



**American Hospital
Association®**

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June 15, 2016

The Honorable Fred Upton
Chairman
House Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone, Jr.
Ranking Member
House Committee on Energy and Commerce
United States House of Representatives
2322A Rayburn House Office Building
Washington, DC 20515

The Honorable Joe Pitts
Chairman
Subcommittee on Health
House Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Gene Green
Ranking Member
Subcommittee on Health
House Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Chairman Upton, Ranking Member Pallone, Chairman Pitts and Ranking Member Green:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our 43,000 individual members, the American Hospital Association (AHA) applauds your bipartisan efforts to reform elements of the nation's behavioral health system. America's hospitals play a central role in the delivery of behavioral health care and are uniquely positioned to help patients navigate the behavioral health resources that are available within communities. Psychiatric and community hospitals are a vital source of care for behavioral health patients, providing treatment for a full range of psychiatric and substance abuse disorders by stabilizing patients, establishing and providing quality treatment regimens, and transitioning patients to outpatient and community-based services.

The AHA strongly supports efforts to increase access to, and improve the quality of, behavioral health care, including: fully implementing and enforcing the Mental Health Parity and Addiction Equity Act; providing adequate behavioral health coverage and reimbursement through Medicare, Medicaid and private insurers; integrating the delivery of physical and behavioral health; and increasing the behavioral health workforce.



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The AHA appreciates the efforts of Representative Tim Murphy to lay the groundwork for mental health reform. We are encouraged by the bipartisan passage of the Helping Families in Mental Health Crisis Act, since its initial introduction and the November 2015 Health Subcommittee markup, and we believe that the Amendment in the Nature of a Substitute that the full Energy and Commerce Committee will mark up on June 15 represents a solid foundation for improving behavioral health care.

We are pleased that the Substitute reauthorizes the Garrett Lee Smith Memorial Act, which has funded vital suicide prevention services in communities across the nation, and we support the authorization of grants for adult suicide prevention programs. In addition, recognizing the severe nationwide shortages of mental health professionals, we applaud your focus on increasing access to care, including through telehealth services for children and adolescents. We also support your efforts to address the dire need for additional providers and services in minority communities by authorizing a Minority Fellowship Program for mental health professionals, and we thank you for providing a significant authorization for this essential program. We consider the language of Section 706 to be an important step forward in addressing existing shortages in communities of color and in promoting the provision of more culturally competent behavioral health care.

The AHA appreciates the Committee's efforts to amend the outdated Medicaid Institutions for Mental Disease (IMD) exclusion, which has been in effect since the enactment of the Medicaid program in 1965, at a time when state-operated psychiatric facilities were a primary setting for behavioral health care, and patients were admitted for longer-term stays. Since then, advances in behavioral health care have allowed for shorter inpatient stays and more outpatient treatment options, while funding challenges have led to a decline in the number of inpatient psychiatric beds. Amending the IMD exclusion would help reverse this decline. Although we understand that the original provisions amending the IMD, as well the provision to eliminate the discriminatory 190-day Medicare lifetime limit on inpatient care, were removed from the bill due to funding concerns, we appreciate the inclusion of Section 202, which codifies the Centers for Medicare & Medicaid Services Medicaid managed care regulation allowing optional coverage of IMD services by the states. In addition, we note that since the November 2015 Health Subcommittee markup, the AHA-supported Improving Access to Emergency Psychiatric Care Act, which permits the extension and expansion of the IMD Demonstration Project, has been signed into law.

The Substitute contains two provisions affecting the confidentiality of behavioral health records. We had previously expressed concern that, because HIPAA standards were established through regulation, rather than through the benefit of the regular legislative process, language in the original version of H.R. 2646 would have represented the first major revision to these standards since their implementation. The stigma associated with the diagnosis of behavioral illness, the sensitivity of information contained in the patient record, and fear of inappropriate disclosure have prevented many persons from seeking needed treatment. We thank you for taking a responsible approach to this issue and adopting language requiring the Health and Human Services (HHS) Secretary to clarify the circumstances in which covered entities may disclose

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protected health information of a patient with a mental illness. We also thank you for including a requirement that the HHS Secretary identify, develop and disseminate model programs and materials for training patients and their families regarding their rights to protect and obtain protected health information.

We are disappointed that the Substitute Amendment did not restore revisions to 42 CFR Part 2 that were included in H.R. 2646 as introduced. The original language authored by Rep. Murphy would have permitted the sharing of a patient's alcohol- and drug-abuse treatment records within health information exchanges, health homes, and other integrated care networks, and it would have helped eliminate barriers to integrated care for our patients. Without access to a patient's entire medical record, including information related to treatment for substance use disorders, health systems are hindered in their efforts to coordinate the patient's care. The new draft provides only for a review after one year of the Substance Abuse and Mental Health Services Administration's (SAMHSA) revised 42 CFR Part 2 regulations. Those proposed regulations take some steps to modernize Part 2, but they do not go far enough. Absent revisions to Part 2 that go beyond what SAMHSA has proposed, persons with substance use disorders will not have access to fully coordinated care, and we look forward to working with Congress to modernize these rules.

Finally, we thank you for expanding the provisions related to the enforcement of federal parity laws. Our members and the patients we serve continue to face obstacles in securing coverage and payment as intended by federal mental health and substance abuse parity laws. The May 13 discussion draft provided for a Government Accountability Office study on preventing discriminatory coverage for individuals with serious mental illness, but it did not improve disclosure or enforcement of current laws for all mental health and substance abuse patients. We therefore thank you for including in the Substitute language requiring the Administration to issue compliance program guidance documents, as well as an action plan developed with stakeholders for enhanced enforcement of mental health and substance use disorder coverage, and recommendations on the need for additional legal authority to improve enforcement.

In conclusion, the AHA is grateful for your efforts to begin reforming the nation's behavioral health system, and we look forward to continuing to work with you to advance comprehensive legislation. If you have any questions, please contact Priscilla A. Ross, senior associate director of federal relations, at pross@aha.org or (202) 626-2677.

Sincerely,

//s//

Thomas P. Nickels
Executive Vice President