



April 25, 2018

The Honorable Greg Walden  
Chairman  
House Energy & Commerce Committee  
2125 Rayburn HOB  
Washington, DC 20515

The Honorable Frank Pallone, Jr.  
Ranking Member  
House Energy & Commerce Committee  
2322A Rayburn HOB  
Washington, DC 20515

Dear Chairman Walden and Ranking Member Pallone:

The undersigned organizations representing accountable care organizations, physicians, hospitals and other healthcare practitioners strongly urge you to include H.R. 3545 in the Energy and Commerce Committee's opioid legislative package to ensure healthcare providers who are engaged in population health initiatives have access to the medical records they need, including information on substance use disorders, to effectively and safely treat their patients.

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 & Medicaid Services (CMS) from disclosing such information to accountable care organizations and bundled payment organizations. These 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 were subsequently put in place by the Health Insurance Portability and Accountability Act (HIPAA). While originally intended to protect patients' privacy, Part 2 now serves to endanger their health. Recognizing the need to revise these laws, the Substance Abuse and Mental Health Services and Administration recently testified before your Committee and submitted a letter for the record supporting the intent of H.R. 3545 to align Part 2 to ensure healthcare providers have access to the full medical record.

New delivery system models such as ACOs and bundled payments were designed to create a more holistic, patient-centered approach to healthcare where providers work together to coordinate across their traditional silos and are held jointly accountable for the quality, outcomes and cost of that care. Critical to making these new models truly work for patients is having access to the individuals' health records, including those related to substance use. 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 Yet, due to outdated laws mentioned above, CMS is forced to remove *all* claims where substance use disorder is a primary or secondary diagnosis. According to a recent *New England Journal of Medicine* study, this effects roughly 4.5 percent of inpatient Medicare claims and 8 percent of Medicaid claims. Not only does

this pose an alarming patient safety threat in light of potential pharmaceutical contraindications and prevent providers from understanding the full extent of their patients' medical needs, but it is a heavy and costly administrative burden on CMS, which must manually scrub Medicare claims before submitting to ACOs and bundled payment organizations.

We commend you for your leadership on looking at so many solutions to prevent dependency on opioids and related deaths, as well as promoting appropriate access. While these are all urgently needed policy changes and investments, a critical and vital piece to ensuring healthcare providers who are on the front-lines treating those with opioid or other substance use disorders is H.R. 3545, which would provide an unobstructed view of a patients' medical records. Accordingly, we call on Congress to ensure that the Medicare, Medicaid and CHIP data feeds sent to providers that are participating in alternative payment models such as Medicare ACOs and bundled payment arrangements include all claims, including those where a substance use disorder is listed as a primary or secondary diagnosis.

Sincerely,

AMGA  
National Association of ACOs  
Premier healthcare alliance