**Q: As a point of clarification, the Tiger Team has an additional question on the topic of Organized Health Care Arrangements (OHCAs) under HIPAA, since these arrangements came after guidance on Part 2.**

**If a SAMHSA entity gets patient permission to disclose to one legal entity, does that SAMHSA permission cover other legal entities who are part of the same OHCA? Alternatively, does Part 2 guidance permit the naming of an OHCA or must the disclosing entity name all the members of the organization?**

**A:** Within **42 CFR Part 2,** Section 2.31 (a)(2) requires that a consent include “the name or title of the individual or the name of the organization to which disclosure is to be made” as part of the patient’s written consent to the disclosure of their records regulated by 42 CFR Part 2. The intent of the increased specificity required in the ‘to whom’ section is for the patient to be able to identify, at the point of consent, who they are authorizing to see their information.

Furthermore, 42 CFR § 2.32 prohibits the redisclosure of information protected by Part 2 unless further disclosure is expressly permitted by the written consent “of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2.”

The 42 CFR Part 2 regulations do not include a definition of the term “organization,” however two FAQs address this topic in reference to Health Information Exchange Organizations (HIO) which also have multiple organizations participating in a shared structure. FAQ1 Question 8 (FAQ1-8) states that “an HIO may disclose Part 2 information that it has received from a Part 2 program to HIO affiliated members (other than the originating Part 2 program) only if the patient signs a Part 2-compliant consent form. In addition, FAQ1-10 states that “The HIO would **not** be allowed to redisclose the information to third parties, including HIO affiliated members (except in a medical emergency), because the HIO affiliated members are not acting as agents of the HIO, but rather are receiving services provided by the HIO.” Consequently, if an HIO wants to redisclose the Part 2 program’s records to a participating member, it would need the consent of the patient.” Similar to HIOs, this same rationale could apply to OHCAs.

However, a Part 2 consent form can authorize an exchange of information between multiple parties named in the consent form. The key is to make sure the consent form authorizes each party to disclose to the other ones the information specified and for the purpose specified, in the consent.

If patients want to authorize all or many members of the HIO to access their Part 2-protected record as well as to exchange information with one another, a multiple-party consent form must comply with all relevant requirements of Part 2, including a list of the names of each person or organization to whom disclosures are authorized, that the parties may disclose to each other, and for what purposes. (FAQ1-14)

42 CFR Part 2, § 2.31(a)(2) states that consent forms must include the names of the individuals or organizations who will be the recipients of the Part 2 data. The purpose of this requirement is to ensure that patients are sufficiently informed about the disclosures that will be made under the consent. The Part 2 consents should identify, by attachment if necessary, all the HIO affiliated members that are potential recipients of the Part 2 data. (FAQ1-18)