

May 12, 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:

The undersigned organizations representing accountable care organizations, physicians, hospitals and other healthcare practitioners strongly urge you to include language in the final House opioids legislative package to ensure healthcare providers who are engaged in population health initiatives have access to the medical records they need, including information on substance use disorders, to effectively and safely treat their patients.

Current federal regulations governing the confidentiality of drug and alcohol treatment and prevention records (42.C.F.R. Part 2 (Part 2)) preclude the Centers for Medicare & Medicaid Services (CMS) from disclosing such information to accountable care organizations and bundled payment organizations. These regulations currently require complex and multiple patient consents for the use and disclosure of patients' substance use records that go beyond the sufficiently strong patient confidentiality protections that were subsequently put in place by the Health Insurance Portability and Accountability Act (HIPAA). While originally intended to protect patients' privacy, Part 2 now serves to endanger their health. Recognizing the need to revise these laws, the Substance Abuse and Mental Health Services Administration recently released a proposed rule that would make improvements to Part 2. Unfortunately, the proposal does not account for the new realities of and innovations in healthcare delivery today.

New delivery system models such as ACOs and bundled payments were designed to create a more holistic, patient-centered approach to healthcare where providers work together to coordinate across their traditional silos and are held jointly accountable for the quality, outcomes and cost of that care. Critical to making these new models truly work for patients is having access to the individuals' health records, including those related to substance use. CMS provides participating providers of Medicare ACO and bundled payment organizations with monthly Medicare Parts A, B and D claims

under data use agreements that include criminal penalties for misuse. Yet, due to outdated laws mentioned above, CMS is forced to remove *all* claims where substance use disorder is a primary or secondary diagnosis. According to a recent *New England Journal of Medicine* study, this effects roughly 4.5 percent of inpatient Medicare claims and 8 percent of Medicaid claims. Not only does this pose an alarming patient safety threat in light of potential pharmaceutical contraindications and prevent providers from understanding the full extent of their patients' medical needs, but it is a heavy and costly administrative burden on CMS, which must manually scrub Medicare claims before submitting to ACOs and bundled payment organizations.

The Centers for Disease Control and Prevention's recent announcement that 15,000 deaths occur each year due to painkiller overdoses underscores the urgent need to take swift action to address the problems related to opioid use that are inflicting so many of our communities. We commend you for your leadership in advancing legislation to prevent dependency on opioids and deaths related to their use and promote appropriate access. While these are all urgently needed policy changes and investments, a critical missing piece is ensuring that the healthcare providers who are on the front-lines treating those with opioid or other substance use disorders have an unobstructed view of their patients' medical records. Accordingly, we call on Congress to ensure that the Medicare, Medicaid and SCHIP data feeds sent to providers that are participating in alternative payment models such as Medicare ACOs and bundled payment arrangements include all claims, including those where a substance use disorder is listed as a primary or secondary diagnosis.

Sincerely,

American Academy of Family Physicians
Association of American Medical Colleges
American College of Physicians
Medical Group Management Association
National Association of ACOs
Premier healthcare alliance

cc: The Honorable Fred Upton, Chairman, House Committee on Energy & Commerce
The Honorable Frank Pallone, Ranking Member, House Committee on Energy & Commerce
The Honorable Kevin Brady, Chairman, House Committee on Ways & Means
The Honorable Sander Levin, Ranking Member, House Committee on Ways & Means
The Honorable Robert Goodlatte, Chairman, House Committee on Judiciary
The Honorable John Conyers, Jr., Ranking Member, House Committee on Judiciary