



April 15, 2016

The Honorable Tim Murphy
Chairman, Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Representative Murphy:

I write to call your attention to CMS' flawed policy with respect to sharing substance abuse treatment records with providers participating in the Medicare Shared Savings Program and other ongoing CMMI models and to urge a narrowly tailored legislative response.

NCHC is the nation's largest, most broadly representative nonpartisan alliance of organizations focused on health care. The Coalition is committed to advancing—through research and analysis, education, outreach, and informed advocacy— an affordable, high-value health care system for patients and consumers, employers and other payers, and taxpayers. Our members and supporters include nearly 90 of America's largest and leading associations of health care providers; businesses and unions; consumer and patient advocacy groups; pension and health funds; religious denominations; and health plans. Our member organizations represent—as employees, members, congregants, or volunteers—more than 150 million Americans.

Current regulations (e.g., section 543 of the Public Health Service Act and regulations under 42 CFR Part 2) require that patients give consent in order for each individual health care provider to access their substance abuse treatment records. The Centers for Medicare & Medicaid Services (CMS) has interpreted these regulations as precluding patients from making their own records on substance abuse treatment available to Medicare Accountable Care Organizations and other organizations involved in delivery reform models. Without action by Congress, the National Coalition on Health Care is seriously concerned that patients with substance abuse disorders will be denied the full benefits of care coordination models like ACOs and other alternative payment models.

In general, NCHC supports privacy safeguards. Unfortunately, CMS' current approach is not workable. Its complexity discourages providers from including information related to substance abuse treatment in their

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electronic medical records or data systems. As a result, the physician, nurse or other health professional at the point of care misses crucial information relevant to their patient's immediate diagnosis and treatment. And over time, ACOs and providers lack the data needed to drive improvement in outcomes and cost for their attributed populations.

As broader opioid abuse and mental health legislation, we urge Congress to align the consent requirements of 42 CFR Part 2 with existing HIPAA requirements. This alignment would permit, after initial HIPAA patient consent, disclosures of substance abuse records for legitimate purposes such as treatment, payment, healthcare operations.

Thank you for your attention to this issue. Should you or your staff have questions regarding these matters, please contact NCHC's Policy Director Larry McNeely at lmcneely@nchc.org.

Yours truly,



John Rother
President and CEO

