



February 12, 2019

Submitted electronically via: <http://regulations.gov/>

Mr. Roger Severino  
Director  
Office for Civil Rights  
U.S. Department of Health and Human Services  
Hubert H. Humphrey Building, Room 515-F  
200 Independence Avenue, SW  
Washington, D.C. 20201

**Re: Comment on Request for Information on Modifying HIPAA Rules to Improve Coordinated Care (HHS-OCR-0945-AA00)**

Dear Director Severino:

The Alliance for Connected Care (“the Alliance”) welcomes the opportunity to provide comments on the U.S. Department of Health and Human Services’ (“HHS”) Request for Information (RFI) on modifying the Health Insurance Portability and Accountability Act (“HIPAA”) Privacy Rule. We are grateful for your leadership in championing policies that help make care coordination among different types of providers more achievable.

The Alliance is a 501(c)(6) organization dedicated to creating a statutory and regulatory environment in which insurers and providers can deliver, and be adequately compensated for providing, safe, high quality care using connected care technology. Our members are leading health care and technology companies from across the health care spectrum, representing insurers, health systems and technology innovators. We work in partnership with an Advisory Board of more than 20 patient and provider groups. Our members are both covered entities who directly provide care to beneficiaries or offer health insurance, as well as business associates who supply the technical platforms through which connected care is delivered. As reflected in the comments below, the Alliance supports any efforts on behalf of HHS to bolster care coordination, especially with respect to telehealth, so long as time and administrative burdens are considered. We strongly believe that as part of the continuum of care, it is important for telehealth providers to be able to share patient information with traditional providers so that care can be delivered seamlessly and efficiently, and so that unnecessary care and overutilization can be minimized.

## **I. Promoting Information Sharing for Treatment and Care Coordination**

### *Timeliness of Information Sharing*

In the RFI, the Office of Civil Rights (“OCR”) notes that “the Privacy Rule establishes an individual’s right to access and obtain a copy of his or her [personal health information] [PHI]” and that it “currently requires a covered entity to provide an individual with access to his or her PHI within 30 days after receipt of a request (with the possibility of one 30-day extension), and requires the covered entity to provide a



copy of PHI to a third party, which may be a health care provider, when directed by an individual pursuant to the individual's right of access."

Timely disclosure of accurate PHI between covered entities and providers, as well as between covered entities and individuals, is essential to bolster care coordination and ensure delivery of efficient, high-value care. We believe that covered entities should make their best effort to respond to disclosure requests in a timely manner and make certain that disclosed PHI is complete, secure, and accurate. We also believe that the desire for real-time, timely information should be balanced with the need to minimize the burden of disclosure on providers and health plans. OCR should carefully consider whether the existing 30-day timeline strikes an appropriate balance between these two concerns.

### *Sharing Information with Other Organizations*

OCR requests input on whether it should modify or otherwise clarify provisions of the Privacy Rule to encourage covered entities to share PHI with non-covered entities when needed to coordinate care and provide related health care services and support for individuals receiving care from a variety of HIPAA covered entities, social services agencies and community-based support programs. As primary care telemedicine continues to grow, telemedicine providers will be well-positioned to coordinate with social services agencies and community-based organizations to fully meet patients' needs. Thus, the Alliance believes that OCR should issue guidance to clarify that covered entities can, but are not required to, disclose PHI to trusted social services agencies and community-based organizations, but the disclosure must be related to an identified need. Upon receipt of the PHI, the social services agencies and community-based organizations should be required to protect it in compliance with HIPAA.

### *New Patient Consent*

OCR seeks comment on whether any new requirement imposed on covered health care providers to share PHI when requested by another covered health care provider require the requesting covered entity to get the explicit affirmative authorization of the patient before initiating the request, or if the covered entity should be allowed to make the request based on the entity's professional judgment as to the best interest of the patient. The Alliance believes that, while patient privacy is paramount, another layer of authorization and documentation requirements would only add to existing provider burden, ultimately hindering care provision and coordination.

## **II. Accounting of Disclosures**

The Alliance recognizes the importance of sharing information with individuals regarding disclosures of PHI. However, such disclosures are oftentimes of little use to providers and individuals alike, adding layers of administrative burden to staff who could be devoting their time to more worthwhile, patient-centric tasks. Thus, we urge OCR to streamline disclosure requirements so that relevant, useful information can be relayed to an individual in an efficient manner.

## **III. Notice of Privacy Practices (NPP)**



The RFI seeks comment on whether there are “modifications to the content and provision of NPP requirements that would lessen the burden of compliance for covered entities while preserving transparency about covered entities’ privacy practices and individuals’ awareness of privacy rights.” The Alliance believes that NPP documents should be allowed to be delivered electronically. Electronic provision of these documents would allow telehealth providers to disclose their privacy practices and individuals’ privacy rights in an efficient manner with minimal administrative burden.

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The Alliance greatly appreciates HHS’ leadership and dedication to enhancing care coordination efforts while maintaining patient privacy and confidentiality. Modernizing the HIPAA Privacy Rule with care coordination in mind, especially with respect to telehealth providers, would have a positive impact on the quality and efficiency of care delivered to patients.

We appreciate the opportunity to provide feedback on the current state of the Privacy Rule and barriers that covered entities face in coordinating care and look forward to continuing to work with HHS to increase efficiency in the care continuum through telemedicine. If you have any additional questions, please do not hesitate to contact us. I can be reached at [krista.drobac@connectwithcare.org](mailto:krista.drobac@connectwithcare.org).

Sincerely,

A handwritten signature in blue ink that reads "Krista Drobac".

Krista Drobac  
Executive Director  
Alliance for Connected Care