
PARTNERSHIP TO AMEND 42 CFR PART 2

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Stakeholders Agree: Modernize the Privacy Laws to Combat Opioid Epidemic

Part 2 Coalition Applauds Bipartisan Bills to Strengthen Addiction Treatment

Washington, DC (April 03, 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), today issued the following statement in response to the introduction of identical bipartisan bills in both the House and Senate. The Overdose Prevention and Patient Safety Act, “OPPS Act”, was introduced by Congressmen Earl Blumenauer (D-OR) and Markwayne Mullin (R-OK) and the Protecting Jessica Grubb’s Legacy Act, “Legacy Act”, was introduced by Senators Shelley Moore Capito (R-WV) and Joe Manchin (D-WV).

“ABHW and its member companies applaud the introduction of these life-saving bipartisan pieces of legislation. These bills will align Part 2 with the Health Insurance Portability and Accountability Act (HIPAA) for treatment, payment, and health care operations (TPO), while strengthening protections against the use of addiction records in criminal, civil, or administrative proceedings. These bills further amplify consumer protections by incorporating antidiscrimination language, enhancing penalties for any breach of a patient’s substance use record, and including breach notification requirements. Clinicians need access to a patient’s full medical history, including substance use disorder records, to assess risks and adequately care for a patient. ABHW members contend that Part 2 is one of the biggest – if not the biggest – barrier to fighting the opioid crisis.” --

Pamela Greenberg, Chairperson for the Coalition to Amend 42 CFR Part 2, and President and CEO, Association for Behavioral Health and Wellness

“To turn the tide in the ongoing opioid epidemic, health care providers must have appropriate access to medical records that will allow appropriate utilization while protecting patients from unintended consequences associated with misuse of opioids and other substances. The Academy of Managed Care Pharmacy continues to address patient care coordination through recommendations developed by diverse stakeholders in the AMCP Addiction Advisory Group. AMCP also is pleased that Congress continues to combat the opioid epidemic by introducing legislation to allow the

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sharing of medical records with appropriate health care providers, while providing safeguards to protect patient privacy.” -- ***Susan A. Cantrell, RPh, CAE, Chief Executive Officer, Academy of Managed Care Pharmacy***

“AMGA appreciates the bipartisan efforts of Congress to reintroduce legislation that will allow further provider access to a patient’s substance use information. This legislative effort will permit our medical group members to provide evidence-based, holistic care to their patient populations. AMGA has long advocated for allowing providers to gain access to more information about their patients in the hopes of streamlining care coordination and case management, while still aligning with the protections of the Health Insurance Portability and Accountability Act (HIPAA). As our members continue to work diligently to provide innovative, high-quality, affordable, patient-centered medical care, we believe that this effort will still maintain a patient’s privacy while ensuring the best level of care is provided.” -- ***Jerry Penso, M.D., M.B.A., President and CEO, AMGA***

“Too many patients with substance use disorder have been prescribed an opioid or another drug that may endanger their life or sobriety because of an outdated law that prevents clinicians from reviewing their complete treatment history. The Overdose Prevention and Patient Safety Act and the Protecting Jessica Grubb’s Legacy Act would allow clinicians access to the information they need to ensure patient safety and the highest quality of care. We commend Senators Manchin and Capito and Representatives Blumenauer and Mullin for their leadership in reintroducing this vital legislation.” -- ***Tom Nickels, Executive Vice President, American Hospital Association***

“We strongly support this bill because it will improve our ability to safely treat patients with substance use disorders while protecting them at the same time. This bill will prevent patients from being harmed due to a provider not receiving key medical information. We urge the House and then the Senate to pass this much-needed legislation.” -- ***Altha Stewart, M.D., President, American Psychiatric Association***

“Today, patients suffering with addiction are often caught within a siloed system where – depending on where they receive care – doctors may lack critical patient information — creating life-threatening blind spots. As currently written, Part 2 – which applies only to substance use disorder treatment in select healthcare settings – endangers the very lives it intends to protect. ASAM applauds the introduction of the Overdose Prevention and Patient Safety Act and the efforts of Congressional leaders to bring Part 2 into the 21st Century. Allowing patient

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information related to substance use disorder to be safely integrated into the rest of the health care system will save lives.” -- **R. Corey Waller, MD, Chair of the Legislative Advocacy Committee, American Society of Addiction Medicine (ASAM)**

“ACAP-member plans support strict patient privacy standards—but Part 2 requirements have proven to hinder, not improve, effective care for substance use disorders. Enrollees must consent to the release of information for the health plan and every health care provider that will see their data—and to each specific use for those data. This flies in the face of the way most care is delivered today, especially in a coordinated care setting. There are better ways to protect patient privacy; harmonizing these rules with HIPAA will go a long way toward maintaining patient protections while allowing for needed data-sharing.” -- **Margaret A. Murray, CEO, Association for Community Affiliated Plans**

“We can improve our health care system’s ability to treat addiction and allow providers to help get more people on the path of recovery by treating substance use disorder like all other medical conditions and ensuring that providers have all the information necessary to deliver safe, coordinated, effective, high-quality care. The passage of this legislation would allow health care providers to practice truly integrated care – a key factor in our nation’s fight against the opioid epidemic.” -- **David Guth, CEO, Centerstone**

“The College of Healthcare Information Management Executives (CHIME) and the CHIME Opioid Task Forces strongly support an amendment to 42 CFR Part 2 that would align Part 2 with the Health Insurance Portability and Accountability Act (HIPAA). Modifying Part 2 to ensure that HIPAA-covered entities have access to a patient’s entire medical record will improve patient safety, treatment and outcomes across the care delivery spectrum. Without this policy change, the 20 million-plus Americans with substance use disorder will remain at risk of being prescribed opioids, solely because the prescribing physician was unaware of their past dependence or abuse.” -- **Russell P. Branzell, President and CEO, College of Healthcare Information Management Executives (CHIME)**

“We are on the precipice of a new generation of addiction treatment where efficient coordination of care over the lifespan will be possible. Now is the time to remove barriers to that future, and one key step is eliminating the friction between HIPAA and 42 CFR Part 2.” -- **Nick Motu, Vice President and Chief External Affairs Officer, Hazelden Betty Ford Foundation**

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“Access to information is integral to quality healthcare. Efforts to improve the lives of substance abuse disorder patients through integrated, coordinated care are being impeded by counterproductive regulatory barriers. Healthcare professionals cannot gain access to the patient data that is essential to providing accurate diagnosis and effective treatment. We applaud Senators Capito and Manchin and Representatives Blumenauer and Mullin for this important legislation bringing substance abuse disorder records under the umbrella of HIPAA protection that covers all other patient information. We can and must provide access to vital data while still protecting patient privacy and preventing discrimination.” -- **Mary R. Grealy, President, Healthcare Leadership Council**

“As we have been arguing for years at Mental Health America, you can’t treat a whole person with half a medical record. Yet this is precisely what has been happening in practice for a long time. The problem is even more acute in the age of electronic health records. 42CFR Part 2, by not conforming to HIPAA, adds costs and layers of inefficiencies to health care for consumers, especially those with multiple chronic conditions. It negatively affects the care we all receive and may have unintentionally made our drug use crisis worse, without adding any additional meaningful privacy protections.” -- **Paul Gionfriddo, CEO and President, Mental Health America**

“Separate is never equal. 42 CFR Part 2 is an outdated and antiquated federal regulation that continues to separate substance abuse treatment records in our health care system. It is time for Congress to act to align 42 CFR Part 2 with HIPAA and eradicate this barrier to integrating behavioral health and primary care. We need parity for the sharing of medical records.” -- **Andrew Sperling, Director of Legislative Advocacy, National Alliance on Mental Illness.**

“It’s past time for health parity for persons with substance use disorders. Separating a person’s substance use treatment records from the rest of their medical record denies them fully-informed diagnosis and treatment from their doctors, increasing the chance of unintended prescribing errors, dangerous drug interactions and over-utilization. This common-sense bill aligns 42 CFR Part 2 more closely with HIPAA to enable integrated care, while adding increased anti-discrimination and patient privacy protections.” -- **Kevin Scalia, Executive Vice President, Corporate Development, Netsmart**

"For too long, the flawed 42 CFR Part 2 law has put a wall between patients' addiction treatment records and the rest of their health history. This policy creates needless stigma that impedes care

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coordination and threatens patient safety. By aligning laws governing addiction treatment records with HIPAA, today's bills represent a smart step in the right direction that will protect the well-being of those recovering from substance misuse and ensure prescribers do not become unwitting aides to a patient's relapse. Better information for a patient's provider will help ensure better treatment and less addiction. We join with the Partnership to Amend 42 CFR Part 2 in celebrating the introduction of these bipartisan measures and committing to work toward their swift passage.”

-- Joel White, Executive Director, Opioid Safety Alliance

“We applaud this effort to expand the care team's ability to coordinate appropriately and deliver high-value, accessible care – as well as steps to enhance trust between patient and clinicians. If behavioral health and substance use disorder treatment are going to be effectively integrated into a team-based system empowering patients and their primary care clinicians to manage both physical and behavioral health, we need to move forward on passage to allow better sharing of health information for persons in these treatment programs.”

-- Ann Greiner, President and CEO, Patient-Centered Primary Care Collaborative

“The Overdose Prevention and Patient Safety Act and the Protecting Jessica Grubb's Legacy Act will help lift the veil on what has been one of the main barriers to better care coordination for those suffering from substance use. These bills ensure that healthcare providers can discretely access their patients' full medical records. At the same time, the bills apply robust HIPAA protections, as well as additional confidentiality safeguards, that should give patients peace of mind that their information will only be used to provide tailored care plans and set them—or keep them—on the road to recovery.”

-- Blair Childs, Senior Vice President, Public Affairs, Premier Inc.

“As the largest group of nonprofit health care providers in the nation, Catholic health systems and facilities are deeply committed to their mission of providing everyone with holistic, person-centered care. However, in order to provide quality comprehensive care, providers in our hospitals, clinics and long-term care facilities require access to all of a patient's medical records including those for substance use disorder treatment. We fully support aligning the regulations for substance use records with the current regulations governing other medical records under HIPAA. The Catholic Health Association of the U.S. would like to thank the sponsors of the Overdose Prevention and Patient Safety Act of 2019 and urge all members of the House and Senate to support this

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important bipartisan legislation.” -- **Lisa Smith, Vice President, Advocacy and Public Policy, The Catholic Health Association of the U.S.**

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<http://www.helpendopioidcrisis.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 · Health IT Now · 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 · Otsuka America · Patient-Centered Primary Care Collaborative · Pharmaceutical, Inc. · Pharmaceutical Care Management Association · Premier Healthcare Alliance · Smiths Medical · Strategic Health Information Exchange Collaborative