

**NABH Executive Committee Call**

**Monday, Aug. 8, 2022**

**Minutes**

**Roll Call**

Present: Members: Matt Peterson, Board Chair; Mark Covall, Frank Ghinassi, Pat Hammer,

John Hollinsworth, Eric Kim, Jameson Norton, Eric Paul, Harsh Trivedi

Staff: Shawn Coughlin, Julia Richardson, Sarah Wattenberg, Emily Wilkins,

Jessica Zigmond

1. **Minutes Approval: July 11 Executive Committee Call**

Mark Covall moved and Frank Ghinassi seconded a motion to approve the July 11 minutes. Members approved the minutes unanimously.

1. **Office Update**

Shawn reported that Rochelle Archuleta will join NABH as executive vice president for government relations and public policy on Sept. 6. Rochelle has spent the last 20 years as a director at the American Hospital Association, where she has worked on post-acute care policy.

1. **Wyden-Murray Letters**

Wyden and Murray sent letters to residential treatment facilities for youth services. Three NABH members received the request. The Senate inquiry is intended to help policymakers and their staff better understand existing practices.

Lawmakers requested information regarding: facility location, licensing, accreditation, services offered; restraint and seclusion practices/training; prevention and response to allegations; funding streams, five years of complaints, inspections, investigations; foster care population served (QRTP compliance); LGBTQ compliance; and educational services for youth.

Shawn said there was not a particular event that led to this; rather, it appears that the inquiry has resulted following stories about abuse and neglect.

Shawn said all three NABH members are working to submit information for this request and we’re watching this closely for next steps. NABH will help and/or provide a statement as necessary.

1. **Legislative Outlook**

Shawn reported that the Senate passed the *Inflation Reduction Act* and the House is expected to vote on the bill this Friday, Aug. 12. The bill includes the ability for the government to negotiate drug pricing and temporary, enhanced *Affordable Care Act* premiums.

Shawn said there a host of re-authorizations for healthcare agencies pending in the Senate.

Shawn added that Republicans have said they weren’t included in the work behind the *Inflation Reduction Act* and will not participate in bipartisan proposals. Shawn said the Senate Finance Committee expects to release a large discussion draft (or drafts) of bills related to mental health issues. In addition, Senate HELP Chair Patty Murray said she is committed more than ever to address SUD and access to treatment.

The Senate is in recess until Sept. 6, and the House returns Sept 13.

For the fall session, funding for a continuing resolution (CR) will likely be the primary focus. In addition, Congress will reauthorize several expiring programs. In addition:

* Senate HELP Committee Chair Patty Murray (D-Wash.) said on July 26 she’s more committed than ever to crafting a bipartisan legislative package that aims to identify and prevent substance use disorder while continuing to make it easier to access SUD treatments.
* The Senate Finance Committee will continue to work on legislative drafts of bills related to mental health services.
* The House Ways and Means Committee is rumored to be developing proposal; however, NABH does not have details.
* The House Energy & Commerce Committee’s bill H.R. 7666: [*Restoring Hope for Mental Health and Well-Being Act of 2022*](https://www.congress.gov/bill/117th-congress/house-bill/7666)
* Meanwhile, Shawn added that the effects of of partisan reconciliation approach unclear and that Republicans have stood down from previous bipartisan efforts.
1. **Regulatory Update**

HHS Secretary Xavier Becerra is expected to extend the Covid-19 Public Health Emergency (PHE) through the mid-term elections and possibly through the end of 2022. The current extension is scheduled to expire on Aug. 15.

In CMS’ final IPPS rule for 2023, CMS is updating the Inpatient Psychiatric Facility (IPF) prospective payment system (PPS) rates by 3.8%, based on the final IPF market basket update of 4.1% minus a 0.3 percentage point productivity adjustment.

CMS expects this adjustment to boost total payments to IPFs by 2.5% — or $90 million — in fiscal year 2023. NABH alerted members about the final rule in the July 29 edition of *CEO Update*.

Sarah Wattenberg reported briefly on CMS’ proposed Physician Fee Schedule (PFS) rule for 2023. Sarah noted that CMS has proposed moving to a PPI measure, which reflects the average change in goods and services. This will yield about a 5% growth rate, Sarah added.

Sarah said the proposed rule also allows for a 45-minute individual therapy session, which NABH supports because it better reflects the treatment provided in OTPs and supports individualized care.

Comments on the proposed 2023 PFS rule are due Sept. 6.

Shawn reported that for the Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) payment rates for calendar year (CY) 2023, CMS has proposed to categorize mental health services to patients in their homes, provided remotely by hospital staff, as a covered outpatient department service under the OPPS. The agency would create specific OPPS coding for the services. In addition, CMS would require an in-person visit within six months before the start of remote visits and then require an in-person visit every 12 months after the initiation of services. The agency also recommends exceptions “based on beneficiary circumstances” and would allow more frequent visits on a case-by-case basis based on clinical need. Notably, beneficiaries may use audio-only services if two-way communication is not available.

For the Partial Hospitalization Program in 2023, CMS has proposed to calculate the community mental health center (CMHC) and hospital-based partial hospitalization program (HB PHP) cost using its existing methodology. However, the agency has proposed to base its calculations on the latest available CY 2021 claims data and continue using CY 2021 cost data that was available during the CY 2021 rulemaking process. Comments due Sept. 13.

1. **988 Rollout**

The new 988 behavioral health crisis hotline received more than 96,000 calls, texts, and chats since it rolled out, a 45% increase since before it was a three-digit number.

1. **CMS Seeks Public Feedback to Improve Medicare Advantage**

Shawn reported that CMS has released a request for information regarding how to make the Medicare Advantage program more affordable, sustainable, and equitable for enrollees, while driving better health outcomes.

The request for public comment comes after the HHS Office of Inspector General identified a pattern of improper coverage denials by Medicare Advantage plans.

CMS said it is looking to increase engagement with both its partners and the communities it serves, encouraging feedback from beneficiary advocates, plans, providers, community organizations, researchers, employers, unions and others.

Comments are due Aug. 31.

1. **CEO Alliance Unified Vision Update**

Some of the Alliance’s vision was incorporated in the *Safer Communities Act*, and the Alliance remains focused on the seven pillars.

The Well Being Trust has decided to return a narrower focus, limited to its activities in Providence, and not at the federal level.

1. ***No Surprises Act* Development**

Shawn said several provider groups have asked the federal government to delay by at least six months its enforcement *No Surprises Act* (NSA) regulations, calling the law’s provisions confusing and difficult to implement.

Eight different providers — all physicians, air ambulances, or hospitals — have sued the government over its first efforts to lay out the specifics of Congress' 2020 law that protects patients from many types of medical bills.

Stakeholders are bracing for the final version of the highly controversial interim final rule related to the independent dispute resolution process hospitals and insurers can use to resolve fights over surprise billing, which is expected to be out any day now that the administration has wrapped up in-person meetings on the rulemaking.

Some provisions of the NSA took effect at the beginning of 2022, including continuity of care protections, protections against balance billing, and requirements to provide good-faith cost estimates to uninsured and self-pay patients.

Meanwhile, some Democrats have asked the Biden administration to extend the NSA to cover more types of facilities, including birthing centers, clinics, hospice facilities, addiction treatment centers, nursing homes, and urgent care centers under the NSA’s purview.

1. **NABH Annual Membership Updates**

We sent a link to the association’s membership-update tool. More categories will help us gather more information about our members to share with legislators, regulators, and members of the media.

NABH has asked members to submit their changes by Friday, Aug. 19.

1. **Fall Board Meeting**

Shawn said NABH’s Fall Board Meeting will be held **Monday and Tuesday, Nov. 14–15, 2022** at the Waldorf Astoria, Washington D.C.