
PARTNERSHIP TO AMEND 42 CFR PART 2

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Health Care Coalition Discouraged by SAMHSA 42 CFR Part 2 Final Rule

Washington, DC (January 4, 2018) – The Partnership to Amend 42 CFR Part 2 (Partnership), a coalition of over 35 health care organizations committed to aligning 42 CFR Part 2 with HIPAA, today issued the following statement in regard to the Substance Abuse and Mental Health Service Administration's (SAMHSA) final rule on Confidentiality of Substance Use Disorder Patient Records, 42 Code of Federal Regulations Part 2 (42 CFR Part 2).

This final rule will facilitate sharing of substance use disorder (SUD) patient information for health care operations and payment purposes with patient consent; support audit and evaluation activities; and permit use of an abbreviated notice of prohibition of re-disclosure that may assist users of electronic health records.

“The Partnership to Amend 42 CFR Part 2 finds SAMHSA’s Final Rule problematic as it fails to fully align substance use disorder privacy protections with the Health Insurance Portability and Accountability Act (HIPAA). Continuing to separate patients’ substance use disorder records from their medical records puts persons with substance use disorders at risk for unsafe, uncoordinated, and uninformed treatment.” – **Rebecca Murow Klein, Chair, Partnership to Amend 42 CFR Part 2, and Director of Government Affairs, ABHW.**

“NASMHPD is disappointed that SAMHSA still feels it is unable legally to enable mental health and other providers to protect their patients with substance use disorders, through case management, care coordination, and integrated care, from falling victim to adverse and sometimes deadly medication reactions and inadvertent opioid overdoses. We hope that Congress will quickly step in and amend the statute underlying 42 CFR Part 2 to align the Part 2 disclosure protections with those applicable to all other health care diagnosis, treatment, and referrals under HIPAA.” -- **Stuart Yael Gordon, Director of Policy and Communications, National Association of State Mental Health Program Directors**

“Netsmart is extremely disappointed with the Final Rule and believe it is discriminatory by preventing people with a substance use disorder from benefiting from coordinated, integrated care and case management, exacerbating the stigma often associated with substance use disorders. The Final Rule also places additional regulatory burdens on substance use disorder treatment providers not required of providers of mental health treatment or acute-care services. On a positive note, the Final Rule includes the option of an abbreviated notice of prohibition on re-disclosure. This reduces a regulatory burden and enables easier incorporation into EHRs.” -- **Kevin Scalia, Executive Vice President Corporate Development, Netsmart**

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“Premier and its members remain troubled that the final rule seriously restricts clinicians’ ability to deliver informed, coordinated care to patients who are dealing with substance use disorders. While the rule allows information on opioids and other substance use disorders to be shared with payers, those who are on the frontlines and are actually caring for patients remain in the dark. We urge Congress to act quickly and pass the Overdose Prevention and Patient Safety Act (H.R. 3545) and the Protecting Jessica Grubb’s Legacy Act (S. 1850) so that we can override this loophole and allow providers to deliver comprehensive care to those struggling with substance abuse disorders.”
– **Blair Childs, Senior Vice President of Public Affairs, Premier Healthcare Alliance**

“The Final Rule is a positive step toward promoting more innovative models of health care delivery, including integrated and coordinated care, while trying to align Part 2 with HIPAA requirements. However, more work needs to be done. We look forward to working with the Coalition, SAMHSA, and Congress to make continued improvements to protect patients’ privacy rights and enhance integrated care.” – **Cynthia Moreno Tuohy, NCAC II, CDC III, SAP, Executive Director, NAADAC, The Association for Addiction Professionals**

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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 · Blue Cross Blue Shield Association · The Catholic Health Association of the United States · Centerstone · 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 · NAADAC, the Association for Addiction Professionals · National Alliance on Mental Illness · National Association of Psychiatric Health Systems · National Association of State Mental Health Program Directors · National Rural Health Association · Netsmart · Otsuka America Pharmaceutical, Inc. · Premier Healthcare Alliance · Smiths Medical