Thank you for participating in our survey on the federal regulations governing substance abuse treatment information at 42 CFR Part 2. Your input on the current regulations and potential revisions to the regulations is essential as we look to update 42 CFR Part 2 to contemplate this new era of health care delivery.

In an effort to further advance the important conversation around confidentiality, we have been polling interested providers and other stakeholders across the country regarding 42 CFR Part 2 over the last few months.

On April 24, 2014, attendees at the 14th Annual Behavioral Health Information Management Conference and Exposition hosted by CiMH and Conference Chair Tom Trabin had the opportunity to complete a poll on 10 questions regarding the following important topics as they relate to 42 CFR Part 2: patient choice, electronic health records and health information, sharing of health information contemplated by the Affordable Care Act (ACA), stigma and discrimination, inherent tensions between 42 CFR Part 2 and the ACA, and potential updates to 42 CFR Part 2. The results from that poll appear in the pie charts below.

We have also compared these poll results to the results from polling of interested providers and other stakeholders on these same 10 questions conducted by Eric Goplerud at ASAM’s 45th Medical-Scientific Conference on April 12, 2014 and by Renée Popovits, Mike Lardieri, and Laura Ashpole at the National Council for Behavioral Health Conference in Washington, D.C. on May 5-7, 2014.

As Renée Popovits reported during the panel entitled “Electronic Privacy and Security Issues Continue to Abound: A Panel of Experts Responds” at the 14th Annual Behavioral Health Information Management Conference and Exposition, there is movement underway at the federal level as it relates to 42 CFR Part 2. In fact, the Substance Abuse & Mental Health Services Administration (SAMHSA) just announced in a proposed rule published in the Federal Register this week that it will be holding a public listening session on June 11, 2014 to obtain direct input from stakeholders on updating 42 CFR Part 2 (see [https://www.federalregister.gov/articles/2014/05/12/2014-10913/confidentiality-of-alcohol-and-drug-abuse-patient-records](https://www.federalregister.gov/articles/2014/05/12/2014-10913/confidentiality-of-alcohol-and-drug-abuse-patient-records)). SAMHSA has also asked for written comments on 42 CFR Part 2 regarding the following concepts: 1) Applicability of 42 CFR Part 2, 2) Consent Requirements, 3) Redisclosure, 4) Medical Emergency, 5) Qualified Service Organization (QSO), 6) Research, and 7) Addressing Potential Issues with Electronic Prescribing and Drug Monitoring Programs (PDMPs). These topics will also be discussed during the public listening session on June 11, 2014. Written comments on these particular concepts are due to SAMHSA by June 25, 2014. We urge you to submit comments to SAMHSA on these important confidentiality issues.

Thank you again to the attendees at the 14th Annual Behavioral Health Information Management Conference and Exposition for your participation in this important poll. Your responses will assist us in informing and potentially impacting federal policy decision-makers. We look forward to the evolution of 42 CFR Part 2.
1. How important do you think care coordination/integration of substance use, medical and mental health care is to improved outcomes for patients?

CiMH Total Responses 116
- Very important 95.7%
- Important 4.3%
- Somewhat important 0.00%
- Unimportant 0.00%

ASAM Total Responses 21
- Very important 85.7%
- Important 9.5%
- Somewhat important 4.8%
- Unimportant 0.00%

National Council Total Responses 77
- Very important 90.90%
- Important 7.80%
- Somewhat important 1.30%
- Unimportant 0.00%

Combined Total Responses 213
- Very important 93.0%
- Important 6.1%
- Somewhat important 0.9%
- Unimportant 0.0%

2. What is the most significant barrier to inclusion of MH/SUD information in health information exchange?

CiMH Total Responses 110
- The lack of incentives for the adoption of interoperable technologies 17.3%
- Confidentiality Laws 56.4%
- Current payment models 6.4%
- The lack of technologies that enable the exchange of such information 20.0%

ASAM Total Responses 21
- The lack of incentives for the adoption of interoperable technologies 23.8%
- Confidentiality Laws 47.6%
- Current payment models 4.8%
- The lack of technologies that enable the exchange of such information 23.8%

National Council Total Responses 82
- The lack of incentives for the adoption of interoperable technologies 12.2%
- Confidentiality Laws 59.8%
- Current payment models 6.1%
- The lack of technologies that enable the exchange of such information 22.0%

Combined Total Responses 213
- The lack of incentives for the adoption of interoperable technologies 16.0%
- Confidentiality Laws 56.8%
- Current payment models 6.1%
- The lack of technologies that enable the exchange of such information 21.1%
3. What is your position on revising the regulations at 42 CFR Part 2?

CiMH Total Responses 138
- I am in favor of revising 42 CFR Part 2 to ease consent requirements in order to facilitate the sharing of SUD information among providers 50.0%
- I am in favor of revising 42 CFR Part 2 to make it more consistent with HIPAA 38.4%
- I am in favor of revising 42 CFR Part 2 to expand the protections to cover SUD information collected by all medical providers 10.1%
- I am against revising 42 CFR Part 2 1.4%

ASAM Total Responses 21
- I am in favor of revising 42 CFR Part 2 to ease consent requirements in order to facilitate the sharing of SUD information among providers 61.9%
- I am in favor of revising 42 CFR Part 2 to make it more consistent with HIPAA 14.3%
- I am in favor of revising 42 CFR Part 2 to expand the protections to cover SUD information collected by all medical providers 19.0%
- I am against revising 42 CFR Part 2 4.8%

National Council Total Responses 100
- I am in favor of revising 42 CFR Part 2 to ease consent requirements in order to facilitate the sharing of SUD information among providers 45.5%
- I am in favor of revising 42 CFR Part 2 to make it more consistent with HIPAA 44.4%
- I am in favor of revising 42 CFR Part 2 to expand the protections to cover SUD information collected by all medical providers 9.1%
- I am against revising 42 CFR Part 2 1.0%

Combined Total Responses 259
- I am in favor of revising 42 CFR Part 2 to ease consent requirements in order to facilitate the sharing of SUD information among providers 49.0%
- I am in favor of revising 42 CFR Part 2 to make it more consistent with HIPAA 39.0%
- I am in favor of revising 42 CFR Part 2 to expand the protections to cover SUD information collected by all medical providers 10.4%
- I am against revising 42 CFR Part 2 1.5%
4. Do you feel that SUD information should be afforded greater privacy and confidentiality protections than MH information?

**CiMH Total Responses 115**
- Yes, SUD information should continue to receive greater federal confidentiality protections than MH information 9.6%
- No, SUD information and MH information should be treated similarly and the laws should be changed to increase the protections afforded MH information 31.3%
- No, SUD information and MH information should be treated similarly and the laws should be changed to relax the protections afforded SUD information 59.1%

**National Council Total Responses 75**
- Yes, SUD information should continue to receive greater federal confidentiality protections than MH information 9.3%
- No, SUD information and MH information should be treated similarly and the laws should be changed to increase the protections afforded MH information 29.3%
- No, SUD information and MH information should be treated similarly and the laws should be changed to relax the protections afforded SUD information 61.3%

**ASAM Total Responses 22**
- Yes, SUD information should continue to receive greater federal confidentiality protections than MH information 40.9%
- No, SUD information and MH information should be treated similarly and the laws should be changed to increase the protections afforded MH information 31.8%
- No, SUD information and MH information should be treated similarly and the laws should be changed to relax the protections afforded SUD information 27.3%

**Combined Total Responses 212**
- Yes, SUD information should continue to receive greater federal confidentiality protections than MH information 12.7%
- No, SUD information and MH information should be treated similarly and the laws should be changed to increase the protections afforded MH information 30.7%
- No, SUD information and MH information should be treated similarly and the laws should be changed to relax the protections afforded SUD information 56.6%
5. How do you think 42 CFR Part 2 impacts stigma as it relates to SUD treatment?

- **CiMH Total Responses 107**
  - I think 42 CFR Part 2 promotes stigma 53.3%
  - I think 42 CFR Part 2 helps to prevent stigma 11.2%
  - I think 42 CFR Part 2 has no impact on stigma 35.5%

- **National Council Total Responses 68**
  - I think 42 CFR Part 2 promotes stigma 75.0%
  - I think 42 CFR Part 2 helps to prevent stigma 13.2%
  - I think 42 CFR Part 2 has no impact on stigma 11.8%

- **ASAM Total Responses 21**
  - I think 42 CFR Part 2 promotes stigma 38.1%
  - I think 42 CFR Part 2 helps to prevent stigma 23.8%
  - I think 42 CFR Part 2 has no impact on stigma 38.1%

- **Combined Total Responses 196**
  - I think 42 CFR Part 2 promotes stigma 59.2%
  - I think 42 CFR Part 2 helps to prevent stigma 13.3%
  - I think 42 CFR Part 2 has no impact on stigma 27.6%

6. Consent provisions should be expanded to permit patients to consent to their substance abuse treatment records being disclosed to providers participating in HIEs, health homes, ACOs, and CCEs, as well as "other providers involved in a patient's care".

- **CiMH Total Responses 123**
  - Strongly Agree 58.5%
  - Agree 32.5%
  - No Opinion 3.3%
  - Disagree 4.9%
  - Strongly Disagree 0.8%

- **National Council Total Responses 66**
  - Strongly Agree 62.1%
  - Agree 31.8%
  - No Opinion 3.0%
  - Disagree 3.0%
  - Strongly Disagree 0.0%

- **ASAM Total Responses 20**
  - Strongly Agree 45.0%
  - Agree 35.0%
  - No Opinion 10.0%
  - Disagree 10.0%
  - Strongly Disagree 0.0%

- **Combined Total Responses 209**
  - Strongly Agree 58.4%
  - Agree 32.5%
  - No Opinion 3.8%
  - Disagree 4.8%
  - Strongly Disagree 0.5%
7. What safeguards do you recommend if consent is expanded to permit information sharing among HIEs, health homes, ACOs, CCEs, and other providers involved in the patient’s care?

CiMH Total Responses 124
- The provider must have a treatment relationship with the patient. 9.7%
- The provider must have a data participation agreement in place with each provider member of the HIE, health home, ACO or CCE. 7.3%
- An audit trail for all records disclosed should be maintained. 5.6%
- The provider must honor any patient’s request to revoke a consent to disclose records to the HIE, health home, ACO or CCE and communicate the terms of such revocation to all members of the HIE, health home, ACO or CCE as soon as possible. 1.6%
- All of the above. 10.5%
- No additional safeguards should be required. 64.5%
- Audits of uses and disclosures of records covered by these regulations must be performed. 0.8%

National Council Total Responses 60
- The provider must have a treatment relationship with the patient. 8.3%
- The provider must have a data participation agreement in place with each provider member of the HIE, health home, ACO or CCE. 1.7%
- An audit trail for all records disclosed should be maintained. 8.3%
- The provider must honor any patient’s request to revoke a consent to disclose records to the HIE, health home, ACO or CCE and communicate the terms of such revocation to all members of the HIE, health home, ACO or CCE as soon as possible. 3.3%
- All of the above. 71.7%
- No additional safeguards should be required. 6.7%
- Audits of uses and disclosures of records covered by these regulations must be performed. 0.0%

ASAM Total Responses 30
- The provider must have a treatment relationship with the patient. 16.7%
- The provider must have a data participation agreement in place with each provider member of the HIE, health home, ACO or CCE. 10.0%
- An audit trail for all records disclosed should be maintained. 16.7%
- The provider must honor any patient’s request to revoke a consent to disclose records to the HIE, health home, ACO or CCE and communicate the terms of such revocation to all members of the HIE, health home, ACO or CCE as soon as possible. 3.3%
- All of the above. 6.7%
- No additional safeguards should be required. 46.7%
- Audits of uses and disclosures of records covered by these regulations must be performed. 0.0%

Combined Total Responses 214
- The provider must have a treatment relationship with the patient. 10.3%
- The provider must have a data participation agreement in place with each provider member of the HIE, health home, ACO or CCE. 6.1%
- An audit trail for all records disclosed should be maintained. 7.9%
- The provider must honor any patient’s request to revoke a consent to disclose records to the HIE, health home, ACO or CCE and communicate the terms of such revocation to all members of the HIE, health home, ACO or CCE as soon as possible. 1.4%
- All of the above. 7.9%
- No additional safeguards should be required. 64.0%
- Audits of uses and disclosures of records covered by these regulations must be performed. 2.3%
8. If 42 CFR Part 2 is revised to permit patients to consent to disclosure of substance abuse treatment records among providers with a demonstrated treatment relationship with the patient, what should be considered a demonstrated treatment relationship?

**CIMH Total Responses 153**
- The provider has a scheduled appointment with the patient. 5.9%
- The provider has been specifically identified by the patient as a provider to whom he/she intends for his/her records to be disclosed. 28.1%
- The provider already has certain patient records on file and has a history of treating the patient. 9.8%
- The provider is actually treating the patient on an urgent basis. 10.5%
- The provider has received a referral from one of the patient's treating providers. 7.2%
- Any of the above. 38.6%

**ASAM Total Responses 31**
- The provider has a scheduled appointment with the patient. 6.5%
- The provider has been specifically identified by the patient as a provider to whom he/she intends for his/her records to be disclosed. 29.0%
- The provider already has certain patient records on file and has a history of treating the patient. 6.5%
- The provider is actually treating the patient on an urgent basis. 9.7%
- The provider has received a referral from one of the patient's treating providers.

**National Council Total Responses 40**
- The provider has a scheduled appointment with the patient. 2.5%
- The provider has been specifically identified by the patient as a provider to whom he/she intends for his/her records to be disclosed. 17.5%
- The provider already has certain patient records on file and has a history of treating the patient. 7.5%
- The provider is actually treating the patient on an urgent basis. 7.5%
- The provider has received a referral from one of the patient's treating providers. 10.0%
- Any of the above. 55.0%

**Combined Total Responses 224**
- The provider has a scheduled appointment with the patient. 2.5%
- The provider has been specifically identified by the patient as a provider to whom he/she intends for his/her records to be disclosed. 17.5%
- The provider already has certain patient records on file and has a history of treating the patient. 7.5%
- The provider is actually treating the patient on an urgent basis. 7.5%
- The provider has received a referral from one of the patient's treating providers. 10.0%
- Any of the above. 55.0%
9. In order to help reduce stigma and discrimination, nondiscrimination provisions should be added to 42 CFR Part 2 which explicitly prohibit discrimination in health care coverage, provision of health care services and employment on the basis of an individual’s substance abuse treatment records.

10. A mandatory exclusion from evidence provision should be added to 42 CFR Part 2 to provide that information obtained in violation of the regulations may not be entered as evidence in or considered in connection with a criminal, civil or other legal or administrative proceeding.