

115TH CONGRESS  
1ST SESSION

# H. R. 3545

To amend the Public Health Service Act to protect the confidentiality of substance use disorder patient records.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mr. MURPHY of Pennsylvania (for himself, Mr. MEEHAN, Mr. BLUMENAUER, Mr. CARTER of Georgia, Mr. RENACCI, and Mr. MULLIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Public Health Service Act to protect the confidentiality of substance use disorder patient records.

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 “Overdose Prevention  
5 and Patient Safety Act”.

6 **SEC. 2. CONFIDENTIALITY OF RECORDS.**

7 Section 543 of the Public Health Service Act (42  
8 U.S.C. 290dd–2) is amended—

9 (1) in subsection (b)—

1 (A) in paragraph (1), by striking “The  
2 content” and inserting “Subject to paragraph  
3 (3), the content”;

4 (B) in paragraph (2), by striking “Wheth-  
5 er” and inserting “Subject to paragraph (3),  
6 whether”; and

7 (C) by adding at the end the following:

8 “(3) EXCEPTION.—

9 “(A) IN GENERAL.—In the case of a use or  
10 disclosure of the content of a record referred to  
11 in subsection (a) for purposes of treatment,  
12 payment, or health care operations, paragraphs  
13 (1) and (2), as applicable, and regulations  
14 issued under subsection (g), including any such  
15 regulations pertaining to redisclosure limita-  
16 tions, shall not apply, and the provisions of sec-  
17 tion 164.506 of title 45, Code of Federal Regu-  
18 lations, or any successor regulation, shall apply  
19 with respect to such use or disclosure of such  
20 content by an entity in the same manner and  
21 to the same extent as such provisions apply  
22 with respect to the use or disclosure of pro-  
23 tected health information by a covered entity.

24 “(B) DEFINITIONS.—For purposes of this  
25 paragraph, the terms ‘treatment’, ‘payment’,

1           ‘health care operations’, and ‘protected health  
2           information’ have the meaning given such terms  
3           in section 164.501 of title 45, Code of Federal  
4           Regulations, or any successor regulation, and  
5           the term ‘covered entity’ has the meaning given  
6           such term in section 160.103 of title 45, Code  
7           of Federal Regulations, or any successor regula-  
8           tion.”; and

9           (2) by amending subsection (c) to read as fol-  
10          lows:

11          “(c) USE OF RECORDS IN CRIMINAL PRO-  
12          CEEDINGS.—

13                 “(1) IN GENERAL.—Except as authorized by a  
14                 court order granted under subsection (b)(2)(C), no  
15                 record referred to in subsection (a) may be used to  
16                 initiate or substantiate any criminal charges against  
17                 a patient or to conduct any investigation of a pa-  
18                 tient.

19                 “(2) ADDITIONAL PROTECTIONS.—In the case  
20                 of a use or disclosure of a record referred to in sub-  
21                 section (a) for purposes of treatment, payment, or  
22                 health care operations as provided for under sub-  
23                 section (b), no further disclosure or redisclosure of  
24                 such record is allowed to initiate or substantiate any  
25                 criminal charges against a patient or to conduct any

1 investigation of a patient except as authorized by a  
2 court order granted under subsection (b)(2)(C) of  
3 this section.

4 “(3) EXCLUSIONARY EFFECT AND DIS-  
5 MISSAL.—Any record referred to in subsection (a)  
6 that has been used or disclosed to initiate or sub-  
7 stantiate any criminal charges against a patient or  
8 to conduct any investigation of a patient in violation  
9 of paragraph (1) or (2), shall be excluded from evi-  
10 dence in any proposed or actual proceedings relating  
11 to such criminal charges or investigation and absent  
12 good cause shown shall result in the automatic dis-  
13 missal of any proceedings for which the content of  
14 the record was offered.”.

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