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Privacy rule on substance use disorder records needs update

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Modernizing the regulations governing the confidentiality of substance use patient records is a priority for the Trump administration, according to Elinore McCance-Katz, MD, assistant secretary for mental health and substance use.

"I take the confidentiality of patient records seriously. At the same time, I also take the safe and effective care of all who seek treatment—for whatever the illness may be—seriously," said McCance-Katz, who advises the HHS Secretary on improving behavioral healthcare in America and heads the Substance Abuse and Mental Health Services Administration.

consequences—including discrimination—that could come from disclosing the patient records of individuals with substance use disorders. While patient privacy is a critical concern, McCance-Katz made the case that equally important is the need for

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disorders into the mainstream of medical care, and we must do that—it is time."



sharing to support better coordination and performance measures.

"The whole rule was updated (in 2017) to apply to electronic as well as paper records," said Johnson, who noted that it was the first update to 42 CFR Part 2 in 30 years. "The big thing we did last year was we permitted general consent...with patient consent, allowing for the free flow of information back and forth between various providers."

Also See: [Agency updates privacy rule for substance use disorder records](#)

Last year, a report from the President's Commission on Combating Drug Addiction and the Opioid Crisis criticized 42 CFR Part 2 for requiring addiction treatment professionals to obtain written patient consent before sharing any information with a patient's other providers. The report described 42 CFR Part 2 as a hindrance to comprehensive healthcare and called it a misguided law preventing doctors from knowing their patients' addiction treatment histories.

Johnson contends that the update to 42 CFR Part 2 currently aligns more closely with HIPAA "to the extent that is currently feasible."

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Nonetheless, in comments made to SAMHSA during Wednesday's session, the American Psychiatric Association noted that while the regulations make minor changes to align with HIPAA to allow more providers to take advantage of new models of care that promote value- and team-based care, the technological solutions needed to implement the final regulations are lacking.

"We very much appreciate the changes that have been made by SAMHSA thus far to better allow us to provide great care. However, one of the difficulties we run into is that the technology doesn't align yet with the changes that have been made," said the APA, charging that until this issue is fully addressed, various components of 42 CFR Part 2 may continue to act as a barrier to integrated care efforts.

"Anything that you can do to better align Part 2 specifically with HIPAA is very much appreciated," added the APA. "We urge the Administration to implement regulations that can bring us to that and allow us to integrate care in the way that we would love to for the benefit of our patients."

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