



THE PARTNERSHIP TO AMEND 42 CFR PART 2

August 23, 2019

Contact: Tiffany Huth, MPH
Phone: 202.552.7364
Email: Huth@abhw.org

Health Care Coalition Commends Administration's Actions to Modernize SUD Treatment Privacy Law and Enhance Coordinated Care and Safety

Washington, DC (August 23, 2019) – The Partnership to Amend 42 CFR Part 2 (Partnership), a coalition of nearly 50 health care organizations committed to aligning 42 CFR Part 2 (Part 2) with the Health Insurance Portability and Accountability Act (HIPAA) for the purposes of treatment, payment, and health care operations (TPO), issued the below statement today in response to the notice of proposed rulemaking (NPRM), [“Coordinating Care and Information Sharing in the Treatment of Substance Use Disorders,”](#) released by the Substance Abuse and Mental Health Services Administration (SAMHSA). The proposed rule would modify 42 CFR Part 2, the federal regulations that govern confidentiality of drug and alcohol treatment and prevention records.

The [“Coordinating Care and Information Sharing in the Treatment of Substance Use Disorders”](#) NPRM is part of a Regulatory Sprint to Coordinated Care initiated in 2018 by the U.S. Department of Health and Human Services. In addition to mental health and substance use policy rules, the agency will re-examine rules, such as the Stark Law, Anti-Kickback Statute (AKS), and HIPAA, that impede coordinated care.

“The Partnership is in full support of modernizing 42 CFR Part 2 and appreciates SAMHSA’s efforts to take on that task.

“Part 2 needs to harmonize with HIPAA to allow for the transmission of substance use disorder (SUD) records for the purpose of treatment, payment, and health care operations. Only then can we promote integrated care and enhance patient safety, while providing health care providers with one federal privacy standard for all of medicine.

“As a coalition of more than 50 organizations spanning the entire range of health care, we will be reviewing and submitting comments. Upon initial review, we are pleased to see the following in the proposed rule:

- Would allow patients to consent to the disclosure of their information to a wide range of entities, without having to name the specific individual receiving this information on behalf of a given entity.
- Clarifies that treatment records created by non-Part 2 providers based on their own patient encounters will not be subject to Part 2, unless SUD records previously received from a provider subject to Part 2 are incorporated in the non-Part 2 provider's records.
- Under Part 2, disclosure of SUD records without patient consent are allowed in a "bona fide medical emergency." The proposed rule broadens this term to include declared emergencies from natural disasters that disrupt treatment facilities and services.
- Allows disclosures for research under Part 2 by a HIPAA covered entity or business associate to individuals who are not HIPAA covered entities.
- Would allow opioid treatment programs (OTPs) to enroll in state prescription drug monitoring programs (PDMPs) and submit the dispensing data for controlled substances consistent with applicable state laws."

"ABHW and its member companies thank the Administration for taking steps to modernize 42 CFR Part 2. We appreciate their efforts to address care coordination and ensure safe, high - quality treatment and look forward to providing comments on the proposed regulation." – **Maeghan Gilmore, Chairperson for the Partnership to Amend 42 CFR Part 2, and Director, Government Affairs, Association for Behavioral Health and Wellness**

"AMCP appreciates the efforts that the Administration is taking to address the current barriers to accessing a patient's entire medical record. These barriers could lead to potentially dangerous medical situations such as harmful drug-drug interactions and lack of integrated care. As the country moves forward with combating the opioid epidemic, a focus should remain on integrating substance use disorder, mental health, and primary care services to improve patient outcomes." **Academy of Managed Care Pharmacy**

"We commend the Administration for taking this important step forward to modernize 42 CFR Part 2," said **Elizabeth Cahn Goodman, Executive Vice President of Government Affairs and Innovation, America's Health Insurance Plans**. "Removing barriers to sharing treatment information is key to more comprehensive and coordinated care for those suffering from an opioid addiction or other substance use disorder."

"ASAM appreciates efforts to improve care coordination and seeks to hasten the day when all our patients can easily access state-of-the-art treatment in a healthcare system that does not stigmatize their disease," said **Dr. Shawn Ryan, Chair of the American Society of Addiction Medicine's (ASAM) Legislative Advocacy Committee**.

“We appreciate the support provided by the administration to align 42 CFR Part 2 with HIPAA and its efforts through regulation to better allow information to flow between health care professionals to provide safer and better care for our patients with substance use disorders,” **said APA CEO and Medical Director Saul Levin, M.D., M.P.A.** “This is a good step forward in breaking down barriers for people with substance use disorders to receive effective integrated care. We will continue to work with the Administration and Congress to address the remaining barriers.”

“Knowing there are limits to the Administration’s rulemaking authority on this issue, we appreciate the positive steps proposed. We also look forward to working with Congress to further align our medical-record standards so that we can continue the push for equitable care and parity.” **Emily Piper, Executive Director of Government Relations, Hazelden Betty Ford Foundation**

“The Healthcare Leadership Council commends SAMHSA for taking steps to modernize outdated rules which hinder achieving the best outcomes for substance use disorder patients.”
Healthcare Leadership Council

“By not conforming 42 CFR Part 2 to HIPAA, we are costing our health systems and consumers, especially those with multiple chronic conditions. It is heartening to see the latest action to align Part 2 and HIPAA through the proposed rule and we look forward to further statutory changes that bring us closer to fully aligning Part 2 with HIPAA.” -**Paul Gionfriddo, President and CEO of Mental Health America**

“NAMI is pleased that the Trump Administration has taken this step to advance us towards parity for the sharing of substance use disorder treatment records. Separate is never equal - it is long overdue for us to ensure that behavioral health treatment records are shared under the same common HIPAA rules that are used for primary and specialty medical care. This rule is an important step toward that goal.” - **Andrew Sperling, Director of Legislative Advocacy, National Alliance on Mental Illness**

“Part 2 has needed reform for years and NABH thanks the Assistant Secretary for taking action. We look forward to reviewing the proposal’s details and ensuring it works for a 21st-century behavioral healthcare system.” - **Mark Covall, President and CEO, National Association for Behavioral Healthcare**

“ACOs and other providers in value-based care arrangements need to understand a patient’s complete medical history in order to provide quality, well-coordinated care. While we continue to ask Congress to align outdated Part 2 restrictions with HIPAA to allow for the data sharing needed for ACOs to provide patients with the care they deserve, the proposed rule does clarify care coordination steps that can be taken. We thank Secretary Azar and others at HHS for their leadership on this issue.” - **Clif Gaus, Sc.D., President and CEO of the National Association of ACOs (NAACOS)**

“OCHIN applauds SAMHSA for their continuing efforts to reform 42 CFR Part 2 to improve care coordination for patients and providers on the front lines of the substance abuse crisis impacting the nation. On behalf of 5.1 million patients and 10,000 community health providers we serve, OCHIN continues to call upon Congress to take the next step towards solving one of our most pressing public health crisis and further align 42 CFR Part 2 with HIPAA to improve patient safety and patient care.” - **Jennifer Stoll, EVP, Government Relations and Public Affairs, OCHIN**

“We believe the proposed rule empowers patients to take control of their health information and medical history by reducing Part 2’s outdated regulations. This is a step towards a modern, patient-friendly system that delivers better care coordination and informed clinical decisions. We look forward to a more comprehensive review of the NPRM,” **said Opioid Safety Alliance Executive Director Joel White.**

“The Joint Commission is pleased to see progress towards bringing substance use disorder records into the 21st century. The Joint Commission appreciates the important balance between sharing patient information to coordinate care and patients’ right to privacy and looks forward to providing comments on the proposed regulation.” - **The Joint Commission**

"I strongly support efforts to improve the coordination of care for people with substance use disorders. Current federal regulations that go far beyond HIPAA inhibit integrated care and endanger patients, which is why my fellow Opioid Commission members and I recommended that they be changed. It's time for 42 CFR Part 2 to finally be harmonized with HIPAA." - **Former U.S. Rep. Patrick J. Kennedy, founder of The Kennedy Forum**

###

<http://www.helpendopioicrisis.org/>

Members of The Partnership to Amend 42 CFR Part 2 include:

Academy of Managed Care Pharmacy · Alliance of Community Health Plans · American Association on Health and Disability · American Dance Therapy Association · American Health Information Management Association · American Hospital Association · American Psychiatric Association American Society of Addiction Medicine · American Society of Anesthesiologists · America’s Essential Hospitals · America’s Health Insurance Plans · AMGA · Association for Ambulatory Behavioral Healthcare · Association for Behavioral Health and Wellness · Association for Community Affiliated Plans · Association of Clinicians for the Underserved · Blue Cross Blue Shield Association · The Catholic Health Association of the United States · Centerstone · College of Healthcare Information Management Executives · Confidentiality Coalition · Corporation for Supportive Housing · Employee Assistance Professionals Association · Global Alliance for Behavioral Health and Social Justice · Hazelden Betty Ford Foundation · Healthcare Leadership Council · InfoMC · The Joint Commission · The Kennedy Forum · Medicaid Health Plans of America · Mental Health America · National Alliance on Mental Illness · National Association of Addiction Treatment Providers · National Association for Behavioral Healthcare · National Association for Rural Mental Health · National Association of ACOs · National

Association of Counties · National Association of County Behavioral Health and Development Disability Directors · National Association of State Mental Health Program Directors · National Rural Health Association · Netsmart · OCHIN · Opioid Safety Alliance · Otsuka America · Patient-Centered Primary Care Collaborative · Pharmaceutical, Inc. · Pharmaceutical Care Management Association · Premier Healthcare Alliance · Smiths Medical · Strategic Health Information Coalition