

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2690

To direct the Secretary of Health and Human Services to promulgate regulations clarifying the circumstances under which, consistent with the standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996, health care providers and covered entities may disclose the protected health information of patients with a mental illness, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2015

Ms. MATSUI introduced the following bill; which was referred to the  
Committee on Energy and Commerce

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## A BILL

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1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Including Families in  
5 Mental Health Recovery Act of 2015”.

6 **SEC. 2. CLARIFICATION OF CIRCUMSTANCES UNDER**  
7                   **WHICH DISCLOSURE OF PROTECTED HEALTH**  
8                   **INFORMATION OF MENTAL ILLNESS PA-**  
9                   **TIENTS IS PERMITTED.**

10       The HITECH Act (title XIII of division A of Public  
11 Law 111–5) is amended by adding at the end of subtitle  
12 D of such Act (42 U.S.C. 17921 et seq.) the following:

13       **“PART 3—IMPROVED PRIVACY AND SECURITY**  
14       **PROVISIONS FOR MENTAL ILLNESS PATIENTS**  
15       **“SEC. 13431. CLARIFICATION OF CIRCUMSTANCES UNDER**  
16                   **WHICH DISCLOSURE OF PROTECTED HEALTH**  
17                   **INFORMATION IS PERMITTED.**

18       “(a) IN GENERAL.—Not later than one year after the  
19 date of enactment of the Including Families in Mental  
20 Health Recovery Act of 2015, the Secretary shall promul-  
21 gate final regulations clarifying the circumstances under  
22 which, consistent with the standards governing the privacy  
23 and security of individually identifiable health information  
24 promulgated by the Secretary under sections 262(a) and  
25 264 of the Health Insurance Portability and Account-

1 ability Act of 1996, health care providers and covered enti-  
2 ties may disclose the protected health information of pa-  
3 tients with a mental illness, including for purposes of—

4 “(1) communicating with a patient’s family,  
5 caregivers, friends, or others involved in the pa-  
6 tient’s care, including communication about treat-  
7 ments, side effects, risk factors, and the availability  
8 of community resources;

9 “(2) communicating with family or caregivers  
10 when the patient is an adult;

11 “(3) communicating with the parent or care-  
12 giver of a patient who is a minor;

13 “(4) considering the patient’s capacity to agree  
14 or object to the sharing of their information;

15 “(5) communicating and sharing information  
16 with a patient’s family or caregivers when—

17 “(A) the patient consents; or

18 “(B) the patient does not consent, but the  
19 patient lacks the capacity to agree or object and  
20 the communication or sharing of information is  
21 in the patient’s best interest;

22 “(6) involving a patient’s family members,  
23 friends, or caregivers, or others involved in the pa-  
24 tient’s care in the patient’s care plan, including  
25 treatment and medication adherence, in dealing with

1 patient failures to adhere to medication or other  
2 therapy;

3 “(7) listening to or receiving information from  
4 family members or caregivers about their loved ones  
5 receiving mental illness treatment;

6 “(8) communicating with family members, care-  
7 givers, law enforcement, or others when the patient  
8 presents a serious and imminent threat of harm to  
9 self or others; and

10 “(9) communicating to law enforcement and  
11 family members or caregivers about the admission of  
12 a patient to receive care at a facility or the release  
13 of a patient who was admitted to a facility for an  
14 emergency psychiatric hold or involuntary treatment.

15 “(b) COORDINATION.—The Secretary shall carry out  
16 this section in coordination with the Director of the Office  
17 for Civil Rights within the Department of Health and  
18 Human Services.

19 “(c) CONSISTENCY WITH GUIDANCE.—The Secretary  
20 shall ensure that the regulations under this section are  
21 consistent with the guidance entitled ‘HIPAA Privacy  
22 Rule and Sharing Information Related to Mental Health’,  
23 issued by the Department of Health and Human Services  
24 on February 20, 2014.’”.

1 **SEC. 3. DEVELOPMENT AND DISSEMINATION OF MODEL**  
2 **TRAINING PROGRAMS.**

3 (a) INITIAL PROGRAMS AND MATERIALS.—Not later  
4 than one year after promulgating final regulations under  
5 section 13431 of the HITECH Act, as added by section  
6 2, the Secretary of Health and Human Services (in this  
7 section referred to as the “Secretary”) shall develop and  
8 disseminate—

9 (1) a model program and materials for training  
10 health care providers (including physicians, emer-  
11 gency medical personnel, psychologists, counselors,  
12 therapists, behavioral health facilities and clinics,  
13 care managers, and hospitals) regarding the cir-  
14 cumstances under which, consistent with the stand-  
15 ards governing the privacy and security of individ-  
16 ually identifiable health information promulgated by  
17 the Secretary under sections 262(a) and 264 of the  
18 Health Insurance Portability and Accountability Act  
19 of 1996, the protected health information of patients  
20 with a mental illness may be disclosed with and  
21 without patient consent;

22 (2) a model program and materials for training  
23 lawyers and others in the legal profession on such  
24 circumstances; and

25 (3) a model program and materials for training  
26 patients and their families regarding their rights to

1 protect and obtain information under the standards  
2 specified in paragraph (1).

3 (b) PERIODIC UPDATES.—The Secretary shall—

4 (1) periodically review and update the model  
5 programs and materials developed under subsection  
6 (a); and

7 (2) disseminate the updated model programs  
8 and materials.

9 (c) CONTENTS.—The programs and materials devel-  
10 oped under subsection (a) shall address the guidance enti-  
11 tled “HIPAA Privacy Rule and Sharing Information Re-  
12 lated to Mental Health”, issued by the Department of  
13 Health and Human Services on February 20, 2014.

14 (d) COORDINATION.—The Secretary shall carry out  
15 this section in coordination with the Director of the Office  
16 for Civil Rights within the Department of Health and  
17 Human Services, the Administrator of the Substance  
18 Abuse and Mental Health Services Administration, the  
19 Administrator of the Health Resources and Services Ad-  
20 ministration, and the heads of other relevant agencies  
21 within the Department of Health and Human Services.

22 (e) INPUT OF CERTAIN ENTITIES.—In developing the  
23 model programs and materials required by subsections (a)  
24 and (b), the Secretary shall solicit the input of relevant

1 national, State, and local associations, medical societies,  
2 and licensing boards.

3 (f) FUNDING.—There is authorized to be appro-  
4 priated to carry out this section \$5,000,000 for fiscal year  
5 2016 and \$25,000,000 for the period of fiscal years 2017  
6 through 2022.

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