



November 15, 2021

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 provide comments in response to the Senate Finance Committee's request for information (RFI) on proposals to help improve access to mental health and substance use disorder (SUD) services.

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, The Joint Commission accredits and/or certifies more than 22,000 HCOs and programs in the United States. The Joint Commission evaluates HCOs across the continuum of care, including most of the nation's hospitals. In addition, Joint Commission programs encompass clinical laboratories, ambulatory care and office-based surgery facilities, behavioral health care, home care, hospice, and long-term care organizations. Joint Commission accreditation and certification are recognized nationwide as symbols of quality that reflect an organization's commitment to meeting state-of-the-art performance standards. Although accreditation is voluntary, a variety of federal and state government regulatory bodies, including the Centers for Medicare and Medicaid Services (CMS), recognize and rely upon The Joint Commission's decisions and findings for Medicare or licensure purposes.

The Joint Commission accredits more than 3,600 organizations under its Behavioral Health Care and Human Services Accreditation program. This includes a range of organizations and programs providing mental health, SUD, and child welfare care, treatment and services delivered in a wide array of settings including inpatient, residential, group homes, intensive outpatient, partial hospitalization, outpatient, school based, wilderness and many other settings.

The Joint Commission offers the following comments that focus on the Finance Committee's areas of interest, including workforce, care integration, payment parity, and telehealth, as well as financing mechanisms to improve access to mental health and SUD services.

Strengthening Workforce

General Comments

Increasing the number of qualified individuals delivering behavioral and mental health services as well as sustaining a robust workforce is vital to improving access for patients. It is well-documented that there is a significant shortage of health care workforce across the country, which has been

exacerbated by the COVID-19 pandemic. Finding long-term solutions to address workforce shortages is complex but must be a priority because without health care workers access will continue to be limited. The Joint Commission recommends formally convening relevant stakeholders to discuss these solutions and would welcome the opportunity to participate because of its situational awareness of current workforce supply in its accredited HCOs.

What policies would most effectively increase diversity in the behavioral health care workforce?

The Joint Commission believes that HCOs should have diversity in their workforce to better understand the populations that they serve, particularly minority and other vulnerable populations. Health disparities experienced by minority and other vulnerable populations are major safety and quality concerns and should be addressed with the same level of urgency as other issues such as health care-acquired conditions. In a *Quick Safety*¹ issued earlier this year, The Joint Commission recommends that HCOs attempt to hire into entry level positions persons from their communities and provide advancement and professional development opportunities. This could potentially develop a pipeline for marginalized groups into health care professions, fostering career advancement and professional development for all employees.

What public policies would most effectively reduce burnout among behavioral health care practitioners?

The COVID-19 pandemic has placed severe mental and physical strain on all health care practitioners. Health care staff have faced numerous stressors, including fears of infection, longer shifts, insufficient personal protective equipment, and isolation from family. A HCO's ability to respond to the stresses and strains of providing adequate patient care during a crisis — such as the COVID-19 pandemic — is reliant on its workers' psychosocial well-being.

It is important that health care practitioners know that they work in an environment that encourages them to speak out about issues affecting their psychosocial well-being that could lead to burnout if not addressed. The Joint Commission issued a statement earlier this year reaffirming its position statement first issued in 2020 urging HCOs to remove barriers to mental health care for clinicians and health care staff.² Also, The Joint Commission issued a *Quick Safety* urging HCOs to have systems in place that support institutional and individual resilience in order to mitigate and respond to the psychological toll of a crisis.³ In addition, The Joint Commission issued a *Sentinel Event Alert*⁴ urging HCOs to foster open and transparent communication with their workforce, which will build trust, reduce fears, build morale, and sustain an effective workforce. These are among the initial steps HCOs can take to address this very important issue.

¹ <https://www.jointcommission.org/resources/news-and-multimedia/newsletters/newsletters/quick-safety/quick-safety-issue-60/quick-safety-issue-60/>. The Joint Commission's *Quick Safety* alert is a publication that outlines an incident, topic or trend in health care that could compromise patient safety.

² <https://www.jointcommission.org/-/media/tjc/documents/federal-relations-and-public-policy/03312021-removing-barriers-to-mental-health-treatment-statement.pdf>.

³ <https://www.jointcommission.org/resources/news-and-multimedia/newsletters/newsletters/quick-safety/quick-safety-issue-54/>.

⁴ <https://www.jointcommission.org/-/media/tjc/documents/resources/patient-safety-topics/sentinel-event/sea-62-hcws-and-pandemic-final-1-28-21.pdf>. The Joint Commission's *Sentinel Event Alert* is a publication that identifies specific types of sentinel and adverse events and high-risk conditions, describes their common underlying causes, and recommends steps to reduce risk and prevent future occurrences.

The Joint Commission commends the Senate for passing the Dr. Lorna Breen Health Care Provider Protection Act. The Joint Commission believes this bill will increase awareness to clinician well-being and help to provide needed resources. By establishing an education and awareness campaign to encourage health care staff to seek mental health services, along with grants to facilitate research on health care staff mental health and burnout, this bill would support essential frontline health care staff as they deliver care to the nation's patients.

Additionally, The Joint Commission commends Congress for including funding in the American Rescue Plan Act of 2021 towards many programs outlined in the Dr. Lorna Breen Health Care Provider Protection Act. This funding will be critical to support HCOs and other entities in raising the importance of mental health among their health care staff.

Increasing Integration, Coordination, and Access to Care

What are the best practices for integrating behavioral health with primary care? What federal payment policies would best support care integration?

Many collaborative care models have been effective at integrating behavioral health care with primary care. In these models, primary care providers develop an evidence-based care plan with the assistance of behavioral health specialists as well as patient and family engagement that addresses both physical and common mental health care needs. The patient's progress is monitored by the care team and, if specialty care is needed, the primary care provider can refer to the appropriate behavioral health specialist. The Joint Commission urges further consideration of value-based payment models that incentivize the integration of behavioral health with primary care.

The Joint Commission has long supported efforts to encourage collaborative and coordinated care. Since 2015, The Joint Commission has recognized HCOs that provide collaborative, coordinated services through its Integrated Care Certification (ICC) program. Additionally, The Joint Commission has recognized accredited behavioral health programs that integrate physical primary care services when patients are seeking behavioral health care services through its Behavioral Health Home Certification program.

What programs, policies, data, or technology are needed to improve access to care across the continuum of behavioral health services?

Originally authorized in the Protecting Access to Medicare Act of 2014, the Certified Community Behavioral Health Center (CCBHC) program is responsible for providing access to a continuum of mental health services, as well as access to SUD services. This includes 24-hour crisis care, appropriate screening, care coordination with local primary care and hospital partners, and integration with physical health services.

There have been numerous benefits to the CCBHC program. According to a recent survey, CCBHCs have significantly reduced wait times for services, and they have also increased coordination to support diversion from emergency departments and inpatient care.⁵

⁵ National Council for Mental Wellbeing. "Leading a Bold Shift in Mental Health & Substance Use Care: CCBHC Impact Report, 2021." Released May 2021. (<https://www.thenationalcouncil.org/wp-content/uploads/2021/08/2021-CCBHC-Impact-Report.pdf?dof=375ateTbd56>).

The Joint Commission supports language continuing the CCBHC program in such legislation as the Excellence in Mental Health and Addiction Treatment Act and the current draft of the budget reconciliation legislation. As Congress considers these bills, The Joint Commission urges the addition of language encouraging CCBHC accreditation by a recognized national accreditation body.

What policies could improve and ensure equitable access to and quality of care for minority populations and geographically underserved communities?

The Joint Commission issued a *Quick Safety* earlier this year with recommendations for its accredited HCOs that would improve and ensure equitable access to and quality of care for minority populations and geographically underserved communities.⁶ These include proactively collecting data to examine whether disparities exist in treatment and service delivery and taking action to address these disparities; training staff on implicit biases; engaging minority workers in developing and implementing appropriate messaging; and providing information in the language that a patient speaks, reads, or understands.

How can providers and health plans help connect people to key non-clinical services and supports that maintain or enhance behavioral health?

Social determinants of health play a significant role in an individual's ability to maintain or enhance their care. Therefore, it is important for providers and health plans to develop processes that help connect their patients to non-clinical services and supports. In a *Quick Safety* publication issued earlier this year, The Joint Commission encourages HCOs to use a social intervention framework, such as the CMS Accountable Health Communities (AHC) model, to help identify needs of their patient populations.⁷ The AHC model focuses on screening in five domains (housing instability, difficulty paying utility bills, food insecurity, transportation, and interpersonal violence). After patient population needs are identified, The Joint Commission encourages HCOs to incorporate referrals to community resources (typically through a community health worker or patient navigator) in the social intervention framework that is utilized. Providers and health plans could use a similar model to help patients in their communities meet their socio-economic challenges.

Ensuring Parity

How can Congress improve oversight and enforcement of mental health parity laws that apply to private plans offering coverage under the federal health programs? How can we better understand and collect data on shortfalls in compliance with parity law?

The Joint Commission supports stronger enforcement of payment parity laws, which will help reduce the financial barriers that occur when the coverage of treatment for a patient's mental health and SUD services is not comparable to physical health services. The current draft of the budget reconciliation legislation would allow the Department of Labor more enforcement authority for mental health parity violations and the Parity Implementation Assistance Act would provide more

⁶ <https://www.jointcommission.org/resources/news-and-multimedia/newsletters/newsletters/quick-safety/quick-safety-issue-57/>.

⁷ <https://www.jointcommission.org/resources/news-and-multimedia/newsletters/newsletters/quick-safety/quick-safety-issue-60/quick-safety-issue-60/>.

resources to states to enforce mental health payment parity. These bills should receive further consideration.

Expanding Telehealth

How has the expanded scope of Medicare coverage of telehealth for behavioral health services during the COVID-19 pandemic impacted access to care?

The telehealth waivers and regulatory flexibilities initiated during the COVID-19 pandemic have increased delivery options for mental health and SUD services. Overall telehealth utilization levels remain significantly higher than before the COVID-19 pandemic despite some decrease from the levels experienced at the beginning of the pandemic. Tele-mental service utilization remains high and is increasing in terms of the overall share of telehealth services. Patients in need of mental health and SUD services have expressed support for receiving care virtually because they can be seen without facing the stigma associated with seeking in-person care. Also, practitioners have expressed support for mental health and SUD telehealth services because it allows them to assess patients' home environments, which can impact a patient's care and treatment. An early review of data during the pandemic demonstrates the benefits of telehealth – a reduction in the number of missed appointments; ongoing management of chronic conditions; and decreases in costly care such as emergency department visits.

Should Congress make permanent the COVID-19 flexibilities for providing telehealth services for behavioral health care (in addition to flexibilities already provided on a permanent basis in the SUPPORT for Patients and Communities Act and the Consolidated Appropriations Act, 2021)? If so, which services, specifically? What safeguards should be included for beneficiaries and taxpayers?

The Joint Commission supports extending many flexibilities offered during the COVID-19 pandemic, including the removal of the originating site restriction, and allowing patients to receive telehealth services in their home. Congress should consider legislation such as the Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act that would permanently extend many of the telehealth regulatory flexibilities.

What legislative strategies could be used to ensure that care provided via telehealth is high-quality and cost-effective?

The Joint Commission urges guardrails are put in place to ensure the quality and safety of the care delivered by telehealth. As outlined in the U.S. Government Accountability Office's study⁸ released earlier this year, the quality of telehealth services provided to Medicare beneficiaries has not yet been fully analyzed, and evidence from the few existing studies is inconclusive. The Joint Commission supports additional study of which types of telehealth modalities are most appropriate for the types of clinical scenarios they are being used to address. Also, while considering quality-of-care criteria that should govern applications of telehealth, consideration should be paid to whether equity exists in access to appropriate telehealth modalities throughout the country.

⁸ U.S. Government Accountability Office. "Medicare and Medicaid: COVID-19 Program Flexibilities and Considerations for Their Continuation." Released May 19, 2021. (<https://www.gao.gov/products/gao-21-575t>).

Improving Access for Children and Young People

How can federal programs support access to behavioral health care for vulnerable youth populations, such as individuals involved in the child welfare system and the juvenile justice system?

The Joint Commission accredits qualified residential treatment programs (QRTP), which were created through the Family First Prevention Services Act of 2018. These facilities provide short term placement for foster care children who have specific health care treatment needs. Federal policies prohibiting Medicaid funds for Institutions for Mental Diseases (IMD) such as QRTPs create resource challenges and result in fewer foster care children accessing critical mental health services. The Joint Commission urges further consideration of bills such as the Ensuring Medicaid Continuity for Children in Foster Care Act, which would remove the Medicaid IMD exclusion for QRTPs.

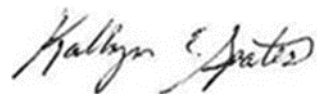
Other Comments

We are also seeking input on improving reimbursement mechanisms and financing behavioral health care enhancements.

Current federal policies prohibiting Medicaid funds for IMD also create barriers to adequate treatment for patients who need hospital services for mental health. The IMD exclusion was enacted decades ago when inpatient mental health treatment was very different than it is today. The Joint Commission urges further consideration of bills such as the Increasing Behavioral Health Treatment Act, which would permanently remove Medicaid's IMD exclusion. This would allow, among other scenarios, for psychiatric hospitals to treat patients in need of short-term inpatient services.

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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