ABHW
Association for Behavioral Health and Wellness
Advancing benefits and services in mental health, substance use and behavior change.

August 19, 2015

The Honorable Bill Cassidy
United States Senate
703 Hart Senate Office Building
Washington, DC 20510

The Honorable Chris Murphy
United States Senate
136 Hart Senate Office Building
Washington, DC 20510

Dear Senators Cassidy and Murphy:

The Association for Behavioral Health and Wellness (ABHW) thanks you for your leadership on S. 1945, the Mental Health Reform Act. We appreciate your prioritizing a reformation of the nation's mental health system and are thrilled to see such a large comprehensive mental health bill in the Senate.

ABHW is the national voice for companies that manage behavioral health and wellness benefits. ABHW member companies provide specialty services to treat mental health, substance use, and other behaviors that impact health to approximately 150 million people in both the public and private sectors. ABHW and its member companies use their behavioral health expertise to improve health care outcomes for individuals and families across the health care spectrum.

In particular, we are glad that you have included provisions to clarify HIPAA rules by educating providers, lift the IMD exclusion, integrate physical and mental health, and allow patients to use mental health services and primary care services at the same location on the same day.

We are also especially pleased to see you have addressed 42 CFR Part 2 (Part 2) in your legislation. We do, however, encourage an even stronger approach. As you know, Part 2 creates barriers to integration of behavioral and physical health. Obtaining multiple consents from the patient is challenging and creates barriers to member-centric, integrated approaches to care, which are part of our current health care framework. In addition, individuals with substance use disorders will often go to different providers so they can obtain multiple prescriptions for medications to which they are addicted. Without access to a patient's record, this behavior is hard to detect and treat. The current consent requirements in Part 2 make coordination of care extremely challenging, if not impossible. ABHW recommends aligning Part 2 with the HIPAA privacy rule to allow transmission of Part 2 data without written consent for the purposes of treatment; payment; and healthcare operations.

ABHW member companies have been implementing parity and recognize that a GAO study detailing the extent to which plans comply with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and a report on investigations regarding parity in mental health and substance use disorder benefits will help further educate people on the intent of parity and ensure parity compliance.

We believe some of the language in S. 1945 goes too far in adding increased parity requirements. Specifically, additional regulations or sub-regulatory guidance that mandates "disclosure requirements include a report detailing the specific analyses performed to develop a compliance review of the requirements of MHPAEA" is problematic. These analyses are very technical, and utility to the consumer is limited. Additionally, these analyses include companies' proprietary information.

The following section in the legislation that details disclosure requirements around non-quantitative treatment limitations is also troublesome. ABHW member companies are conducting these analyses, but the content is so technical that anyone outside of a regulatory or a plan regulatory expert would not be able to meaningfully interpret this to understand if a plan is in violation of parity. The time and cost it would take to compile these supporting documents each time they were requested would be very burdensome.

We would also encourage the de-identification of any health plans and plan sponsors in any information that is made public. Identifying these entities is unnecessary and could result in an unfair disadvantage in the marketplace.

Finally, we thank you for including telehealth child psychiatry access grants in S. 1945. We would, however, like to see a further expansion of access to telehealth services. Telehealth services have been proven to drive important advancements for our patients, expand access to care, improve health outcomes, reduce the inappropriate use of psychotropic medications, overcome the stigma barrier, and cut costs. Telehealth has the ability to reach a broad range of behavioral health consumers, including patients who reside in areas where there is a shortage of behavioral health providers. Under section 1834(m) of the Social Security Act, Medicare pays for telehealth services when the service is furnished by an eligible practitioner; a patient is located in an originating site; and the originating site is in a rural area. Eliminating the originating site and geographic restrictions to Medicare reimbursement, increasing the list of eligible providers, addressing state regulations and licensure issues, and lessening the barriers created by the Ryan Haight Act would improve access to and quality of care for people with behavioral health needs.

We look forward to working with you to improve this legislation and ensure passage of a bipartisan bill that will improve the nation's mental health system. Rebecca Murow Klein will be in touch with your offices to further discuss these issues.

Sincerely,

Pamela Greenberg

Pamela Greenberg
President and CEO, ABHW