



COMMITTEE ON  
**ENERGY & COMMERCE**  
DEMOCRATS  
RANKING MEMBER FRANK PALLONE, JR.

**FOR IMMEDIATE RELEASE**  
May 8, 2018

**CONTACT**  
[CJ Young](#) – (202) 225-5735

## **Pallone’s Remarks at 42 CFR Part 2 Legislative Hearing**

**Washington, D.C.** – *Energy and Commerce Ranking Member Frank Pallone, Jr. (D-NJ) delivered the following opening remarks today at a Subcommittee on Health hearing on “Improving the Coordination and Quality of Substance Use Disorder Treatment:”*

Thank you Mr. Chairman. Today’s hearing provides a critical opportunity for Committee Members to better understand 42 CFR Part 2 and the legislative proposal to roll back the heightened protections it provides.

As I noted at the Subcommittee markup, we all agree that action must be taken to combat the opioid epidemic ravaging our country; but taking the wrong action, because we are not spending the appropriate amount of time to understand the consequences of a proposal could have very serious consequences of making things worse. That’s why I requested a separate hearing that just focused on Part 2 and any legislative proposal that would make changes to it. As you know, not only is this issue controversial, it is complicated.

Ensuring adequate privacy protections is not easy. It requires balancing the needs of patients with regard to the privacy of their medical information with the needs of a coordinated health care system to best serve patients.

I believe today’s hearing will provide Members the opportunity to better understand this issue, and hopefully truly grasp the potential unintended consequences at risk to people’s privacy. This includes the treatment of medical records under HIPAA’s treatment, payment, and health care operations exceptions compared to Part 2, as well as the implications of such differences.

This hearing will also help Members hear firsthand why the substance use disorder patient advocacy community is unified in their opposition to rolling back the protections of Part 2. This is the community that will bear the ultimate burden of this action, and therefore we should listen to their thoughts before making any changes that could potentially cause harm. We will also hear more about why the substance use disorder provider community is split on this issue.

---

Mr. Chairman, we are in the midst of the worst opioid epidemic in our country's history. While I appreciate the bill sponsor's intentions to help build a better health care system for the patient community, I have serious concerns with the proposal before us. Confronting the opioid crisis requires identifying strategies that promote more people entering and remaining in treatment for opioid use disorder. This is critically important because major challenges exist to getting people with substance use disorders to enter treatment. In fact, SAMHSA's National Survey on Drug Use and Health found that only about 4 million people out of approximately 21 million Americans in need of substance use disorder treatment received treatment in 2016. That's only 19 percent.

I believe any action that will potentially prevent people from seeking treatment for any substance use disorder, and in particular opioid use disorder, must be avoided. Unfortunately, the proposal before us risks doing just that -- reducing the number of people willing to come forward and remain in treatment.

Part 2 generally requires patient consent to share their substance use disorder medical records. That is because individuals might not seek or remain in treatment if they are worried about the real negative consequences that seeking treatment can have on their lives. It can mean loss of a job, a home, or a child. But it also could mean discrimination by doctors and insurers or worse arrest, prosecution, and incarceration.

Disclosure of substance use disorder information has tangible consequences that are not the same as other medical conditions. You cannot legally be fired for having cancer, you are not denied visitation to your child due to severe acne and you are not incarcerated for having a heart attack.

Ensuring strong privacy protections is critical to maintaining peoples' trust in the health care system and willingness to obtain needed health services. These protections are especially important where very sensitive information is concerned.

We are at a critical moment in history. And at this moment, I believe that we should heed the advice of the Congressional Conferees that negotiated the confidentiality statute that created Part 2:

"The conferees wish to stress their conviction that the strictest adherence to . . . [confidentiality of substance use disorder patient records] is absolutely essential to the success of all drug abuse prevention programs. Every patient and former patient must be assured that his [or her] right to privacy will be protected. Without that assurance, fear of public disclosure of drug abuse or of records that will attach for life will discourage thousands from seeking the treatment they must have if this tragic national problem is to be overcome."

We once again face a tragic national drug abuse problem -- the scale of which our country has never seen -- and I believe maintaining the heightened protections of Part 2 remains vital to ensuring all individuals with substance use disorder can seek treatment for their

---

substance use disorder with confidence that their right to privacy will be protected. To do otherwise at this time is just too great a risk. Thank you, I yield back.

###

---

[democrats-energycommerce.house.gov](https://democrats-energycommerce.house.gov) | [Twitter](#) | [Facebook](#) | [Instagram](#) | [YouTube](#) | [Flickr](#)