



Interdisciplinary Leaders in
Substance Use Education,
Research, Care and Policy

Mitchell Berger, SAMHSA
5600 Fishers Lane, Room 18E89C,
Rockville, Maryland 20857
Submitted electronically to:

https://www.regulations.gov/document?D=HHS_FRDOC_0001-0736

**Comment in response to Notice of Proposed Rule Making (NPRM) –
Regulatory Information #0930-AA30 -- Change in Court Authorized disclosure
of confidential communications for serious crimes**

Dear Mr. Berger:

**The Association for Multidisciplinary Education and Research in Substance Use
and Addiction (AMERSA) opposes this proposed change** in regulations
concerning the disclosure of confidential health information of people receiving
treatment for substance use disorders.

This proposed change is a fundamental and substantive change to privacy
regulations that will allow personal health information to be shared outside the
healthcare system for criminal justice purposes. For the first time in history,
drug trafficking would be specifically included in the definition of “extremely
serious crimes” being investigated that are a basis for court-authorized
disclosure. Addiction nearly always involves some form of illegal drug activity
that could easily be classified as drug trafficking. The criminalization of
substance use disorders is not the answer to this public health crisis. The
government says this change is needed to help prosecute health care providers
who are contributing to the national crisis in overdose deaths by trafficking in
drugs. **However, we fear this change will contribute to more deaths by
detering people from seeking and receiving life-saving treatment.**

We base our concerns as a non-profit professional organization whose members
have a long history advocating evidence-based treatment and prevention efforts
for persons with or at risk of substance use disorders. Founded in 1976,
AMERSA’s mission is to improve health and well-being through interdisciplinary
leadership in substance use education, research, clinical care and policy. We
represent multiple healthcare professions including, but not limited to,
physicians, nurses, social workers, psychologists, dentists, pharmacists, and

Phone (401) 230-2165

www.amersa.org

Board of Directors

Sharon Levy, MD, MPH
President

Paula J. Lum, MD, MPH
Vice-President

Victoria A. Osborne-Leute, PhD, MSW
Secretary

Kevin L. Kraemer, MD, MSc
Treasurer

J. Paul Seale, MD
Immediate Past President

Adam Gordon, MD, MPH,
FACP, FASAM, CMRO
Substance Abuse
Editor-in-Chief

Jeffrey P. Bratberg, PharmD
Member-at-Large

Gerald Cochran, MSW, PhD
Member-at-Large

Colleen T. Labelle, MSN, RN-BC, CARN
Member-at-Large

Elizabeth M. Pace, MSM, RN, CEAP, FAAN
Member-at-Large

David C. Lewis, MD
AMERSA National Office
Emeritus Director

Doreen MacLane-Baeder
Executive Director - AMERSA

public health professionals. Many of us serve on the frontlines of the opioid epidemic as federally funded scientists, teachers, treatment providers, and expert public health consultants, including to SAMHSA.

We are extremely concerned that this proposed regulation would permit courts to authorize the release of treatment records of people who are not alleged to have committed any crime – for example, families and friends of the person being investigated. Use of records for investigating and prosecuting alleged crimes beyond the patient (e.g., family, friends, associates, treatment providers and researchers) has never been included in the past. This invasion of privacy puts people at risk of discrimination in employment and other arenas because of the stigma existing in our society toward people who use drugs. Moreover, the proposed change will deter people in need of treatment from seeking care out of fear of law enforcement involvement. These outcomes go against the fundamental purpose of 42 CFR part 2, which was created to encourage people to seek care without fear of legal repercussions or stigma. **If the proposed language remains in the proposed rule change, the only way that a person can avoid potential investigation and prosecution is to not enter treatment.**

At a time in history when more than 130 Americans die each day from opioid overdose and there are effective medications for the treatment of opioid use disorder, AMERSA cannot support a proposed rule change that will push patients away from life-saving and evidence-based treatment and prevention that is offered in our healthcare system.

Sincerely,

A handwritten signature in black ink that reads "Sharon Levy" followed by "MD, MPH" in a smaller font.

Sharon Levy, MD, MPH
AMERSA President