



AMERICAN
PSYCHOLOGICAL
ASSOCIATION

June 26, 2009

The Honorable Charles Rangel
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Henry A. Waxman
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable George Miller
Chairman
Committee on Education and Labor
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Rangel, Waxman, and Miller:

I am writing on behalf of the 150,000 members and affiliates of the American Psychological Association (APA) to commend each of you for your outstanding leadership in efforts to reform our nation's health care system, as evidenced most recently by the release of the **Tri-Committee Discussion Draft for Health Care Reform**. You have expertly and courageously assumed the challenges associated with transforming our health care delivery system in an effort to offer affordable, quality health care, while reducing costs and increasing consumer choice. I would like to take this opportunity to extend APA's strong support for a number of key provisions in the discussion draft and to offer recommendations to further improve this significant proposal.

With respect to the overall discussion draft, we are pleased that there are no co-pays or deductibles for preventive care and that discriminatory coverage practices by insurance companies, including rejection of coverage for pre-existing conditions, will no longer be tolerated. We are also heartened to see much needed expansions of Medicaid and improvements of Medicare. *At the same time, we urge you to consider adding provisions in the bill to recognize that mental health is integral to overall health and that behavioral factors play a critical role in the prevention and treatment of chronic health conditions.* After all, modifiable behavioral factors, such as smoking, improper diet, lack of physical activity, and excessive alcohol consumption, are *the* leading causes of chronic health problems (such as heart disease, diabetes, and many forms of cancer). These behavior-linked conditions account for nearly 75 percent of health care spending. Therefore, new and successful models of health care practice should include the integration of psychosocial and behavioral assessments and interventions, with medical care. Thus, psychology, as the science of behavior, has much to contribute to improving the health status of our nation and is integral to health care reform.

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Chief Executive Officer

Major Contributions of the Proposed Bill

Mental Health and Substance Use Benefits in the Health Insurance Exchange

We thank the Committees for including mental health and substance use services in the essential benefits package that a qualified health benefits plan must provide in the Health Insurance Exchange. We are also pleased that the *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008* (as provided in section 2705 of the *Public Health Service Act*) will apply to plans in the Exchange, including the public plan envisioned in the legislation. It is crucially important that the parity law be preserved for purposes of new coverage provided by this bill when enacted.

MIPPA Psychotherapy Extender

We thank the Committees for including a two-year extension of the five percent psychology payment restoration previously passed in the *2008 Medicare Improvements for Patients and Providers Act* (MIPPA). This MIPPA provision has substantially protected Medicare beneficiary access to outpatient mental health and substance use services by ensuring that payment rates are adequate to keep mental health providers in the program. The restoration preserves critical psychotherapy services that would otherwise have been cut under the Centers for Medicare and Medicaid Services (CMS) five-year review rule.

Medicare Sustainable Growth Rate (SGR) Formula

We commend the Committees for proposing to revise the Medicare payment formula to prevent the 21 percent SGR cut from taking effect in 2010. Like the MIPPA psychotherapy extender, this provision is critical to ensure that all Medicare providers, including psychologists and other mental health providers, are adequately compensated for providing services to beneficiaries.

Elimination of the 190-day Lifetime Limit on Psychiatric Hospital Care in Medicare

We appreciate that the Committees are continuing their effort to eliminate disparities between mental health and substance use and physical health coverage in the Medicare program and are pleased to see elimination of the 190-day lifetime psychiatric hospital care limit in Medicare. This important provision is particularly important for individuals with chronic mental health care needs and is a vital addition to the MIPPA provision that phases out the discriminatory mental health outpatient copayment requirement.

Suggested Improvements for the Draft Bill

Including Support for Psychology Education and Training

APA strongly recommends the inclusion of the Graduate Psychology Education Act, H.R. 2066, introduced by Representatives. Gene Green and Tim Murphy to authorize a

successful program that supports interdisciplinary training for psychology. The Graduate Psychology Education Program offers support for doctoral, intern, and postdoctoral students to work primarily in integrated settings serving vulnerable populations (including older adults, children, chronically ill persons, victims of abuse and trauma, and returning military personnel) in underserved communities throughout the nation. The need for behavioral and mental health services is undeniable. Mental disorders affect physical health and the ability to function, and approximately 70 percent of all primary care visits by older adults are driven by psychological factors. Furthermore, rural communities face significant shortages of behavioral and mental health professionals, resulting in nearly three-fourths of mental and behavioral health services being provided by primary care physicians, who by and large lack sufficient training and skills.

Offering Support for Geriatric Education and Training

APA urges the inclusion of provisions from the following three bills to strengthen the health care workforce for our nation's growing population of older adults: 1) the geriatric education and training provisions in the *Health Professions and Primary Care Reinvestment Act* (H.R. 7302/ S. 3708 – 110th Congress), introduced by Rep. Diana DeGette, which would expand existing geriatrics education and training initiatives to include graduate programs and professionals in behavioral and mental health and support the training of health professionals in interdisciplinary integrated models of care; 2) the *Retooling the Health Care Workforce for an Aging America Act of 2009* (H.R. 468/ S. 245), introduced by Rep. Janice Schakowsky, which would expand existing federal law to include psychologists among the health care disciplines, as well as recognize graduate programs in psychology as eligible for essential federal geriatric education and training opportunities, and authorize a study focused on geriatric mental health workforce needs; and 3) the *Geriatrics Loan Forgiveness Act of 2009* (H.R. 1457), introduced by Reps. Rosa DeLauro and Ileana Ros-Lehtinen, which would allow each year during which an individual is enrolled and participating in an accredited educational program that provides geriatric health training as a year of obligated service for purposes of the National Health Services Corps Loan Repayment Program. A proposal to incorporate these three bills into the Tri-Committee health care reform bill has already been presented to Rep. Waxman's committee staff for consideration.

Advancing Integrated Care in Service Delivery

APA urges the Committees to further encourage the use of interdisciplinary, integrated care in the broader health care system, which could be accomplished in part by adopting Section 212 of the Senate Health, Education, Labor, and Pensions Committee draft bill in place of the Medicaid Home Pilot Program. Our recommendation applies generally throughout the legislation, as well as to the delivery of services to older adults and the proposal of a Medicare medical home pilot program.

Integrated Care for Older Adults - APA strongly recommends the inclusion of the Positive Aging Act (H.R. 1669/S. 982 – 110th Congress), introduced by Reps. Patrick

Kennedy and Ileana Ros-Lehtinen, to improve access to quality mental and behavioral health care for older adults. Specifically, this legislation includes support for demonstration projects to integrate mental health services into primary care settings and for grants for community-based mental health treatment outreach teams. Interdisciplinary, integrated models of care are especially important for the 20 percent of older adults in the U.S. who have a mental disorder. These older adults often present with other complex health care needs and are more likely to seek treatment in primary care and other traditional health care settings in communities where they reside.

Medicare Medical Home Pilot Program - The Medicare medical home pilot program proposed in the bill should instead be referred to as the “health care home pilot program” and ensure that beneficiaries have access to a full range of physician and non-physician health care services available in the community, including mental and behavioral health services. The first two amendments below clarify the intent of the bill to permit such access, as necessary and appropriate.

In addition, for beneficiaries who have chronic conditions that primarily involve mental health, substance use, or behavioral disorders, a psychologist should be permitted to act as a principal provider of care. This is particularly important in rural, frontier and underserved areas, where psychiatrists, as medical subspecialists, may not be available, and given that psychologists possess the requisite expertise. The third amendment below addresses this issue.

Finally, regarding this pilot program and other alternative models for qualifying practices as medical homes, we urge the Secretary of Health and Human Services to include other clinical practices beyond medical practices to more fully address Medicare beneficiary needs. The fourth amendment below addresses this issue.

In section 1302(a) of division B, as adding section 1866E to the Social Security Act—

- 1) In section 1866E(b)(1)(B), insert immediately after the words “nurse practitioner” the following, “, and with other physicians and health care practitioners (as defined in section 1842(b)(18)(C)) outside such team” (p. 386, line 15).
- 2) In section 1866E(b)(1)(C), insert immediately after the words “other qualified providers” the following, “(including physicians and health care practitioners (as defined in section 1842(b)(18)(C)))” (p. 386, line 19).
- 3) In section 1866E(b)(3), add the following sentence at the end of such paragraph, “Where the chronic conditions of the patient primarily involve mental health, substance use or behavioral disorders or conditions, principal care may be provided by a clinical psychologist, who shall be considered as included under the term ‘principal physician’ but only for purposes of this section” (p. 387, line 18).
- 4) In section 1866E(c)(2), strike “medical practices” each time it appears, and insert in its place “medical and other clinical practices” (p. 389, lines 12 and 16).

Amending the Medicare Physician Definition

APA urges the Committees to amend the Medicare “physician” definition to include psychologists by revising section 1861(r) of the *Social Security Act* to add new paragraph (6), as follows:

(6) a clinical psychologist who is legally authorized to practice psychology by the State in which he/she performs such function, and is acting within the scope of his/her license when he/she performs such functions.

Inappropriate and unnecessary Medicare “physician” supervision requirements are hampering beneficiary access to the full range of services that psychologists may provide within their state licensure in various Medicare settings, including in hospital, partial hospital, and comprehensive outpatient rehabilitation settings. The Medicare “physician” definition currently includes a number of non-physician providers, and psychologists should be added to the definition. Such inclusion will not expand a psychologist’s scope of practice, which is determined by state law.

Reducing Health Disparities

Our recommendations for the bill’s health disparities provisions include expansion of the definition of “health disparity populations” and/or “underserved populations” (p. 332). Research has shown that health disparities, in addition to those based on race and ethnicity, significantly affect many populations based on factors such as socio-economic status, gender, disability, immigrant status, sexual orientation, and gender identity. These populations will not benefit from the bill’s efforts to address health disparities, since they are not considered health disparity populations under the current definitions in the *Public Health Service Act*. We also recommend that national health surveys consistently collect data on the additional health disparity factors noted above. Current measures of health disparities do not offer sufficient depth to adequately respond to the needs of these populations. More comprehensive data collection by federal agencies and other health care entities will contribute to a better understanding and more effective efforts to address the unique health needs of populations experiencing health disparities. Data collection should also include subpopulation group data to ensure the reduction and elimination of serious health and health care disparities within certain groups. Additionally, we recommend the inclusion of the *Health Equity and Accountability Act of 2009* in the health reform legislation, which will address many of our concerns related to the health disparity provisions in the Tri-Committee bill.

Enhancing Comparative Effectiveness Research (CER) Provisions

We recommend that the provisions related to the proposed Center for Comparative Effectiveness Research and the Comparative Effectiveness Research Commission be improved in two significant ways. First, as outlined in the bill, the duties of the proposed Center are to “conduct, support, and synthesize research relevant to the comparative effectiveness of the full spectrum of health care items and services,

including pharmaceuticals, medical devices, medical and surgical procedures, and other medical interventions.” The last term should be appropriately broadened to “other therapeutic interventions” (p. 424, line 12). In the context of CER, therapeutic interventions would relate to the full range of health conditions, including mental health and substance use disorders. It should be noted that recovery rates for mental disorders are comparable to and even surpass the treatment success rates for many physical health conditions. Knowing which treatments are most effective will dramatically enhance the capacity to prevent, diagnose, treat, and manage disorders and diseases, as will an understanding of behavioral factors. The crucial role of behavior can be seen in efforts to prevent diabetes, slow the HIV/AIDS epidemic, reduce sudden infant death syndrome, and reduce cancer incidence, progression, and mortality.

Second, with respect to the composition of the CER Commission, at least one member should be a psychologist. To accomplish this change, a new section “(III) Psychologist” should be added after “Practicing physicians, including surgeons” (p. 429, line 22). The inclusion of a psychologist on the commission would bring behavioral and mental health practice and research expertise to the broad range of health conditions modifiable by psychosocial factors and human behavior.

Increasing Coverage of Preventive Services

APA urges the Committees to adopt additional criteria beyond the recommendations of the U.S. Preventive Services Task Force (USPSTF) to determine the effectiveness of various preventive services (see p.672, Section 1811). We are concerned that overreliance on USPSTF’s criteria for making recommendations either for physician action or for coverage decisions may restrict the pool of preventive services and not fully reflect available scientific evidence. It is important to ensure that when the USPSTF’s recommendation falls into the “I” (i.e., insufficient evidence to recommend for or against) category that a denial of coverage does not automatically result. The use of an “I” rating that allows for “coverage with evidence development,” which is being successfully used by CMS, should be adopted. Without this additional standard, for instance, coverage for psychosocial and behavioral interventions to help reduce the risk for diabetes and other health conditions could be inappropriately denied.

Given that this bill grants authority to the USPSTF at the Agency for Healthcare Research and Quality and two entities at the Centers for Disease Control and Prevention to issue recommendations for preventive services, APA believes that it is crucial to ensure clear coordination between these agencies. Only then will there be uniformity in the identification, development, and recommendation of evidence-based preventive health services, in particular as related to the integration of their psychological and behavioral components. Such an integrated and holistic approach will help to achieve an effective national strategy for disease prevention and health and wellness promotion.

In conclusion, APA would once again like to thank each of you for this opportunity to provide comments on the Tri-Committee Discussion Draft for Health Care Reform. We look forward to

continued collaboration with your Committees to reform our nation's health care system. We applaud the efforts put forth in the draft bill and greatly appreciate its focus on our shared priorities, which include promoting integrated, interdisciplinary teams of health care professionals in primary care and other health care settings; addressing the needs of diverse and vulnerable populations; ensuring culturally and linguistically appropriate services; enhancing training for behavioral and mental health professionals; and increasing access to mental health and substance use screening, assessment, and treatment provided by psychologists and other qualified health care providers in Medicare and in any newly created health plans. Please do not hesitate to contact Dr. Ellen Garrison, APA's Senior Policy Advisor, at (202) 336-6066 or at egarrison@apa.org, if APA might be of any further assistance to you or your Committees.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Anderson', with a long horizontal flourish extending to the right.

Norman B. Anderson, Ph.D.
Chief Executive Officer