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Citizens’ Council for Health Freedom Connects with Lawmakers on Patient Privacy, Opioid Crisis

‘Jessie’s Law’ Would Impact Patient Rights, Privacy and Access to Timely and Essential Medical Care, While Opioid Crisis Response Act Would Create Severe Shortage of Medications for Injured Who Are Deprived of Pain Relief

ST. PAUL, Minn.—Citizens’ Council for Health Freedom (CCHF) is reaching out to lawmakers regarding two matters in the ongoing “opioid crisis.”

First, CCHF sent a letter to leaders of the House Energy and Commerce Committee, urging them to keep private the medical records of those undergoing substance abuse treatment.

The April 19 letter to Reps. Greg Walden (R-Ore.), Dr. Michael Burgess (R-Texas) and Joe Barton (R-Texas) requests that the legislation called “Jessie’s Law” not be passed due to the impact of the legislation on patient rights, patient privacy and patient access to timely and essential medical care.

“Jessie’s Law” legislation is found in a variety of bills, including H.R. 3545, sponsored by Rep. Tim Murphy (R-Pa.), and S. 1850, sponsored by Sen. Joe Manchin (D-W.Va.). The Energy and Commerce Committee is key to whether the legislation passes, said CCHF president and co-founder Twila Brase.

“Our concerns about this legislation are that patients who are or have undergone substance abuse treatment will lose their confidentiality and privacy rights,” Brase said. “Allowing the so-called Health Insurance Portability and Accountability Act ‘privacy’ rule to govern sharing of confidential substance abuse treatment means that people who receive such treatment will have their information broadly shared. HIPAA is a permissive disclosure rule, and HIPAA facilitates broad sharing of patient information without patient consent, for all sorts of purposes that do not directly relate to the care of the patient. In short, HIPAA is a ‘no-privacy’ rule.”

Brase also noted in the letter that the Department of Health and Human Services, in a 2010 federal rule, listed the number of covered entities (more than 700,000) and business associates (1.5 million) governed by HIPAA. HIPAA permits sharing of patient information with these entities and associates without patient consent for many reasons if the holder of the data provides access to the information, including payment, treatment and health care operations and 12 “national priority purposes” such as law enforcement, public health and research.

“Also,” Brase added, “under HIPAA, which would become the governing law, the security of patient data would become the focus (after broadly shared), not the privacy of patient data. Confidentiality is regularly
breached by HIPAA, and it has destroyed patient privacy rights, patient consent requirements and the confidentiality of the patient-doctor relationship. It breached the ethical requirement of medicine, instead fulfilling the data-sharing desires of the data industry, government agencies and third-party payers.”

CCHF is pleased that H.R. 3545 to repeal the consent requirements was not included in the bill marked up on the Energy and Commerce Committee on April 25. Read the entire CCHF letter to the Energy and Commerce Committee about “Jessie’s Law” here.

Additionally, on April 25, CCHF sent a separate letter to Sen. Lamar Alexander (R-Tenn.), chairman of the Committee on Health, Education, Labor and Pensions, currently reviewing and marking up the Opioid Crisis Response Act of 2018 (S. 2680), which among other things, according to The Hill, “clarifies the [FDA’s] authority to require that drug manufacturers package painkillers in smaller packs—such as a seven- or three-day supply—with the hope of helping to curb overprescribing” It also encourages states to “share data on opioid prescribing and dispensing and more” and notes the controversy surrounding legislated limits on length and dosage of opioids, a controversy recently highlighted with patient stories in the Wall Street Journal.

“Although there are Americans dying from opioids, the government often does not provide the best solution for these kinds of difficult situations,” Brase said. “Too often, the government ‘solutions’ are sweeping, not targeted, leaving innocent bystanders to suffer the consequences. One of the consequences is a severe shortage of opioid medications for the sick and injured who are deprived of relief for their pain. Experts say this is not an opioid crisis, per se, but a ‘fentanyl and heroin overdose crisis,’ which has not been helped by the DEA’s 25 percent reduction in 2017 and the 20 percent of reduction in 2018 of national opioid manufacturing quotas. Congress does not recognize that some deaths are the result of nonmedical users accessing dangerous and potentially tainted drugs in a black market caused by drug prohibition. How many patients went to the street when opioids were not available?”

Thus, Brase said, while it may be tempting to pass legislation as a response to the “opioid crisis,” perhaps to give the appearance that the U.S. Senate and Congress are doing something about it, the passage of such legislation may be worse for Americans than ending drug shortages, encouraging simple physician education and letting the situation solve itself over time, rather than building a costly and intrusive bureaucracy that will be difficult to shut down.

In the letter, Brase shares a list of CCHF concerns, including: millions and billions of dollars in appropriations, ethics, consent for data-sharing, taxpayer costs, more intrusion by Big Government and Big Brother, false limits, the necessity of detailed reporting, the possibility of tracking and surveilling citizens, the presence of ulterior motives, unconstitutional universal trauma screenings for students and the evisceration of privacy.

“Thus, we do not support this proposal to tax Americans and embed the federal government further into the exam room and private medical decisions,” Brase concluded to Alexander.

Read the full list of concerns and the letter concerning the Senate’s Opioid Crisis Response Act here.

For more information about CCHF, visit www.cchfreedom.org, its Facebook page or its Twitter feed @CCHFreedom. Also view the media page for CCHF here. For more about CCHF’s initiative The Wedge of Health Freedom, visit www.JointheWedge.com, The Wedge Facebook page or follow The Wedge on Twitter @wedgeoffreedom.

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