

June 27, 2011

H. Westley Clark, M.D., J.D., M.P.H., CAS, FASAM
Director, Center for Substance Abuse Treatment
Substance Abuse and Mental Health Services Administration
1 Choke Cherry Road
Rockville, MD 20857

Dear Dr. Clark:

State and federal initiatives promoting electronic interoperability of health information affect behavioral health care as well as physical health care. This is especially true for addiction treatment providers where privacy and confidentiality for covered programs is regulated by 42 CFR Part 2.

We believe the confidentiality provisions and the restrictions on sharing patient data articulated in 42 CFR Part 2 are critical to ensuring addicted persons seek help for their disease. We also believe that a portion of the substance use consumers will find electronic sharing of the records controlled by 42 CFR Part 2 with other health providers to be important to improving their health care and that it is therefore critical to demonstrate a 42 CFR Part 2 compliant methodology for making these records interoperable.

The creation of electronic health information exchanges (HIE) such as regional health information organizations (RHIO) are designed to improve the quality of patient care and reduce costs of the health care system. It would be a mistake for this momentous evolution of health care to proceed in a manner that did not address the needs of the addicted patients receiving care or more importantly proceed in a manner that deterred those seeking help for addiction from pursuing services. Until addiction is no longer stigmatized, few addicted persons would seek treatment without the confidence of privacy and confidentiality provided by 42 CFR Part 2. This would result in devastating national consequences.

Addressing the 42 CFR Part 2 requirements with HIEs dictates an integrated electronic mechanism running on health information networks that communicates the required consents and notices and manages the disclosure limitations of 42 CFR Part 2. This would result in electronic HIE fully compliant with 42 CFR Part 2 as well as other focused confidentiality regulations. Such a privacy mechanism would not only protect addiction treatment patients' privacy and confidentiality but this mechanism could also fully enable immediate "break the glass" access to health information in emergency circumstances.

The National Association of Addiction Treatment Providers (NAATP) supports the principles of 42 CFR Part 2 and the protections it affords current and future chemically dependent patients. NAATP also supports the participation of the chemical dependency treatment field in the emerging national system of electronic health information exchange. NAATP believes that both results are achievable. An example of how both results can be achieved has been provided by The Software and Technology Vendors Association (SATVA). The SATVA initiative partly consists of developing a standardized electronic consent directive. When implemented this electronic consent mechanism will function within the framework intended for electronic HIE without additional burdens. Fully implemented it will have the ability to comply with not only 42CFR Part 2 but any other state or federal regulation applicable to privacy or confidentiality as well. The success of this initiative depends on national acceptance of a standardized consent directive that can be communicated electronically. Together with SATVA, the NAATP supports the adoption of a standardized consent directive.

Sincerely,

Karen Carpenter Palumbo
President/CEO