

National Association
for Behavioral Healthcare

Access. Care. Recovery.



NABH 2018

LEGISLATIVE AND REGULATORY PRIORITIES

ACCESS

Healthcare Coverage

Health insurance is vital to ensuring that all Americans can access the right care, in the right setting, at the right time. Insurance coverage is particularly important to the millions of people who experience mental illnesses and substance use disorders (SUDs). Having access to coverage for mental health and SUDs—in the same way coverage exists for general healthcare—makes the overall healthcare system more cost-effective. Today at least 62.5 million Americans have coverage for mental and SUDs.

NABH Action

NABH is working to build on this progress by protecting health insurance coverage and maintaining health insurance requirements that have proven to improve access. This includes plans that extend family coverage for individuals up to the age of 26; prevent insurers from discriminating based on preexisting conditions; and assure coverage for mental health and substance use disorders.

IMD Exclusion

The Medicaid Institutions for Mental Diseases (IMD) exclusion prevents adult Medicaid beneficiaries (ages 21-64) from accessing short-term, acute behavioral healthcare in psychiatric hospitals and other residential treatment facilities with more than 16 beds. Eliminating the IMD exclusion would give states flexibility and allow Medicaid beneficiaries to receive cost-effective, efficient, and high-quality treatment.

NABH Action

NABH is working on legislative and regulatory solutions to reduce the burden of the IMD exclusion, such as making changes to the Medicaid managed care rule and expanding 1115 waivers.

190-day Lifetime Limit

Medicare beneficiaries are limited to only 190 days of inpatient care in a psychiatric hospital in their lifetimes. No other lifetime limits exist in Medicare for any other type of inpatient care. Eliminating the Medicare 190-day lifetime limit for psychiatric hospitals would expand beneficiary choice, increase access for the most seriously ill, improve continuity of care, create a more cost-effective Medicare program, and align Medicare with parity, the standard required for all other insurance plans.

NABH Action

NABH has endorsed Rep. Paul Tonko's (D-N.Y.) *Medicare Mental Health Inpatient Equity Act* (H.R.2509) to repeal the 190-day lifetime limit.

Parity

Although regulations for the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act* (MHPAEA) became effective eight years ago, there are still too many examples in which parity does not exist. A recent report from Milliman found that on average 31.6 percent of outpatient behavioral healthcare was provided out of network, while only 5.5 percent of outpatient medical/surgical care was provided out of network. At the same time, the rate for out-of-network office visits was 18.7 percent for behavioral healthcare and 3.7 percent for medical/surgical care.

NABH Action

NABH sees these as potential parity violations and is working to enforce bipartisan parity laws. That includes the *Behavioral Health Transparency Act*, which would increase annual audits of health plans who have more than four previous parity violations.

Partial Hospitalization

Nearly 45 percent of NABH members offer psychiatric partial hospitalization (PHP) services as either a transition from a hospital program or as an alternative to inpatient care. Recently the Centers for Medicare & Medicaid Services (CMS) considered establishing a 20-hour per week requirement (based on attendance) as a measure of "clinical intensity" for a PHP program. However, there are no data that show this is an appropriate metric for clinical intensity in a PHP.

ACCESS

NABH Action

NABH is working with CMS on this issue and recommends the agency establish an appropriate measure of clinical intensity for PHPs.

Helping Americans Seek Treatment Act (H.R. 4769)

The Substance Abuse and Mental Health Services Administration (SAMHSA) has created the National Helpline, a free, confidential, substance use treatment referral and information service for individuals and families facing mental and/or SUDs. Although the National Helpline is available 24 hours a day, seven days a week, not many people know about this resource and it is not being used as widely as it could be.

NABH Action

NABH has endorsed legislation from Rep. Tom Marino (R-Pa.) that would establish a national campaign to increase awareness about the National Helpline.

ADDICTION

Opioid Crisis

The nation's opioid crisis is one of the worst behavioral health challenges the United States has faced. More Americans died in a single year by drug overdoses than the total number of Americans killed during the Vietnam War.

NABH Action

NABH is pursuing legislative and regulatory solutions to the crisis, many of which were included in the final report from the President's Commission on Combating Drug Addiction and the Opioid Crisis. These include removing reimbursement and policy barriers to SUD treatment, increasing parity enforcement authority at the U.S. Labor Department, revising policies to allow SUD treatment via telemedicine, and expanding medication-assisted treatment (MAT) at all levels of care.

42 CFR Part 2

Federal regulations dating from the 1970s—commonly referred to as 42 CFR Part 2 or “Part 2”—currently govern the confidentiality of patient records maintained by substance use treatment programs. Part 2 is more stringent (i.e., privacy-protective) than the *Health Insurance Portability and Accountability Act* (HIPAA) and when applied to the current digital era, the regulations prevent healthcare integration and risk endangering patients.

NABH Action

NABH supports reforming Part 2 to improve information sharing while protecting individuals from using medical records in criminal, civil, and administrative prosecution and discrimination. NABH has endorsed the *Overdose Prevention and Patient Safety Act* (H.R. 3545) and the *Protecting Jessica Grubb's Legacy Act* (S.1850).

Medicare Beneficiary Access to Addiction Treatment

According to the *Journal of the American Medical Association*, “the population that uses Medicare... has among the highest and most rapidly growing prevalence of opioid use disorder, with more than 6 of every 1000 patients diagnosed and with hospitalizations increasing 10 percent per year.” But while Medicare parts A and D cover methadone, part B does not cover methadone as an outpatient treatment for opioid addiction.

NABH Action

NABH has endorsed legislation that would allow Medicare beneficiaries to access critical methadone treatment under Medicare part B in outpatient settings.

QUALITY

Quality and Outcome Measures

NABH and our member organizations have worked closely with CMS, accrediting agencies, consumers, and other stakeholders to develop and support innovative performance metrics. Our association was one of the original organizations that spent more than 10 years helping to develop the Hospital-Based Inpatient Psychiatric Services (HBIPS) measures that were among the first CMS performance measures in the Inpatient Psychiatric Facility Quality Reporting (IPFQR) program.

NABH Action

NABH continues to engage with partners and CMS to ensure all performance measurement and outcomes data-collection are used to improve the effectiveness and efficiency of patient care; focus on indicators that provide the most useful clinical and operational data possible; focus on indicators that support actionable steps that fall within the scope of responsibility and accountability of the organization being measured; provide value in the data generated that is in proportion to the intensity of the data-collection effort; and have the potential for being used to measurably improve the processes, outcomes, efficiency, and patient experiences of the care being delivered.

Regulatory Relief

The burden of data collection and reporting that the IPQR program requires has exceeded, in many aspects, the measure set's proven clinical value. Compounding the problem, behavioral healthcare providers primarily manage their data on paper due to a lack of electronic health records (EHRs). For instance, a conservative estimate of the number of data points required to be documented, abstracted, and reported for each patient is 44, which does not include the requirements for demographic data, diagnosis codes (which may be as many as 25 elements per patient), and procedure codes. Providers who do not fulfill all of these elements will be considered non-compliant. Yet, some of these measures are not appropriate for specialty behavioral healthcare in an inpatient setting and could be accomplished in an outpatient setting or in the community. In addition, these measures have a negative effect on patient care, as healthcare professionals spend more time reporting and less time treating patients.

NABH Action

NABH encourages CMS to convene a group of experts from the field to discuss a series of possible changes to IPFQR program to better align the measure reported, the clinical services provided, and the patient outcomes desired by the program.

Ligature Risk

Limiting the risk of suicide, including within a healthcare facility, is a top priority for every hospital that treats patients with mental health conditions. Hospitals apply best practices and the latest technology and data to ensure patient safety. However, CMS' new approach to surveying for ligature risk is unclear, unrealistic, unscientific, and risks denying Medicare and Medicaid beneficiaries access to life-saving treatment during one of the worst behavioral health crises in American history.

NABH Action

NABH is working with stakeholders to halt CMS action of any new ligature-risk standard until the agency defines the size and scope of the problem with data; provides a clear explanation of what constitutes a ligature-resistant environment; and engages with the provider community and responds to their concerns constructively.

Alternative Payment Models (APMs)

Various stakeholders, including CMS, are exploring the idea of value-based payment (VBP) arrangements for Medicaid behavioral healthcare services. The goal is to shift from systems that pay for volume of services to APMs that reward high-quality, cost-effective care.

NABH Action

NABH is engaged in the national conversation about VBPs and APMs in behavioral healthcare settings and has developed a list of challenges, guidelines, and next steps for CMS to consider as the agency begins to develop these models.

WORKFORCE

Behavioral Health Workforce

The existing demand for behavioral health treatment exceeds the supply of qualified treatment professionals. Federal projections show the behavioral healthcare workforce will need up to 253,000 workers by the year 2025. People experiencing a mental health crisis or drug overdose face life-threatening conditions. Their conditions can be treated with the appropriate behavioral healthcare. But in many parts of the United States, treatment professionals are not available to provide that care.

NABH Action

NABH encourages Congress to create a streamlined approach to enhancing and expanding the mental health and SUD workforce. This new model should include the full spectrum of treatment professionals, non-professionals, and peer workers along the entire behavioral healthcare continuum so that behavioral healthcare access, treatment, and recovery is within reach for all Americans.

YOUTH SERVICES

The Family First Prevention Services Act

Congress passed this legislation in its early 2018 budget deal, and President Trump signed it on February 9, 2018 to keep families together. However, a provision in the legislation to establish “qualified residential treatment programs” (QRTP) could result in more young Americans in the juvenile justice system, more adults in prison, a larger homeless population, and potentially more suicides.

NABH Action

NABH is working within the legislative and regulatory process to reduce the impact of the QRTP provision.

TECHNOLOGY

Behavioral Health Information Technology

EHRs can improve the quality and efficiency of care substantially. The *Health Information Technology for Economic and Clinical Health Act* of 2009 (HITECH Act), was designed to stimulate EHR adoption by offering providers financial incentives for demonstrating “meaningful use” of EHRs. The law accomplished that goal, but behavioral healthcare providers were prohibited from receiving the incentives. This has resulted in: 1) lower EHR adoption rates, and 2) fewer EHR developers creating systems that apply to behavioral healthcare and are interoperable with general healthcare.

NABH Action

NABH is pushing Congress to extend incentives to behavioral health organizations and has endorsed legislation from Rep. Lynn Jenkins’ (R-Kan.) H.R. 3331 and Sen. Sheldon Whitehouse’s (D-R.I.) S. 1732 that would encourage the CMS and Medicaid Innovation to test models to provide incentive payments to behavioral health providers for adopting EHR technology.

TECHNOLOGY

Tele-behavioral Health

Tele-health is widely accepted as a mechanism that can address provider shortages in some geographic areas. There is significant potential for using tele-behavioral healthcare to address unmet psychiatric and substance use needs. However, outdated laws and regulatory structures have slowed the use of tele-behavioral healthcare and other support services to help people with serious mental illness and SUDs.

NABH Action

NABH is working to update rules that inhibit tele-behavioral healthcare services and revise reimbursement policies to allow behavioral healthcare treatment via tele-behavioral health.

VETERANS

Veteran and Military Healthcare

According to a report from the National Academies of Sciences, Engineering, and Medicine, about 1.7 million veterans from the wars in Afghanistan and Iraq and the Global War on Terrorism have a mental health need, but more than half of them are not receiving any mental health services. Meanwhile, veterans make up less than 9 percent of the U.S. population but account for 18 percent of all suicides. And while active military have lower rates of illicit drug use, they show a higher prevalence for using prescription drugs (mostly opioid pain relievers) and alcohol.

NABH Action

NABH is working to develop a national strategy to address the mental health and SUDs among our nation's veterans. NABH is focused on redesigning the current VA Choice program to increase patient access to care, include veterans' family members in treatment plans, forge greater public/private community partnerships, and increase reimbursement rates for behavioral health services to align with actual costs in certain specialty areas such as mental health and SUD treatment.