

U.S. Energy and Commerce Committee
Subcommittee on Health
“Improving the Coordination and Quality of Substance Use Disorder Treatment”
May 8, 2018

Chairmen Walden and Burgess, Ranking Member Pallone and Green, and Members of the Subcommittee, thank you for inviting me to discuss the importance of providing high-quality, coordinated care to patients with substance use disorders.

Simply put, an antiquated law prevents lifesaving medical care for patients in recovery for substance use disorders. Originally designed to protect the privacy of individuals in addiction treatment, this decades-old barrier now creates an impediment to delivery of integrated medical care.

The Drug Abuse Prevention, Treatment and Rehabilitation Act of 1972 currently governs how doctors and health care professionals share alcohol or substance use disorder treatment records. Under this law, which pre-dates the Health Insurance Portability and Accountability (HIPAA) Act of 1996, patient medical records from addiction treatment facilities are segregated from the patient’s medical record. This creates a life-threatening firewall that prevents medical doctors from knowing their patient’s full medical history, which could include treatment of substance use disorders. The rules that govern this firewall are known as 42 CFR Part 2, or simply “Part 2”. This outdated policy, is more restrictive than HIPAA, supersedes HIPAA, and can only be breached in an emergency or with the express written consent of the patient. That consent can often be impossible or difficult to maintain, and in those instances, the care cannot be integrated. Failure to modernize Part 2 has weakened our nation’s ability to respond to the ongoing opioid crisis and is contributing to the record number of drug overdose deaths in 2017.

Our nation's health care delivery system has changed and innovated over the last 45 years. As providers shift towards new coordinated models of care, they must rely on shared medical information to improve patient health. Part 2 regulations restrict providers' ability to access critical substance abuse treatment information, which results in poor and, in some cases, tragic outcomes for patients. The story of Jessica "Jessie" Grubb, who passed away from an overdose in March 2016, demonstrates the consequences of providers not having access to a patient's full health history. Jessie, who was in substance use recovery, went in for routine surgery. Providers were informed by her parents that she should not be given opioids except under strict supervision. However, upon discharge Jessie was prescribed 50 oxycodone pills, and the hospital pharmacy filled the prescription because her substance use disorder treatment history was not in her medical record. That night, she died as the result of an overdose. Jessie's father, David, said at the time "she went home with, in essence, a loaded gun."

Doctors can't treat a whole patient with half a medical record and patients have a right to the best medical care available. I, along with Representative Mullin, have authored the bipartisan *Overdose Prevention and Patient Safety Act*, H.R. 3545, to prevent tragedies like Jessie's and will align Part 2 regulations with the existing patient confidentiality protections under HIPAA.

Our bipartisan legislation would treat medical records generated at a substance use treatment facility that relate to "treatment, payment, or health care operations" in the exact same manner as all other medical records, removing the stigma that has for so long segregated those records from the rest of the health care system. Stigma around substance use disorders unfortunately still exists, and it should not be the major reason preventing care coordination for patients with a chronic illness. At the current time, persons with substance use disorders are the only subset of health care patients whose records are treated differently, and as a result, may not receive coordinated care.

Stigma is also associated with mental health and HIV/AIDS; but both mental health and HIV/AIDS patients fall under the protections of the HIPAA privacy law. Care is improving for both of those populations, thanks to the increased access to public health data and open lines of communications that reduce unnecessary public discrimination.

For Americans who are in recovery, our legislation maintains and strengthens existing Part 2 protections that prevent the disclosure of substance abuse treatment records in a manner that might lead to prosecution, discrimination, or loss of employment, housing, or child custody. For example, currently it is illegal to share an individual's substance use treatment record with an employer, law enforcement, or a landlord. That wouldn't change under H.R. 3545. Furthermore, H.R. 3545 will require automatic dismissal of criminal proceedings based upon a substance use treatment record that was improperly obtained using the process currently set forth under Part 2. Finally, current penalties for improperly disclosing or sharing confidential patient information under Part 2 range from \$500 to \$5,000. Our legislation would increase the penalty range to \$100 to \$1.5 million, providing the stronger enforcement standards currently in place under HIPAA.

As our health care delivery system moves towards more robust, integrated care models, every member of a patient's treatment team needs to understand a patient's full medical history, including substance use disorder history. Current Part 2 regulations stand as a hindrance to whole-person care and must be changed to ensure all patients, regardless of diagnosis, have access to safe, effective, high-quality treatment and care.

Thank you for the opportunity to share the importance of the *Overdose Prevention and Patient Safety Act*, H.R. 354, with you. I look forward to continuing to engage with Members of the Subcommittee as you consider these important issues.