

Jan. 31, 2023

Miriam E. Delphin-Rittmon, PhD  
Assistant Secretary for Mental Health and Substance Use  
U.S. Dept. of Health and Human Services, Office for Civil Rights  
Hubert H. Humphrey Building, Room 509F  
200 Independence Avenue SW Washington, DC 20201

Re: Proposed Rule (HHS-OCR-0945-AA16)

Dear Dr. Delphin-Rittmon:

On behalf of our more than 200 hospitals and nearly 40 health systems, the Illinois Health and Hospital Association (IHA) appreciates the opportunity to comment on the proposed rule (PR) amending 42 CFR Part 2 (“Part 2”) published in the [Federal Register](#) on Dec. 2, 2022. IHA is in support of the comments submitted by the American Hospital Association, and we present the following additional comments.

IHA strongly supports the efforts of the U.S. Dept. of Health and Human Services (HHS) to implement section 3221 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 and further align patient records requirements for substance use disorder (SUD) treatment with those in effect under the Health Insurance Portability and Accountability Act’s (HIPAA) Privacy Rule. In addition, we recommend modifying the definition of a “Part 2” provider to clarify exemptions for general medical facilities and practices from information sharing restrictions, and would like to provide insight into our concerns.

First, we support the Substance Abuse and Mental Health Services Administration’s (SAMHSA) proposal to align Part 2 definitions and patient consent requirements with the HIPAA Privacy Rule. The change would streamline provider requirements related to patient information sharing, while providing greater opportunity to better coordinate care and integrate physical and behavioral health services in a clinical setting at a crucial time.

Drug overdoses have now become the leading cause of death nationwide for people under the age of 50, and [in Illinois](#), opioid overdose deaths among state residents increased 2.3% from 2,944 deaths in 2020 to 3,013 deaths in 2021. This increase is representative of a steady rise in mortality over the last decade, largely due to the influx of synthetic opioids, and demonstrative of why clinical integration is more critical than ever. Under the HIPAA Privacy Rule, hospitals are largely permitted to share personal health information for treatment, payment and healthcare operations

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without obtaining every individual patient's authorization. For this reason, **we strongly support SAMHSA's proposal for a single patient consent for appropriate use and re-disclosure.**

Second, **we would appreciate further clarification in defining a Part 2 provider, especially for general medical facilities and practices.** Although SAMHSA generally excludes these facilities and practices from the scope of Part 2 requirements, this is only if providers do not "hold themselves out" as providing substance use disorder diagnoses, treatment, or referrals, and the primary function of facility or practice staff is not the provision of these services. This presents an interpretive concern, as hospitals broadly offer these services and may make their availability known to their community at large. The latter can help reduce stigma and encourage patients to seek necessary help.

Dr. Delphin-Rittmon, thank you again for the opportunity to comment on this proposed rule, and for your consideration of these concerns. The proposed changes further aligning Part 2 and HIPAA provide an important opportunity for care coordination and clinical integration that is truly appreciated.

Sincerely,

A.J. Wilhelmi  
President & CEO  
Illinois Health and Hospital Association