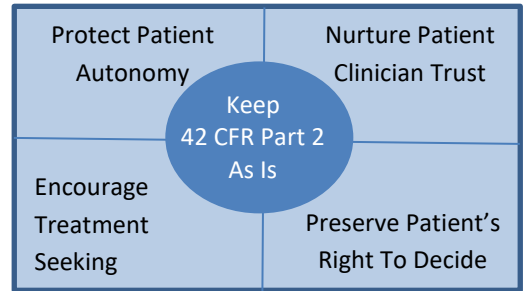


VOTE NO

On Changing 42 USC 290dd-2 and 42 CFR Part 2



Dear

We are in the midst of an opioid epidemic. We should be encouraging people with substance use disorders to enter treatment. Instead, insurance companies, electronic health record (EHR) vendors, profit-hungry health care networks and others interested in making money off of individuals suffering from alcohol use disorders and drug use disorders propose to make substance use disorder treatment unappealing by gutting 42 USC 290dd-2 and 42 CFR Part 2, the federal substance use disorder confidentiality law and regulations. You will be asked to vote for legislation that will diminish a person's confidentiality. ***Please do not.***

The opponents of the current 42 USC 290dd-2 and 42 CFR Part 2, contend that all that is needed is the Health Insurance Portability and Accountability Act (HIPAA); they know that HIPAA offers less confidentiality protection than the current federal substance use disorder confidentiality law and regulations. Less protection means a greater risk of harm from disclosure for those in treatment or in recovery. In fact, the limitations to confidentiality protection offered by HIPAA's exceptions to confidentiality will certainly discourage those with a substance use disorder to postpone, delay or refuse to acknowledge that they have a substance use disorder.

By aligning 42 CFR Part 2 with HIPAA and by ignoring the potential harm caused by weakening 42 CFR Part 2, only those with the most severe substance use disorders will seek treatment. In 2017, 20 million people met criteria for substance use disorders, BUT only 2.5 million of these received treatment. **Why?**

Not because of 42 CFR Part 2, but because 94% of those who needed substance use disorder treatment but did not receive treatment did not feel they needed treatment. This percentage will rise even higher when it becomes known

**VOTE NO on HR 2062
and Vote NO on S 1012**

that those receiving substance use disorder treatment will not be able to decide who has access to their substance use disorder treatment information. Once a substance use disorder treatment program explains the many exceptions to confidentiality that HIPAA permits, many people will abandon the effort to get assistance.

Because of discrimination, stigma, and negative attitudes about those with substance use disorders, people in recovery have enough barriers to employment that pays a living wage, housing that protects against the elements, and social support that does not alienate them for having suffered the disease of substance use disorder. Allowing a person's history of substance use disorder treatment to be disclosed without their consent will only compound their social disadvantage. HIPAA permits such an unconsented disclosure to a broad range of entities.

Congress has appropriated billions of dollars to address the opioid crisis and to foster substance use disorder treatment. Please do not waste that investment by scaring away the very people those dollars were meant to help! Insurance companies, EHR vendors and profit hungry health care networks claim a need for better care coordination; they aren't treating the vast majority of people with substance use disorders. Change 42 USC 290dd-2, and they'll be treating even fewer people.

Protect
Patient
Centered
Treatment

There are technological fixes already in existence that would allow health information sharing while protecting the ability of those who need treatment to determine who should have access to their health information. In addition, current 42 CFR Part 2 rules allow for patient consent and disclosures for coordinated care with treating providers in specific health information exchanges and treating provider entities.

Software vendors have argued that there are no financial incentives to incorporate these patient centered fixes into proprietary platforms. In fact, the federal government sponsored the development of just such fixes. The software marketplace finds it cheaper and easier to sacrifice the autonomy of the poor, rather than make the necessary change to their software.

Changing 42 USC 290dd-2 and 42 CFR Part 2 will expose the millions of people who have recovered from substance use disorders to discrimination and adverse consequences.

An estimated 20 million Americans have recovered from alcohol and drug related problems. With the proposed changes in 42 USC 290dd-2 and 42 CFR Part 2, many people in recovery will find themselves subject to inappropriate information disclosures; no longer will people in recovery have to be consulted before their substance use histories be disclosed to entities with the power to harm the affected individuals.

While insurers and cost-cutting health networks are attempting to deny people in recovery the ability to determine who gets the information about prior alcohol or drug use disorders, the rest of society is marshalling resources to protect their personal information against misuse. An example of privacy vigilance can be found in the *New York Times* “The Privacy Project”, which acknowledges that companies and governments “are gaining new powers to follow people across the internet and around the world, and even to peer into their genomes.”

Creating a new path to stigmatize people in recovery or in substance use disorder treatment is unconscionable. Effective substance use disorder treatment requires trust between provider and patient; in the absence of trust, full disclosure of such issues as trauma, rape, abuse, depression, anxiety, anger, discrimination or other sensitive issues that may be linked to substance use is not possible. Without trust, there will be no truth. Men and women bring a host of highly sensitive personal issues into treatment. Without the assurance of confidentiality that the current 42 USC 290dd-2 and 42 CFR Part 2 promises, it will become very difficult for treatment to progress; such treatment will become adversarial at worse and a game at best. As a result, treatment will be hindered and recovery delayed.

No Trust = No Truth = No Treatment

The opioid crisis is being used as a justification for gutting 42 USC 290dd-2 and 42 CFR Part 2. However, more people currently misuse alcohol than currently misuse opioids. While it is estimated that 3.5 million people currently misuse opioids, 2.2 million misuse cocaine, 774,000 are current users of methamphetamine, 16.7 million are heavy alcohol users, and 66.6 million are binge alcohol drinkers. More people are in treatment for alcohol use disorders than for all illicit drug use disorders. While opioid overdose deaths are an important public health issue, promoting person centered substance use disorder treatment that involves patient consent to disclosure is also.

Changing federal substance use disorder confidentiality laws and regulations using the opioid crisis as a justification is just an excuse to ride the opioid crisis wave to further stigmatize and discriminate against people who need help recovering from their substance use. Please use your vote to encourage people to enter treatment, Vote NO on legislation that would weaken 42 USC 290dd-2 and 42 CFR Part 2.

Sincerely,

[Redacted Signature]

**Do not Change
42 USC 290dd-2**