

Focus:PHI

The Center of Excellence for Protected Health Information



Federal Health Privacy Laws: Basics for School Professionals *(2 Part Series)*



Session 2

March 16, 2023: 1:00-2:00 PM EST

Funded by Substance Abuse and Mental Health Services Administration



Zoom Features & Logistics

All attendees are muted and cannot share video.

Closed captioning is available! Click the 'CC' icon for options.

Have a question for the presenters? Use the Q&A Pod!

Have an audio or tech issue? Relevant resources to share with other participants? Use the Chat Box!

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



Important Information



This Zoom Meeting will be audio-recorded.



By joining this session, you automatically consent to the recording and note-taking.



This is a safe space- questions and poll responses are anonymous, so please feel free to openly share your opinions. We want to hear from everyone!



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.

The MHTTC Network

Funded by SAMHSA, the Mental Health Technology Transfer Center (MHTTC) Network includes 10 Regional Centers, a National American Indian and Alaska Native Center, a National Hispanic and Latino Center, and a Network Coordinating Office.

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

Through our MHTTC School Mental Health Initiative, we bring awareness, disseminate information and provide technical assistance and training on the implementation of mental health services in schools and school systems.

Visit the MHTTC website to learn more at <https://mhttcnetwork.org/>



Learning Objectives

Describe how federal health privacy laws (e.g., HIPAA and FERPA) apply to student mental health information

Explain how student mental health information can be protected and shared in compliance with federal health privacy laws

Learning Objectives (continued)

Discuss common scenarios involving student MH information that arise in school settings through case study discussions led by clinical and legal experts

Demonstrate how relevant resources and technical assistance can be accessed through the MHTTC Network and the CoE-PHI

Presenters



Steven Adelsheim,
MD



Amber Black,
JD



Abigail English,
JD

KEY POINTS FROM SESSION 1

Key Points (from Session 1)

- Know your state laws around informed consent and confidentiality for minors
- Know how the federal laws affect students' health privacy
- Tell the student who you work for and why it matters in terms of their information
- Let the student know up front what information is confidential and who has access to the visit record
- Know your responsibility as to what information to share with the student's family and/or school and when to share it

CASE STUDIES AND DISCUSSION

Case Study #1

Parental Disclosure

- You are a community mental health provider at a middle school.
- Jasmine (14) has been meeting with you for about a month to discuss her anxiety and depression, which are affecting her grades, and **also** her struggles with her parents.
- You recommend that she discuss **her symptoms** with one of her parents, but she is not ready.





Case Study #1

Parental Disclosure

- Jasmine's father calls the school to ask about her grades, and whether she is seeing a mental health counselor at school.
- A school counselor, Bill, asks you if you have been meeting with Jasmine, and what you've been talking about, ***since the school may need to address the issues.***



Case Study 1: Poll

What would you do in this case?

(Ignore any applicable privacy laws for the moment.)

- Pull Bill into your office and debrief him on your treatment history with Jasmine
- Call Jasmine's father immediately to address his concerns
- Schedule a meeting with Jasmine's father, mother, and Jasmine
- Reach out to Jasmine

Case Study 1:

Clinical Considerations

- How do you best support Jasmine?
- What first steps would you take?
- What additional information do you need?
- ***How would you communicate with Bill?***

Case Study 1:

Legal Considerations

- Which federal privacy law(s) apply(ies)?
 - FERPA? HIPAA? Part 2?
- Which state laws apply?
- Do any of the applicable laws ..
 - ... *require* you to share the information?
 - ... *permit* you to share the information?
- Who may access the information in your records without the patient's consent?

Case Study 1:

Legal Discussion

- **Which federal privacy law(s) apply(ies)?**
 - FERPA:
 - Is the school an “educational institution,” as defined by FERPA, and is the clinic/counselor an employee or agent of the school?
 - Is the health information in question part of an education record?
 - HIPAA:
 - IF NOT COVERED BY FERPA, is the clinic/counselor a “covered entity” as defined by HIPAA?
 - Is the health information in question part of a treatment record?

Case Study 1:

Legal Discussion (continued)

- **Which federal privacy law(s) apply(ies)?**
 - Part 2:
 - Is the clinic/counselor a “federally assisted” SUD treatment “program” as defined by Part 2?
 - Is the health information in question “patient identifying information”?

Case Study 1: Legal Discussion

- **Which state law(s) apply(ies)?**
 - Can the minor consent to their own treatment under state law?
 - Are there any state privacy laws that apply to the information?

Case Study 1:

Legal Discussion

- **Are you required/permitted to share?**
 - What legal, professional, or ethical obligations apply?
 - What are the risks of **withholding** the student's health information?
 - What are the risks of **disclosing** it?
 - Does your student have a reasonable expectation of privacy in their health information?

Case study 1:

Legal Discussion

- **Who may access the information you recorded without the patient's consent?**
 - Student's parent or legal guardian?
 - School counselors?
 - Other school administrators?



Questions?

Please utilize the Q&A pod to ask any questions you may have.

Case Study #2

Informed Consent

- You are a therapist at a community mental health agency based on-site at high school mental health clinic.
- Daniel (13) asks to talk about drug use, academic struggles, and trouble sleeping.
- Your state permits minors to give informed consent for their own mental health and substance use treatment.



Case Study 2: Poll

What would you do in this case?

(Ignore any applicable privacy laws for the moment.)

- Notify school administrators that Daniel is using drugs on school grounds.
- Schedule a meeting with Daniel and ask permission to involve his family.
- Make an anonymous tip to the police that Daniel has sold drugs.
- Refer Daniel to more intensive treatment for substance use disorder.

Case Study 2:

Clinical Considerations

- How do you best support Daniel?
- What first steps would you take?
- What additional information do you need?

Case study 2:

Legal Considerations

- Which federal privacy law(s) apply(ies)?
 - FERPA? HIPAA? Part 2?
- Which state laws apply?
- Do any of the applicable laws ..
 - ... *require* you to share the information?
 - ... *permit* you to share the information?
- Who may access the information in your records without the patient's consent?

Case Study 2:

Legal Discussion

- **Which federal privacy law(s) apply(ies)?**
 - FERPA:
 - Is the school an “educational institution,” as defined by FERPA, and is the clinic/counselor an employee or agent of the school?
 - Is the health information in question part of an education record?
 - HIPAA:
 - IF NOT COVERED BY FERPA, is the clinic/counselor a “covered entity” as defined by HIPAA?
 - Is the health information in question part of a treatment record?

Case Study 2:

Legal Discussion (continued)

- **Which federal privacy law(s) apply(ies)?**
 - Part 2:
 - Is the clinic/counselor a “federally assisted” SUD treatment “program” as defined by Part 2?
 - Is the health information in question “patient identifying information”?

Case study 2:

Legal Discussion

- Which state law(s) apply(ies)?
 - Can the minor consent to their own treatment under state law?
 - Are there any state privacy laws that apply to the information?

Case study 2:

Legal Discussion

- **Are you required/permitted to share?**
 - What legal, professional, or ethical obligations apply?
 - What are the risks of **withholding** the student's health information?
 - What are the risks of **disclosing** it?
 - Does your student have a reasonable expectation of privacy in their health information?

Case study 2:

Legal Discussion

- **Who may access the information you recorded without the patient's consent?**
 - Student's parent or legal guardian?
 - School counselors?
 - Other school administrators?



Questions?

Please utilize the Q&A pod to ask any questions you may have.



ACCESSING THE MHTTC AND THE CoE-PHI

Accessing the CoE-PHI



Technical Assistance

Technical assistance (TA) provided by the Center of Excellence for Protected Health Information (CoE-PHI) aims to support implementation of relevant federal confidentiality and privacy laws for providing mental health and substance use disorder services to clients in practice.

TA is designed to clarify confidentiality regulations and laws, link professionals to helpful resources, and identify strategies to support practical implementation of confidentiality and privacy regulations in practice.

Before requesting Technical Assistance, consider visiting our Resource Library, as answers to many frequently asked questions regarding federal health privacy laws are contained within our resources.

[REQUEST TECHNICAL ASSISTANCE →](#)

Request TA

coephi.org/technical-assistance

Resource Library

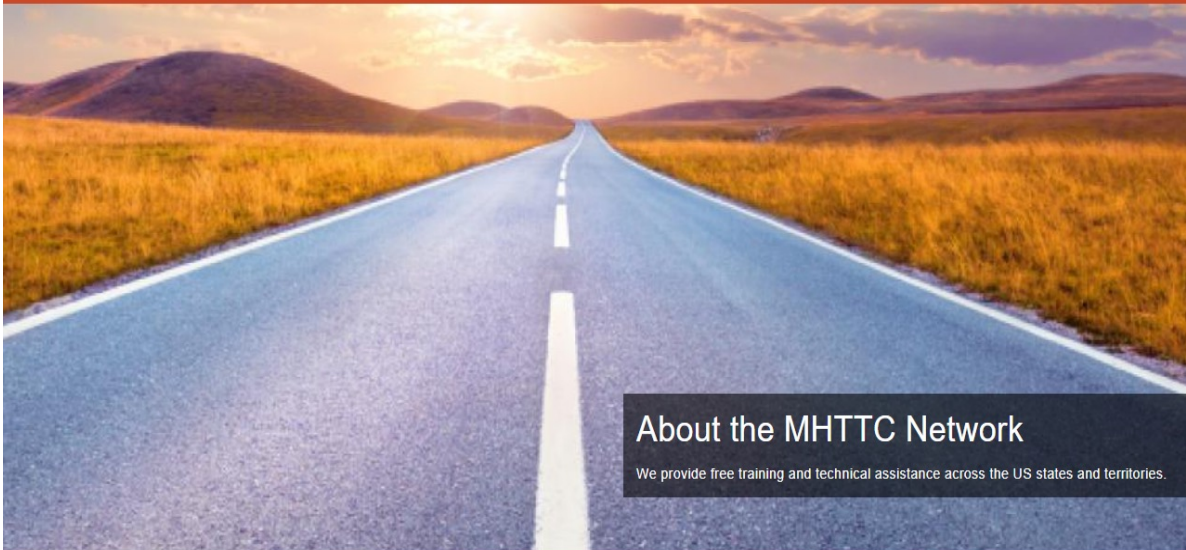
coephi.org/resource-library/

**Confidentiality is a cornerstone of recovery.
Protecting patient privacy opens doors to communication,
understanding, and trust.**

Accessing the MHTTC Network



YOUR MHTTC ▾ TRAINING AND EVENTS ▾ RESOURCES ▾ PROJECTS ▾ COMMUNICATION ▾ ABOUT ▾



GET CONNECTED!

The MHTTC Pathways is a monthly e-pub with information and news relevant to the

GET INFORMED!

Search our Products & Resources Catalog to find tools you can use to improve services!

GET TRAINED!

Search our calendar of upcoming trainings and events to find a training to fit your needs!

Visit our website!

www.MHTTCnetwork.org



@MHTTCNetwork

For questions about the MHTTC School Mental Health Initiative, contact Jessica Gonzalez jegonzalez@Stanford.edu

[Access our Training and Events Calendar](#)

[Access our Products and Resources Catalog](#)

Training Evaluation



Please complete this brief 3-minute survey to provide feedback for today's learning session!

<https://ttc-qpra.org/P?s=580655>

THANK YOU!