The Joint Commission

May 11, 2022

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Wyden and Ranking Member Crapo:

The Joint Commission appreciates the opportunity to share comments related to the Senate Finance Committee's future mental health legislation and on its report, titled *Mental Health Care in The United States: The Case for Federal Action.* We believe significant federal action is needed to address the increasing demand for mental and behavioral health services and to ensure patients have access to high-quality care.

Founded in 1951, The Joint Commission seeks to continuously improve health care for the public in collaboration with other stakeholders, by evaluating health care organizations (HCOs) and inspiring them to excel in providing safe and effective care of the highest quality and value. An independent, not-for-profit organization with a global presence, The Joint Commission accredits and/or certifies more than 22,000 HCOs and/or their programs in the United States, including more than 3,700 organizations under its Behavioral Health Care and Human Services Accreditation program (BHC). The Joint Commission's BHC programs cover organizations that provide mental and behavioral health services in various settings, such as inpatient, residential, group homes, intensive outpatient, partial hospitalization, outpatient, school-based and other ambulatory settings.

The Joint Commission is providing comments on five keys areas that should be part of any federal actions on mental and behavioral health care. These areas are workforce; access, integration and coordination; quality; mental and behavioral health parity; and telehealth.

Mental and Behavioral Health Workforce

It is well-documented that the shortage of qualified mental and behavioral healthcare workers has been exacerbated by the COVID-19 pandemic. To help train more healthcare workers, The Joint Commission supports increased funding for the Health Resources and Services Administration's Health Professions Education and Training programs and the Nursing Workforce Development programs, authorized by Titles VII and VIII of the Public Health Service Act respectively. Specifically, investments in programs such as the Behavioral Health Workforce Education and Training Program, Mental and Substance Use Disorder (SUD) Workforce Training Demonstration Program, and the Graduate Psychology Education Program are invaluable initiatives to address the mental and behavioral healthcare workforce shortage.

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Funding for workforce programs, however, will not address the immediate need for more mental and behavioral healthcare workers. Therefore, Congress should consider how to provide new flexibilities and sustain some of the existing flexibilities provided during the public health emergency that have helped to better utilize the inadequate mental and behavioral healthcare workforce. For example, telehealth flexibilities have been instrumental in maximizing the available workforce. Telehealth can be used to triage and screen patients, assuring that patients are directed to and utilize appropriately trained providers consistent with their level of clinical need – directing psychiatrist resources to those who warrant the highest level of medically trained clinical services that are among the scarcest. Triaging patients via telehealth who only need therapy services and not medication services will preserve psychiatrists and other prescribers of medication management services for those patients who need it while providing key counseling resources to others. Congress should work with relevant stakeholders to determine what additional flexibilities are needed so the current workforce is utilized in a way to best meet the patients' needs.

Importantly, any efforts to address workforce shortages must include a discussion on the health of the environment in which clinicians work, including clinician wellbeing and workforce burnout. We applaud congressional work to address clinician wellbeing and burnout, but we believe there is more work needed to create a thriving workplace environment for healthcare workers. For example, The Joint Commission has seen an increase in workplace violence and significant dissatisfaction with certain administrative and regulatory burdens not perceived as valuable yet take time away from patient care responsibilities. The Joint Commission recommends asking the Department of Health and Human Services to convene a group of stakeholders to identify innovative ways to sustain a thriving workplace environment. This group should cover topics such as support for clinician wellbeing programs; implementing workplace violence prevention standards; improving how technology can transform work; reducing administrative burdens; and long-term solutions to address workforce shortages.

Access, Integration, and Coordination

Stigma

A significant barrier to accessing mental and behavioral health care in the United States is the stigma associated with mental and behavioral health diagnoses and treatment. Until there is a greater alleviation of this stigma, individuals who need these services will continue to be hesitant to seek care. The Joint Commission believes the federal government can play an important role to help break the stigma. The Committee should consider legislation that requires the Substance Abuse and Mental Health Services Administration (SAMHSA) to form a commission on mental and behavioral health education and to engage in broad based social media campaigns. The commission should evaluate what types of public service announcements and social media campaigns would be helpful. The Joint Commission has used its *Speak Up*™ publications, which are created to help patients become informed on certain issues, to provide more information on

mental and behavioral health illnesses such as depression.[1] Campaigns and publications such as this help to normalize conversations on mental and behavioral health and encourage patients to feel more comfortable seeking care.

Access to SUD Care and Treatment
There are multiple factors that contribute to the delay in patients accessing SUD treatment. One significant factor is the relatively few providers who offer SUD treatment. Therefore, changes should be considered to regulations and statutes that are barriers to providers offering SUD treatment. As Congress considers this issue, relevant stakeholders such as physicians, specialists, and HCOs should be convened to determine which regulations and statutes create barriers to clinicians offering SUD treatment.

Integration and Coordination
A critical part of increasing access to mental and behavioral health care services is integrating these services with physical health care services. Not only does this help to normalize and destigmatize mental and behavioral health treatment, but integrated care also helps improve patient outcomes and ensures that patients with mental and behavioral health illnesses have their physical health care needs addressed. Therefore, the Centers for Medicare and Medicaid Services (CMS) should create incentive programs for HCOs that fully integrate mental and physical health care services.

A successful example of federal recognition of mental and physical health care integration is the Certified Community Behavioral Health Clinic (CCBHC) Medicaid demonstration program. This program serves as an effective integrative model of care providing access to a comprehensive set of mental health and SUD services while also providing primary care. Continued funding for programs such as CCBHCs will help further care integration and coordination. However, as noted above, CMS should pilot additional models to further incentivize integration. As Congress considers expanding the CCBHC demonstration program, The Joint Commission urges giving priority to applicants for the program if they are accredited by a nationally recognized accreditation body. Just as the federal statute lists the services and care delivery settings requirements for CCBHCs, it is important to recognize accreditation in the CCBHC federal statute as an indicator of meeting evidence-based health and safety standards.

Quality Care

As we work to increase access to care, efforts must be made to ensure the care accessed is high-quality care, is provided consistent with evidence-based clinical practice guidelines, and that patients and families are provided information on the types of services a facility offers before they choose a provider of care. Opioid Treatment Programs (OTP) should routinely offer medication assisted treatment (MAT) for initial and maintenance therapy to appropriate patients

[1] https://www.jointcommission.org/-/media/tjc/documents/resources/speak-up/speak-up-depression-brochure-5-15-2020.pdf?db=web&hash=0F349C6C4E285AFD6154120689BCC1C1&hash=0F349C6C4E285AFD6154120689BCC1C1

unless a patient expresses a preference for behavioral therapy alone. In addition, Congress should consult with SAMHSA about the value of publicly listing information on OTPs that provide MAT so that patients and their families know which providers offer these services.

Mental and Behavioral Health Parity

The Joint Commission supports stronger enforcement of mental and behavioral health payment parity laws, which will help reduce the financial and access barriers that occur when the coverage of treatment for these services is not comparable to physical health care services. Legislation that would grant more authority for the Department of Labor and for states to enforce mental health parity violations should be considered.

Legislation should also be considered that removes long-standing barriers to mental and behavioral health care services delivered in inpatient settings. The Finance Committee should consider removing or phasing out over time the prohibition against federal Medicaid matching funds for Institutions for Mental Diseases. Patients experiencing mental and behavioral health illnesses should be able to receive care in the inpatient setting when appropriate just as patients with physical illnesses may need care in the inpatient setting.

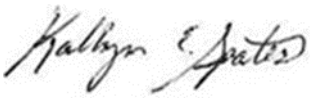
In removing this prohibition, Congress can still put guardrails in place such as limiting inpatient care to short-term stays. The prohibition was enacted when psychiatric services included longer inpatient hospitals stays and outpatient services were limited. Today, many mental and behavioral health care services can be offered in the outpatient setting. However, patients experiencing a crisis in terms of a serious mental health illness may need short-term, inpatient care. For example, patients may need inpatient management of medications to be followed in the outpatient setting after establishing a safe medication regimen. Removing the prohibition on inpatient psychiatric services with appropriate guardrails will provide patients with appropriate treatment options reflective of psychiatric care today.

Telehealth

The Joint Commission commends Congress for making permanent some of the telehealth flexibilities initiated during the COVID-19 pandemic for mental and behavioral health care, such as permanently removing the geographic restrictions for telemental health services. Telehealth has been instrumental for patients needing these services throughout the pandemic because it helps patients maintain access to their clinical team, provides a means to gain access to more specialist mental health providers who may have been inaccessible because of location, and helps provide a platform for patients seeking care in the privacy of their home. As Congress continues to evaluate telehealth services, Congress should work with SAMHSA, clinicians, and other stakeholders to ensure patients are given options (in-person versus telehealth) for care and evaluate matching the type of telehealth modality to the most appropriate clinical scenarios.

The Joint Commission is pleased to answer any questions you may have regarding our comments. If you have any questions, please do not hesitate to contact me or staff: Tim Jones, Associate Director, Federal Relations, at tjones2@jointcommission.org or 202-783-6655.

Sincerely,



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