

**NABH Executive Committee Conference Call**

**Monday, Dec. 13, 2021**

**3 p.m. ET**

**Minutes**

**Roll Call**

Present: Members: Jameson Norton, Board Chair; Frank Ghinassi, Pat Hammer, John Hollinsworth, Eric Kim, Mark Covall

Staff: Shawn Coughlin, Kirsten Beronio, Maria Merlie, Julia Richardson,

Sarah Wattenberg, Emily Wilkins, Jessica Zigmond

Absent: Tom Kenny, Matt Peterson, Dominic Sirianni

1. **Minutes Approval: Nov. 8 Executive Committee Call**

NABH Board Chair Jameson Norton asked for a motion to approve the November minutes. A motion was made and seconded. There was no discussion. Members approved the Nov. 8 Executive Committee call minutes unanimously.

1. **NABH 2022 Budget**

The NABH Finance Committee approved NABH’s 2022 budget. Executive Committee members received copies of the budget and Shawn Coughlin’s budget justification in an e-mail message from Maria Merlie on Friday, Dec. 10. Shawn Coughlin reported that dues revenue has flat this past year, which the association attributes in large part to the effects of the pandemic.

Shawn said he estimates that dues will decrease by about 1% in 2022. Shawn said NABH has reduced salaries because the association didn’t fill the spot that John Snook vacated in September 2021. Instead, the association hired lobbying firm Thorn Run partners to meet this need.

Mark Covall moved and Pat Hammer seconded a motion to approve the proposed 2022 budget. There was no discussion. Members approved the proposed 2022 budget unanimously.

1. **2021 Legislative Wrap-Up**

Congress approved the Continuing Resolution to keep the federal government operating through February 2022. The Medicare cuts that were expected to take effect on Dec. 31 were delayed.

Congress will consider the debt ceiling this week and then turn to the Defense Authorization Act. This leaves the $1.7 trillion *Build Back Better Act*. Senate Majority Leader Schumer has said he wants to pass this piece of the Biden administration agenda by Christmas.

1. **Regulatory Wrap-Up**

Kirsten Beronio discussed the regulations regarding surprise medical billing in the *No Surprises Act.* The Biden administration has issued two sets of rules implementing the *No Surprises Act* that was enacted late last year (as part of the Consolidated Appropriations Act).The first set of rules (as interim final rule) was issued in July and the second round of rules in October with comments due on Monday, Dec. 6.

Surprise billing focuses on setting limits on cost-sharing for patients for emergency services and non-emergency services by non-participating providers working in a participating facility -- basically limiting cost-sharing for patients in these situations to in-network levels and prohibiting non-participating providers from balance billing patients in these situations except in certain circumstances:

* Provider meets requirements for notice and consent to balance bill
* Notice and consent is allowed for mental health providers since they were not included in definition of ancillary services for which notice and consent to balance bill is not allowed

In situations involving a non-participating provider, the law calls for certain processes to determine appropriate reimbursement by patients’ healthcare insurer or plan.

NABH submitted comments during the first round of rulemaking expressing concerns in general on the impact on behavioral health providers.

The second round of rulemaking focuses on resolution of appropriate payment by insurers to non-participating providers through an independent dispute resolution process, as well as rules regarding provision of good faith estimates of cost and dispute resolution process when actual costs are above those estimates.

NABH’s comments focused on provision in the interim final rule that directs the IDR entity to use the median in-network payment rate as the starting point, whereas Congress listed a number of additional factors to be considered.

Kirsten also reported that CMS recently requested comment for a few new quality measures in the IPFQR. Some of the NABH’s members are on the agency’s Technical Expert Panel and NABH submitted comments reinforcing the concerns that they raised.

In addition, NABH is engaged with CMS regarding telehealth. Recently Congress and the administration have been pro-active in indicating that Medicare will continue to cover telehealth services for mental health and SUD and include audio-only services. NABH is working to make sure CMS knows that some partial hospitalization services are not available in every state.

Sarah Wattenberg reported that the unified regulatory agenda from HHS will work on three rules: one will extend methadone to take-home, one related to buprenorphine, and one is related to the *CARES Act* requirement known as Part 2.

1. **Vaccine Mandate Litigation**

Shawn said all three Biden administration mandates that affect the private sector for Covid-19 vaccine mandates are on hold. NABH is watching this closely.

1. **2022 Congressional Outlook**

Shawn said NABH’ biggest opportunity is the Senate Finance Committee’s RFI on improving access to mental health and SUD treatment. Sen. Widen has made several statements that as soon as *Build Back Better Act* is completed, he intends to shift to mental health and SUD.

Shawn reminded the EC that NABH submitted comments to the Senate Finance Committee following the request earlier this year.