



The Honorable Orrin Hatch
Chairman, Committee on Finance
United States Senate

The Honorable Ron Wyden
Ranking Member, Committee on Finance
United States Senate

February 16, 2018

RE: Stakeholder Feedback Request on the Opioid Epidemic

Chairman Hatch and Senator Wyden,

New Directions Behavioral Health (“New Directions”) thanks you for providing this opportunity to submit comment on the opioid epidemic we currently face in this country.

New Directions is a behavioral health benefits administrator for Blue Cross and Blue Shield Health plans. We manage the delivery system, and quality of substance use care for over 13 million Americans. We have a deep understanding of the opioid epidemic’s impact on all facets of our health plan members’ lives, and on society as a whole.

One of the tools that has shown great promise in helping to combat the opioid addiction crisis and its resultant mental and physical impacts, is the integrated care experience. Integrated care allows substance use and mental health providers to collaborate during the care and recovery process with medical doctors, often in real time and in person, so that a substance abuser’s physical and mental conditions can be treated in unison and holistically.

This unified treatment helps ensure that no one aspect of a patient is being treated while other mental and physical concerns are left untreated. This total person care has been shown in medical literature to more effectively treat addictions, and to lead to more favorable outcomes for the individuals undergoing treatment.

One of the primary challenges facing integrated care in the substance use context, and thus the opioid treatment context, is due to the preeminent regulation controlling the disclosure of substance use medical information, 42 CFR Part 2 (“Part 2”). Part 2 presents a barrier to sharing information among treating providers, and others involved in patient care, due to its requirement that the





patient, in writing, must name which health care providers are able to receive their substance use treatment records, and what part of the patient's substance use record may be disclosed.

For numerous practical reasons an individual facing a personal addiction crisis is not often able to articulate with particularity which components of their substance use records need to be shared in order to ensure quality care, and which providers should review their records in order to render complete care.

Although we appreciate the sensitivity of substance use records, we believe that privacy and security standards found in the Health Insurance Portability and Protection Act of 1996 ("HIPAA"), provides the optimal level of protection.

HIPAA has a treatment, payment, and health care operations exception that permits the sharing of protected health information in a way that facilitates a collaborative integrated care paradigm. Part 2 does not have this exception, and without a properly completed disclosure form, treatment information cannot be shared and integrated care cannot occur.

Even more troubling, both the Part 2 Interim Final Rule as well as the Final Rule purposely excluded care coordination from the list of allowable reasons for substance use information disclosure. Care coordination and case management (advanced personal care coordination) are invaluable tools which assist individuals struggling with addiction. By excluding those practices from the allowable reasons to share substance use information, the regulation is stripping insurers, administrators, peer support organizations, and providers from using our own resources to make a meaningful personal care impact for these individuals. This is directly contrary to The U.S. Department of Health and Human Services' ("HHS") stated triple aim of improving health care quality, improving population health, and reducing unnecessary health care costs.

Also to note, because of the construct of Part 2 at present, if a patient does not assent to their records being shared with other providers, all information pertaining to substance use is quarantined from all future medical records. When future providers request a medical record they will actually be receiving an incomplete and purposefully redacted version. This then creates a greater likelihood the treating provider will be providing care without the full knowledge about the patient's health, thereby leading to errant additional opioid prescribing and adverse care effects. This reality causes situations where physicians may harm their patients by prescribing substances which result in relapse or overdose. In a sense the Part 2 regulation is mandating less than adequate care, and increases the likelihood of malpractice situations.

By preventing health care providers from sharing, and having knowledge of the substance use conditions affecting patients, in the same manner as all other health care information is shared, providers are unable to fully support those with substance use disorders in their recovery, in





turn perpetuating the current epidemic. New Directions does not believe our provider community should have to endure this regulatory induced risk.

We ask you to look into the Part 2 regulation, and work to align Part 2 to HIPAA, especially in the areas of treatment, payment, and health care operations. We ask that you work to eliminate the components of Part 2 that are tied to health care, and retain the protections in Part 2 aimed at the stigmatization that may occur when law enforcement, employers and others outside the health care community come into possession of substance use related information.

To discuss further, please feel free to contact me via email at nvergara@ndbh.com, or via telephone at (816) 994-1439.

Thank You,

Noreen Vergara

General Counsel, Vice President & Chief HR Executive

Submitted electronically on February 16, 2018 to: opioids@finance.senate.gov

