



November 4, 2015

The Honorable Joe Pitts
Chairman
Subcommittee on Health
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20510

The Honorable Gene Green
Ranking Member
Subcommittee on Health
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20510

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Re: ACLU Opposes “Helping Families in Mental Health Crisis Act of 2015” (H.R. 2646)

Dear Chairman Pitts and Ranking Member Green:

On behalf of the American Civil Liberties Union (“ACLU”), we urge you to oppose H.R. 2646, the “Helping Families in Mental Health Crisis Act of 2015,” which is scheduled for markup. Though presented as a cost-efficient measure, this legislation undermines existing legal protections against discrimination for individuals with mental illness, while causing those individuals to incur greater costs. By expanding coercive treatment and placing unnecessary restrictions on much-needed funding for the advocacy system, the Helping Families in Mental Health Crisis Act would prevent individuals with mental illness from accessing needed services and would harm, rather than help, their well-being.

For nearly 100 years, the ACLU has been our nation’s guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. The ACLU takes up the toughest civil liberties cases and issues to defend all people from government abuse and overreach. With more than a million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C., for the principle that every individual’s rights must be protected equally under the law, regardless of race, religion, gender, sexual orientation, disability, or national origin.

H.R. 2646 would severely limit the ability of persons with disabilities to access legal advocacy services. Mental health advocacy encompasses a broad range of issues, including access to health and education services, as well as protection from employment and housing discrimination—all of which are essential for facilitating the treatment and recovery of mental illnesses. H.R. 2646, however, disregards this fact by restricting groups funded through the Protection and Advocacy for Individuals with Mental Illness (PAIMI) program from engaging in lobbying or any work beyond abuse and neglect.

These efforts are in line with other attempts to strip access to counsel protections for low-income, minority and other vulnerable populations. The PAIMI program is the largest provider of legal advocacy services for persons with disabilities. PAIMI funding, much like government support for the Legal Services Corporation, provides crucial assistance to exactly those Americans who need help navigating the increasingly complex American legal system the most. Indeed, PAIMI funding is most closely analogous to funding for Public Defenders – as many people with psychiatric disabilities would be unjustly detained and institutionalized against their will, without PAIMI protections.

Furthermore, H.R. 2646 contains provisions that would dangerously diminish patients' rights and privacy, especially those in nursing homes, psychiatric facilities, and group homes. Under the bill, more funding would be directed toward assisted outpatient treatment (AOT), also known as court-ordered involuntary treatment. Redirecting federal money from innovative programs to involuntary outpatient commitment is not only expensive it's also ineffective. Compulsory intervention involves high medical and legal costs with minimal returns and because force and coercion drive people away from treatment, this method is counterproductive. It is imprudent and cruel to mandate involuntary treatment, when voluntary mental health treatment—an approach with a clear rate of success, for those to whom it's available—continues to lack sufficient funding.

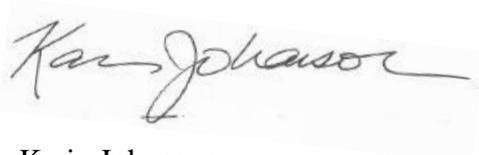
H.R. 2646 also raises privacy concerns. HIPAA regulations currently provide an exception to medical confidentiality when there is an imminent threat of physical harm. However, proposed changes to HIPAA regulations in this legislation would allow whomever the medical provider deems the “caregiver” to be given medical information without the patient's consent if the medical provider believes it is necessary for the “health, safety, or welfare of the patient.” This unnecessary expansion represents an enormous erosion of patient privacy rights.

Finally, H.R. 2646 maintains a discriminatory bias of violence prevention, presenting people with mental disabilities as potential threats to public safety and perpetuating harmful stereotypes. The bill proposes a study of the effects of “coerced outpatient treatment” to see consequences for crime and incarceration and increases funding for research into mental illness determinants of violence. However, existing studies show that individuals with mental illnesses are eleven times more likely to be victims of violence than the general public, and only 4% of the violence in our society is attributed to people with mental illness. Instead of scapegoating people with mental disabilities, we urge the Committee to address the true drivers of crime and violence in our nation's communities.

We urge you to oppose this misguided legislation, which represents a step backward in providing mental health services and supports. Though the goal of garnering more attention around mental health issues is admirable, it should be achieved with respect for those with mental illness and their experiences.

Please contact Legislative Counsel Jennifer Bellamy with any questions at jbellamy@aclu.org.

Sincerely,

A handwritten signature in black ink that reads "Karin Johanson". The signature is fluid and cursive, with the first name "Karin" being more prominent than the last name "Johanson".

Karin Johanson
Director, Washington Legislative Office

A handwritten signature in black ink that reads "Jennifer Bellamy". The signature is cursive and somewhat stylized, with the first name "Jennifer" being more prominent than the last name "Bellamy".

Jennifer Bellamy
Legislative Counsel

Cc: Members of the Subcommittee