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

September 17, 2015

The Honorable Fred Upton, Chairman
Energy and Commerce Committee
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone, Ranking Member
Energy and Commerce Committee
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Upton and Ranking Member Pallone,

The Association for Behavioral Health and Wellness (ABHW) thanks you for your commitment to mental health reform. As you work on drafting a comprehensive mental health bill, ABHW would like to offer recommendations of priorities our member companies would like to see included in final legislation.

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.

42 CFR Part 2

ABHW strongly urges you to use this opportunity to consider reforming 42 CFR Part 2 (Part 2). Part 2 creates barriers to integration of behavioral and physical health. Information about an individual's substance use disorder (SUD) is not permitted to be shared with the entire medical team treating that person unless a consent form has been signed for each and every one of those providers. This may lead to a doctor treating a patient and writing prescriptions for that individual without knowing the person has a SUD.

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 population that falls under the current regulations often has numerous health issues and would benefit the most from coordination of care and the integrated approaches to care that are available to all other populations. The current consent requirements in Part 2 make these goals extremely challenging, if not impossible.

Because the regulations do not take into account the current model for health care delivery and ultimately create barriers to a medically needy population, ABHW believes Part 2 needs to be revised. The language in Title IV of H.R. 2646, the Helping Families in Mental Health Crisis Act, would be a significant step forward in eliminating these hurdles. We would support this language if it specifically

lists health plans as an integrated care arrangement. Ideally, ABHW would like to see an even stronger approach to reforming Part 2 by aligning it with the HIPAA privacy rule to allow transmission of Part 2 data without written consent for treatment; payment; and healthcare operations. However, we understand this approach may not be politically feasible at this time.

Telehealth

With a behavioral health workforce shortage across the country, a comprehensive mental health bill would not be complete without addressing this issue. ABHW is pleased with the range of relevant grant programs in the various mental health bills currently in Congress; but we would like to see more of a focus on the expansion of access to telehealth services, especially as a way to tackle the workforce shortage.

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. In order to improve access to and quality of behavioral health care, ABHW recommends including the following in your bill: 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.

Parity

ABHW has supported mental health and addiction parity for over 15 years. As an original member of the Coalition for Fairness in Mental Illness Coverage, a coalition developed to win equitable coverage of mental health and addiction treatment through the enactment of federal mental health parity legislation, ABHW was closely involved with the development and passage of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and was present during the negotiations of the final bill that became public law.

ABHW member companies have been implementing parity and recognize that existing requirements related to the disclosure of plan information need clarification from the Departments of Labor and Health and Human Services. ABHW understands that a GAO study detailing the extent to which plans comply with 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 help ensure parity compliance.

As you review current mental health legislation to determine the best approach to ensuring parity compliance, ABHW urges you to avoid the inclusion of Section 903 in S. 1945, the Mental Health Reform Act, as it 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. ABHW strongly opposes the inclusion of language that would mandate onerous disclosure requirements. We 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.

Behavioral Health Information Technology

Fewer than half of behavioral health providers possess fully implemented Electronic Health Record (EHR) systems. When Congress passed the HITECH Act in 2009, it left out behavioral health providers. On average, IT spending in behavioral health organizations represents 1.8% of total operation budgets – compared with 3.5% of total operating budgets for general health care services.

ABHW member companies try to coordinate behavioral health care with an individual's medical care and use clinical outcomes to help measure the effectiveness of the consumer's treatment. EHRs help facilitate integrated care, enhance e-prescribing, and track clinical outcomes. These benefits are lost if behavioral health providers are behind on EHR implementation.

We are supportive of the following legislation that was introduced in the U.S. Senate and House of Representatives in the 113th Congress to extend health information technology assistance eligibility to more mental health and substance use disorder professionals and facilities: the Behavioral Health Information Technology Act, S. 1517; the Behavioral Health Information Technology Coordination Act, S. 1685; and the Behavioral Health Information Technology Act of 2013, H.R. 2957. We would support the inclusion of Title VII in H.R. 2646, the Helping Families in Mental Health Crisis Act, in your mental health legislation.

We look forward to working with you on a comprehensive mental health bill. If you have any questions or would like more information, please contact Rebecca Murow Klein at klein@abhw.org or (202) 449-7658.

Sincerely,

Pamela Greenberg

Pamela Greenberg,
President and CEO, ABHW