



THE PARTNERSHIP TO AMEND

42 CFR PART 2

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Partnership Welcomes Release of 42 CFR Part 2 Proposed Rule

Washington, DC (November 29, 2022) - The Partnership to Amend 42 CFR Part 2 (The 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 release of the Part 2 proposed rule by the U.S. Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) and Substance Abuse and Mental Health Services Administration (SAMHSA).

The Partnership greatly appreciates the release of this long-awaited proposed rule implementing the provisions mandated by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The proposed rule will promote partial alignment between Part 2 and HIPAA, though the two privacy frameworks remain distinct, particularly for consent purposes. This partial alignment will help curb the substance use disorder (SUD) epidemic and allow for the appropriate sharing of SUD records while simultaneously strengthening patient privacy.

Upon release of the proposed rule, members of The Partnership made the following statements about the proposed rule:

"AHIMA applauds the work of the HHS OCR for its work in proposing an operational pathway for these important pieces of law," said **Wylecia Wiggs Harris, CEO, American Health Information Management Association (AHIMA)**. "While we have a long way to go in aligning these two key pieces of policy, today's OCR release is an important first step in ensuring public policy can support SUD treatment activities that protect patient privacy and save lives."

"America's hospitals and health systems work every day to treat substance use disorders, from saving lives and reversing overdoses in emergency departments to connecting patients with recovery resources in their communities," said **Ashley Thompson, Senior Vice President, Public Policy Analysis and Development, American Hospital Association**. "The AHA is pleased that the Administration is taking long-overdue steps to align the unreasonable Part 2 regulations with existing safeguards for patient information under HIPAA. In particular, we appreciate HHS for working to support patient rights while improving care coordination."

"APA supports the administration's efforts to protect patient privacy while working with clinicians to increase the coordination of care," said **Dr. Saul M. Levin, M.D., M.P.A., FRCP-E, FRPsych, Chief Executive Officer & Medical Director, American Psychiatric Association**. "Striking the balance between coordinated quality care and safe data sharing is vital to protecting patients who are accessing life-saving treatments. Aligning Part 2 with HIPAA is one step toward improving outcomes for individuals accessing treatment."

"The Partnership to Amend 42 CFR Part 2 is delighted to see the issuance of this long-awaited rule. This proposed rule is a step toward modernizing privacy regulations for persons with substance use disorders and ensuring patients receive improved coordinated care," said **Maeghan Gilmore, Vice President, Government Affairs, Association for Behavioral Health and Wellness and Chairperson of the Partnership to Amend 42 CFR Part 2**.

"The 42 CFR Part 2 regulations weren't just promulgated back when many people idealized medicine the way it was shown on Marcus Welby, M.D., they were promulgated back when Marcus Welby, M.D. was still on the air. We're glad that CMS has put forward this long-overdue modernization," said **Meg Murray, CEO, Association for Community Affiliated Plans**. "Harmonizing privacy requirements with HIPAA will help people with substance use disorders get the better-integrated care from their medical team that they need and deserve."

"The proposed rule is a helpful step in the effort to integrate substance use care into the mainstream of health care and expand access to quality, coordinated care for millions of Americans who experience substance use disorders," said **Emily Piper, General Counsel and Vice President of Advocacy, Hazelden Betty Ford Foundation**. "As we review the details, we and all of healthcare will look to ensure the final regulations reflect the legislative intent of eliminating discriminatory regulatory barriers while protecting confidentiality and patient rights."

"In an era of coordinated care, electronic health records and a rising need for effective substance use disorders (SUD) treatment, the 42 CFR Part 2 privacy law has acted as an outdated barrier to quality healthcare for those battling SUD," said **Mary R. Grealy, President, Healthcare Leadership Council**. "We are pleased that the release of the proposed rule will bring this statute closer in alignment with HIPAA, still protecting patient privacy but enabling essential information sharing to treat patients in need."

"It's time to lay to rest old policies that harm individuals and families with a substance use history," said **Schroeder Stribling, President and CEO, Mental Health America**. "The regulations in 42 CFR Part 2 once served a purpose but now stand in the way of high-quality care and contributes to the discrimination of people with behavioral health conditions. Once finalized, the new proposed rule partially aligning 42 CFR Part 2 with HIPAA will help ensure consumers receive quality care that addresses their whole health needs. Substance use disorders are not a moral failing – they develop based on individual, community and societal factors, and more needs to be done to design systems and properly treat them as such."

"Aligning the content requirements for the Part 2 written consent with the content requirements for a valid HIPAA authorization, and permitting the use and disclosure of Part 2 records for treatment, payment and operations with a single consent as outlined in the Proposed Rule will significantly improve care coordination for our clients and providers nationwide treating persons with substance use disorder, while enhancing the protections afforded to the confidentiality of treatment records," said **Netsmart Executive Vice President Kevin Scalia**.

"Premier has championed and eagerly awaited these regulations implementing the bipartisan CARES Act provisions to modernize a more than 40-year-old law that has impeded healthcare providers' ability to diagnose, treat and prevent substance use and other opioid-related disorders," said **Soumi Saha, Senior Vice President of Government Affairs, Premier Inc.** "This is a crucial step in fully addressing the opioid crisis and ensuring individuals with substance use disorders receive integrated care delivery and benefit from patient-centered models."

"The existing restrictions on sharing of substance use disorder medical records among clinicians are antiquated, discriminatory, and endanger lives every day in the middle of our drug overdose crisis," said **former U.S. Rep. Patrick J. Kennedy, founder of The Kennedy Forum.** "I applaud the Biden administration for moving forward with these life-saving reforms that will improve the quality of care for individuals with substance use disorders."

To learn more about The Partnership to Amend 42 CFR Part 2, please visit
www.helpendopioidcrisis.org

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

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