AMERICAN
PSYCHOLOGICAL
ASSOCIATION

February 21, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
2707 Martin Luther King Jr Avenue, SE
Washington, DC 20528-0525

The Honorable Chad F. Wolf
Acting Secretary
U.S. Department of Homeland Security
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Azar and Acting Secretary Wolf:

On behalf of the nearly 121,000 members and affiliates of the American Psychological Association (APA), I write to urgently request that the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS) stop sharing confidential mental health information obtained from child immigrants in shelter care with U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection agents in making asylum determinations. This practice should be prohibited since it constitutes a violation of broadly accepted mental health ethical privacy and disclosure standards and impedes the delivery of effective treatment of children who have experienced trauma.

APA is a scientific and professional organization representing psychology, composed of clinicians, researchers, educators, consultants and students across the United States and around the world. APA works to advance the creation, communication and application of psychological knowledge to benefit society and improve lives.

It is a fundamental ethical value of mental health professionals to maintain the confidentiality of mental health records. The sharing of such records is only permitted under limited circumstances. Patients are entitled to informed consent and a clear explanation of the limits of confidentiality, including possible uses of any information they disclose, prior to receiving services. It appears that inadequate provisions have been put in place to inform detained children of their confidentiality rights. Further, confidentiality between patient and therapist in a treatment setting should not be broken for the purposes of denying asylum applications.

Federal law and the *Flores v. Reno* settlement obligates HHS to act in the best interests of the immigrant children in their care, and to release detained children as soon as practicable. Children within ORR custody are given access to mental health care in order to assist them in

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dealing with the serious emotional and psychological stressors they have experienced. Many of these children experience significant trauma, which has the potential to cause long-lasting negative impacts on physical and mental health, and should be treated using culturally competent, trauma-informed approaches. This treatment includes understanding a patient's life experiences in order to deliver effective care and improve patient engagement, treatment adherence, health outcomes, and provider and staff wellness. It is vital that children can share their experiences truthfully and fully with mental health professionals in order to achieve this goal. Mental health providers sharing confidential information obtained from patient therapy sessions that could be used against the child later will cause distrust and impede children from accessing evidence-based mental health care.

Again, we ask that you stop sharing confidential mental health information obtained from child immigrants in shelter care with U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection agents in making asylum determinations. We must ensure that children in U.S. custody are able to access the mental health services they need without fear of repercussions to their welfare and safety.

Sincerely,



Arthur C. Evans, Jr., PhD
Chief Executive Officer