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**Executive Committee Call**

**Monday, May 8, 2023**

**Minutes**

**Roll Call**

Present: Members: Harsh K. Trivedi, board chair; Mark Covall, Frank Ghinassi,

John Hollinsworth Eric Kim, Dwight A. Lacy, Jameson K. Norton Eric Paul, Matt Peterson, Eric Paul, Deborah A. Weidner

Staff: Shawn Coughlin, Rochelle Archuleta, Jessica Zigmond

Absent: Members: Eric Kim

Staff: Maria Merlie, Sarah Wattenberg, Emily Wilkins

1. **Minutes Approval: April 10 Executive Committee Call**

Harsh asked for a motion to approve; a move was made and seconded. All approved the April 10 minutes unanimously.

1. **Legislative Update**

Shawn reported that several NABH priorities are developing:

* BHIT: NABH has worked with Sen. Markwayne Mullin (R-Okla.) to introduce a legislative proposal to extend incentive payments to behavioral healthcare providers for electronic health records. Sen. Mullins’s office is looking for a Democratic co-sponsor for this bill. NABH shared this language with our Government Relations Network and have incorporated feedback. Shawn said we hope to see this bill drop in the coming weeks. In the House, Rep. Matsui (D-Calif.) is following Mullins’s lead.
* IMD Exclusion: The Congressional Budget Office (CBO) provided a range of scores to House Energy and Commerce (E&C) Chair Cathy McMorris Rodgers (R-Wash.). Shawn added that CBO rarely provides scores and does so if there is a pending legislative proposal about a certain issue. Some highlights from the CBO report include:
* Eliminating the IMD exclusion for mental health disorder treatment would increase Medicaid expenditures by $33.5 billion between 2024-2033.
* Eliminating the IMD exclusion for SUD treatment would increase net Medicaid expenditures by $7.7 billion between 2024-2033.
* Eliminating the policy for both types of care would increase costs by a net of $38.4 billion for that timeframe.
* Extending the state plan option permanently with no changes would lead to a $540 million increase in costs over that 2024-2033 period.
* Making the option permanent but increasing the number of days eligible for reimbursement from 30 to 60 days would increase costs by $570 million. Making it permanent but restricting reimbursement to facilities with 17-39 beds would increase costs by $155 million.
* Rep. Donald Norcross (D-N.J.) is planning to introduce the *Parity Enforcement Act.* We understand the bill would include the same language we saw and approved last year.
* Congress has focused on workforce issues. There are a few bills being introduced:
  + *SAVE Act* by Rep. Larry Bucshon, M.D. (R-Ind.): This would establish violence across healthcare workers a federal crime, consistent with existing laws for violence against flight crews. This would apply to all healthcare workers, not solely behavioral healthcare workers, and both AHA and HALO support it. Previously, NABH supported it generally; however, Shawn said the association has been cautious because NABH doesn’t want any actions that could further criminalize behavioral healthcare patients.
  + Deborah Weidner said patients are already stigmatized. Deborah’s organization Hartford (Conn.) HealthCare has introduced “Mutual Care-Mutual Respect,” so the system has language related to escorting patients outside the building. Deborah said she supports protecting the behavioral healthcare workforce; however, she is concerned what will happen to patients who are already stigmatized. Deborah encouraged using the appropriate language—either language of caution or language of exclusion.
  + Eric Paul asked if Shawn knows what “special privileges” would be. Shawn said he doesn’t have specific recommendations and said this is why he wants to hear from the EC what is appropriate so that we don’t further criminalize behavioral health patients. He suggested included language around educating staff about trauma training and de-escalating.
  + Sen. Maggie Hassan (D-N.H.) expects to introduce [*Gateways to Careers Act*,](https://www.hassan.senate.gov/news/press-releases/senators-hassan-young-collins-kaine-introduce-bipartisan-gateway-to-careers-act-to-expand-job-opportunities-and-strengthen-innovative-businesses) which would support developing partnerships with workforce
* NABH hosted its second Government Relations Network call last week and urged NABH members to educate members of the House E&C Committee about concerns regarding legislation from Rep. Norcross and Sen. Edward Markey (D-Mass.). NABH created talking points for members.
* Shawn also highlighted the association’s recent Contingency Management fact [sheet](https://www.nabh.org/nabh-contingency-management-fact-sheet/) that he discussed with the Government Relations Network and was introduced to the full membership in *CEO Update* on April 7.
* Shawn asked members who met with Kennedy Forum founder and former Rep. Patrick Kennedy in Cape Cod to discuss parity. Harsh said Stuart Archer from Oceans: Rogers, Sheppard, Summit, Acadia. He said the conversation focused on how the Kennedy Forum can be a convener to align folks to move mental health policy forward. There was a “visioning session” to determine priorities ahead. Everything from the general (190-day, IMD) to the specific (conditions of participation). Harsh said he thinks Kennedy sees this as a five-to-10 year play. Matt Peterson added that they talked strategically long term, and then about 2-3 things that can be done in the short term. He said there seems to be a lot of energy in both the short and long terms and overall the right dialogue. Harsh also added this is most likely the first of several discussions such as this one.

1. **Regulatory Update**

Shawn said NABH has convened members to kick off our comment development process. There are ongoing discussions about this and the NABH Quality Committee will meet tomorrow to discuss this.

Rochelle Archuleta reported that a workgroup discussion last week, some priorities are ongoing cost pressures and the modest increase doesn’t align with those pressures. In addition, the rule asks if all-inclusive reporting.

Rochelle said NABH probably won’t have a firm recommendation by June 5. Shawn added that MedPAC asked Shawn to be a reviewer for its draft recommendations in the commission’s chapter on how Medicare covers behavioral healthcare. Shawn said MedPAC doesn’t have the data it needs to make appropriate recommendations.

Other regulatory updates:

* CMS has conflicting messages about telehealth services for PHP and IOP. The PHE ends May 11. Most groups thought all Medicare telehealth flexibilities were extended, and then the *Consolidated Appropriations Act, 2023* extended those further through Dec. 31, 2024. CMS has indicated that it might stop telehealth for PHP and IOP on May 11. The agency’s guidance on this does not address the issue adequately. We have expressed concern and drafted a letter to CMS about this. There has been some discrepancy and disagreement between CMS leaders and CMS career staff, so we have been encouraged not to send the letter just yet. John Hollinsworth asked if there has been word on IOP, given that it’s likely PHP will not be covered. Rochelle said we are “cautiously optimistic” about this coverage remaining.
* Shawn reported the two managed care proposed rules.: Ensuring Access to Medicaid Services and Managed Care Access, Finance, and Quality. Among other provisions, the rules would establish standards for appointment wait times for managed care enrollees; require states to conduct independent “secret shopper” surveys to verify compliance with wait times and to identify where provider directories are inaccurate; create new payment transparency requirements for states to provide greater insight into how Medicaid payment levels affect access to care. Shawn added this follows the Medicare Advantage rule discussed during the previous EC call.
* The Joint Commission (TJC) recently began a [field review](https://www.jointcommission.org/standards/standards-field-reviews/proposed-requirements-related-to-workplace-violence/) to gather feedback from behavioral healthcare providers regarding their thoughts on the TJC’s 2022 requirements regarding workplace violence. The review is also intended to examine how behavioral healthcare organizations are experiencing, preventing, and monitoring workplace violence.
* Vaccine mandate ends with the PHE on May 11.
* Secretary Becerra announced FindSupport.gov last week; NABH announced this in the May 5 issue of *CEO Update.*

1. **NABH 2023 Annual Meeting Update**

Shawn said the staff has started tracking registration weekly and registration is tracking in line with recent years. If you haven’t registered yet, please do so.

Secretary Becerra will join us on Monday, June 12. Also, Hill Day has returned for the first time in four years (2019) and is scheduled for Tuesday, June 13. Please indicate your interest when you register.

1. **NABH Operations Update**

NABH is looking for a director of congressional affairs. This is a new position following the departure of Julia Richardson. This position does not include the “senior counsel” role.

In the interim, Shawn re-negotiated NABH’s contract with Thorn Run Partners.

Shawn shifted the meeting to Board Chair Harsh Trivedi at 3:59 p.m. for the EC to discuss item #VI on the agenda:

Bonus Metrics Proposal.