June 25, 2014

Pamela S. Hyde, J.D.
Administrator
Substance Abuse and Mental Health Services Administration
1 Choke Cherry Road
Room 5-1011
Rockville, MD 20857

Re: Public Listening Session on 42 CFR Part 2 and Confidentiality of Alcohol and Drug Abuse Patient Records

Dear Administrator Hyde:

The American Academy of Child and Adolescent Psychiatry (AACAP) appreciates the opportunity to submit comments in response to SAMHSA’s public listening session, June 11, 2014, on the Confidentiality of Alcohol and Drug Abuse Patient Records. AACAP is the leading national medical association dedicated to treating and improving the quality of life for the estimated 7-12 million American youth under 18 years of age affected by emotional, behavioral, developmental and mental disorders.

In reading the Federal Register Notice and hearing the comments on the public listening session, AACAP noted several overarching issues that we request SAMHSA consider in moving forward with any regulatory changes. Overall, AACAP supports changes in the confidentiality of alcohol and drug abuse patient records removing the current barrier and promoting equal treatment of all healthcare records. We agree with other commenters that keeping substance use records separate from other healthcare records may inadvertently contribute to the stigma we seek to decrease for patients with substance use disorders. The ongoing distinction does not align with other major areas of healthcare change such as the attempt to decriminalize some aspects of substance use, the parity changes in mental health coverage, and the move toward medical homes through the Affordable Care Act.

Under the current system, any patient with substance use disorders is prohibited from full participation in the best integrated care teams. Patients should have the choice whether or not to share their records so they too can benefit from quality collaborative care. In fact, the inability of physicians and other providers to share critical information may actually pose a risk to
the safety of patients, particularly in light of serious drug interactions. As an organization whose membership specializes in working with children and adolescents, we also support changes to the program that would include youth, as 42 CFR Part 2 in its current form does not cover minors.

On the other hand, AACAP does have several concerns that we request SAMHSA consider if a decision to make regulatory changes moves forward. AACAP is concerned about the broad definition of "substance abuse provider" within the medical home, because substance abuse care is delivered at all levels of healthcare and not just in certified substance abuse centers. AACAP therefore would support regulatory language that prevents disclosure outside of the overall treatment team, and that this team should be inclusive of substance abuse, mental health and primary care. AACAP also supports stronger penalties for unauthorized disclosures to people outside of the treatment team, such as law enforcement. This is of particular concern with the Prescription Drug Monitoring Programs. The goal of the changes proposed by SAMHSA is to encourage the proper and necessary sharing of information, yet many providers continue to experience difficulties with accessing information already under the Health Insurance Portability and Accountability Act. AACAP recommends that SAMHSA strive to educate the community, patients, providers, and the legal community on what is allowed and not allowed under existing and proposed regulations.

Thank you for the opportunity to comment. We would be happy to speak with you further about our comments and look forward to providing more detailed comments if any regulatory changes are posted. Please contact Ronald Szabat, JD, LLM, Director of Government Affairs and Clinical Practice at rszabat@aacap.org, 202.587.9666, if we can be of further assistance.

Sincerely,

[Signature]

Paramjit T. Joshi, M.D.
President