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June 7, 2013

Secretary Kathleen Sebelius
U.S. Department of Health and Human Services
and
Mr. Leon Rodriguez
Director, Office for Civil Rights
Attention: HIPAA Privacy Rule and NICS
Hubert H. Humphrey Building
Room 509F
200 Independence Avenue SW
Washington, DC 20201

RE: HIPAA Privacy Rule and the National Instant Criminal Background Check System (NICS) – 45 CFR Parts 160 and 164

Dear Secretary Sebelius and Mr. Rodriguez,

As an association representing behavioral healthcare provider organizations and professionals, the National Association of Psychiatric Health Systems (NAPHS) appreciates the opportunity to provide comments on the Advance Notice of Proposed Rulemaking (ANPR) on the “HIPAA Privacy Rule and the National Instant Criminal Background Check System (NICS)” as published in the April 23, 2013, [Federal Register](#).

Founded in 1933, NAPHS advocates for behavioral health and represents provider systems that are committed to the delivery of responsive, accountable, and clinically effective prevention, treatment, and care for children, adolescents, adults, and older adults with mental and substance use disorders. Our members are behavioral healthcare provider organizations, including more than 700 psychiatric hospitals, addiction treatment facilities, general hospital psychiatric and addiction treatment units, residential treatment centers, youth services organizations, outpatient networks, and other providers of care. Our members deliver all levels of care, including inpatient, residential, partial hospitalization, and outpatient services.

COMMENTS

As behavioral healthcare professionals and caregivers, we will speak directly to the question you raise about the potential impact of regulation on access to essential behavioral health services. Specifically, the notice indicated that the Department of Health and Human Services (HHS) is “**soliciting public input on whether there are ways to mitigate any unintended adverse consequences** for individuals seeking needed mental health services that may be caused by creating express regulatory permission to report relevant information to NICS.”

We suggest this could be done by stepping up efforts to discuss and reduce stigma.

President Obama has said that it is time to end the "sense of shame and secrecy associated with mental illness." At the June 3, 2013, National Conference on Mental Health, the President also said, "I want to be absolutely clear, the overwhelming majority of people who suffer from mental illnesses are not violent, they will never pose a threat to themselves or others. There are a whole lot of violent people with no diagnosable mental health issues." We wholeheartedly agree.

Our concern is centered on the stigmatizing effect of linking gun control to the issue of mental health. Mental illness is not a crime; it is a medical issue.

We believe that proposed and current laws and regulations that require reporting of an entire class of individuals (those who have been involuntarily committed for mental health/substance use treatment) do not automatically diminish risks, but we believe they can add to the stigma and reluctance that many have toward seeking help.

For example, what effect do these laws and regulations have on a spouse or parent who is debating the pros and cons of court-ordered commitment for a husband, wife, or child? How much greater is the impact if that family member had plans for (or was currently employed in) a career in which a firearm was part of the job (such as the military or law enforcement)? Will fear that receiving mental health treatment could result in labeling that leads to loss of livelihoods prevent people from seeking help at all?

We need to have an open, honest discussion about the facts about mental illness. The Institute of Medicine (IOM) in 2006 concluded, "Although studies suggest a link between mental illnesses and violence, the contribution of people with mental illnesses to overall rates of violence is small," and further, **"the magnitude of the relationship is greatly exaggerated in the minds of the general population."**¹

As the country looks for a balanced approach to improving public safety, we believe that needs to be done with a clearer understanding of low risk of violence overall from those facing behavioral health disorders and with an ongoing dialogue on how to better zero in on risk factors for violence (among all Americans – not just those with mental and addictive disorders).

Thank you for the opportunity to provide our perspective. We look forward to continuing to work with the Department of Health and Human Services and the Office for Civil Rights to ensure that the millions of Americans living with mental and addictive disorders are encouraged to seek needed treatment without facing added discrimination or stigma.

Sincerely,

/s/

Mark Covall
President/CEO

¹ Institute of Medicine. *Improving the Quality of Health Care for Mental and Substance-Use Conditions*. Washington, DC. 2006.