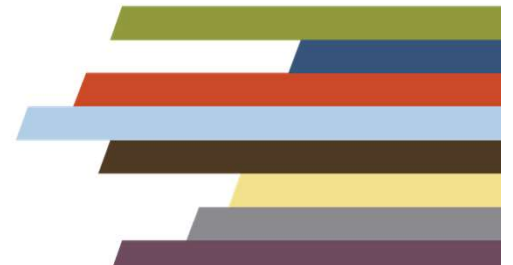
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Today's Presenters

- Christine Khaikin, JD
CoE-PHI Health Privacy Associate
- Caroline Waterman, MA, LRC, CRC
CoE-PHI SUD Project Lead
- Sally Friedman, JD
CoE-PHI Senior Health Privacy Training & TA Director
- Michael Graziano, MPA
CoE-PHI Project Director

Today's Panelists

- Marc Avery, MD
Principal Consultant, Health Management Associates
- Brad Felker, MD
VA Puget Sound Health Care System
Professor, University of Washington, Dept. of Psychiatry & Behavioral Sciences
- Gail Kreiger, BSN
Section Manager
Medicaid Compliance Review and Analytics, Medicaid Program Operations and Integrity
- Melody McKee, MS, SUDP
Program Director, Behavioral Health Training, Workforce and Policy Innovation Center,
Behavioral Health Institute
- Cara Towle MSN RN MA
Associate Director, Telepsychiatry
University of Washington



Focus:PHI

The Center of Excellence for Protected Health Information



Supporting WA State BH Providers to Optimize Telehealth in Response to COVID-19



**CoE-PHI Presentation to
the Northwest MHTTC
May 13th, 2020 - 2:00 PM PST**

Funded by Substance Abuse and Mental Health Services Administration



Center of Excellence for Protected Health Information

Funded by SAMHSA, the CoE-PHI develops and disseminates resources, training, and TA for states, healthcare providers, school administrators and individuals and families to improve understanding and application of federal privacy laws and regulations, **including FERPA, HIPAA, and 42 CFR Part 2**, when providing and receiving treatment for SUD and mental illness.

Resources, training, technical assistance, and any other information provided through the CoE-PHI do not constitute legal advice.



Presenters

Name	Title
Christine Khaikin, JD	CoE-PHI Health Privacy Associate
Caroline Waterman, MA, LRC, CRC	CoE-PHI SUD Project Lead
Sally Friedman, JD	CoE-PHI Senior Health Privacy Training & TA Director
Michael Graziano, MPA	CoE-PHI Project Director



Presentation Objectives

**Identify basic requirements of
42 CFR Part 2 and HIPAA**

**Explore recent changes to federal
privacy laws outlined in the CARES Act**

**Explore privacy law application to
telehealth in accordance with recently
released SAMHSA and OCR guidance**

**Describe how to access resources and
TA provided by the CoE-PHI**



OVERVIEW

FEDERAL PRIVACY LAWS



HIPAA

Applies to covered entities (healthcare providers, health plans, healthcare clearinghouses) and BAs

- Protects privacy and security of general health information

Purpose: to protect health data integrity, confidentiality, and accessibility

Permits disclosures without patient consent for treatment, payment, and healthcare operations

42 CFR Part 2

Applies to SUD patient records from federally-assisted “Part 2 programs”

- Protects privacy and security of records identifying individual as seeking/receiving SUD treatment

Purpose: to encourage people to enter and remain in SUD treatment by guaranteeing confidentiality

Requires patient consent for treatment, payment, and healthcare operations, with limited exceptions



OVERVIEW

CHANGES TO PART 2 IN CARES ACT



Changes to the Law and Regulations

Statute 42 USC § 290dd-2	Regulations 42 CFR Part 2
March 27, 2020 – Congress amended statute	August 26, 2019 – SAMHSA proposed changes to regulations; CARES Act requires new regulations
Effective: March 2021	Effective: pending



Changes in the CARES Act

- Still requires initial patient consent to disclose protected SUD records
- After initial consent, some re-disclosures permitted:
 - For treatment/payment/healthcare operations (“TPO”) by HIPAA covered entities, business associates, and Part 2 programs
 - Patient still has right to revoke initial consent



Poll Question #1

True or False: The CARES ACT repealed 42 CFR Part 2.

- True
- False
- Not Sure



Poll Question #1 Answer

False: The CARES Act makes some *changes* to the SUD privacy law, and will require future changes to Part 2.

- The CARES Act goes into effect March 27, 2021.
- The CARES Act does not repeal the SUD privacy law or regulations.



PHI regulations protect patient privacy, give you flexibility to provide the best possible treatment, and help clarify the boundaries in protecting and sharing patient information.

COVID-19 AND TELEHEALTH



Poll Question #2

What methods are you currently (or considering) using to provide telehealth services?

- HIPAA-compliant video communications (e.g.; Skype for Business, Updox, Zoom Health, WebEx, GoTo Meeting)**
- Other video communications (e.g.; Apple FaceTime, Facebook Messenger video, Google Hangouts, Zoom, Skype)**
- Encrypted text messaging**
- Phone calls**
- other**



Privacy Considerations for Telehealth During COVID-19

- How do privacy laws apply?
- How to protect privacy and security at:
 - Provider's location
 - Patient's location



HIPAA

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OCR Bulletin: COVID-19

[OCR announced](#) it will waive potential penalties for HIPAA violations arising out of *good-faith use of telehealth*:

- Providers may use popular video chats, like FaceTime, Messenger, Google Hangouts, Zoom, or Skype
- Providers do not need to have a BAA in place
- *Does not matter whether telehealth service is directly related to COVID-19*

If possible, still *best practice* to use secure, HIPAA compliant services and have BAA in place



SAMHSA GUIDANCE AND PART 2



Quick Review: 42 CFR § 2.51

Medical Emergencies

Part 2 permits disclosures w/o written consent to medical personnel in order to treat a ***bona fide medical emergency***

- Information may be re-disclosed for treatment purposes
- Cannot use this provision to “override” patient’s objection to a disclosure
- **Part 2 program must make note in patient file regarding disclosure**



SAMHSA Guidance: COVID-19

[SAMHSA's COVID-19 Part 2 Guidance](#)
emphasizes that providers have discretion
to determine whether *bona fide* medical
emergency exists




Key Points

SAMHSA has not eliminated Part 2's requirements for written consent to share information

As before - no consent is required in a medical emergency, but SAMHSA has given providers more discretion

E-signatures and photocopied signatures are okay!



Focus:PHI TIPS
The Center of Excellence for Protected Health Information

**TELEHEALTH AND PRIVACY:
Federal Guidance for SUD and
Mental Health Treatment Providers**

Providers of SUD and mental health services are working rapidly to make sure their patients have access to the care they need during the COVID-19 pandemic. This includes working to recreate the treatment experience in a virtual setting through telehealth. As part of this rapid transition providers are concerned about maintaining patient privacy when sharing protected health information in accordance with federal health privacy laws.


HERE IS WHAT YOU NEED TO KEEP IN MIND:

- You Should Still Take Action to Protect Client Confidential Information**
 - Telehealth may increase the number of people and systems with access to confidential health information. Providers should try to avoid public wi-fi, password protect their devices, and keep any confidential files secure.
- You Can Use Widely Available Apps to Support Service Delivery**
 - OCR announced that it will waive potential penalties for violations arising out of good faith use of telehealth. Providers can use widely available private facing apps such as Zoom, FaceTime, or Skype, even without a BAA in place. The OCR announcement includes a comprehensive list of telehealth options providers can use.
- Key Points for Part 2 Consent Forms**
 - In-person consent for sharing protected health information is not needed
 - Part 2 allows e-signatures on consent forms, as long as state law permits.
 - Providers should obtain consent from the patient to disclose to the telehealth service if it will have access to patient information.
 - Consent is needed for disclosures of patient-identifying information to payers and other non-medical third parties and must be accompanied by a [notice prohibiting re-disclosure](#).
- You Can Share Patient Information for Treatment Purposes When a Medical Emergency Exists**
 - Part 2's current exception for medical emergencies *already permits* the disclosure, or sharing, of patient identifying information for treatment purposes without a consent form¹ when a medical emergency exists.²
 - [SAMHSA's recent guidance](#) emphasizes that providers can make their own determinations whether a "medical emergency" exists.
 - Any disclosures must be documented in the patient record
 - Providers should remember that disclosures made under this exception do not continue to have Part 2 protections.

1. AKA authorization or Release of Information (ROI)
2. 42 CFR §2.51

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[Link to Provider TH Tips](#)



Focus:PHI TIPS
The Center of Excellence for Protected Health Information

TO KEEP YOUR TELEHEALTH VISIT PRIVATE

Seek Treatment and Support with Confidence
Understand your rights and responsibilities for protecting your personal health information.

PRIVACY IS IMPORTANT!
There are a few steps you can take to maintain your privacy when receiving mental health or substance use disorder services through telehealth.

PROTECT YOUR COMMUNICATIONS:

- ✓ If your provider gives you a choice between video apps (for example: Zoom, WhatsApp, or Facebook Messenger), use the most private option available.
 - If you're not sure, ask your provider.
 - Do NOT use apps like TikTok, Twitch, or Facebook Live, where posts can be viewed by more people.
- ✓ Make sure you adjust your privacy settings for the telehealth app (for example: turn on encryption and turn off location services).
- ✓ If you have to use someone else's device to receive treatment and you don't want them to have access to your treatment information, you should:
 - Inform your treatment provider that it is NOT your device so they don't send confidential treatment information to the device.
 - After using another's device, delete any history of communication about your treatment from the device. You can also set the device's browser to "Incognito" mode to prevent it from storing history.

PREPARE YOUR SURROUNDINGS:

- ✓ Make sure your roommates, friends, or family can't overhear you during a confidential telehealth session with your provider.
- ✓ Use headphones and find a quiet, private space for your visit to help protect your privacy.
- ✓ Use a "Safe Word" with your provider to alert them when someone enters your private space, so that private information isn't shared in their presence.
- ✓ Think about the privacy of others if participating in group telehealth sessions. Be aware that people in your surroundings may overhear other patients and take steps to protect their confidentiality.

PROTECT YOUR DEVICE (PHONE, TABLET, COMPUTER):

- ✓ Make sure your device is password protected.
- ✓ If using wireless internet, make sure your wi-fi is password protected and avoid using public wi-fi.
- ✓ Who else knows your password? If others know your password and you don't want them to have access to your treatment information, you may consider changing it now.

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[Link to Client TH Tips](#)

CoE-PHI Telehealth Resources

[Video - Tips to Keep Your Telehealth Visit Private](#)



Accessing the CoE-PHI

Request TA

coephi.org/technical-assistance

Resource Library

coephi.org/resource-center

Discussing privacy protections helps the care team to provide the best possible care.

The screenshot shows the Focus:PHI website interface. At the top, the logo and tagline 'The Center of Excellence for Protected Health Information' are visible. Below the navigation bar, there are two columns of content. The left column contains 'QUICK LINKS' with a list of project overview and staff information, a 'Join Our Mailing List' button, and a 'DISCLAIMER' section. The right column features a 'REQUEST TA' form with fields for Name, Role/Job Title, Organization Name, Organization Type, Affiliation, State/Territory, Zip Code, Contact Phone Number, Email, and Your Question. A 'click here' button is also present in the left column.



Q&A AND DISCUSSION



Webinar Evaluation

Following the conclusion of this webinar, you will be sent a link to complete a brief evaluation.

We value your opinion- please take the time to complete our evaluation!

Behavioral Health Institute (BHI)
Training, Workforce and Policy Innovation Center

BEHAVIORAL HEALTH TELEHEALTH RESOURCE

For more information including upcoming training
& additional resources:

Visit us online:

<https://bhi-telehealthresource.uwmedicine.org/>

Email us:

melmckee@uw.edu

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Your Feedback is Important:

Post-event MHTTC surveys are *critical* to our work!

- Please complete the anonymous evaluation by following the link in the chat box & you'll get a reminder email also.
- Evaluation data is necessary for continued funding to offer programs

Please complete the survey below.
Thank you!

Participants - Please Write Your Unique Personal Code

1) First Letter of Mother's First Name
2) First Letter of Mother's Maiden Name
3) First Digit of Social Security Number
4) Last Digit of Social Security Number
* must provide value

Please select the date of the meeting you attended.

* must provide value

What U.S. state or territory do you live in?

* must provide value

Burden Statement: This information is being collected to assist the Substance Abuse and Mental Health Services Administration (SAMHSA) for the purpose of program monitoring of the Technology Transfer Centers (TTC) Network Program. This voluntary information collected will be used at an aggregate level to determine the reach, consistency, and quality of the TTC Program. Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0930-0383. Public reporting burden for this collection of information is estimated to average less than 10 minutes per encounter, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to SAMHSA Reports Clearance Officer, 5600 Fishers Ln, Room 15 6378, Rockville, MD 20857.

What is your gender?

Female
 Male
 Transgender
 None of these

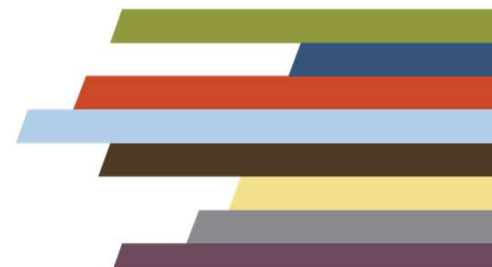
reset

What is your race? (Select one or more):

American Indian or Alaska Native
 Asian
 Black or African American
 Hispanic or Latino
 Native Hawaiian or Other Pacific Islander
 White

Your feedback helps us to improve and develop future programming.

We greatly appreciate your feedback!



CoE-PHI Webinar Evaluation

In a couple of days, you will be sent a link to complete a brief evaluation for the presenters' organization.

We value your opinion- please take the time to complete our evaluation!



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northwest@mhttcnetwork.org

Find out about:

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- New online trainings
- Resources and Research Updates

Thank You!



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