

**Senate Appropriations LHHS Subcommittee Testimony**

**Former Congressman Patrick J. Kennedy (D-RI)**

**December 5th, 2017**

Thank you for inviting me to testify about the concurrent opioid and suicide crises facing our nation.

Before I testify, I have to speak to the most important issue that could greatly affect the crises: the tax vote. It has everything to do with this topic, and there is no sense in my testifying if you have already given away all of the tax money we need to address the crises. Thousands of people are dying every month, and the wave of misery impacting countless American families only seems to be gaining steam. How do we help all of those who are suffering and restore our shattered families and communities? Should the top priority be cutting taxes for transnational corporations and wealthy inheritors? Should we do this knowing that the next step is gutting federal aid to the poor and elderly? I can assure you, there is definitely one thing we CANNOT do, or history will judge this Congress very harshly. WE CANNOT CUT FUNDING TO MEDICAID. That is not a political statement, it is a practical one. Medicaid is the single largest payer of mental health care in the country. Medicaid beneficiaries with mental illness and substance use disorder, particularly those enrolled in expanded Medicaid, often have other comorbid illnesses such as hepatitis C or HIV that must be treated. I understand there is not an unlimited pot of money for the federal government to dip into, but now is not the time to cut the greatest funding source for mental health and addiction treatment. Doing so would be unconscionable and frankly, immoral.

In 2016, suicides claimed more than 44,000 lives. Combine that with the 64,000 lives lost to drug overdoses in 2016 and the total is over 100,000 American lives lost. And God only knows how many other lives were torn apart or shattered due to the trauma brought upon by these tragedies.

Do the math: nearly 300 people die EVERY SINGLE DAY due to brain illnesses. What are we doing for this crisis? Not nearly enough. Talking and reporting

about this crisis is not enough. Hiring expensive agencies to create national advertising campaigns is not enough. We need real, substantial, emergent dollars – NOW!

Preliminary data compiled by the Office of National Drug Control Policy (ONDCP) and the National Institute on Drug Abuse (NIDA) for 2017 shows the death toll is rising. What are we waiting for?

This epidemic is crushing our society by inciting financial ruin for those who attempt to get treatment due to our broken health care system, ripping families apart, leaving children without parents, and leaving our most vulnerable to fend for themselves. The number of infants born dependent on opioids has more than tripled in the last 15 years, and is only getting worse. The number of children in foster care, because of parental substance use, has doubled since 1999 and is rapidly increasing. Social workers often have to stay with young children in hotel rooms because they cannot locate a foster family. Caseloads are completely unmanageable, and already underfunded budgets are entirely insufficient, which escalates the burden placed on the system.

The situation continues to grow dire, and yet our country seems to be in denial that we are dealing with the worst public health catastrophe of the 21st Century!

If 300 people died each day from Ebola, starting in the beginning of 2016, I would not be standing in front of Senate Appropriations Committee members almost two years later – in December of 2017 – testifying that we need to appropriate more money to solve the problem. Congress would have appropriated billions of dollars to address the issue right away!

In September, Congress passed a disaster relief bill totaling more than \$15 billion to address the effects of Hurricanes Harvey and Irma. In October, Congress passed another bill, amounting to over \$36 billion, in response to Hurricane Maria and the wildfires on the West Coast. Those tragedies claimed several hundred lives and caused the destruction of infrastructure and personal property. Congress was right to appropriate funds toward rebuilding.

But since Hurricane Harvey made landfall in Texas on August 25th, more than 30,000 people have likely died from drug overdoses and suicides. And again, the death toll keeps rising!

So, several hundred people die or suffer property damage and Congress delivers \$50 billion, no problem. Thousands upon thousands of people die, with no end in sight, and Congress holds a hearing in front of Senate Appropriations subcommittees. If that does not prove we are in denial as a nation, I don't know what would. If that does not prove there is something else at play here, namely discrimination against those with mental health and substance use disorders, again, I don't know what would.

I am planting my flag in the ground right here and right now, demanding Congress allocate no less than \$25 billion in supplemental appropriations to address these crises. If Congress can spend over \$50 billion to address natural disasters, it can absolutely spend just half that to address an escalating national disaster killing more than 100,000 Americans just this year!

Thankfully, we have a blueprint from the recent past that can guide us in addressing such a national disaster: our nation's response to the HIV/AIDS crisis just two decades ago. In the mid 90s, over 50,000 people were dying each year from that epidemic. In less than ten years we DOUBLED total federal spending on HIV/AIDS from \$12 billion to \$24 billion, and the death toll plummeted to less than 10,000 per year. The history lesson is clear: when confronted with a similar public health calamity just 20 years ago, we understood that the only appropriate response was to get serious and allocate significant federal dollars to address the issue. There is no reason why we shouldn't address this challenge in the same manner.

Recently, the President announced that he directed the Department of Health and Human Services (HHS) to declare a Public Health Emergency (PHE). While that partially actualized the recommendations of the interim report of the President's Commission on Combating Drug Addiction and the Opioid Crisis, it was only a first step to what is really needed. The interim report also asked the President to declare a national emergency under the Stafford Act.

He could still declare that emergency, and all members of Congress have a responsibility to demand such an action. The PHE declaration allows for greater coordination and the relaxation of certain regulatory roadblocks, but it does not come with any funding. There is only \$57,000 in the PHE fund, whereas a declaration under the Stafford Act would unlock billions of dollars from the Disaster Relief Fund. Declaring a PHE alone without a Stafford Act declaration amounts to nothing more than rearranging the deck chairs on the Titanic.

The necessary outline for action is simple: interdiction, prevention, treatment, recovery, and parity enforcement. Each of these efforts has a series of programs associated with them. While I've asked for \$25 billion annually, there is another way to unlock money – in addition to the Stanford act – and that is parity enforcement. It is a scathing indictment on the insurance industry that they are not following the very law YOU passed – the noncompliance is costing American families thousands of lives, and costing our country billions of dollars a year in added services. These are services that commercial health plans should be covering, but instead are passing the tab along to the federal government. The actual federal investment to bring insurers into compliance and pay their fair share is very small, relatively speaking.

This is an immediate step the Appropriations Committee can take – one that hardly costs anything at all, but would have a huge impact in making sure people who have employer-sponsored commercial health insurance actually receive the addiction and mental health treatment they deserve. The Subcommittee on Labor, Health, and Human Services, Education, and Related Agencies must appropriate \$17 million annually to the Department of Labor (DOL) so that it may adequately enforce the Mental Health Parity and Addiction Equity Act. That is \$15 million for the Employee Benefits Security Administration for more direct enforcement activity, and \$2 million to the Solicitor's Office for litigation.

Parity has been the law for nearly a decade, yet we are still a long way from fulfilling its fundamental promise that insurance coverage for illnesses of the brain is no more restrictive than insurance coverage for illnesses of the body. Insurers still routinely deny coverage of lifesaving and life-restoring mental

health and addiction treatment in ways that violate the law. DOL has enforcement authority over the majority of commercial insurance plans in America, yet it does not have the resources necessary to adequately enforce the law and investigate illegal health plan negligence.

Because of its lack of capacity, DOL is unable to perform the systematic and targeted audits that are critical to enforcing compliance. Parity has broad bipartisan support and everyone, including the insurance industry, knows that we still have not achieved it. Enforcing the Parity Law will save the federal government money. What happens now is that private insurance plans deny coverage for people in need of costly mental health and addiction treatment, and push them into the public system. This often happens after much delay, when people are in a late stage of illness. This diversion to the public system shifts costs to Medicaid, Medicare, the Substance Abuse Prevention and Treatment Block Grant, and the Mental Health Block Grant. Just last week a report commissioned by the actuarial firm, Milliman, found that people with commercial insurance plans were far more likely to access treatment out-of-network for mental health care than they were for other medical care, which results in higher out-of-pocket spending for those affected by brain illnesses. This is yet another powerful indicator of the insurance industry's negligence.

We know what we have to do: appropriate money commensurate with the severity of this epidemic and follow the recommendations made of the President's Commission on Combating Drug Addiction and the Opioid Crisis, former Surgeon General Dr. David Satcher, and former Surgeon General Dr. Vivek Murthy.

Each day that passes is another day that we are turning our backs on American families in need. They are calling out for help and it is past time to listen. If this disaster hasn't yet touched your family, be warned. It is only a matter of time. You have the power to save lives. I urge you to use it.