



November 1, 2019

The Honorable Greg Walden
Republican Leader
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Michael C. Burgess, M.D.
Republican Leader, Subcommittee on Health
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Brett Guthrie
Republican Leader, Subcommittee on Oversight
and Investigations
Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Republican Leader Walden, Republican Leader Burgess, and Republican Leader Guthrie:

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to respond to the Committee on Energy and Commerce's request for information on substance use disorder (SUD) treatment.

ABHW is the national voice for payers that manage behavioral health insurance benefits. ABHW member companies provide coverage to approximately 200 million people in both the public and private sectors to treat mental health, SUDs, and other behaviors that impact health and wellness.

ABHW members have witnessed firsthand the fraud in some SUD treatment facilities in areas of licensure, accreditation, administrative and billing practices, quality, and enrollment. Our comments below outline the problems ABHW members have experienced with fraud and abuse as well as offer ideas to improve the quality of SUD treatment. These fraudulent activities usually occur in out-of-network SUD facilities and the inappropriate care they provide can have dire, and sometimes fatal outcomes.

Recovery Homes

ABHW supports the notion that recovery housing should have a clear operational definition that accurately delineates the type of services offered. While recently released guidelines by the Substance Abuse and Mental Health Services Administration (SAMHSA) encourage this, we believe additional oversight needs to be identified to truly hold unethical treatment centers accountable.

Efforts to address this issue should explicitly state that recovery homes are not treatment programs and individuals do not receive treatment at a recovery home. Additionally, it should be made clear that recovery homes can be a component of an individual's treatment and recovery and that any necessary treatment will be accessed in other settings and that all services should be coordinated. This level of specificity is critical so that recovery homes can be evaluated by consumers, providers, accrediting bodies, government, and payers. A clear delineation will help everyone know what to expect.

Licensure and Accreditation

While licensing is a function under state and other local jurisdictions, efforts are needed to ensure that all facilities are licensed and fully accredited to provide SUD treatment. ABHW members have found that some facilities do not have a valid license, a license does not exist at the address provided, a license is not for services being advertised, and/or the facility may be providing services for which they are not licensed.

Additionally, it is critical that facilities adopt quality standards and be held accountable to those standards through accreditation. Standards should take into account that there are several levels of care within the recovery housing model, each with different oversight needs.

Administration and Billing Practices

As more funding is directed toward treating SUDs it has drawn the interest of private equity and other profit driven providers. Several important clinical and billing issues need to be addressed. ABHW members have identified that fraudulent facilities may bill for the same diagnosis, same procedures, same units for every member, every day. Additionally, there is often misrepresentation of billed services such as an inpatient/hospital bill, but the facility is residential or intensive outpatient. These providers are often unable to substantiate billed services and lack adherence to federal and state regulations, policies, and/or procedures.

Quality

ABHW member companies continue to grapple with fraudulent claims and identifying deceptive practices. While there are efforts to roll back prior authorization, these and other utilization review tools are important to help ensure that patients aren't being preyed upon by fraudulent providers. These managed care techniques help provide checks and balances to ensure quality treatment and patient protections. ABHW member companies have identified improper practices such as, treatment not being rendered by a medical professional, inappropriate medical supervision of SUD treatment programs, clinical information provided during prior authorization is unclear or vague, excessive use of medically unnecessary services, unlicensed personnel rendering services, and facilities billing for levels of care that they are not licensed to perform.

Quality standards, best practices, and model policies need to be identified and widely disseminated and adopted to ensure individuals have appropriate and accurate information to make treatment decisions. Additionally, this will give payers a full picture of the medically necessary services rendered under appropriately licensed medical professionals. This will ensure the appropriate level of care and treatment needed to produce positive health outcomes and protect patients struggling with SUDs.

Enrollment

Patient brokering continues to be a part of fraudulent practices in pockets of the SUD treatment industry. This activity often results in kickback payments and targeting patients through deceptive marketing and advertising practices with paid travel and incentives to enroll in treatment, often outside of their state of residence and out-of-network. Once an individual is enrolled, facilities often bill for treatments, tests, and other services or procedures that may or may not be clinically appropriate and may not even be provided. We encourage efforts to identify this fraudulent behavior and procedures for law enforcement to address it in a timely manner.

ABHW is committed to working with Congress, the Administration, health care providers, and other stakeholders to shed light on this issue, prevent fraud, and protect patient lives.

Additional SUD Policies

ABHW is fully committed to addressing SUDs. In particular we are interested in curbing the opioid epidemic and supporting a continuum of evidence-based, person-

centered care to treat individuals with an opioid use disorder (OUD), including medication assisted treatment (MAT). Our members work to identify and prevent addiction where they can; and where they cannot, they help individuals get treatment so that they can recover and lead full, productive lives in the community. As you continue your work to address SUDs, we encourage you to consider the following additional policy and legislative proposals.

42 CFR Part 2

ABHW is committed to aligning 42 CFR Part 2 (Part 2) with the Health Insurance Portability and Accountability Act (HIPAA) for the purposes of treatment, payment and health care operations (TPO) to allow appropriate access to patient information that is essential for providing whole-person care while protecting patient privacy.

The Overdose Prevention and Patient Safety (OPPS) Act, H.R. 2062, promotes coordinated care and expanded access to treatment. As you continue your work to address SUDs, we highlight the importance of including H.R. 2062, in any legislative health package that is considered on the House floor this year. The OPPS Act would align Part 2 with HIPAA to allow for the transmission of SUD records for the purpose of TPO as well as enhance patient privacy and anti-discrimination protections. Only then can we promote integrated care and heightened patient safety, while providing health care providers with one federal privacy standard for all of medicine.

The recent Confidentiality of Substance Use Disorder Patient Records Notice of Proposed Rulemaking, issued by SAMHSA, proposed some helpful changes to patient consent, and clarified the ability of non-Part 2 providers to segregate any patient records received from Part 2 programs in order to avoid subjecting their own records to Part 2. The proposed rule did not address aligning Part 2 with HIPAA for the purpose of TPO. As a result, it remains important for you to consider H.R. 2062.

Expanding Access to Care and Addressing Workforce Shortages

We thank you again for your leadership and efforts to ensure a sustainable workforce to meet the behavioral health needs in communities across the country. Expanding access to care by addressing workforce shortages and barriers that limit available providers to treat addiction can improve health outcomes, overcome stigma, and reduce costs. Given that approximately 1 in 5 adults have a mental illness and 1 in 12 have a SUD, and the fact that there is a growing shortage of behavioral health providers to respond to this significant need for services, addressing these barriers is vital to help address this growing need for ready and timely access to necessary treatment. Increasing the number of mental health professionals in communities will help confront the behavioral health workforce shortage that hinders so many individuals and families from accessing care.

ABHW recommends eliminating the DEA X waiver to prescribe buprenorphine. It is important to remove regulatory hurdles to help reduce unmet needs for addiction treatment. In many areas our members find it hard to locate a provider willing to provide treatment to the consumers they serve. Addressing this barrier would allow more providers to prescribe medication for opioid use disorder and help individuals overcome addiction.

ABHW also advocates expanding access to treatment by addressing workforce shortage issues. In particular, we propose expanding the number of residency positions to treat addiction, increasing access to a wide variety of behavioral health providers such as licensed counselors and marriage and family therapists, and incentivizing mental health professionals to serve in workforce shortage areas. These steps will improve SUD treatment and help curb the opioid epidemic.

Thank you for the opportunity to comment on this important issue. We look forward to working with you to identify solutions and ensure quality, evidence-based SUD treatment in communities across our nation. Please feel free to contact Maeghan Gilmore, Director of Government Affairs at gilmore@abhw.org or 202.449.7658 with any questions.

Sincerely,



Pamela Greenberg, MPP
President and CEO