H. R. _____

To direct the Secretary of Health and Human Services to promulgate regulations clarifying the circumstances under which, consistent with the standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996, health care providers and covered entities may disclose the protected health information of patients with a mental illness, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Matsui introduced the following bill; which was referred to the Committee on

A BILL

To direct the Secretary of Health and Human Services to promulgate regulations clarifying the circumstances under which, consistent with the standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996, health care providers and covered entities may disclose the protected health information of patients with a mental illness, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Including Families in
Mental Health Recovery Act of 2015”.

SEC. 2. CLARIFICATION OF CIRCUMSTANCES UNDER
WHICH DISCLOSURE OF PROTECTED HEALTH
INFORMATION OF MENTAL ILLNESS PA-
TIENTS IS PERMITTED.

The HITECH Act (title XIII of division A of Public
Law 111–5) is amended by adding at the end of subtitle
D of such Act (42 U.S.C. 17921 et seq.) the following:

“PART 3—IMPROVED PRIVACY AND SECURITY
PROVISIONS FOR MENTAL ILLNESS PATIENTS

“SEC. 13431. CLARIFICATION OF CIRCUMSTANCES UNDER
WHICH DISCLOSURE OF PROTECTED HEALTH
INFORMATION IS PERMITTED.

“(a) IN GENERAL.—Not later than one year after the
date of enactment of the Including Families in Mental
Health Recovery Act of 2015, the Secretary shall promul-
gate final regulations clarifying the circumstances under
which, consistent with the standards governing the privacy
and security of individually identifiable health information
promulgated by the Secretary under sections 262(a) and
264 of the Health Insurance Portability and Account-
ability Act of 1996, health care providers and covered enti-
ties may disclose the protected health information of pa-
tients with a mental illness, including for purposes of—
“(1) communicating with a patient’s family,
caregivers, friends, or others involved in the pa-
tient’s care, including communication about treat-
ments, side effects, risk factors, and the availability
of community resources;
“(2) communicating with family or caregivers
when the patient is an adult;
“(3) communicating with the parent or care-
giver of a patient who is a minor;
“(4) considering the patient’s capacity to agree
or object to the sharing of their information;
“(5) communicating and sharing information
with a patient’s family or caregivers when—
“(A) the patient consents; or
“(B) the patient does not consent, but the
patient lacks the capacity to agree or object and
the communication or sharing of information is
in the patient’s best interest;
“(6) involving a patient’s family members,
friends, or caregivers, or others involved in the pa-
tient’s care in the patient’s care plan, including
treatment and medication adherence, in dealing with
patient failures to adhere to medication or other therapy;

“(7) listening to or receiving information from family members or caregivers about their loved ones receiving mental illness treatment;

“(8) communicating with family members, caregivers, law enforcement, or others when the patient presents a serious and imminent threat of harm to self or others; and

“(9) communicating to law enforcement and family members or caregivers about the admission of a patient to receive care at a facility or the release of a patient who was admitted to a facility for an emergency psychiatric hold or involuntary treatment.

“(b) COORDINATION.—The Secretary shall carry out this section in coordination with the Director of the Office for Civil Rights within the Department of Health and Human Services.

“(c) CONSISTENCY WITH GUIDANCE.—The Secretary shall ensure that the regulations under this section are consistent with the guidance entitled ‘HIPAA Privacy Rule and Sharing Information Related to Mental Health’, issued by the Department of Health and Human Services on February 20, 2014.”
SEC. 3. DEVELOPMENT AND DISSEMINATION OF MODEL TRAINING PROGRAMS.

(a) Initial Programs and Materials.—Not later than one year after promulgating final regulations under section 13431 of the HITECH Act, as added by section 2, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall develop and disseminate—

(1) a model program and materials for training health care providers (including physicians, emergency medical personnel, psychologists, counselors, therapists, behavioral health facilities and clinics, care managers, and hospitals) regarding the circumstances under which, consistent with the standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996, the protected health information of patients with a mental illness may be disclosed with and without patient consent;

(2) a model program and materials for training lawyers and others in the legal profession on such circumstances; and

(3) a model program and materials for training patients and their families regarding their rights to
protect and obtain information under the standards specified in paragraph (1).

(b) PERIODIC UPDATES.—The Secretary shall—

(1) periodically review and update the model programs and materials developed under subsection (a); and

(2) disseminate the updated model programs and materials.

(e) CONTENTS.—The programs and materials developed under subsection (a) shall address the guidance entitled “HIPAA Privacy Rule and Sharing Information Related to Mental Health”, issued by the Department of Health and Human Services on February 20, 2014.

(d) COORDINATION.—The Secretary shall carry out this section in coordination the Director of the Office for Civil Rights within the Department of Health and Human Services, the Administrator of the Substance Abuse and Mental Health Services Administration, the Administrator of the Health Resources and Services Administration, and the heads of other relevant agencies within the Department of Health and Human Services.

(e) INPUT OF CERTAIN ENTITIES.—In developing the model programs and materials required by subsections (a) and (b), the Secretary shall solicit the input of relevant
national, State, and local associations, medical societies, and licensing boards.

(f) FUNDING.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2016 and $25,000,000 for the period of fiscal years 2017 through 2022.