

October 17, 2019

The Substance Abuse and Mental Health Services  
Department of Health and Human Services  
Attention: SAMHSA – Deepa Avula  
5600 Fishers Lane, Room 17E41  
Rockville, MD 20857

Submitted electronically to <https://www.regulations.gov>

Re: HHS-OS-2019-0011 for the “Confidentiality of Substance Use Disorder Patient Records” proposed rule

Dear Ms. Avula,

The American Nurses Association (ANA) is pleased to provide written comment to the Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA), regarding Docket No. HHS-OS-2019-0011 for “Confidentiality of Substance Use Disorder Patient Records” proposed rule.

**ANA believes that protection of privacy and confidentiality is essential to maintaining the trusting relationship between health care providers and patients and integral to professional practice<sup>1</sup> and quality care. However, more clarity can be provided to clinicians regarding CFR Part 2 (Part 2) to ensure timely and coordinated care for patients with substance use disorders (SUDs) and co-morbidities.**

#### **ANA’s Principles on Privacy and Confidentiality Through Transitions of Care**

The lack of privacy can undermine patients’ relationships with providers and may adversely affect the quality of care, if patients are reluctant to share personal health information.<sup>2</sup> The Code of Ethics for Nurses (the Code) Provision 3.1 guides the nurse’s role in protecting the rights of privacy and confidentiality.<sup>3</sup> Moreover, nurses are also subject to Provision 2 of the Code which states “the nurse’s primary commitment is to the patient, whether an individual, family, group, community or population.”<sup>4</sup> Nurses are instructed to collaborate with all health professions in order to provide high-quality, patient

---

<sup>1</sup> American Nurses Association (June 2015). “Position Statement on Privacy and Confidentiality.” Retrieved from: <https://www.nursingworld.org/~4ad4a8/globalassets/docs/ana/position-statement-privacy-and-confidentiality.pdf>

<sup>2</sup> *Ibid*

<sup>3</sup> American Nurses Association (2015, Jan.). Code of Ethics for Nurses with Interpretive Statements. Provision 3.1. Retrieved from <https://www.nursingworld.org/coe-view-only>

<sup>4</sup> American Nurses Association (2015, Jan.). Code of Ethics for Nurses with Interpretive Statements. Provision 2. Retrieved from <https://www.nursingworld.org/coe-view-only>

centered care, which requires transparency, shared decision-making, and open communication among all who share concern and responsibility for health outcomes.<sup>5</sup> Recognized as the most honest and ethical profession and most trusted health professionals<sup>6</sup>, nurses must be at the table to determine how information is used to not only keep trust but ensure positive health outcomes for all patients.

The balance between safeguarding personal health information (PHI) and providing timely care coordination requires special consideration. Part 2 was designed to protect patient records created by federally assisted programs for the treatment of SUD from the stigma associated with substance abuse that deters patients from entering treatment. ANA members have been on the front lines of fighting the opioid crisis. Coordinated care and access to treatment, including complementary and alternative medicines and social supports, are vital to addressing opioid addiction, other SUDs, and serious mental health conditions.

ANA supports SAMHSA's careful review of the impact of Part 2 provisions, especially given the goals of value-based, person-centered, integrated care. Part 2 should not be interpreted or relied upon to limit coordinated care among individuals and covered entities without meaningfully contributing to the protection of an individual's PHI. ANA encourages SAMHSA, even with any changes to the rule, to provide more education to all providers, patients, and covered entities on Part 2 and other privacy regulations, to ensure that unintended barriers are not occurring to delay or prevent information from being shared during the care of individuals.

***ANA supports the review of Part 2 regulations in order to allow for timely coordinated care that puts the patient's privacy and quality of care at the forefront. Clarity and education should be provided to all clinicians that care for patients with SUDs.***

ANA is the premier organization representing the interests of the nation's 4 million registered nurses (RNs) through its constituent and state nurses associations, organizational affiliates, and individual members. RNs serve in multiple direct care, care coordination, and administrative leadership roles, across the full spectrum of health care settings. RNs provide and coordinate patient care, educate patients and the public about various health conditions, and provide advice and emotional support to patients and their family members. ANA members also include those practicing in the four advanced practice registered nurse (APRN) roles: nurse practitioners, clinical nurse specialists, certified nurse-midwives and certified registered nurse anesthetists.<sup>7</sup> ANA is dedicated to partnering with health care

---

<sup>5</sup> American Nurses Association (2015, Jan.). Code of Ethics for Nurses with Interpretive Statements. Provision 2.3. Retrieved from <https://www.nursingworld.org/coe-view-only>

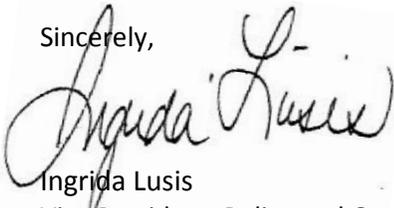
<sup>6</sup> Gallup Poll, December 2018, "Nurses Again Outpace Other Professions for Honesty, Ethics", retrieved from: <https://news.gallup.com/poll/245597/nurses-again-outpace-professions-honesty-ethics.aspx>

<sup>7</sup> The Consensus Model for APRN Regulation defines four APRN roles: certified nurse practitioner, clinical nurse specialist, certified nurse-midwife and certified registered nurse anesthetist. In addition to defining the four roles, the Consensus Model describes the APRN regulatory model, identifies the titles to be used, defines specialty, describes the emergence of new roles and population foci, and presents strategies for implementation.

consumers to improve practices, policies, delivery models, outcomes, and access across the health care continuum.

We look forward to the opportunity to further engage with HHS and SAMHSA with respect to the information above. If you have any questions, please contact Brooke Trainum, Assistant Director, Policy and Regulatory Advocacy, at 301.628.5027 or [brooke.trainum@ana.org](mailto:brooke.trainum@ana.org).

Sincerely,



Ingrida Lusia  
Vice President, Policy and Government Affairs

cc: Ernest Grant, PhD, RN, FAAN, ANA President  
Loressa Cole, DNP, MBA, RN, NEA-BC, FACHE, ANA Chief Executive Officer  
Debbie Hatmaker, PhD, RN, FAAN, ANA Chief Nursing Officer