Support the Alignment of Patients’ Substance Use Records with HIPAA

**APA Position**

The current law for substance use records under 42 CFR Part 2 (Part 2) creates medical record silos that result in fragmented care that can jeopardize patient safety, undermine collaborative care models, and further stigmatize substance use disorders (SUD). The American Psychiatric Association (APA) supports aligning a patient’s substance use records under Part 2 with the Health Insurance Portability and Accountability Act (HIPAA) to ensure provider coordination and optimal care and treatment of the patient.

- **Legislative Ask:** To support Part 2 reform legislation sponsored by Representatives Markwayne Mullin (R-OK) and Earl Blumenauer (D-OR) in the House, and Senators Joe Manchin (D-WV) and Shelley Moore Capito (R-WV) in the Senate.

**Background**

Part 2 providers are restricted from sharing a patient’s substance use disorder (SUD) records with others on the care team outside the Part 2 program without a patient’s consent. These outdated Part 2 regulations, which pre-date HIPAA, were intended to provide heightened protections against unwarranted disclosure of SUD records. However, they now have the practical effect of separating SUD records from the patient’s other medical records, creating unnecessary barriers to integrated patient care and potentially leading to worse patient outcomes.

It is vital that treating physicians receive, or have access to, a patient’s full record, while still adhering to necessary privacy standards to ensure that sensitive patient substance use records are protected against unwarranted disclosure. Therefore, the APA continues to support consumer protections requiring breach notification and enhanced penalties for unwarranted disclosures as well as antidiscrimination provisions and prohibitions of SUD records in criminal, civil or investigative proceedings.

**Current Status**

The Substance Abuse and Mental Health Services Administration (SAMHSA), the agency within the U.S. Department of Health and Human Services (HHS) leading public health efforts to reduce the impact of substance use and mental illness on America’s communities, recently released a final rule which takes important steps to modernize Part 2, but APA believes it does not go far enough.

On April 3rd 2019, bipartisan legislation was introduced by Representatives Markwayne Mullin (R-OK) and Earl Blumenauer (D-OR) in the House (H.R. 2062, the Overdose Prevention and Patient Safety Act), and Senators Joe Manchin (D-WV) and Shelley Moore Capito (R-WV) in the Senate (S. 1012, the Protecting Jessica Grubb’s Legacy Act). APA supports both pieces of legislation.

April 23, 2019

For more information, contact the APA Government Relations team at advocacy@psych.org.