

September 18, 2018

The Honorable Greg Walden
Chairman
House Energy & Commerce Committee
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
House Energy & Commerce Committee
2322A Rayburn House Office Building
Washington, DC 20515

Dear Chairman Walden and Ranking Member Pallone:

The undersigned organizations, representing a cross-section of medical specialties, write to reiterate our strong support for protecting our patients by 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). In June, the U.S. House of Representatives passed legislation (H.R. 6082) to align Part 2 and HIPAA by an overwhelming bipartisan vote of 357-57. **We urge leadership to honor the House's strong vote and the broad support for H.R. 6082 within the healthcare community by ensuring its inclusion in any final legislation negotiated by the House and Senate.**

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, enhancing the effectiveness of the entire opioid package. The House and Senate bills contain myriad initiatives designed to enhance the treatment and coordination of care for persons with substance use disorder. However, the success of some of these new initiatives, such as Comprehensive Opioid Recovery Centers and expanding Medicare coverage of certain services furnished by opioid treatment programs, will be hampered without harmonizing Part 2 with HIPAA. As we build out an addiction treatment infrastructure, it is imperative to integrate substance use disorder, mental health, and primary care services to produce the best patient outcomes and establish the most effective approach to caring for people with complex health care needs.

Our organizations also recognize the importance of privacy for both medical and substance use-related records. As such, H.R. 6082 was drafted to include *enhanced* privacy/consumer protections that exceed those currently applicable to Part 2, including:

- An **expansion** of consumer protections to explicitly disallow the use of Part 2-protected information in any criminal or civil suits without permission from the patient or a court order. This includes use of records in criminal, civil, or administrative investigations, actions, or proceedings. (Section 2, Subsection E)
- A **prohibition** (in the case an entity legally or illegally obtains Part 2 information) from discriminating against an individual in admission or treatment for healthcare; hiring or terms of employment; the sale or rental of housing; and access to Federal, State, or local courts. The language also prohibits the recipient of federal funds from discriminating against an individual. (Section 2, Subsection G)

- An **expansion** of the level and range of Part 2 penalties to align with HIPAA violations. HIPAA penalties can be as high as \$1.5 million, whereas existing Part 2 penalties do not exceed \$5,000. (Section 2, Subsection F)
- An **addition** of breach notification requirements under the HITECH Act. Previously, Part 2-protected information was not subject to this requirement, but H.R. 6082 would require patient notification in case of a breach. (Section 2, Subsection H)

The alignment of Part 2 and HIPAA has broad support from across the healthcare community, because providers have seen for too long the potentially tragic consequences of failing to correct a system that can unwittingly place our patients at risk. This urgently needed legislation is a critical component for combating the opioid crisis. **The provisions included in H.R. 6082 represent the culmination of years of careful deliberation to establish a path for patients to receive efficient and collaborative care, while ensuring their privacy is protected.** We urge leadership to embrace the broad and *longstanding* support for the alignment of Part 2 and HIPAA by ensuring its inclusion in any final opioid package negotiated by the House and Senate.

Thank you for your continued leadership in advancing comprehensive legislation to address the opioid crisis. We look forward to working with you now and in the future to identify policy solutions to benefit the millions of Americans suffering from substance use and mental health-related disorders.

Sincerely,

American Association of Neurological Surgeons
American Association of Orthopaedic Surgeons
American Psychiatric Association
American Society of Addiction Medicine
Congress of Neurological Surgeons

Cc: The Honorable Paul Ryan
The Honorable Nancy Pelosi
The Honorable Mitch McConnell
The Honorable Charles Schumer