



THE PARTNERSHIP TO AMEND

42 CFR PART 2

April 28, 2020

The Honorable Alex M. Azar
Secretary
U.S. Department of Health and Human Services
330 C Street SW
Washington, DC 20416

Re: 42 CFR Part 2 – Request to Expedite Revising Rule Pursuant to the CARES Act

Dear Secretary Azar,

The undersigned organizations of the Partnership to Amend 42 CFR Part 2 (Partnership), write to make an urgent request that the Department of Health and Human Services (HHS) issue a rule as soon as possible on the 42 CFR Part 2 (Part 2) provisions in the Coronavirus Aid, Relief, and Economic Safety Act (CARES Act).

The Partnership is a coalition of nearly 50 organizations committed to aligning Part 2 with the disclosure requirements of the Health Insurance Portability and Accountability Act (HIPAA) for the purposes of treatment, payment, and health care operations (TPO).

First and foremost, we want to take this opportunity to thank you and Deputy Secretary Hargan for your ongoing engagement with the Partnership to address the issues regarding the current Part 2 regulations. We appreciate your continued attention to patient care for those with substance use disorders (SUDs).

Given the longstanding nature of the issue, compounded with the potential for increase in SUDs during the current pandemic, it is more important than ever that the roadblocks to providing care for patients with SUDs are removed. We believe the recent changes to Part 2 in the CARES Act will greatly help in coordinating care for patients with SUDs. Specifically, Sec. 3221 changes the requirement to a one-time written consent and aligns Part 2 with HIPAA. More importantly, Sec. 3221 permits redisclosures made in accordance with HIPAA following that initial written consent. The CARES Act also directs the Secretary of HHS to revise any pertinent regulations.

While the Substance Abuse and Mental Health Services Administration (SAMHSA), prior to the passage of the CARES Act, issued guidance suspending the prohibitions on use and disclosure of patient information under Part 2 for medical emergencies, more specificity will be needed to implement the flexibilities provided by the CARES Act. Additionally, it has been reported that opioids may be used during the treatment of some patients with COVID-19¹, making it paramount that physicians have access to all patient records, especially SUD records, to formulate appropriate treatment plans. We believe HHS can use the SAMHSA guidance as a stepping stone when revising

¹ Owerhohle, S., America's new opioid crisis, <https://www.politico.com/news/2020/04/10/america-new-opioid-crisis-179270>. Last visited April 15, 2020.

the Part 2 rule and we encourage HHS to act quickly to update the Part 2 rule to ensure patients with SUDs do not experience a disruption in their care.

Please feel free to contact Deepti Loharikar, Director of Regulatory Affairs, Association for Behavioral Health and Wellness, at loharikar@abhw.org or (202) 449-7659 with any questions.

Sincerely,

Academy of Managed Care Pharmacy
Alliance of Community Health Plans
American Association on Health and Disability
American Health Information Management Association
American Hospital Association
American Psychiatric Association
American Society of Addiction Medicine
America's Essential Hospitals
America's Health Insurance Plans
AMGA
Association for Behavioral Health and Wellness
Association for Community Affiliated Plans
Blue Cross Blue Shield Association
Catholic Health Association of the United States
Centerstone
College of Healthcare Information Management Executives
Confidentiality Coalition
Global Alliance for Behavioral Health and Social Justice
Hazelden Betty Ford Foundation
Healthcare Leadership Council
Health Innovation Alliance
The Joint Commission
The Kennedy Forum
National Alliance on Mental Illness
National Association of ACOs
National Association of Addiction Treatment Providers
National Association of County Behavioral Health and Developmental Disability Directors
National Association for Rural Mental Health
Netsmart
OCHIN
Opioid Safety Alliance
Otsuka America
Pharmaceutical Care Management Association
Population Health Alliance
Premier healthcare alliance
Strategic Health Information Exchange Collaborative

Cc: Deputy Secretary Eric D. Hargan