**Zoom Transcript for Federal Health Privacy Laws:**

**Basics for School Professionals - Session 1**

We will be getting started right at the top of the hour. For those who just came into the room. Welcome!

We hope you're in the right place. This is a webinar learning session that focuses on Federal health privacy, laws, basics for school professionals, brought to you by the center of excellence for protected health information and the Mhttc Network.

We currently have about 500 attendees. So this is going to be fabulous. So many people joining us today. I love seeing all of the hellos in the chat box.

We have about a minute to go here. We're going to get started right at the top of the hour to ensure that we're able to cover all of our content and leave time for questions.

Right now we're close to 600 attendees. Welcome, everyone!

But we are at the top of the hour, and so we're going to go ahead and get started.

Good morning for those of you on the Pacific time zone like myself.

And good afternoon for everyone else. We're so excited to have you here.

Thank you all for joining us for our joint presentation brought to you by the Mental Health Technology Transfer center network and the special of excellence for protected health information.

Today, we're covering Federal health privacy laws, basics for school professionals.

This is session. One of our two-part series.

My name is Jessica Gonzalez, and I'm the associate director for the Mhttc.

Network and again, we're really excited to have you here for the first session of a two-part virtual learning series with session 2 being held on Thursday at the same time we hope that you all join us on Thursday as well, let's go ahead and get started with some Zoom features.

And logistics. On the next slide. Here you'll see that we have listed.

Some of these features, but just to let you all know all attendees are muted and cannot share video.

We do have closed captioning available. Please click the CC.

Button on the bottom of your screen for options. You have a question for the presenters.

We ask you to please use the Q&A pod. We want you to use the Q&A pod, so that our presenters are able to see the questions that are piling in.

You will receive an email within a week from today's session, with access to the recording, the slide deck and information about how to obtain your certificate of attendance.

Again for those who just joined us. This webinar is being recorded.

We're going to send you a copy of the Powerpoint Slides.

Is funded by Samhsa to assist people in organizations, in understanding and applying current federal health, privacy, laws, and regulations on the job, and specific to their task or role, and to also assist patients and their loved ones and knowing what their privacy rights are when seeking and receiving treatment for substance use and mental health resources to training and technical assistance provided by the center of excellence for protected health information does not constitute legal advice.

Please also note that today's presentation will cover only the Federal health privacy laws and their applications to student records.

As it is not within the scope of the CoE –PHI to address individual state, privacy, laws.

And a little bit about the Mhttc network for those of you who are working with us for the first time.

We are also funded by Samhsa. We include 10 regional centers, a national American, Indian and Alaska native center, a national Hispanic and Athena Center, and a network coordinating office.

Our network supports resource, development and dissemination, training and technical assistance and workforce development for the mental health fee.

We're bringing this learning session to you today through our Mhttc School Mental Health Initiative, where we AIM to bring awareness, disseminate information and provide technical assistance and training on the implementation of mental health services in schools and school systems, we'll make sure to enter the

links to the Mhttc website, as well as the CoE Phi website in the chat box so that you can learn a little bit more about our work and our resources that are available to you free of cost.

Now, just want to give a quick overview of our learning objectives before I pass it on to one of our amazing presenters.

For today. Today, we AIM to describe how Federal health, privacy laws such as hit by Nurpa applied to student mental health information.

We will also explain how student mental health information can be protected, and should, in compliance with Federal health, privacy, laws.

We will also discuss common scenarios involving student mental health information that arise in school settings through case study discussions LED by our clinical and legal experts and demonstrate how relevant resources and technical assistance can be accessed through the Mhttc network and the center of excellence

for protected health information. I want to remind everyone that we do have our Q&A pod open for any questions you have throughout the learning session.

But I do also want to notify you that we have over a 1,000 participants in this learning session right now, and so given our time constraints and a large number of attendees today.

We will not be able to address all questions, but we will try to get through as many as possible.

And now, without further ado, I just want to give a quick introduction to our amazing presenters for today.

Our team and presenters include Dr. Steven Attlee from the Mhttc.

Network at Stanford University. We also have amber, black, and amber is also from the center of excellence for protected health information.

We also have Abigail English, who comes to us from the National Center for Youth Law.

We're so excited to have everyone here with us, and I'm happy to pass it over to Dr.

Steve Adelsheim, who will get us started today?

Thanks, so much. Jessica, and thanks, to all of you for being here for this wonderful opportunity to share this important information, so as a reminder why, this is important is the privacy regulations protect your students and they're very important for helping you understand what the boundaries are in terms of

sharing information about student and their families. Next slide, please. So you know, as a clinician, you know, for all of us, obviously our first priority is a safety and well-being of all of our students, it seems important to realize as we're having these initial conversations with our students, but often this is

their first experience with a mental health system of any type, and we want to be sure that we're creating a strong and trusting relationship that is built on support, but also with the idea that if this is successful, it allows for positive thoughts about any potential interface with the mental health system in the future which can be very important down the

road. So it's really critical that we be able to talk about the reality of our communication with our students, with caregivers, with schools, and are really honest and direct way, and that we understand those aspects really well, we're gonna move into a poll right now, so let's have the first question if

you could share with us in the poll. Have students using your services expressed concern about their information being disclosed to their parents or to their caregivers.

You should see the pul jump out there in front of you, we're gonna give you a little bit of time.

And, boy, these numbers are jumping up really quickly. So what we're seeing is that so far, 80% of you are saying, yes, you know, this has been well, 79%, 14%.

No 7%. Not sure. So clearly, this is a really critical issue for us to have a good sense for.

And to know how to do this communication with caregivers inappropriate ways.

If we go to.

The next question, phone number 2.

So have students using your services expressed concerns about their information being disclosed to other individuals in the school setting. Let us know what your sense has been about that, as well.

We're gonna give just a little bit of time for folks to answer that question, and it looks like maybe the numbers are a little bit less when we look at those results.

69% of you say that that's been an issue, maybe 24%, not as much so.

Both are major issues, and, you know, depending upon who actually, we work for to these issues are gonna be really important.

And that's part of what we wanna touch on over these next 2 sessions as well.

So thank you for that. So at this point let me hand things off to Abigail, then to keep us moving.

Thank you so Steve, and thank you, Jessica, and thank you to all the participants who have joined us today.

This is just a fantastic turnout. I want to start by saying just a few things about what the underlying rationale is for these laws that protect confidentiality and a leading reason is to avoid negative health outcomes.

We wanna protect the health of adolescents, and we want to protect the public health and to do that, we need to encourage adolescents to seek health care that they need, including mental health care.

And these points are supported by decades of research findings.

Next slide.

So what the research has shown us over? Oh, at least 40, 50 years is that many adolescents do have privacy concerns, and those privacy concerns are but primarily we've found that adolescents are pretty concerned about discriminating information.

Particularly to their parents, not exclusively to their parents, as we saw from the second poll, related to sexual behaviors, substance, use, and mental health concerns, and, of course, mental health concerns, and of course, mental health concerns, and of course, mental health concerns, are a major focus of today's presentation and thursday's presentation and

Thursday's presentations next slide. So another thing that we have found from the research findings is that privacy concerns have a very significant effect on the behavior of adolescents.

It can concern about privacy can influence, whether they seek care at all.

The AD health study that was started at Unc. Found that there was a lot of forward gone care due to privacy concerns.

In privacy concerns influence. When adolescents seek care, and sometimes cause them to delay significantly in seeking the care that they need.

It also influences where they seek care, so it may determine whether they talk to a school.

Mental health, professionals, a mental health professional in a school-based health centers, or where, whether they go to some other community-based health centers, or where, whether they go to some other community-based provider, and also privacy concerns influence how openly adolescents talk with their

healthcare provider, and that, of course, is a really critical issue in making sure that they get the care that they need.

Next slide. So now, with that background and with the background of the poll, questions that that Steve let us through, we're gonna turn to an overview of several of the privacy Federal privacy laws that are relevant for mental health services in school settings and we're going to talk a little bit about

Fpa. We're going to talk a little bit about hipaa, the privacy rule we're going to talk about part 2 substance.

Use disorders and we're gonna have a quick look at the 20 First Century Cures Act.

So I'm gonna start us off talking about the family educational Rights and Privacy Act, which I imagine is familiar to many of you, at least to some degree.

And it's commonly referred to as Ferp.

Next slide. So the leading purpose of Fpa. Which has been on the books for many years, is to protect the privacy of educational records, and also to assure access to records by parents and by eligible students.

Eligible students are those who are 18 years old or older, which in almost every State means that they are adults or are students in a in a post-secondary educational setting.

We're focusing today primarily on on the K through 12.

And even those adolescent age group in that next slide.

Please. So what is it that Ferpa protects Ferpa protects what are referred to as education records and education records on may be in multiple different forms.

They are records, files. They are records, files, or other documents which can't contain information directly related to an identifiable student, and they are records which are maintained by an educational agency or an educational institution or by a person acting for such an agency or

institution, so education records are really very broad in their scope, and could implicate a lot of different kinds of written information and could implicate a lot of different kinds of written information that are contained at schools or held by a person acting for schools or educational agencies next slide

please. So a big question that frequently arises is, Do education records contain health information?

And that's of concern to both students, but also to provideiders who are offering services to health, related services to students in school settings and education records may include certain health information.

For example, they may include the records that are maintained by a school nurse.

They include a students, Iep individualized education plan and other special education records that are maintained by the school on even though these records are also subject to specific idea, confidentiality rules.

So one of the things we're gonna see throughout the presentation today is that often more than one Federal privacy law applies to the same information or the same records.

And that's the case with i. Eps and records that are subject to the idea.

In addition immunization records that are in a school file are part of education records.

However, there are other records that are not necessarily that do contain health information, and are at a school, but they or are about students, but they do not constitute or are not considered education records and these are ones that are called treatment records, and these are ones, that are called treatment, records and these are ones that are called treatment

records that pertain to students 18 years old or older, and that are maintained by specific healthcare professionals, such as physicians, such psychiatrists, psychologists, or other pair of professionals and they're available only to the persons who are providing the treatment.

next slide, please.

So if there are education records, who is it that has access to them?

Well, primarily parents and and persons who are sort of legally in the shoes of parents must be allowed to review and enspect records on request.

Access to education records by anybody who is not a parent is generally restricted unless the parent gives consent, or, in the case of an eligible student, age, 18 or older, the eligible student gives consent, and there are, of course, exceptions to that which will look at in a moment and as I had said an

eligible student is one who is aged 18 or older, or enrolled in postsecondary educational institutions, and that eligible student has access to and control over their own records.

Now one of the important things to remember is that that both with Fpa and with hipaa, which we'll talk about in a little while.

There's often this phone that these access rules or these privacy laws prevent the sharing of information.

And the reality is that information can be shared as long as one has the consent or the permission of the appropriate person.

In the case of these educ records, the parent or the eligible student next slide, please.

So what are the exceptions that allow access to information in education records without the consent of the parent or the eligible student?

Well, there are definitely circumstances in which they can be released to other school employees, not necessarily.

Every school employee, but certain school employees, directory information can be released, and certain information in in records can be released in a health or safety emergency, and an instances that require reporting of child abuse, and of course, the child abuse reporting could be a whole other a whole other webinar because child

abuse. Reporting is varies from state to state, and is quite complicated, but that is one of the exceptions when education records can be released without the consent of the parent or the eligible student.

Next slide, please.

So we're gonna do another poll question here. This is a true or false question, Forpa only protects written records and does not apply to information received verbally or to mental recollections. Is that true?

Or false?

You have just a few more seconds.

So 36% said that this was true.

And 64%. That says that this was false.

So let's look at the next slide.

It was true but only applies to written records. Information received verbally may be protected by other privacy laws, or by a provider's professional ethical duty of confidentiality.

So that's really an important point to remember, because there is a difference between Federal privacy laws in terms of what information they protect.

And now we're going to turn to Amber, and she's going to turn to Amber, and she's going to talk with us about the Hipaa privacy rule.

Thanks. Abigail! Hi! Everyone! As Abigail said, I will be reviewing the hipaa privacy rule, which many of you may already be familiar with, but sorry it's always good to have an overview.

So next slide, please.

So the hipaa privacy rule covers protected health information, which is help information that is individually identifiable and is created or received by a covered entity.

The definition of which we will review on the next slide.

But it's important to note that education records that are covered by fiba are explicitly excluded from the definition of protected health information in the Hipaa privacy rule.

So if an education record is covered by ferpa hipaa does not apply.

Next slide.

The hipaa. Privacy rule does apply to the covered entities.

I referenced, which include health plans, health care, clearinghouses, and healthcare providers.

So that means many health care and mental health professionals and sites that care for adolescents will be covered by hipaa, but not necessarily. Those who provide services in school next slide.

So, in order to determine whether hipaa applies to the school setting, you'll have to ask whether the professional or entity in question furnishes bills or receives payment for health care in the normal course of business whether they conduct covered transactions and transmit those electronically

and the Center for Medicare and Medicaid Services website has a decision tool that can help you to make that determination.

And once you have determined that the hipaa privacy rule does apply, you should know that it affords several rights to both the individual and sometimes the parents.

So the individual always has access to their information or protected health information, and they have some control over the disclosure of their Phi, and they may also request certain privacy protections for that information.

Parents are generally considered personal representatives of their minor children, and the personal representative.

Also has acts to the individuals. Protected health insurance.

When it comes to disclosing Phi to others, disclosure without authorization is permitted for treatment.

Payment and healthcare operations, and there are some other exceptions.

You'll see listed there. But to anyone else generally disclosure is reported, and you should ask yourself whether the authorization of the parent is required for that disclosure or the authorization of the minor is required, and in order to make that determination you will use the information that abigail

will share with you shortly.

Thank you, Amber. That was a great overview of hipaa.

I always say, hipaa sort of the elephant in the room, and we could spend all day, you know, going over the the finer points.

But that was a great overview. Thank you. One of the things that it's really important to understand about the hipaa privacy rule is how when does it treat adolescents who are minors who are under the age of 18 generally as on individuals on I you could put quotes around

that so let's look at the next slide. This is a little bit complicated, and you know, as you know, the final hipaa privacy role came out in, I think it was 2,002.

So it's been on the books for a couple of decades, and people still have questions about this.

Aspect, so minors are treated as individuals under the hipaa.

Privacy rule in 3 specific situations, and the first one is the most common, and that is when the minor has the right to consent to whatever health care is involved, and has consented to that healthcare.

The second one is that the minor is allowed to obtain care without parental consent, and somebody, the minor, him or herself a court or somebody else has consented to the care, and the third one is that parents have a great to sort of confidentiality between the minor and the health care provider so if

if a student's parent has agreed that confidential communications can take place between a health care, professional and that student, or that young person, then that has legal significance under the hipaa privacy rule, the legal significance means that miners who are acting as the individual

can exercise rights to protected health information, and Amber had outlined what some of those rights were.

The big question that people often have is, does that also mean that that miners control who are considered the individual control disclosure of their protected health information to their parents?

So this is important, because generally as Amber explained under the hipaa privacy rule, parents are considered the personal representative of their minor children, which means they would generally have access to their protected health information.

However, when the minor is the individual, the hipaa privacy rule defers to other laws specifically to other State laws, or to other Federal pracy laws to determine whether parents have access to the information, and if State or other laws require disclosure to parents the provider has to disclose if

state or other law prohibits disclosure to parents, or at least prohibits it without the permission of the minor.

The provider may not disclose. If disclosure is permitted, then the or is, if the law is silent, then the provider has discretion and I know this is a little bit of a complicated formula, but it isn't an important one, and has a lot of implications, for when

parents have access to protected health information under the hipaa privacy rule when their minor child, when they're adolescent minor is allowed to consent to their own care.

Next slide, please.

There is also an exception in cases of abuse or neglect or endangerment, where the provider can choose not to treat.

The miners parent as their personal representative, and therefore not automatically.

Grant them access to the protected health information. If they have a reasonable belief that the minor has been, or might be, subjected to domestic violence, abuse, or neglect by the parents, or if treating the parent as the personal representative, and giving them, access to the protected health information might endanger the

minor, and in the provider's judgment it's not in the best interest to treat the parent as the personal representative, and there's no other law to the contrary.

So again, slightly complex rule here, but a very important one to remember.

Next slide.

This slide is here, not because we're gonna talk about the state laws today, but because the hipaa privacy rule does defer to these laws in determining.

When parents may have access to their minor child's protected health information, when these laws allow the miners to consent to their own care, and every State has some of these laws that are either based on the minor status, for example, if they're homeless, or they're a parent, or based on

a specific service, such as Sti or HIV care outpatient mental health or substance, abuse services, and some of these minor consent laws also contain specific confidentiality or disclosure.

Provisions on, so that needs to be taken into consideration.

In, figuring out how the hipaa privacy rule itself applies.

Next slide. So on our next poll question again, a true or false question.

Parents always have access to their adolescent child's health information under hipaa.

Is this true, or is this false? And you'll have a few seconds to respond?

So 11 of you said that this is true, and 89% percent said, it's true.

And 89% said, it's false.

That is the correct answer. It is false. Parents do not always have, and we can look at the next slide to see the correct answer.

Hipaa does, as we explain, defer to state and other laws that determine parents access when an adolescent minor is allowed to consent for their own care, and may also limit parents access in situations involving abuse or endangerment, next slide.

So the last issue we're going to address related to the hipaa privacy rule are and Ferpa are.

How do we figure out when, whether hipaa or ferpa applies?

And that's not always a very clear-cut or easy question.

Next slide.

So a few of the questions that need to be considered determining whether a student's mental health records are governed by Hipaa or by Ferpa.

Are, who is providing the service is the information protected.

Health information is the information part of an education record is the information part of a treatment record.

So as we saw treatment, records are not part of the education record.

So treatment records might be governed by the hipaa privacy rule.

If the other criteria were sad, if information is part of an education record, then it is not considered protectected.

Health Information under the hipaa privacy rule, and another, and if it's not an education record, it may be protected.

Health information, if it falls under the other criteria for the hipaa privacy rule.

One of which has to do with, who is providing the service, in other words, is this the person or entity providing the service a covered entity under the hipaa privacy rule next slide, please.

So again, our school based Health Center records hipaa, or for governed by hipaa, the hipaa privacy rule, or Fpa.

Well, school-based health centers are, and their sponsoring agencies are often covered entities under hipaa, and if they're covered entities they must follow the hipaa.

Privacy rule with respect to students, information that is protective health information.

In other words, students, health information that falls within that deficit of Phi under hipaa.

But I'm gonna start sounding like a broken record here.

But I'm gonna start sounding like a broken record here.

Education records are exclused from the definition of Phi and hipaa. Privacy rule.

So if a school-based health centers records fall within the definition of education, records fall within the definition of education records.

For some reason, then, the school-based Health Center must follow Ferpa rather than hipaa. Access and disclosure rules next slide, please.

And how do we determine when records are subject to Ferpa?

There is excellent joint guidelines from the Federal office of Civil Rights in the Department of Health and Human Services, and the Federal Department of Education that was updated fairly recently.

It was issued originally in 2,008, and updated a couple of years ago, and that Guy joined guidance explains that whether the information or records are subject to hipaa or Fpa depends on the relationship between the school-based provider and the educational agency and

that's a case by case assessment. So we're not going to be able to give you any sort of hard and fast rules in the scope of our 1 h training today.

It's a case by case assessment, that for which the relevant factors include funding operational and administrative control and the specific services and functions that are provided.

Next slide, please. So finally, there are some similarities, significant similarities between the hipaa privacy rule and ferpa generally.

They both restrict access to records and require written authorization or consent for release of records and some exceptions.

Under both laws allow disclosure without the need for written authorization or consent.

But they're also significant differences. And those largely relate to parent access rules who must sign an authorization or consent for release and to opportunities for information exchange that exist under both laws.

But who may exchange the information? With whom, without a written authorization, is different.

So those are all questions that have to be looked at in a on a case by case basis in specific situations.

Next slide. So we have one more, Paul. Question about hipaa and Fpa.

It's again a true or false question if a health care providers records fall under.

They cannot also fall under hipaa. Is that true or false?

You have a few seconds to answer.

So about a third of you said that it was true, and about two-thirds of you said that it was false.

So let's look at the answer. It's true.

The hipaa definition of protected health information specifically excludes any education.

Records protected by Ferpa.

And I think that means we're ready to turn to our next Federal privacy law, which is 42 Cfr.

Part 2, and Amber is going to talk to us about that.

Yes, thanks, Abigail. We are on to 40 C Cfr.

Part 2, which we called our 2 for short. You can go to the next slide.

It is the federal substance. Use, disorder, privacy, law, and regulations that protect Sud.

Treatment records provided by schools and community-based Sud.

Treatment Providers. If the records are originate at a part 2 program and the protections afforded by part to generally follow the information even after it leaves a part 2 program. So what's this part 2 program?

I keep referencing. You can go to the next slide.

It is a Suv treatment provider, that is, both federally assisted and appropriate, and the terms that you see in quotation marks are are explicitly defined in the regulations.

But we have some examples here to help, you understand. So one example could be an identified Sud counselor in a school clinic who's primary function is providing Sud services so that meets the definition of a program and has Dea registration so it's federally

assisted another might be a freestanding opioid treatment program that dispenses. Methodone again meets both part of the Deaf Federally assisted, and a program.

Next slide.

And part 2 protects any information that identifies someone as seeking or receiving treatment from a part.

2 program. So that's the typical identifiers you might think of like name, Beta, Bird, social security number, but also that person's diagnosis, their status in treatment, their medications, things like that.

And part 2 protects information in any form. Written, verbal or electronics. So no matter if you fax the information, for example, email, it have a conversation on the phone with someone or speak to someone face to face, that information is protected.

And the general rule is that you might have written patient consent.

You can go to the next slide before disclosing that information.

Of course, as with most rules, there are some limited exceptions, but the general rule is that you need written consent before you made a disclosed next slide.

So when I comes to mind, it's part 2 defers to state law definitions of minors and state law also dictates whether a minor can consent to their own Sud care without their parents.

Signature, generally part 2 also requires a minor patient signature, even for disclosure to their parents.

And again we see a sort of like the exception, but that's the general rule, and for other disclosures besides disclosures to the parent, whether parents, signature is also required on the form.

In addition to the minor signature, is also a matter of State law.

So now we will have a full question about Part 2 true or false.

If the health care providers records fall under fiba, they cannot also fall under part 2.

One more! Seconds!

Okay, I think we can close it. It's like 63% of you answered False.

With 37% answering true. Let's go to the next slide.

So great? The answer is false. Some school-based Sud providers will be part 2 programs, so they will be covered by both.

Part 2 and burpa, so part 2, and Php.

Are not mutually exclusive, like hipaa and verba are excellent.

And I will hand it back to Abigail to discuss the 20 First Century Cures Act.

So thank you, Amber. That was wonderful overview of a very complicated set of regulations.

Part, 2, we're going to shift gears now.

And just for a moment talk about the 20 First Century Cures Act, which is a much newer law than any of the ones we've previously been discussing.

Purpose. The hipaa, privacy, rule, and part 2 have all been on the books for quite a long time.

The 20 First Century Cures Act was enacted in 2016, but probably wasn't familiar to many of us until much more recently, the 20 first century cures at required the development of rules to improve patient access to and control of their own health data any of you who've tried to get copies of medical

records in the past may have encountered the fact that even though you were legally I'm entitled to access under the hipaa privacy rule, it could be a cumbersome time, consuming and expensive process, so what the 20 first century curs act required was a way of giving

patients access to their own electronic health information on in a much more streamlined and speedy fashion.

The Cures Act also has some rules about exchange of health information, and sort of certification of health.

It, and this law has had a big impact on patients on physicians and other health care providers on insurers, payers, technology developers and stakeholders.

And any of you who have a health care provider who has a portal like my chart, or something, have encountered the effects of the 20 first century cures at next slide.

Please. So the major way in which we've been impacted or affected by the 20 First Century Cures Act is through a rule that became final in 2020.

It's referred to as the Onc rule which stands for office of National Coordinator for Health information.

And it's a role with a long name. But the most important aspect of it from our aspects of it from our perspective today are that it affects patients access to electronic health information.

And indirectly their parents access to their electronic health information, and it includes a ban on information blocking, so that those who are obligated to comply with the Onc rule which includes most health care providers are not allowed to block access to patients electronic health information there are

exceptions to this, and the 3, it's there. 8 exceptions.

But the 3 that are probably the most important from our perspective today are that there's a an exception for preventing harm, an exception for privacy and an exception, for in feasibility and if you go to the next slide, it this just reviews who is obligated

to comply with the Onc rule. The information blocking rules, and that includes health care, practiders, health care, health.

It developers and health information networks or exchanges and.

If you analyze these requirements carefully, we see that this may apply to some health care providers of mental health services in schools and this is a pretty new law to some health care providers of mental health services in schools and this is a pretty new law and it's only really beginning. To be well understood how it applies in different situations.

But it is rapidly affecting the exchange disclosure, and access to electronic health information.

So finally, how does it apply? And I think the this is really kind of a way to just repeat the fact that the information blocking rule may apply to student mental health records.

And it's because the prohibitions on access on blocking apps to individual health information could affect student mental health records.

But because the exceptions include a privacy exception, it's really important to look carefully and determine when patient consent may be required.

If a stricter privacy, rule or law applies like 42 cfr.

Part 2. And this is significant for some mental health professionals in school settings.

Next slide. And now I'm gonna turn it back over to Amber to talk to us about how these laws intersect.

So now we'll just do a sort of summative review of how these laws intersect, and may at times overlap over one another again.

They work together sometimes, and not necessarily, preempt each other, but may you may find them working in together, I guess, in various situations they don't exist in asylum, so to speak, so they have to be understood in relation to one another, and remember that the hipaa privacy rule, excludes education

records that are covered by Ferba from their definition, hippocampus, definition of protected health information, and it defers to state and other laws on whether pairing have access.

When the child is considered the individual as Abigail discussed earlier, and has consented to their own care.

But may potentially give parents access to health information that they would not otherwise have had.

If Hipaa had applied. But the parent has access again, because that information is an in an education record that they have access to goes to the next slide.

Part 2 provides certain protections for minors who are authorized to consent for their own Suv care under State law, and also for minors who may not necessarily be able to consent to their own care part 2 provides very strict protections for both minors and adults, and lastly the 20

first, Century Cures Act includes the exception to the ban on information blocking that appeal just discussed.

If it's necessary to comply with Federal privacy laws like Part 2, for example, or State privacy laws as well.

And now I'll turn things over to Dr. Adelshine to give us some more key points.

Thanks, amber, so we're just gonna quickly go through some key points.

And I know this has been an amazing amount of information, and you know part of what is important to understand is, if you're confused about the overlap between these regulations for students and families know that you're not alone.

They're challenging and difficult and complex for all of us.

But understanding these regulations can help our students be protected as well as the school staff, and ultimately help everybody do better, both in terms of treatment, but hopefully also to be academically more successful as well.

Let's go to the next slide. So some key points to be thinking about are, it's important to also know your State laws around.

Informed consent, confidentiality. Here we've really just been talking about how the Federal laws affect privacy, but the State laws, as you can hear, are really critical, are gonna vary by whatever State you're in.

It's important. When you meet with your students that they understand.

You know who you work for and why it matters in terms of their health information whether it may fall under Fpa and have an impact in relation to communication with family members or otherwise.

And then also, you know, letting the student know upfront what information is confidential.

Who will have access to the visit record becomes really important. So the student has a comfortable sense of what's being shared, and they're no surprises for you or the student.

They are supporting. So it's really important to know your responsibility as to what information to share with the family when it's appropriate to share with them and or with the school depending upon whether you're employed by the school district or whether you're doing a contract with them or whether

you're a community provider on site in this school.

I know we have lots of questions. We have a little bit of time for them. So let me hand things over to Michael with with the one thought that when we come back again in 2 days we'll be going through some cases that will hopefully address some of these questions as well, Michael.

Michael, you're muted.

So sorry, everyone. Thank you, Steve. I am Michael Graziano from the C. O.

E, ph, i. And as time allows, I'm gonna be asking our subject matter.

Experts, couple of commonly asked questions that came into the Q.

And a pod. During today's presentation. Again, due to the number of participants with us today, we won't get to address all of your questions.

However, all the questions you submitted today will be reviewed to assist us with learning more about what your specific needs are, so that we can develop.

And disseminate helpful resources for you. Going forward. So our first question is for Abigail.

We received several questions about limits on parental access, such as, When can a student deny parental access to mental health information in educational records?

What are you thoughts about that?

Thank you, Michael. So the question is, when a student can deny parents access to mental health information in an educational record, and I somehow accidentally turned off my video when I thought I was turning on my video, but here I am.

That's a great question. And it has multiple answers.

And I'm not going to be able to give a comprehensive answer.

But I can suggest a couple of things to think about. First of all, if the student is quote an eligible student, and I can suggest a couple of things to think about. First of all, if the student is quote an eligible student in other words, is 18 years of age, or older then the student is the one who

who's permission is required to grant access to the information.

The second thing is that parents do generally have access to information that is, in the education record.

So the question would be, what information has to be included from a mental health professional into an educational record.

And that's a complex question that would really require some analysis of the State laws as well as on the the Federal laws.

So the aunt? The short answer is, if it's in the educational record, then the parent would have access to it on less. The minor.

What they. The student was not a minor was an eligible student, age 18 or older, but some further analysis would be required as to what needs to go into that mental health record.

Thanks, so we gotta go for that very thoughtful response and thank you to our audience members for your very helpful questions.

Also a question for Abigail. We've received many questions about when a mental health provider in a school is covered by Ferpa or head.

So, for example, does, or hipaa apply to amends?

To health clinician that works for the school providing mental health services. Do you have any thoughts about that?

Again. I wanna say that this a great question, and it's one that we really, if you look at the guidance that came down from that was provided by the deployment of education and the office for civil rights on when information is governed by hipaa and when information is governed by

ferpa. Their bottom line is, it requires a case by case assessment, in which you have to look at who the mental health professional is employed by what is the specific relationship between the entity that's in employing the mental health professional on and a series of other specific questions that are required for a

case. By case analysis. We will talk about this a little bit more on Thursday, when we delve into a couple of the frequently arising case scenario.

Thank you. Have a good for that. Howful reminder. The next question, I believe, is for both Amber and Abigail.

We've received lots of questions about which law applies.

When a school receives hipaa covered records.

For example, if we receive a medical note with a diagnosis for an Iep plan, is that information in the school's possession still protectected by hipaa? Or is it now further?

I'm gonna defer to Amber if she knows the answer to that question, and the reason I'm deferring is that I do not.

I think that this is a situation in which not only Hipaa or Fpa, but possibly idea requirements might happen to be considered. And I I don't wanna answer that you know off the cuff in terms of when Ida might have some additional requirements.

Yeah, I wouldn't know about that applicability of the idea. There.

So I'm sorry about that again. Answer right now.

Okay. And we have time, I think, for one more question.

And this could be for Abigail or Dr. Adelshine is a school counsel required to document meetings with students who discuss issues, who discuss issues with family and parents.

If so, do they have the power and or the right to refuse parental access.

I'm gonna defer to Steve, Dr. Adel Shaim on this question because I think it's important that we get a clinician's perspective.

In other words, what is a clinician in this situation have to think about when they're deciding what information to document?

There are obviously legal implications that they have to take into consideration. But I also think the clinical perspective is important.

Well, you know, as someone who's actually not a school counselor, but it's worked with school counselors.

I you know my experience has been that any school counselors who will have conversations with students that might involve communication about their parents.

All the Times. Maybe document that the interview took place, and some of the core components, without necessarily putting in all their detailed information, because sometimes I know some school counselors of the concerned, because their notes might tend to fall.

Then under Fpa. As part of an educational record, because of how they're in putting them into their system.

Depending on the school. There's sometimes judicious in the degree of detail, and one might include in in the documentation of the visit because of that concern I think what's really important for us all to think about is how we work closely with our students and ensure the best family communication possible and

find ways to support those conversations as much as we possibly can.

Again. I have to give a disclaimer as not being a school counselor or a school mental health employee, but that would be, I guess.

Maybe some of the ways that I would think about it. And when we talk about these issues on Thursday, maybe we could all learn more from each other about responses to this question.

Thank you so much. Dr. Adolshine. So, folks, we're at time.

I'm gonna turn things over and out of my project.

Colleague Madeleine Vavaso, who's gonna close us out.

Thank you. Matteline.

Hi, everyone. Thank you so much for joining us today. We just want to give you a few quick reminders on how to access the C. O.

E. Phi. And the Mhttc website before you all head out today.

So we will be dropping a link to the C. O.

E. Phi website in the chat here you can request technical assistance as well as access.

Many of our resources, we have the Resource library listed here as well.

Here you can access the Mhttc network again.

We will be dropping a link to this webinar in the chat.

You can access your training calendars as well as the products and resources catalog.

They also have social media, which is plugged in this slide, and last, but not least, we will be sending out a training evaluation today.

And as you guys close your Zoom Webinar, and you head out of this session, a valuation will pop up on your screen.

Please take about 3 min to complete this brief evaluation.

You are also able to scan the QR code. If you're having issues as well, and we just wanna send out a quick reminder that Thursday will be our next session for this 2 part series, and that is march sixteenth one to 2 p. M. Eastern time.

As well, so here we have the evaluation like I said.

That will show up on your screen as soon as you close out this webinar as well.

We will be sending. Hey, Jack? As well as some Faqs.

From this session to you all, and I hope you guys have a wonderful rest of your day, and thank you so much for joining us.