

Statement of Patrick J. Kennedy

Health Subcommittee, Energy & Commerce Committee

June 16, 2015

Mr. Chairman, Ranking Member Green, and members of the Committee, thank you for inviting me to be with you to discuss mental health legislation recently introduced this Congress.

We are here today because we aren't doing enough. I think we can all agree on that. We aren't doing enough for individuals living with mental health and substance use disorders in this country. And now that we agree on that, let's also agree that it stops today.

The state of mental health in our nation is one of great possibility. To tackle the challenges ahead of us, we must all roll up our sleeves and do our part. Federal action is key, and the individuals and families impacted by mental illness and addiction in this country cannot afford to wait any longer. I am pleased to see Republicans and Democrats in the House and Senate working diligently to seize this moment.

And in case you needed further incentive, the public is behind you and agrees that change is needed. A public opinion poll conducted by the Kennedy Forum in January of this year revealed that over 70% of Americans believe a radical or significant change is needed in the nation's approach to mental illness and addiction. This statistic not only supports Congressional action on this issue, it frankly demands it.

Congressman Murphy, I thank you for your introduction of the Helping Families in Mental Health Crisis Act of 2015 (H.R. 2646). Your dedication to improving the lives of individuals and families impacted by mental illness is inspiring. The leadership you have provided to take mental illness out of the shadows and into the light of day is not only badly needed, it goes far beyond anything we have seen in Congress in recent memory.

H.R. 2646 brings to focus some of the most important challenges facing our mental health system, including improving coordination for mental health programs and resources at the federal level, accelerating health information technology in behavioral health, taking steps to address the growing behavioral health workforce shortage, emphasizing the importance of integrating behavioral health into primary care, increasing access to psychiatric hospital beds, and supporting important research at the National Institute of Mental Health on brain disorders and self and other-directed harm.

Congresswoman Matsui, I thank you for your introduction of the Including Families in Mental Health Recovery Act of 2015 (H.R. 2690) to clarify the Health Insurance Portability and Accountability Act (HIPAA) guidance and educate providers, patients, and families about sharing information under HIPAA. I know that these issues are deeply personal to you and your family and that has shown in your steadfast commitment to increasing access to mental health services and fighting stigma.

As members of this Committee know, it is imperative that we continue to vigilantly protect patient privacy. Without the protections under HIPAA, too many patients, including those with mental illness, would choose not to seek the care they need. Congressman Murphy and Congresswoman Matsui have both put forward legislation to also make clear that HIPAA does not and should not prohibit families and caregivers from being a part of a patient's care plan and recovery. Further, the Congresswoman includes new funding that would help educate providers and families about sharing information under the law.

I know there are also ongoing efforts by your colleagues on this Committee to introduce additional and meaningful legislation to improve our behavioral health system, including Congressman Paul Tonko who will soon be introducing legislation to reform the Institutions for Mental Disease (IMDs) exclusion for the population between the ages of 22 and 64, with an aim of also addressing access for individuals with substance use disorders. I look forward to reviewing this legislation. Rethinking the IMD exclusion is critical; it is an issue of both access and equity.

I must also take this opportunity to remind members of the Committee and your colleagues that as we gather here today we have mental health laws and regulations already on the books whose

promises are going unfulfilled. I was proud to help pass the Mental Health Parity and Addiction Equity Act of 2008 during my time in Congress, but urgent work remains to be done to make equity in our behavioral health system a reality. Too many American families are being denied access to the mental health and addiction treatment they need and the toll is adding up in lives lost.

We need your leadership to ensure the law is fully implemented with strong, clear guidance from the Departments of Health and Human Services and Labor. The law also needs to be aggressively and publically enforced. We have begun to see the shortcomings of the Final Rule play out across our nation in the commercial market. Many insurance plans are failing to disclose necessary, meaningful information about their medical management practices, effectively preventing patients and providers from demonstrating a parity violation when it occurs.

As we are learning lessons in the commercial market, we must apply them to the implementation of parity in Medicaid and the Children's Health Insurance Program. In addition to lacking necessary disclosure requirements, the proposed rule (80 FR 19417) excludes long-term care services. Long term care services, inpatient and community based, are critical to the treatment and recovery of individuals with mental health and substance use disorders, particularly in the Medicaid and CHIP populations.

I support the reporting requirements proposed in H.R. 2646. I also ask for a renewed commitment by this Committee's members to apply the pressure necessary to really see this law through. It will be a marathon to be sure, but until Americans are no longer denied the care they need, we will not achieve the progress that we all are here today seeking.

Further, I know that this Committee has devoted much time and energy to investigating the opioid and heroin epidemic that is sweeping our nation with a goal of finding meaningful solutions. It is my sincere hope that the Committee will take action on this issue, from widespread access to Naloxone, to streamlining the consent process under 42 CFR part 2, to the rapid expansion of recovery treatment and services.

While I know well that addiction presents its own unique challenges, I urge this Committee to tackle mental health and addiction together. As we have seen in our history, we severely lack the political will and the collective momentum to address either of these critical issues. Too often we are presented the false choice of mental health or addiction – fund one or the other, cut one or the other. If we are to seize this moment, we must do it hand in hand. When we passed the Parity law, I made this very same case. These crises are growing, you cannot do one without the other, and no one should have to wait.

I look forward to a robust discussion of these legislative proposals and to using today to forge common ground to advance a comprehensive agenda. The change that the American people are calling for can only be found in a system that is fully integrated and driven by quality and measureable outcomes, a system that addresses behavioral health crises before they start through prevention and early intervention in our communities, places of work, and schools, and a system that above all else guarantees equity for all. Before us today is the opportunity to make this change a reality.

If we continue on the course we have been on – a grant here, a grant there – we will find ourselves repeating history. If you believe as I do that Americans can still dream big and accomplish great things, together, then we must make real investments and commitments that will transform our behavioral health system.

Again, I applaud the work being done in both chambers and on both sides of the aisle to strengthen mental health and substance use disorder care. I thank Congressman Murphy for introducing this comprehensive bill. I hope that the 114th Congress can come together to build on these ideas, renew our shared commitment to make mental health and addiction parity a reality, and reach for the real change the American people are demanding.