

Congressional Testimony
Energy and Commerce Committee, United States House of Representatives
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Good afternoon, Chairman Murphy and Congresswoman Johnson. My name is Michael Morse. I completed my medical school training at Harvard Medical School and received a Masters in Public Administration from the Harvard Kennedy School. I presently work as a psychiatric resident physician at George Washington University and am the Director of the Department of Psychiatry's Program on Global Community Mental Health. I work at George Washington University Hospital on the inpatient psychiatric unit and also work part-time at the Georgetown Ministry Center, where I provide outpatient community mental health treatment to homeless patients with serious mental illnesses. In addition, I am the Executive Director of the Palestinian Medical Education Initiative, a nonprofit organization that partners with Palestinian and international healthcare providers to advance healthcare and wellbeing. I speak to you today as a concerned psychiatrist, and my views do not necessarily represent the views of my affiliated institutions.

I want to thank you and the Treatment Advocacy Center for inviting me to speak with you about HIPAA, The Helping Families in Mental Health Crisis Act, and their implications for my clinical practice. Today, I will share with you my concern that we have underinvested in mental health services in this country; that doctors and other medical professionals are intimidated by and misunderstand HIPAA; and that — for patients with serious mental illness — waiting to involve their family or caregiver until they are at “imminent” risk of harm often puts the lives of our patients in jeopardy.

Millions of Americans with serious mental illness revolve between jail, homelessness, and brief inpatient hospitalizations. Having worked at both Harvard-affiliated hospitals and now at George Washington University Hospital, I can tell you that underinvestment in inpatient psychiatric care and outpatient psychiatric facilities is a major part of this problem. At leading institutions, and all the more so at underfunded ones, inpatient beds are scarce and outpatient waiting lists are long — causing patients to end up in jail instead of in care.

Even when patients are able to access care, the quality of that care is undermined by healthcare professionals' fear and misunderstanding of HIPAA. For example, many of my colleagues believe that HIPAA prohibits them from disclosing information to a family member without the patient's consent under any circumstance. Another common misunderstanding is that HIPAA precludes even the receipt of information, causing healthcare providers to refuse to receive what can often be indispensable information offered by our patients' families. While these misunderstandings may not be founded in law, they are unfortunately prevalent.

Mental health professionals also fear being held liable for unintentional violations of HIPAA. The risk of liability contributes to a culture in which healthcare professionals are afraid to disclose essential information. And that risk has led large hospitals to establish even more restrictive

policies, effectively using HIPAA as a floor to protect against any possible threat of litigation. HIPAA — in its current form — encourages a culture that puts risk management first and patient care second.

Moreover, certain provisions of HIPAA that limit communication with families and caregivers impair mental health providers' ability to care for our patients, putting patients' lives at risk.

Many individuals with serious mental illnesses, especially schizophrenia and bipolar disorder, do not know that they are ill. Due to the brain dysfunction that is part of their mental disorder, patients are unable to become aware of their disorder and are therefore unable to understand the need for — or to follow through with — necessary treatment. This lack of awareness — known as “anosognosia” — is one key reason that family and caregiver participation in patient care is essential.

When I receive a patient at the hospital who suffers from anosognosia, hallucinations, and delusions, I am unlikely to get the clinical information that I need to make a precise diagnosis and to develop a comprehensive treatment plan. In my understanding of HIPAA, if the patient does not represent a serious and imminent risk, I cannot obtain collateral information from family members without the patient's consent. But patients who do not understand the nature of their illness often do not consent.

I have treated many veterans in inpatient settings, and I want to tell you about one in particular who served our country in the wars in Iraq and Afghanistan. He was a big muscular guy with a gentle spirit and a kind smile. But he also had schizophrenia, and his symptoms were severe. This patient did not want his family involved in his treatment, and while we believed that there was a real risk that he would harm himself at some point, we did not believe the risk to be “imminent.” So we did not — we believed we could not — contact his family under HIPAA.

I learned afterwards that this patient stopped taking his medication, was admitted to other facilities, and continued to exclude his family from his treatment. Shortly after being discharged from another hospital, he killed himself. Given his diagnosis and nonadherence to treatment, there was a real risk that he would harm himself, but at no point was that risk determined to be “imminent.” This tragedy might have been averted if his family had been involved earlier — coordinating with his providers and assisting him in adhering to his treatment plan. If we wait until healthcare providers are confident that a risk to life is “imminent” — until the patient is holding a gun in his hand — it is likely to be too late.

In the Jewish religious tradition, the Talmud teaches us that “whoever saves a life, it is considered as if he saved the entire world.” I believe that this is the essence of what we are here today to discuss: The Helping Families in Mental Health Crisis Act invests in mental health treatment for seriously mentally ill Americans, and it allows providers to coordinate care with family members and caregivers of patients with serious mental illness — patients whose very illness prevents them from obtaining the mental health care that could save their lives.