

Protect Patient Confidentiality and Access to Treatment: Maintain Newly Created Privacy Protections

By Cynthia Moreno Tuohy, BSW, NCAC II, CDC III, SAP, NAADAC Executive Director and Tim Casey, Policy Advisor, Polsinelli



Addiction professionals remain committed to ensuring the privacy of individuals living with substance use disorders (SUDs). Unfortunately, stigma surrounding addiction still exists and it is critical that our privacy laws protect those seeking treatment. NAADAC believes that efforts to amend confidentiality laws must be carefully crafted to avoid any unintended consequences for those seeking SUD treatment or the addiction professionals and treatment and recovery support agencies that serve them.

Congress recently passed the SUPPORT for Patients and Communities Act (P.L. 115-271), a landmark response to the opioid crisis that advances treatment and recovery initiatives, improves prevention efforts, and bolsters research. The new law also takes steps to better coordinate care for individuals with substance use disorders by directing the Department of Health and Human Services (HHS) to:

- Evaluate appropriate circumstances in which patient SUD history should be displayed in medical records;
- Identify how a patient may issue a formal request to include his/her SUD history in records and what constitutes such a request;
- Consider the benefits of displaying SUD information in the same way that other potentially life-threatening information, like drug allergies or contraindications, appear; and
- Assess the importance of patient privacy and consent requirements for SUD history disclosure.

This initiative, known as Jessie’s Law, represents a responsible approach to delivering care to patients with a history of SUD while preserving patient confidentiality.

We ask all addiction professionals to contact their legislators to urge support to allow HHS to fulfill its mandate in the SUPPORT for Patients and Communities Act while maintaining the privacy protections of individuals living with SUD.

During the broader debate, many sought to advance a full overhaul of privacy protections for substance use treatment records by advocating for the Overdose Prevention and Patient Safety Act (H.R. 6082). H.R. 6082 would align regulations governing the confidentiality of SUD treatment records (42 CFR Part 2, or “Part 2”) with HIPAA standards. This approach is detrimental because HIPAA does not require patient consent to share medical records for the purposes of securing healthcare treatment or payment. The bill ultimately was not adopted in the final bipartisan package that became law, but efforts to pass the bill in the remainder of the 115th Congress continue.

NAADAC remains concerned that H.R. 6082 would weaken protections for individuals with SUD treatment and recovery history and may discourage individuals from seeking SUD treatment due to the perceived risks associated with exposing patient records and other sensitive information. We ask all addiction professionals to contact their legislators to urge support to allow HHS to fulfill its mandate in the SUPPORT for Patients and Communities Act while maintaining the privacy protections of individuals living with SUD. It is vital to reject any last-minute efforts to advance legislation that seeks to align 42 CFR Part 2 with HIPAA standards.



Cynthia Moreno Tuohy, BSW, NCAC II, CDC III, SAP, is the Executive Director of NAADAC, the Association for Addiction Professionals, and has worked as an addiction professional for over 35 years. She has been a trainer in Domestic Violence/Anger Management and Conflict Resolution for over 25 years as well as an international, national and state trainer in a variety of topics. Moreno Tuohy is also a curriculum writer in addiction screening and evaluation, counseling methods, conflict resolution, co-occurring disorders, and medicated assisted treatment and recovery, and has written articles published in national and other trade magazines. She holds a Bachelor’s Degree in Social Work and is certified both nationally and in Washington State.



Tim Casey is a policy advisor at Polsinelli. He has a proven record of leadership in advancing the federal priorities of national associations, corporations, consumer organizations, and nonprofits. On Capitol Hill, Casey is a trusted resource to Members of Congress and their staff. Casey’s experience in the House and Senate combined with his time as a senior lobbyist for prominent health care organizations offers clients sound policy advice, strategic political counsel, and a keen instinct for delivering on key priorities before Congress and the Administration.