American Hospital Association™
Advancing Health in America

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July 19, 2022

The Honorable Ron Wyden
United States Senate
221 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
United States Senate
239 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ben Cardin
United States Senate
509 Hart Senate Office Building
Washington, DC 20510

The Honorable John Thune
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Wyden, Ranking Member Crapo, Senator Cardin and Senator Thune:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners — including more than 270,000 affiliated physicians, 2 million nurses and other caregivers — and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) appreciates the opportunity to provide feedback on the Senate Finance Committee's discussion draft addressing mental health care and telehealth.

Even before the COVID-19 public health emergency, the demand for behavioral health services was on the rise.[1] An estimated 52 million adults in 2019, or approximately 21% of the U.S. adult population, reported having mental, behavioral or emotional disorders.[2]

According to a 2015 report from the Agency for Healthcare Research and Quality, one of every four patients admitted to a general hospital is diagnosed with a behavioral health disorder.[3] The increased need for behavioral health services, combined with

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[1] Midanek, Courtney. Addressing the Behavioral Health Crisis, June 7, 2021. https://www.kaufmanhall.com/ideas-resources/ article/addressing-behavioral-health-crisis?utm_source=mkto&utm_campaign=kh-article&utm_medium=em&utm_ term=behavioral-health 210609&mkt_tok=NjU0LUNOWS0yMjQAAAF9kEL2kL79N9Mo4sGYHi1sFIY31e4Zh2FSNt2ppR-zBzwB vGB5Q5aoMP9ABHvMQFFjpLpEkh0aXAESLf9JLR_f6Dsy-twlMr7j-4MxoIXLep1p

[2] U.S. Government Accountability Office. Behavioral Health: Patient Access, Provider Claims, Payment, and the Effects of the COVID-10 Pandemic. March 31, 2021. https://www.gao.gov/assets/gao-21-437r.pdf

[3] Helsin KC, et al. (2015). Agency for Healthcare Research and Quality. Hospitalizations Involving Mental and Substance Use Disorders Among Adults 2012. HCUP Statistical Brief #191. https://www.hcup-us.ahrq.gov/reports/statbriefs/sb191- Hospitalization-Mental-Substance-Use- Disorders-2012.pdf

regulatory flexibilities granted through the declaration of COVID-19 as a public health emergency, has led to the growing use of new and previously underutilized tools for providing care.

COMMENTS ON DISCUSSION DRAFT

The pandemic has shown that many patients can benefit from receiving care through telehealth. We appreciate provisions in this draft which would help expand access to mental health services via telehealth for patients.

AHA supports allowing Medicare beneficiaries who seek treatment for mental health disorders to receive their care through audio-only services. This flexibility has enabled hospitals and health systems to maintain care for numerous patients who do not have access to broadband internet or video-conferencing technology, as well as continue to provide services when a video connection fails. Additionally, hospitals and health systems report that audio-only behavioral health services have become extremely popular with patients who are less comfortable with face-to-face visits.

AHA also supports removing the requirement for Medicare patients to receive an in-person visit prior to receiving mental health services through telehealth. There is no clinical basis for this requirement, and evidence shows many telemental health services are just as effective as in-person services. Removing the in-person visit requirement will improve access to mental health care for Medicare beneficiaries and provide additional options for those that might be unable to travel to a mental health provider.

Health professional workforce shortages have long impeded behavioral health care access. HRSA, as of March 31, 2022, has designated more than 6,000 areas as having mental health provider shortages, which collectively contain more than one-third of all Americans, or 135 million people. In these areas, the number of mental health providers available were adequate to meet only about 28% of the estimated need.[4] Virtual care is an acceptable way for a patient to establish their relationship with a provider and we support making in-person care available to a patient as clinically appropriate.

Should the Committee choose to remove the in-person visit requirement, we would encourage you to reconsider language that would seem to allow Medicare coverage of telehealth services only if a provider affirms that they are capable of either: (1) offering in-person services on the same day or within a timeframe established by the Secretary of Health and Human Services, or (2) referring the patient to a provider with whom they have an arrangement who could do so. While hospitals and health systems are able to

[4] https://data.hrsa.gov/Default/GenerateHPSAQuarterlyReport

provide needed emergency care on a round-the-clock basis, they may not always be able to guarantee certain routine services on the same day that virtual care is provided. We are also concerned the option to develop arrangements with other providers who can offer same-day services is vague, as a provider cannot be sure that a clinician with whom they have an arrangement with has appointment times available on a particular day.

In addition, the draft language requires that "the physician or practitioner documents in the medical record of the individual that the mental health telehealth services are appropriately coordinated with other services recommended by the primary care physician or practitioner for the overall treatment of such individuals." However, the telemental health practitioner may not always have information about a patient's primary care provider. With that in mind, we urge you to clarify this requirement would only apply if the patient has provided the practitioner with his or her primary care provider's contact information.

AHA supports expanding beyond physicians and limited non-physician practitioners the types of providers who can deliver and bill for telehealth services. This could help to alleviate barriers to accessing services in many areas of the country.

Prior to the COVID-19 pandemic, research and user experience under the Medicare program suggested the overstated nature of policymakers' concerns about increased access to telehealth leading to increased spending, particularly when weighed against the potential benefits in quality, patient experience and efficiency. The sharp increase in telehealth utilization during the pandemic has provided an opportunity to study a wealth of new telehealth-related data. We appreciate the Finance Committee's focus in this area and its call for reports that will help to better inform such policies going forward.

The nationwide patchwork of state licensure requirements continues to stymie telehealth's most useful and efficient application. CMS granted some licensure flexibilities during the pandemic for Medicare coverage, which will expire when the PHE declaration ends. However, these flexibilities did not address differences in states' licensure requirements for the actual practice of medicine. Thus, the AHA appreciates the Committee's continued focus on this complicated issue.

ADDITIONAL TELEHEALTH CONSIDERATIONS

The AHA is pleased that Congress took an important first step earlier this year by enacting legislation that includes provisions to extend and expand telehealth flexibilities for 151 days after the end of the COVID-19 public health emergency. We are grateful for the increased flexibility and continue to urge Congress to make those waivers

permanent as a means for protecting access to vital telehealth services in every community.

We appreciate the Finance Committee's focus on the critical issues of telehealth and mental health. We look forward to continuing to work with you on these provisions and improving access to care for patients.

Sincerely,

/s/

Stacey Hughes
Executive Vice President