



American Society of Addiction Medicine

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January 14, 2013

Health Information Technology Policy Committee
Office of the National Coordinator for Health Information Technology
Department of Health and Human Services
Patriots Plaza III, 355 E Street, SW
Washington, DC 20201

Request for Comment regarding Stage 3 Definition of Meaningful Use of Electronic Health Information

Health Information Technology Policy Committee:

The American Society of Addiction Medicine (ASAM) thanks the Health Information Technology Policy Committee (HITPC) of the Office of the National Coordinator for Health IT (ONC) for the opportunity to comment on the Stage 3 Definition of Meaningful Use of Electronic Health Records (EHRs); in particular, on the areas of “Meaningful Use” (MU) that relate to the consent management of behavioral health records and the certification criteria for accessing prescription drug monitoring program (PDMP) data.

ASAM represents over 3000 physicians who specialize in the treatment of addiction. Fully 40 percent of ASAM members report serving patients who pay for treatment with Medicare or Medicaid and, thus, are eligible to receive incentive payments under the “meaningful use” program. Furthermore, thirty percent of ASAM members practice addiction medicine in integrated primary care settings and balance the need for a dynamic exchange of addiction treatment and other health care information with the special privacy requirements of the behavioral health patients. Given the unique challenges facing addiction professionals who both want the best overall care for their patients and the utmost of privacy from those who would discriminate against them based on their health conditions, ASAM members feel uniquely qualified to comment on the sections of these rules that are of importance to addiction medicine physicians and other physicians treating patients with behavioral health (includes addiction) needs.

Comments on ID# MU04: Patient Consent for Sharing Sensitive Health Information

The electronic exchange of health information is a cornerstone of the current health care reform effort. And, while the integration of primary and behavioral health care is imperative to the mainstreaming of addiction treatment and to achieving meaningful healthcare reform, addiction patient records are protected by higher standards of

confidentiality than even psychiatric records, and far higher than records of general medical encounters. Unless electronic health records are developed in ways that accommodate these added protections, EHR's will become a barrier to behavioral health integration and health care reform. Both behavioral health and primary care electronic health records must be developed with the functionality to manage a behavioral health patient's consent. To that end, ASAM offers the following recommendationsⁱ:

1. In general, the patient's personal health information should be available to parties providing health care services to the patient, and not to other parties; but, within the health care delivery system, free exchange of basic health information, including via sharing of electronic health records or via the placement of basic health information into an electronic health information exchange, should be permitted by the patient's initial consent for treatment.
2. An additional basic principle of confidentiality is that personal health information should not be released outside of the health care system without the explicit written consent of the patient. Furthermore, in light of the fact that the health care delivery system is changing (e.g., accountable care organizations), regulations implementing the electronic exchange of health information should clearly define what "system" means and default to the highest levels of patient confidentiality.
3. Any access to health information obtained in the course of facility inspections and quality assurance activities should be handled only by individuals and entities that agree in writing to avoid any secondary release of this information, and to store and analyze data from health records of patients only after patient identifiers have been removed from the files. Health information used for research purposes should not be subject to secondary release of personally identifiable data except as allowable under Federal research regulations.

Comments on Objective SGRP 125: Certification Criteria for EHR Technology/PDMP Data Access

Another key element of electronic health information exchange needs to be the real-time access to a patient's prescription drug data. With the increase in pharmacological therapies that can be prescribed by physicians specializing in addiction treatment and by non-addictionists alike, and the potential for drug-drug interactions between these agents and other agents that a physician may consider prescribing in an emergency medicine, primary care or other practice setting, it is imperative that all physicians who encounter a patient be able to know the full list of medications a patient is taking. Again, in order to ensure that a patient's confidentiality is protected, ASAM recommends that:

1. Information submitted to prescription drug monitoring programs should be accessible by pharmacists, physicians, and other licensed independent healthcare providers with prescribing authority, as well as by public health officials, but not by persons outside the healthcare or public health systemⁱ above.
2. PDMP data should be available in real-time by clinicians considering a decision to authorize a prescription for a controlled substanceⁱⁱ.
3. PDMPs developed by various states should be available for review by clinicians across state boundaries.

Again, ASAM thanks ONC for the opportunity to submit comments regarding this important issue. We look forward to a continued collaboration with the Office of the National Coordinator on the development and adoption of health information technology that supports increased access to addiction treatment.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart Gitlow MD". The signature is fluid and cursive, with the letters "MD" at the end.

Stuart Gitlow, MD, MBA, MPH, FAPA
Acting President, American Society of Addiction Medicine

ⁱ Confidentiality of Patient Records and Protections Against Discrimination: A Joint Statement by the American Society of Addiction Medicine, American Academy of Addiction Psychiatry, American Osteopathic Academy of Addiction Medicine and the Association for Medical Education and Research on Substance Abuse.

<http://www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2011/12/15/confidentiality-of-patient-records-and-protections-against-discrimination>

ⁱⁱ Measures to Counteract Prescription Drug Diversion, Misuse and Addiction.

<http://www.asam.org/advocacy/find-a-policy-statement/view-policy-statement/public-policy-statements/2012/01/26/measures-to-counteract-prescription-drug-diversion-misuse-and-addiction>