



May 10, 2016

The Honorable Paul Ryan, Speaker
U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Kevin McCarthy, Majority Leader
U.S. House of Representatives
H-107, The Capitol
Washington, DC 20515

The Honorable Nancy Pelosi, Democratic Leader
U.S. House of Representatives
H-204, The Capitol
Washington, DC 20515

The Honorable Steve Scalise, Majority Whip
U.S. House of Representatives
2338 Rayburn House Office Building
Washington, DC 20515

The Honorable Steny Hoyer, Democratic Whip
U.S. House of Representatives
1705 Longworth House Office Building
Washington, DC 20515

Dear Speaker Ryan, Representative McCarthy, Representative Pelosi, Representative Scalise, and Representative Hoyer,

As opioid legislation moves to the House floor, the nation's Medicaid Directors call your attention to the importance of amending the privacy laws of 42 CFR Part 2 (Part 2) in order to fully address our nation's opioid crisis. Restrictions on access to a patient's entire medical record, including addiction records, limits individuals from receiving integrated care delivery or participating in person-centered models that are built on the foundation of integration.

The National Association of Medicaid Directors (NAMD) is a bi-partisan association representing Medicaid Directors in all 50 states, the District of Columbia, and the territories. Medicaid programs are the largest payer of behavioral health services in the nation and are increasingly responsible for the health coverage for beneficiaries affected by substance use disorders (SUDs). In 2009, Medicaid provided 1 out of every 5 dollars spent on SUD treatment, and the program is expected to account for 28 percent of spending on SUD services by 2020.¹

¹ Substance Abuse and Mental Health Services Administration. National Expenditures for Mental Health Services and Substance Abuse

Given the dominant role of Medicaid as a payer of SUD screening, prevention and treatment services, NAMD's members are working to address historical bifurcation in service delivery for affected enrollees. State Medicaid agencies are doing this through an array of person-centered models and approaches, including but not limited to health homes, coordinated care entities, and accountable care organizations.

The federal regulations governing the confidentiality of drug and alcohol treatment and prevention records, Part 2, set requirements limiting the use and disclosure of patients' substance use records from certain substance use treatment programs. As health care models and technology have evolved these restrictions have created an imbalance between the social harms related to disclosure of information and the medical harm and overdose deaths related to poor coordination of care.

The Substance Abuse and Mental Health Services Administration (SAMHSA) recently released a notice of proposed rulemaking which takes some steps to modernize Part 2. We believe that the proposed changes do not sufficiently accommodate the movement to collaborative care and more rapid and comprehensive communication between providers. NAMD's comment letter also expressed our concern that some aspects of the proposed regulation may reverse or undermine steps SAMHSA has already taken to advance our shared goals around care coordination for those with SUD.

NAMD supports provisions that safeguarded privacy to ensure individuals are not deterred from seeking treatment. We take seriously the need to protect SUD information records from being used to support law enforcement activities.

However, the inequity in the treatment of SUD information has widespread implications on care delivery and outcomes for Medicaid eligible patients. Chief among these is the separation of substance use from the rest of medicine, which has the result of hindering patient access to safe, effective, high quality substance use treatment and whole-person care.

Specifically, individuals receiving treatment by a provider or in a program subject to the Part 2 rules could be more vulnerable by reason of the non-availability of their patient record than an individual with a SUD who does not seek treatment. This is particularly true for persons receiving medication-assisted treatment (MAT) by a provider or program that must comply with Part 2. Because of the barriers to information sharing, it is unknown to other providers if the person is receiving a prescription opiate from specialty SUD providers. This can lead to overdose and death.

Without further changes to the Part 2 restrictions, beyond what SAMHSA has already proposed, state Medicaid programs will be limited in their ability to coordinate care for beneficiaries and address major safety concerns, such as drug-drug interactions or risk of overdose.

Treatment, 1986–2009. HHS Publication No. SMA-13-4740. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2013; Tami L. Mark et al., "Spending on Mental and Substance Use Disorders Projected to Grow More Slowly Than All Health Spending Through 2020," Health Affairs 33, no. 8 (2014): 1407–1415, <http://content.healthaffairs.org/content/33/8/1407.full>.

Thank you for your consideration. We welcome the opportunity to work with you to improve the coordination of care for individuals with substance use disorders and make necessary changes to Part 2.

Sincerely,



Thomas J. Betlach
Arizona Health Care Cost
Containment System Director
State of Arizona
President, NAMD



John B. McCarthy
Director
Ohio Department of Medicaid
State of Ohio
Vice-President, NAMD

Cc: The Honorable Fred Upton, Chairman, House Committee on Energy and Commerce
The Honorable Frank Pallone, Ranking Member, House Committee on Energy and Commerce