



The Honorable Patrick J. Kennedy

The Kennedy Forum

Testimony for hearing titled: “Combating the Opioid Crisis: Prevention and Public Health Solutions.”

Subcommittee on Health

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Our country is in the midst of an opioid epidemic that is spiraling out of control and threatening our communities from coast to coast, in rural areas as well as in urban areas, with no regard to race, ethnicity, or social class status. Roughly 175 people will die today of a drug overdose. Another 175 people will die tomorrow. Another 175 people will die on Friday. That’s the equivalent of a jumbo jet full of people dying every three days.

Of course, everyone in this room knows that, which is why this hearing was scheduled. There are so many different ways upon which we must act to solve this epidemic. As all of you have heard me say before, including during every meeting of the President’s Commission on Combating Drug Addiction and the Opioid Crisis, we will never solve the crisis without fully implementing the Federal Parity Law. We are turning our backs on science if we don’t do everything in our power to increase access to medication-assisted treatment (MAT), which is the most evidence-based form of treatment for addiction. We cannot adequately address the epidemic if we don’t improve and better coordinate prescription drug monitoring programs (PDMPs). We will still see far too many inappropriate opioid prescriptions if there is no improvement in provider and prescriber education about substance use disorders and those at elevated risk.

However, maybe the most pressing threat to the safety and wellbeing of individuals who have been treated or are being treated for substance use disorder is a set of federal privacy regulations. Those regulations, found at 42 CFR Part 2, endanger people’s lives every day and codify our country’s shameful legacy of secrecy and silence when it comes to addressing addiction.

The current federal substance use disorder treatment privacy protections were created with the best intentions and were vitally important when they were written in 1974. However, the main function they serve now is to maintain and perpetuate a separate and unequal system for individuals facing addiction that puts their lives at risk. I would know because the privacy rules put me directly in the crosshairs of danger. When I injured my arm four years ago the doctor in the ER wrote me a prescription for percocet because she had no idea about my extensive addiction treatment history since it was not on my medical record. This is happening dozens if not hundreds of times each day across this country because of the federal substance use disorder treatment privacy stipulations. That’s going to continue unless we change the underlying privacy statute, which is what HR 3545 does.

What good is provider and prescriber education about opioids if the clinician can't see the full medical record? Someone could be the most well-educated doctor in the world about addiction, follow all the right protocols, ask the right questions, and still prescribe an opioid to someone who shouldn't have any opioids because the addiction treatment information was hidden behind a cloak of secrecy.

These privacy rules also threaten those in recovery who are prescribed certain MAT medications, like I was a number of years ago. For example, someone who is prescribed Suboxone should not be prescribed Ambien because it increases the risk of respiratory failure and death. But, if the doctor treating a person taking Suboxone with concurrent sleep issues can't see the substance use disorder treatment record, she is very likely to go ahead and prescribe Ambien and greatly increase the likelihood of tragedy.

There are legitimate concerns some may have about changing the federal privacy protections that this legislation makes sure to guard against.

Maybe treatment information could end up being shared with someone's employer? Still illegal under this legislation.

Maybe treatment information could end up being shared with a person's landlord? Still illegal under this legislation.

Maybe treatment information could end up being shared in a criminal case or in a divorce hearing? Still illegal under this legislation.

The way the legislation is now drafted, there is no way treatment information can be shared with the outside world unless someone is breaking the law. It's not like the bill is throwing all privacy requirements out the window. It's simply putting HIPAA protections in place instead of 42 CFR Part 2 but also making the protections even stronger than HIPAA when it comes to preventing information from being released to civil and criminal courts. This is a commonsense piece of legislation that will undeniably save lives, reduce suffering, prevent inappropriate prescribing, and still protect those with substance use disorder from facing discrimination and retribution.

There are many different solutions that Congress must pursue to address this epidemic but this one should be right at the top of the list. We can never solve this crisis if we keep addiction treatment information hidden away in a separate box and think that by doing that we're protecting anything other than continued chaos and misery.