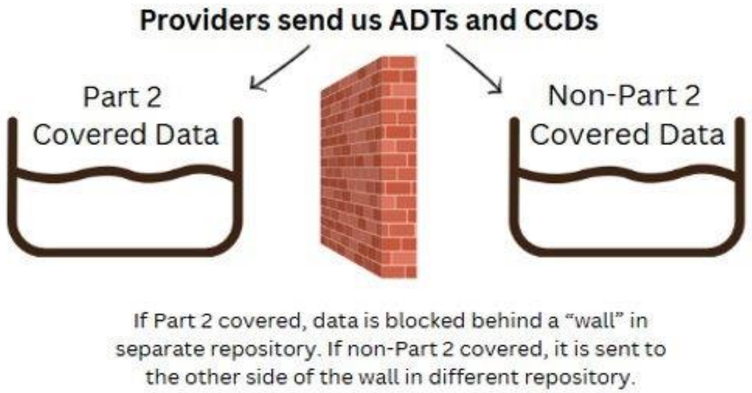
About Consent & 42CFR Part 2 Data

WEST VIRGINIA HEALTH INFORMATION NETWORK

WVHIN & 42CFR Part 2 Data

- Federally, substance use disorder (SUD) and similar data is protected by 42 CFR Part 2 regulations
  - Federal regulations allow for SUD and related data to be shared with a patient's care team for treatment, payment, and operations when the patient provides affirmative consent

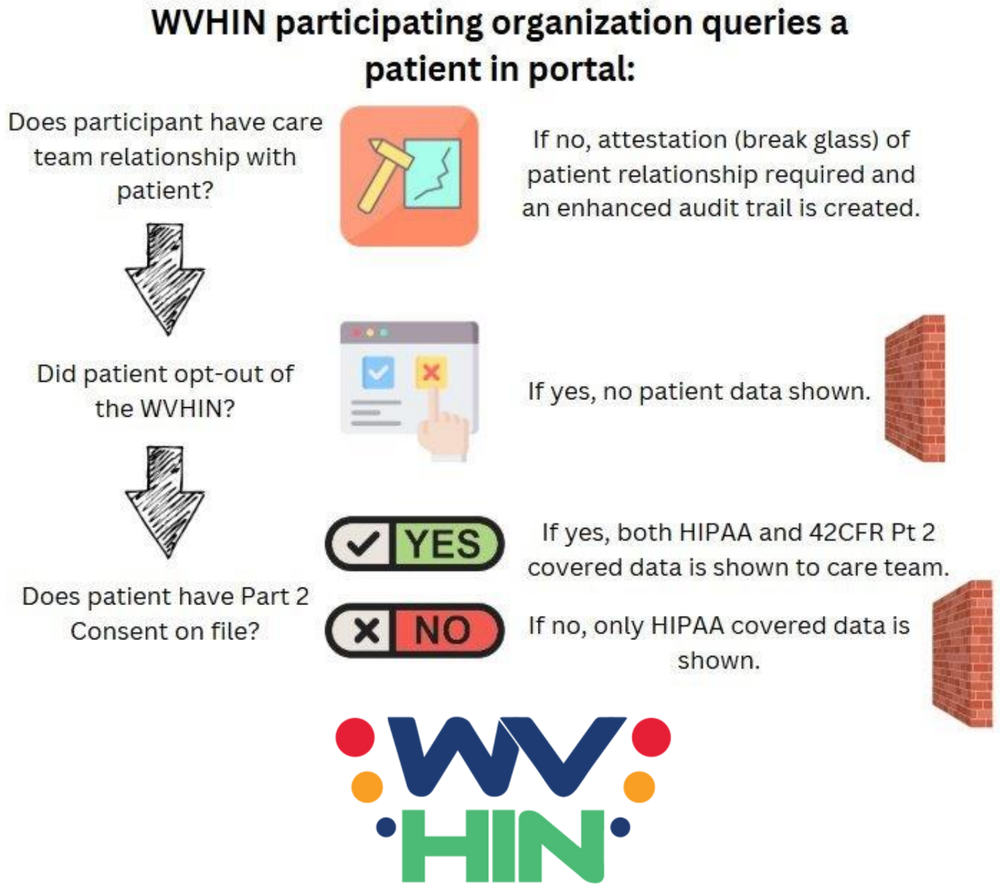
- To adhere to Part 2 rules, the WVHIN protects all Part 2 data behind affirmative patient consent
  - Part 2 data includes patient panels, encounters (admit, discharge, and transfers [ADTs]), and continuity of care documents (CCDs)
  - Part 2 covered ADTs and CCDs are physically separate from other data and Part 2 covered panels are flagged



If Part 2 covered, data is blocked behind a "wall" in separate repository. If non-Part 2 covered, it is sent to the other side of the wall in different repository.

WVHIN & Part 2 Consent

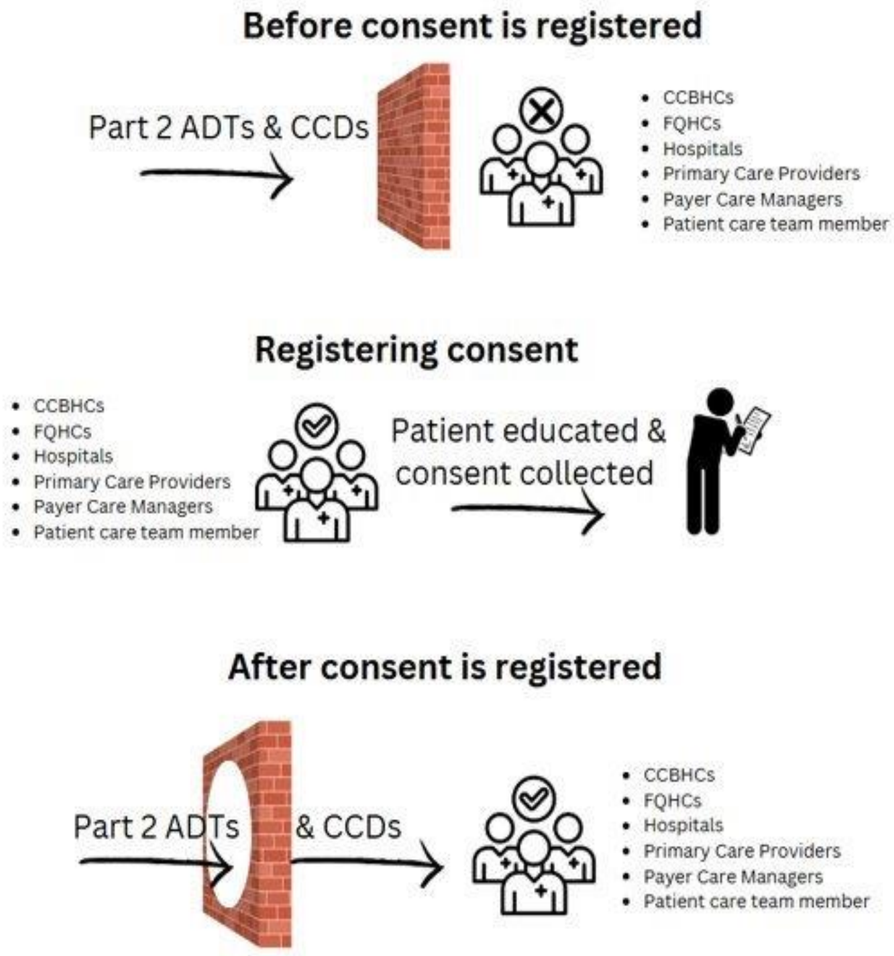
- Part 2 covered data is only released to a patient's care team if affirmative consent is documented in the WVHIN
  - Processes in place to only release Part 2 covered data when a patient consent is on file with the WVHIN, otherwise blocked



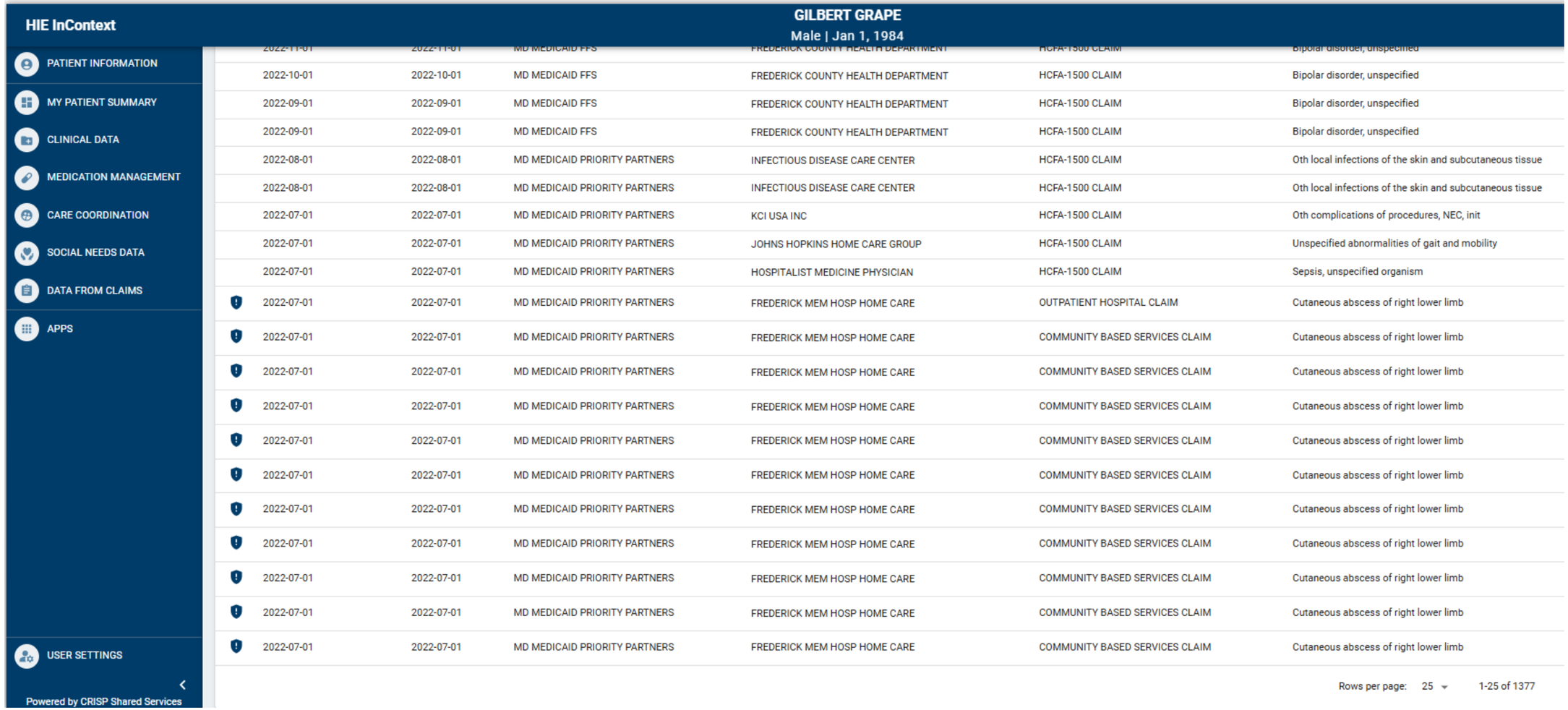
WVHIN Consent Tool

- The WVHIN offers a 42 CFR Part 2 consent tool within our portal or InContext
  - 42 CFR Part 2 consent is separate from the WVHIN's standard opt-out processes
  - WVHIN is pursuing options to allow providers to submit bulk consents as collected within their own workflows

- 42 CFR Part 2 consent is patient level
  - Any provider or payer with a care team relationship with the patient can ask a patient to register a consent to share 42 CFR Part 2 covered data via the WVHIN
  - Once a consent is registered, any Part 2 data in the WVHIN is shared with the patient's care team



42CFR Part 2 Medicaid Claims



HIE InContext

GILBERT GRAPE
Male | Jan 1, 1984

- PATIENT INFORMATION
- MY PATIENT SUMMARY
- CLINICAL DATA
- MEDICATION MANAGEMENT
- CARE COORDINATION
- SOCIAL NEEDS DATA
- DATA FROM CLAIMS
- APPS
- USER SETTINGS

Powered by CRISP Shared Services

	2022-10-01	2022-10-01	MD MEDICAID FFS	FREDERICK COUNTY HEALTH DEPARTMENT	HCFA-1500 CLAIM	Bipolar disorder, unspecified
	2022-09-01	2022-09-01	MD MEDICAID FFS	FREDERICK COUNTY HEALTH DEPARTMENT	HCFA-1500 CLAIM	Bipolar disorder, unspecified
	2022-09-01	2022-09-01	MD MEDICAID FFS	FREDERICK COUNTY HEALTH DEPARTMENT	HCFA-1500 CLAIM	Bipolar disorder, unspecified
	2022-08-01	2022-08-01	MD MEDICAID PRIORITY PARTNERS	INFECTIOUS DISEASE CARE CENTER	HCFA-1500 CLAIM	Oth local infections of the skin and subcutaneous tissue
	2022-08-01	2022-08-01	MD MEDICAID PRIORITY PARTNERS	INFECTIOUS DISEASE CARE CENTER	HCFA-1500 CLAIM	Oth local infections of the skin and subcutaneous tissue
	2022-07-01	2022-07-01	MD MEDICAID PRIORITY PARTNERS	KCI USA INC	HCFA-1500 CLAIM	Oth complications of procedures, NEC, init
	2022-07-01	2022-07-01	MD MEDICAID PRIORITY PARTNERS	JOHNS HOPKINS HOME CARE GROUP	HCFA-1500 CLAIM	Unspecified abnormalities of gait and mobility
	2022-07-01	2022-07-01	MD MEDICAID PRIORITY PARTNERS	HOSPITALIST MEDICINE PHYSICIAN	HCFA-1500 CLAIM	Sepsis, unspecified organism
	2022-07-01	2022-07-01	MD MEDICAID PRIORITY PARTNERS	FREDERICK MEM HOSP HOME CARE	OUTPATIENT HOSPITAL CLAIM	Cutaneous abscess of right lower limb
	2022-07-01	2022-07-01	MD MEDICAID PRIORITY PARTNERS	FREDERICK MEM HOSP HOME CARE	COMMUNITY BASED SERVICES CLAIM	Cutaneous abscess of right lower limb
	2022-07-01	2022-07-01	MD MEDICAID PRIORITY PARTNERS	FREDERICK MEM HOSP HOME CARE	COMMUNITY BASED SERVICES CLAIM	Cutaneous abscess of right lower limb
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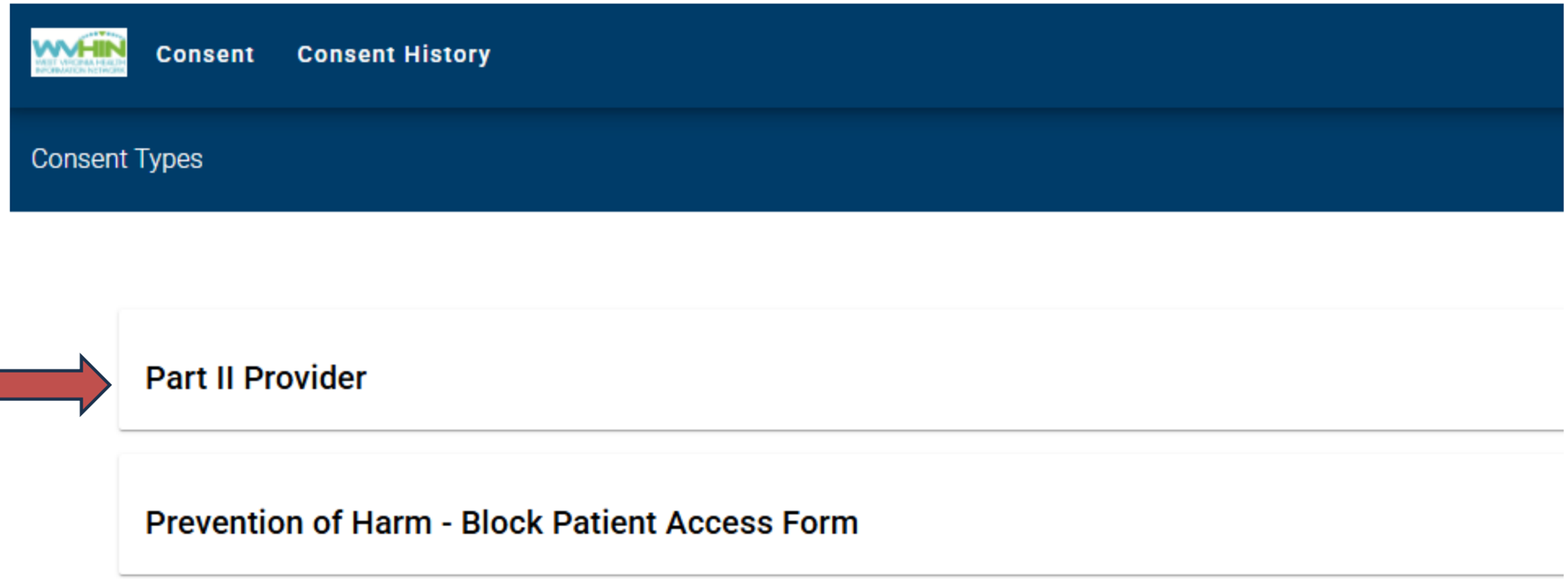
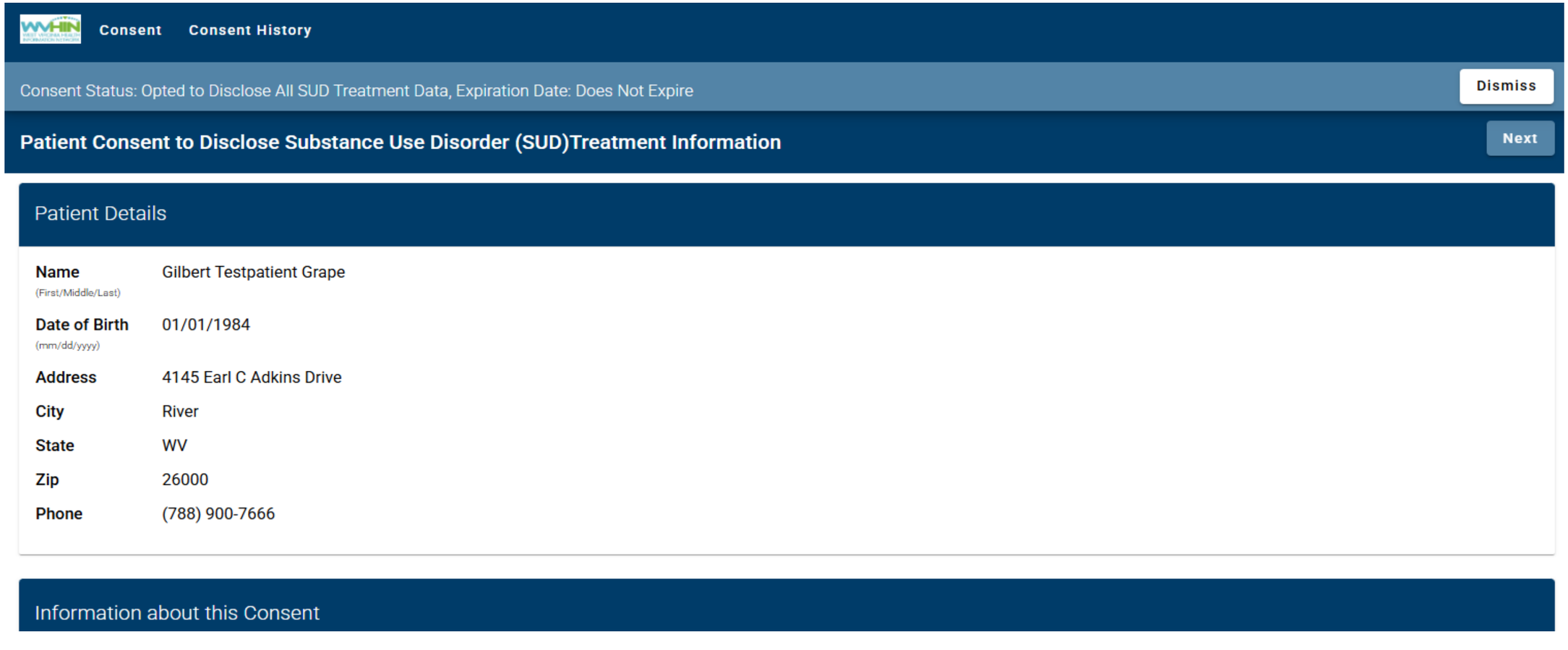
SELECT PART II PROVIDER FORM



Section 1: Patient Details

- The first section of the form is Patient Details which contains patient's demographics on record in the WVHIN
- Data will pre-populate at the top of the 42 CFR Part 2 consent form if the patient is known in the WVHIN's Master Patient Index (MPI)



Section 2: Information about this Consent

- The second section is Information About this Consent which offers information regarding the purpose of the consent
  - The consent covers the sharing of SUD data with the patient's care team, including any entity which participates in the WVHIN (or one of our affiliates) and provides the patient with physical or behavioral health treatment (e.g., primary care physician, inpatient physicians, ED physicians)
  - The WVHIN's consent tool does not allow for sharing of data only with certain providers as 42 CFR Part 2 rules allow for sharing with all providers who have a treatment relationship with the patient
  - 42 CFR Part 2 data in the WVHIN *(currently)* includes Care Team and Medicaid Claims *(encounters, medications, diagnoses, procedures)*
  - Patients may select an expiration date for their consent if desired
  - As noted in the consent form, patients can request a full list of providers to whom information has been disclosed at any time

- The link to the frequently asked questions can be found here: https://wvhin.org/consent-tool/

Section 2: Information about this Consent

Information about this Consent

By completing and signing this form, you will be allowing your 42 CFR Part 2 -- Substance Use Disorder treatment provider to share information about your 42 CFR Part 2 – Substance Use Disorder treatment with the WVHIN who may share it with other members of your health care team for purpose of treatment, payment, and health care operations (TPO).

Examples of who may see your information include, but may not be limited to, your primary care provider, hospital and emergency providers, case managers or care coordinators, your insurance company or payer, and other individuals who are involved in coordination or payment of your care. The information will be shared with members of your healthcare team who participate with the CRISP Shared Services affiliate HIEs including Maryland, DC, West Virginia, Connecticut, Alaska and any HIE affiliates in the future.

Anyone receiving your information must follow all state and federal laws to keep your information private; however, there is the potential for the records used or disclosed pursuant to the consent to be redisclosed by the entities receiving the information and the information may no longer be protected by 42 CFR Part 2 (the federal regulation which protects the privacy of substance use disorder (SUD) information). Once your SUD information is shared with members of your health care team for purposes of treatment, payment, or operations, they may incorporate it into their records and further share it with other health care providers, payers, or organizations that provide services for them. Your information may be redisclosed or shared in accordance with HIPAA regulations, except for uses and disclosures for civil, criminal, administrative, and legislative proceedings against you, the patient.

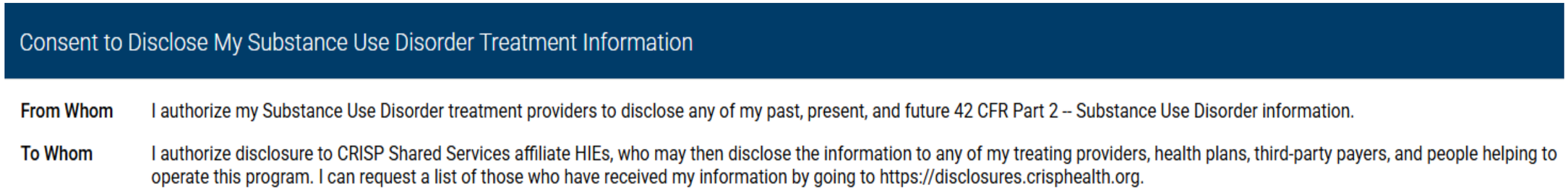
You can request a list of organizations who have received your information by completing an accounting of disclosures requests at https://disclosures.crisphealth.org. A list of Frequently Asked Questions (FAQ) about sharing 42 CFR Part 2 -- Substance Use Disorder treatment data through the WVHIN can be found here and at https://www.wvhin.org/consent-tool/.

The WVHIN does not require you to sign this consent, and it will not impact the sharing of any of your health information through the HIE, except for your 42 CFR Part 2 –Substance Use Disorder information. If you do not consent to the disclosure of your SUD information, it may not be readily available through the WVHIN to those who need the information to give you appropriate care, especially in an emergency.

Consent to Disclose My Substance Use Disorder Treatment Information

Section 3: Consent to Disclose

- The third section of the consent form is Consent to Disclose My Substance Use Disorder Treatment Information
- The disclosure notes that the patient is consenting to share past, present and future SUD data via the WVHIN until the consent expires or is revoked
- The disclosure also states who data will be shared with
  - SUD data in the WVHIN will only be shared with providers who have a treatment relationship with the patient
  - Data will not be shared for any other purposes via the WVHIN

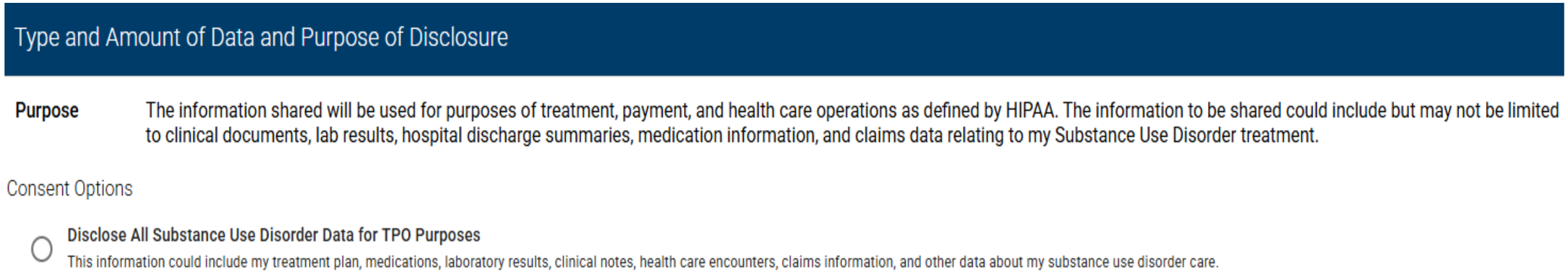


Consent to Disclose My Substance Use Disorder Treatment Information

From Whom	I authorize my Substance Use Disorder treatment providers to disclose any of my past, present, and future 42 CFR Part 2 -- Substance Use Disorder information.
To Whom	I authorize disclosure to CRISP Shared Services affiliate HIEs, who may then disclose the information to any of my treating providers, health plans, third-party payers, and people helping to operate this program. I can request a list of those who have received my information by going to https://disclosures.crisphealth.org.

Section 4: Type and Amount of Data and Purpose of Disclosure

- The fourth section of the consent form is Type and Amount of Data and Purpose of Discloser:
  - Disclose All Substance Use Disorder Data for TPO Purposes



Section 5: Submission Instructions

- The fifth section of the consent form is Submission Instructions and provides additional information on the following:
  - Expiration Date
  - Identity Validation and Education Attestation
  - Signature and Submission for In-person consents vs Attestation for Consent on File
  - Name of Person Registering Consent

Submission Instructions

Expiration Date: This is the date the consent will expire if the patient does not revoke consent prior to expiration. The patient can choose any date for expiration. This date can be changed by clicking on the calendar and selecting a different day, month, and/or year. If the patient does not choose a date, the consent will not expire unless the patient takes an affirmative action to revoke it.

Identity Validation and Education Attestation: Select both checkboxes attesting patient's identity has been validated and patient has been educated on terms of this consent and questions have been answered.

Signature and Submission:

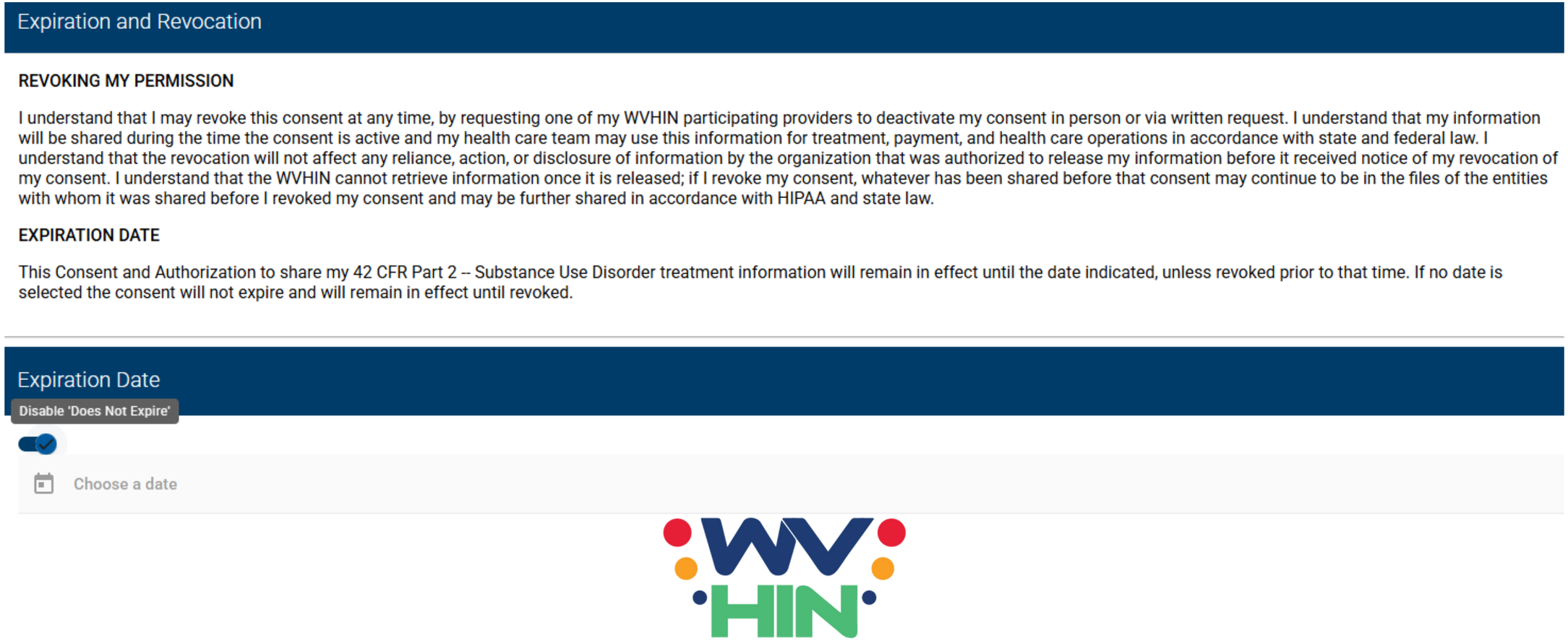
In-person Encounter: If registering this consent at an in-person encounter, the patient should sign their name electronically in the Patient Signature box. The patient's Legal Guardian, Parent, or Legally Authorized Representative, may sign on behalf of the patient by checking the corresponding box and signing in the signature box, provided they may sign for the patient under applicable law.

Attestation for Consent on File: For consents that are otherwise obtained and on file, please ensure the WVHIN 42 CFR Part 2 – SUD consent form or a substantially similar form is signed. **The consent must be signed and must enable sharing for purposes of treatment, payment, and health care operations and explain to the patient that information may be further disclosed in accordance with HIPAA.** The WVHIN may audit records at any time to confirm the existence of the consent. Once you have the written and signed 42 CFR Part 2 -- SUD consent form on file, select the "Attestation for Consent on File" checkbox in the HIE. Remember to keep the previously captured consent on file (either as electronic or hard copy).

Name of Person Registering Consent: Type the name of the person registering this consent.

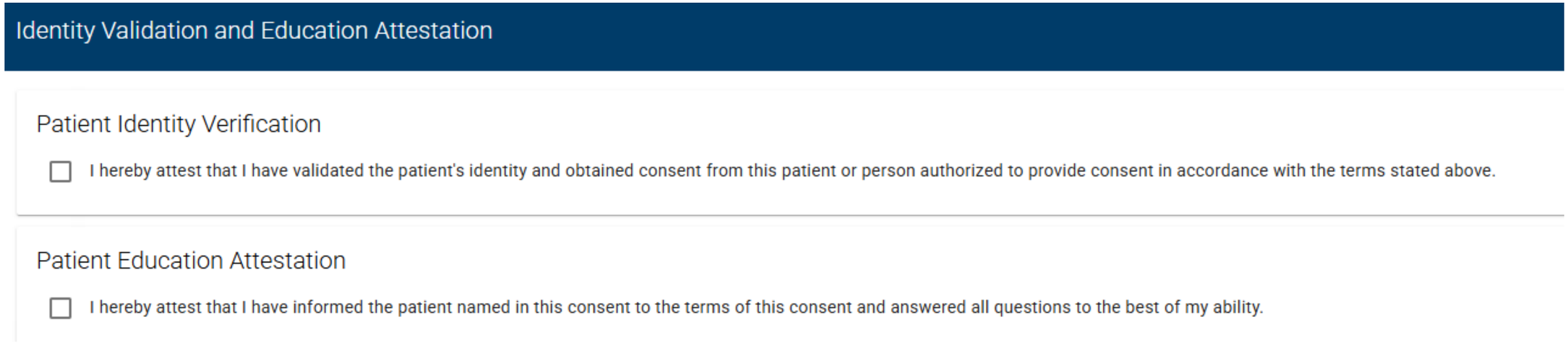
Section 6: Expiration and Revocation

- The sixth section of the consent form is Expiration and Revocation
- The section provides information on the patient's right to revoke the 42 CFR Part II consent at any time and specifies that the consent will only be active until revoked or the set expiration date



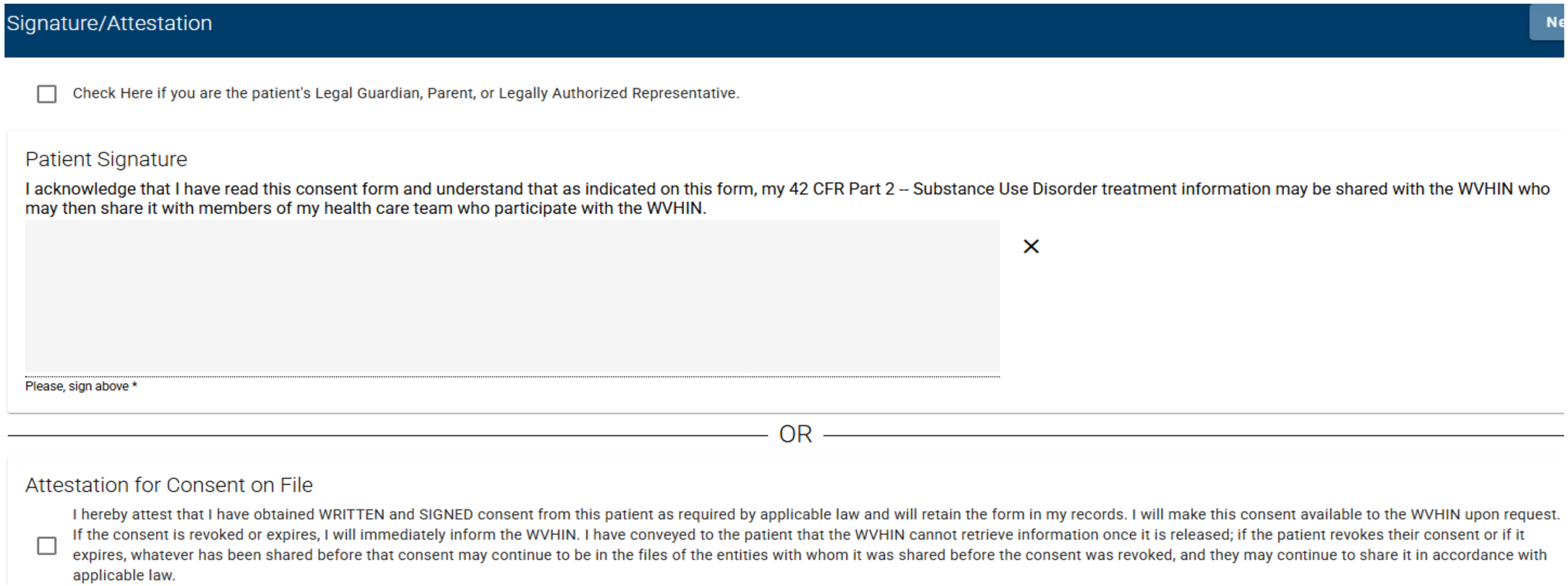
Section 7: Identity Validation and Education Attestation

- The seventh section of the consent form is Identity Validation and Education Attestation
- This section includes two required checkboxes for the user to verify the patient's identity and attest that they provided education to the patient regarding WVHIN and consent:



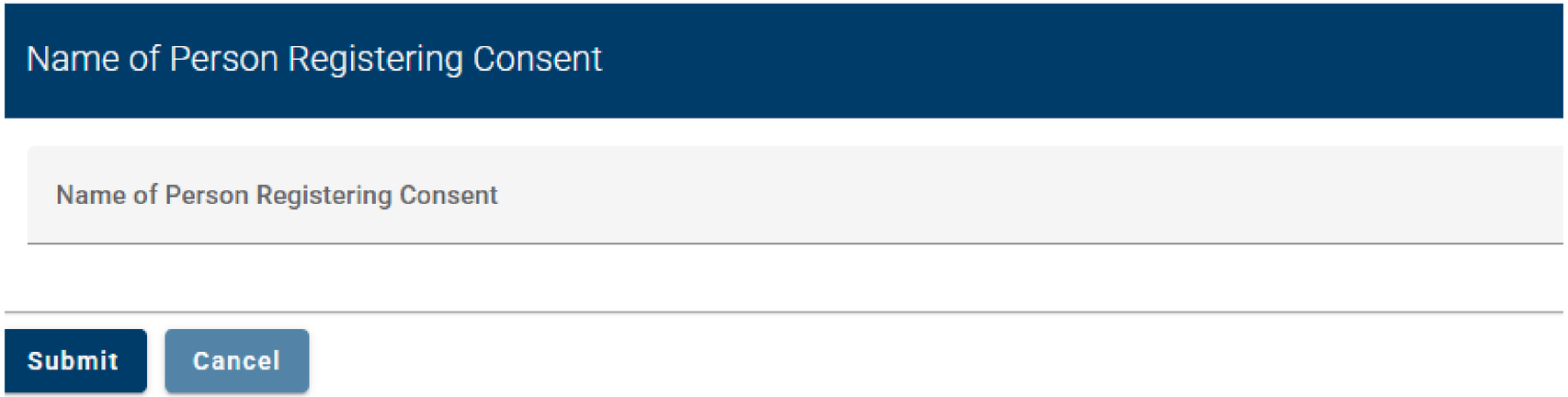
Section 8: Signature/Attestation

- The eighth section of the consent form is Signature/Attestation
- This section includes two options for WVHIN users:
  - Electronic Patient Signature or Legal Guadian/Legally Authorized Representative Signature in WVHIN
  - Attestation for Consent on File *(paper copy or electronic signature in EHR)*



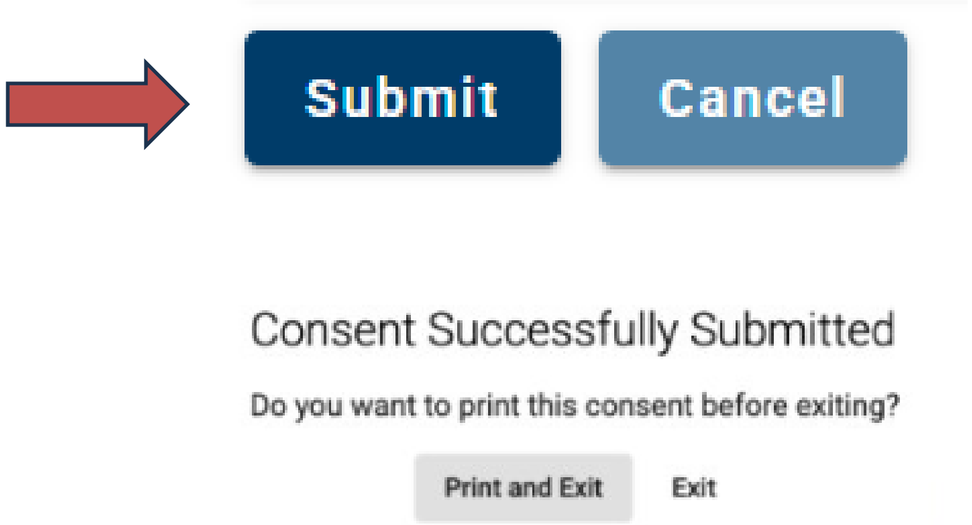
Section 9: Name of Person Registering Consent

- The last section of the consent form is Name of Person Registering Consent
- This section requires that the user submit the name of the individual who collected the consent from the patient, verified their identify and provided education.



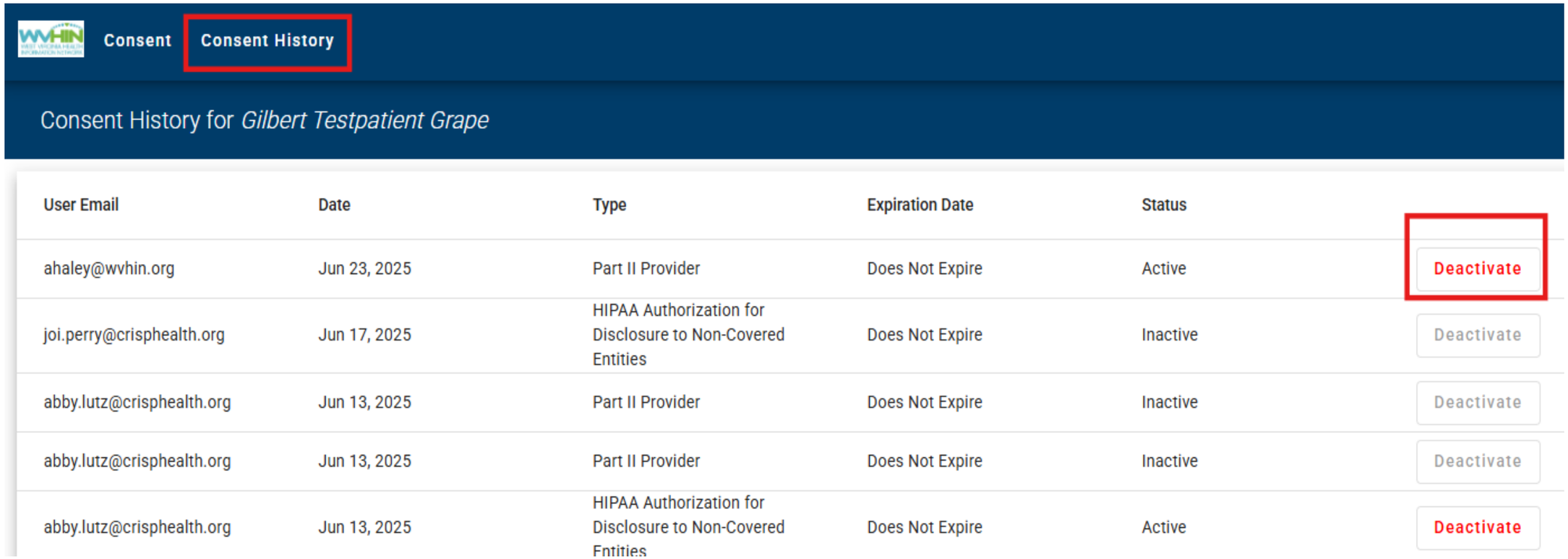
Submission

- Upon completion of the consent form, the user registering consent should hit the Submit button
- The user will be offered the option to print the consent or exit the tool



Consent History

- Consent History provides a full list of all consent forms registered for the patient
  - *Users can click on the consent to open and view the submitted form*
- Consent can also be deactivated from this tab per the request of the patient



Thank you!
Questions?