Thursday, April 14, 2022

To: John Ohanian, Chief Data Officer and Director Center for Data Insights and Innovation
California Health and Human Services Agency

From: Michelle Cabrera, Executive Director and Elissa Feld, Senior Policy Analyst
County Behavioral Health Directors Association

Subject: CBHDA Comments - Data Exchange Framework Advisory Group – Regulatory and Policy, Meeting #7

The County Behavioral Health Directors Association (CBHDA) represents the county behavioral health executives who administer Medi-Cal and safety net services for serious mental health (MH) conditions and substance use disorders (SUDs) in all 58 counties in California. Through various CalAIM initiatives, the public behavioral health system is in the process of undergoing significant change including expanding and improving on data exchange capabilities.

In our comments below, we offer feedback on proposals presented in Meeting #7 of the Data Exchange Advisory Workgroup, from the perspective of the public behavioral health system.

Development of 'Universal' Release of Information Authorizations

CBHDA strongly supports the development of a statewide or 'universal' release of information (ROI). This should be inclusive of both mental health and substance use disorder health information, including information that is protected under 42 CFR Part 2. Historically, it has been a significant challenge to determine how records covered under 42 CFR Part 2 regulations can be shared within integrated care settings, with interpretation and implementation of these regulations varying across the state. As county behavioral health departments have attempted to integrate care and promote data exchange, some have been hindered by more conservative interpretations of 42 CFR Part 2.

A recent study mirrors reports and our understanding of how California providers, including county behavioral health departments, continue to grapple with the balance between care coordination, patient safety, and privacy protections.[1] We also anticipate that 42 CFR Part 2 will be revised again. Given the complexity of the regulatory environment related to Part 2 and these historical challenges, we believe the development of statewide guidance on Part 2 compliant

[1] Campbell, A., McCarty, D., Rieckmann, T., McNeely, J., Rotrosen, J., Wu, L. T., & Bart, G. (2019). Interpretation and integration of the federal substance use privacy protection rule in integrated health systems: A qualitative analysis. *Journal of substance abuse treatment*, *97*, 41–46.

release of information and consent management would be a highly effective way to support improvements in behavioral health data sharing.

The California Mental Health Services Authority (CalMHSA), a joint powers authority made up of county behavioral health agencies, has started to develop a universal ROI in consultation with Manatt. As the state seeks to develop its own universal ROI, CBHDA recommends that the Advisory Group consult CalMHSA and Manatt subject matter experts who have analyzed behavioral health considerations in this existing work on behavioral health data exchange.

Consent Management

In addition to supporting a universal ROI, we appreciate the State's recognition of the need to identify solutions for consent management and strongly support this proposal. While we do not have specific feedback at this time surrounding who should oversee a consent management system, this infrastructure is a critical need in California.

A large county behavioral health department in California recently undertook developing and implementing a universal consent form to be used across providers and delivery systems. While they successfully adopted a standardized, 42 CFR Part 2 compliant consent form, they identified revocation of consent as a key implementation challenge. Providers were often unclear about when and how consent was obtained, and whether the consent on file was still valid. We note this as an example of an operational challenge that can, and should, be addressed by a statewide consent management solution.

Given the various CalAIM initiatives and the work of this committee, universal ROIs and a consent management service are crucial components for exchanging behavioral health data. These tools have long been missing pieces of the data exchange puzzle that cannot easily be solved on a small-scale, local basis. CBHDA urges the state to seize this opportunity to pursue statewide solutions. Investment in these mechanisms can help promote standardization across the state and ensure more coordinated care is actualized in California.

Thank you for your consideration of our feedback. Please feel welcome to contact Michelle Cabrera, mcabrera@cbhda.org, if we can answer questions or provide any additional information.