



May 17, 2018

The Honorable Greg Walden
Chairman
U.S. House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
U.S. House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Walden and Ranking Member Pallone:

The Healthcare Leadership Council (HLC) is writing to express its support for the House Energy and Commerce Committee's full committee markup of H.R. 5795, the "Overdose Prevention and Patient Safety (OPPS) Act." HLC strongly supports the passage of H.R. 5795 (formerly H.R. 3545), the OPPS Act, to enable the appropriate exchange of necessary information among medical professionals who are treating individuals with substance use disorders, including opioid abuse. HLC advocates that substance use disorder treatment records better align with the Health Insurance Portability and Accountability Act (HIPAA) to share records for the purposes of treatment, payment and healthcare operations. This alignment will help to integrate behavioral and physical healthcare and increase access to relevant health information among patients, payers and providers while concurrently protecting patient privacy.

HLC is a coalition of chief executives from all disciplines within American healthcare. It is the exclusive forum for the nation's healthcare leaders to jointly develop policies, plans, and programs to achieve their vision of a 21st century health system that makes affordable, high-quality care accessible to all Americans. Members of HLC – hospitals, academic health centers, health plans, pharmaceutical companies, medical device manufacturers, laboratories, biotech firms, health product distributors, pharmacies, post-acute care providers, and information technology companies – advocate for measures to increase the quality and efficiency of healthcare through a patient-centered approach. We believe access to timely and accurate patient information leads to both improvements in safety and quality and the development of new lifesaving and life-enhancing medical interventions.

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 and Medicaid Services (CMS) from disclosing medical information to healthcare providers for care coordination, including those engaged in accountable care organizations and bundled payment organizations. These outdated 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 are required by HIPAA.

Electronic health records and value-based payment models such as Accountable Care Organizations (ACOs), Health Information Exchanges (HIEs), Medicaid Health Homes, and related Medicare and Medicaid integrated care programs were designed to create a more holistic, patient-centered approach to healthcare where providers work together to coordinate across their traditional silos and in some cases are held jointly accountable for the quality, outcomes, and cost of that care. Critical to making these new models work for patients is ensuring that the individuals' health records are complete, including information related to substance use disorders. 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 the outdated Part 2 law mentioned above, CMS is forced to remove *all* claims where substance use disorder is a primary or secondary diagnosis. Patient safety is threatened with the potential pharmaceutical contraindications that could occur without access to the full medical record. Without this critical information, providers are prevented from understanding the full extent of their patients' medical needs.

We commend the committee's inclusion of H.R. 5795 in the full committee markup and believe this is an important step to modernizing the Part 2 Rule to align with HIPAA to authorize the appropriate exchange of information among providers, payers and patients to deliver high quality care. Representatives Earl Blumenauer (D-OR), the lead sponsor, and Markwayne Mullin (R-OK), the lead cosponsor of H.R. 5795, have sought to ensure healthcare providers have access to the full medical record, including information on substance use disorders, to effectively and safely treat patients suffering from substance use disorders while guaranteeing the privacy and security of substance use medical records. In particular, H.R. 5795 would reinforce and expand existing prohibitions on the use of these records in criminal proceedings.

We urge the committee to consider H.R. 5795 to amend 42 CFR Part 2 to align with HIPAA's treatment, healthcare operations, and payment policy as one of several potential solutions Congress passes to help with the opioid crisis. Thank you for your attention to this important matter. Should you have any questions, please contact Tina Grande at 202.449.3433 or tgrande@hlc.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary R. Greal". The signature is fluid and cursive, written in a professional style.

Mary R. Greal
President
Healthcare Leadership Council

cc: House of Representatives Energy and Commerce Committee members

