



January 28, 2019

Don Rucker, M.D.
National Coordinator
Office of the National Coordinator for Health Information Technology
330 C Street, SW
Floor 7
Washington, DC 20201

Re: Draft Strategy on Reducing Regulatory and Administrative Burden Relating to the Use of Health IT and EHRs

Dear Dr. Rucker,

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to comment on the draft Strategy on Reducing Regulatory and Administrative Burden Relating to the Use of Health IT and EHRs.

ABHW is the national voice for payers that manage behavioral health insurance benefits. ABHW member companies provide coverage to approximately 200 million people in both the public and private sectors to treat mental health, substance use disorders (SUDs), and other behaviors that impact health and wellness.

The draft strategy indicates, “state and federal regulators have established narrower rules pertaining to sensitive categories of health information” than HIPAA. One such rule is 42 CFR Part 2 (Part 2), Federal Confidentiality of Substance Use Disorder Patient Records. These outdated regulations set requirements limiting the use and disclosure of patients’ substance use records from certain substance use treatment programs. Patients must submit written consent prior to the disclosure of their SUD record. Obtaining multiple consents from the patient is burdensome and creates barriers to whole-person, integrated approaches to care, which are part of our current health care

framework. It also can prohibit health plans from sharing SUD information with the health care providers on the front line caring for patients suffering from SUDs. ABHW members say Part 2 is one of the biggest – if not the biggest – barriers to fighting the opioid crisis.

Part 2 was created to reduce stigma associated with SUDs and encourage people to seek treatment without fear of prosecution by law enforcement. While important goals, Part 2 is not compatible with the way health care is delivered in the 21st Century. Part 2 presents enormous barriers to patient safety and coordinated care. When a patient's written consent is not available to a provider, a great administrative burden exists when trying to physically locate a patient to obtain that consent. If a provider does not ultimately receive written consent from the patient to access his or her addiction record, the inability to see a patient's entire medical record hinders patient safety.

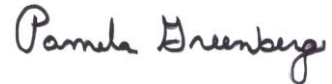
Part 2 regulations may lead to a doctor treating a patient and writing prescriptions for opioid pain medication for that individual without knowing the person has a SUD. Without written consent from the patient, ABHW member companies have had cases where the health plan cannot speak to the patient's primary care provider and other specialists about the patient's SUD, even if that provider is prescribing opioids to the patient. Separation of a patient's addiction record from the rest of that person's medical record creates challenges and prevents patients from receiving safe, effective, high quality substance use treatment and coordinated care.

The draft strategy recommendation in this area suggests that the Department of Health and Human Services (HHS) provide additional guidance about HIPAA privacy requirements and Part 2 requirements. We agree that additional guidance is necessary. We strongly recommend that new guidance changes current regulations so that Part 2 is aligned with HIPAA to allow for the transmission of Part 2 records without written consent for the purposes of treatment, payment, and health care operations. This will promote integrated care and enhance patient safety. Additionally, it will provide health care professionals with one federal privacy standard for all of medicine.

42 CFR Part 2 is one regulation the Department of Health and Human Services can, and should, reevaluate to achieve ONC's goal of reducing health-IT related burden and enhancing care coordination. Aligning Part 2 with HIPAA would

reduce the burden on physicians and improve care for patients with SUD.
Thank you for considering our recommendations. If you have any questions,
please contact me at (202) 449-7660 or greenberg@abhw.org.

Sincerely,

A handwritten signature in black ink that reads "Pamela Greenberg". The signature is written in a cursive, flowing style.

Pamela Greenberg, MPP
President and CEO
Association for Behavioral Health and Wellness