

Board of Directors

September 18, 2018

Wayne Lindstrom, Ph.D.
President
New Mexico

The Honorable Mitch McConnell,
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Charles Schumer,
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Valerie Mielke, M.S.W.
Vice President
New Jersey

The Honorable Paul Ryan, Speaker
United States House of Representatives
H-232, United States Capitol
Washington, DC 20515

The Honorable Nancy Pelosi, Minority Leader
United States House of Representatives
H-204, United States Capitol
Washington, DC 20515

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Representative
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**Stephanie Woodard,
Psy.D.**
Western Regional
Representative
Nevada

Brian Hepburn, M.D.
Executive Director
NASMHPD

Re: Addition in Conference of H.R. 6082 Language to H.R. 6

Dear Leader McConnell, Leader Schumer, Speaker Ryan, and Leader Pelosi:

The National Association of State Mental Health Program Directors—the organization representing the state executives responsible for the \$41 billion public mental health service delivery systems serving 7.5 million people annually in 50 states, 4 territories, and the District of Columbia—writes to thank you for your leadership in combatting our country’s opioid crisis with your chambers’ passage of H.R. 6. We ask that you further strengthen those efforts in the final Conference Committee package by including language aligning the statute underlying the 42 CFR Part 2 regulations with the patient information disclosure provisions of the Health Insurance Portability and Accountability Act (HIPAA), as provided in [Overdose Prevention and Patient Safety \(OPPS\) Act, H.R. 6082](#).

We urge the inclusion of this important measure, which was included in the House version of H.R. 6, because we believe it will bolster the effectiveness of other key provisions in the package that promote coordinated care and expand access to treatment.

Federal regulations at 42 CFR Part 2, drafted originally in the 1970s, govern the confidentiality of drug and alcohol treatment and prevention records, setting requirements limiting the use and disclosure of patients’ substance use treatment records, even to other providers treating the same patient. For those records to be shared among treating providers, patients often must give multiple consents, creating a barrier for integration and coordination of health care, particularly for patients whose behavioral health condition may involve a cognitive impairment. A lack of access to the full scope of medical information for each patient can result in the inability of providers and organizations to deliver safe, high-quality treatment and care coordination. The barriers presented by Part 2 can result in the failure to integrate services and can lead to potentially dangerous medical situations for patients, including pharmaceutical adverse reactions and even drug overdoses.

While the Substance Abuse and Mental Health Services Administration (SAMHSA) has attempted to update the regulations recently to permit greater sharing, SAMHSA’s legal counsel says the underlying statute must be changed to permit treating providers of the same patient to share information without the patient’s prior written consent.

It is important to note that the language we seek to add would not only retain current prohibitions against the use of the patient treatment information in criminal proceedings, but also expand those prohibitions to the use of the information in civil proceedings, increase penalties for unlawful disclosures, and add a duty to notify where the information is unlawfully disclosed.

The addition of this language to the opioids package is essential to ensuring each substance use disorder patient is treated holistically, safely, and effectively. NASMHPD joins

dozens of other organizations—provider associations, insurers, health information exchanges, patient and family advocates, and quasi-governmental organizations such as the Joint Commission, the National Governors Association, and the National Association of Medicaid Directors—in strongly urging the inclusion of these important provisions in the final version of H.R. 6.

Thank you for your consideration of this important request.

Sincerely,

A handwritten signature in black ink that reads "Brian Hepburn". The signature is written in a cursive, slightly slanted style.

Brian Hepburn, M.D.
Executive Director
National Association of State Mental Health Program Directors (NASMHPD)