

COALITION FOR WHOLE HEALTH

On behalf of the Coalition for Whole Health, we appreciate the opportunity to share our comments with the Education and Labor, Energy and Commerce, and Ways and Means Committees on the House discussion draft on healthcare reform. We commend the Committees' commitment to providing universal coverage and access to necessary care, and to utilizing evidence-based strategies to improve public health and reduce costs.

We are extremely pleased that the House health care Committees included mental health and substance use disorder services as required parts of the minimum benefit package included in the draft legislation. Medical experts agree that substance use disorders and serious mental illness are chronic diseases that can be prevented and treated effectively. Fully and equitably including mental health and substance use disorder prevention, treatment, rehabilitation and recovery support services in healthcare reform will improve the quality of life for millions of Americans and dramatically reduce healthcare costs.

To ensure that mental health and substance use disorder services are fully and equitably included in national healthcare reform, we ask that the Committees:

- 1) Use consistent language and defined terms to include mental health and substance use disorders throughout the legislation.**
- 2) Ensure that all of the requirements of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act are extended to healthcare plans covered under the discussion draft.**
- 3) Include substance use disorder prevention in the discussion draft's provisions that seek to promote general prevention, wellness, and chronic disease prevention.**
- 4) Ensure that screening for mental illness and substance use disorders can be reimbursed under the discussion draft.**
- 5) Specify that mental health and substance use disorder professionals are included in the draft's health workforce initiatives.**
- 6) Include therapeutic foster care service as a defined Medicaid service category.**
- 7) Amend the draft legislation to modify the IMD (Institutions of Mental Diseases) exclusion under Medicaid for people with substance use disorders.**
- 8) Include in the legislation references to the lead federal agencies on mental health and substance use disorder policy, the Substance Abuse and Mental Health Services Administration and the Office of National Drug Control Policy, where appropriate.**
- 9) Explicitly state that State laws which provide greater coverage, rights, methods of access to treatment and consumer protections are not preempted.**

1) We ask the Committees to use consistent language and defined terms on mental health and substance use disorders throughout the legislation.

We appreciate the Committees' work to include both mental health and substance use disorder services and providers in the initiatives proposed in the discussion draft. To correspond to the Committees' intent with clinically appropriate, precise and consistent wording, we recommend using the distinct terms "mental health conditions" and "substance use disorders," the terminology used throughout the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act. The draft bill includes the phrases "mental health and substance use disorders," "behavioral and mental health," "substance abuse" and "behavioral services" which are used interchangeably. None of these terms are defined in the legislation; in addition, the definition of "behavioral health services" in the Public Health Services Act does not include substance use disorder services. The term "substance use disorder" is the most clinically appropriate and accurate way to refer to health problems caused by alcohol or other drug use. It is also the term most widely accepted by the medical, psychiatric, mental health and substance use disorder communities. Using the terms "mental health conditions" and "substance use disorders" throughout the legislation will also ensure that the Act is consistent with current law.

Further, we recommend adding the term "substance use disorders" in each portion of the bill where the Committees' intent is to address both. This recommendation is made because language used at the federal level has a large impact on service planning, delivery and evaluation at the State and local level. The more precise terminology is helpful to States and communities in planning, implementing and evaluating clinically appropriate services.

In addition, we ask that the legislation clearly state that serious mental health conditions and substance use disorders are chronic diseases. The legislation authorizes several new programs and taskforces, many of which include references to "chronic diseases," particularly in the sections focused on delivery system reform, quality improvement and Section 1302: Medical Home Pilot Program. Given that the National Institute on Alcohol Abuse and Alcoholism (NIAAA), National Institute on Drug Abuse (NIDA) and National Institute of Mental Health (NIMH) research consistently confirm that severe mental illness and substance use disorders are chronic conditions, we recommend that serious mental illness and substance use disorders be specifically recognized as chronic conditions for the purposes of this bill.

Specific proposed edits to ensure consistency in language for and inclusion of mental health and substance use disorders:

- On page 3, Division B, Title III, Section 1, (b), add in title, after the term "MENTAL HEALTH" the following "AND SUBSTANCE USE DISORDER"
- On page 42, Title I, Subtitle F, section 151, (a)(2)(A), line 15, after the word "health" add "and substance use disorders)
- On page 166, Division B, Title III, in the heading labeling Title III, after the term "Mental Health" add the words "Substance Use Disorders."
- On page 166, Division B, Title III, last line, after the word "health" add "and substance use disorder
- On page 167, Division B, Title III, first line, after the term "mental health" add "and substance use disorders"

- On page 349, Division B, Title II, subtitle A, section 1224, (6), line 24, after the term “mental health” add “and substance use”
- On page 368, DIVISION B, Title III, line 11, after the word “health” add in “and substance use disorder”
- On page 411, Division B, Title III, Section 1308, line 11, after the term “mental health” add “and substance use disorder”
- On page 412, Division B, Title III, Section 1308 (a) (2) (jjj) (1), line 11, after the word “of” add “substance use disorders and”
- On page 415, Division B, Title III, Section 1308 (b), line 18, after the term “mental health” add “and substance use disorder”
- On page 416, Division B, Title III, Section 1308 (b) (1) (HH), line 5, after the term “mental health” add “and substance use disorder”
- On page 416, Division B, Title III, Section 1308 (b) (2), line 11, after the term “mental health” add in “and substance use disorder”
- On page 416, Division B, Title III, Section 1308 (b) (2) (kkk) (1), line 12 after the term “mental health” add in “and substance use disorder”
- On page 416, Division B, Title III, Section 1308 (b) (2) (kkk) (1), line 13 after the term “mental health” add in “and substance use disorder”
- On page 416, Division B, Title III, Section 1308 (b) (2) (kkk) (1), line 15 after the word “of” add in “substance use disorders and”
- On page 416, Division B, Title III, Section 1308 (b) (2)(kkk)(1), line 15 after the term “mental health” add in “and substance use disorder”
- On page 416, Division B, Title III, Section 1308 (b) (2) (kkk)(2), line 23, after the term “mental health” add in “and substance use disorder”
- On page 417, Division B, Title III, Section 1308 (b) (2)(kkk)(2) (A), line 3, after the term “mental health” add in “and substance use disorder”
- On page 417, Division B, Title III, Section 1308 (b) (2)(kkk)(2) (B), line 6, after the term “mental health” add in “and substance use disorder”
- On page 417, Division B, Title III, Section 1308 (b) (2) (kkk)(2) (C), line 8, after the term “mental health” add in “and substance use disorder”
- On page 417, Division B, Title III, Section 1308 (b) (3)(C)(vi), line 22, after the term “mental health” add in “and substance use disorder”
- On page 418, Division B, Title III, Section 1308 (b) (4)(A)(ii), line 8, after the term “mental health” add in “and substance use disorder”

- On page 418, Division B, Title III, Section 1308 (b) (4)(B), line 20, after the term “mental health” add in “and substance use disorder”
- On page 418, Division B, Title III, Section 1308 (b) (4)(B), line 22, after the term “mental health” add in “and substance use disorder”
- On page 419, Division B, Title III, Section 1308 (b) (5), line 8, after the term “mental health” add in “and substance use disorder”
- On page 419, Division B, Title III, Section 1308 (b) (6), line 12, after the term “mental health” add in “and substance use disorder”
- On page 419, Division B, Title III, Section 1308 (b) (6), line 21, after the term “mental health” add in “and substance use disorder”
- On page 419, Division B, Title III, Section 1308 (b) (7), line 23, after the term “mental health” add in “and substance use disorder”
- On page 420, Division B, Title III, Section 1308 (b) (7)(viii), line 4, after the term “mental health” add in “and substance use disorder”

Specific recommended language to define chronic conditions:

- On page 14, Division A—Affordable Health Care Choices, Sec. 100(c), after line 2, add a new subsection (26) as follows “(26) CHRONIC DISEASE, CHRONIC ILLNESS AND CHRONIC CONDITION. – The terms “chronic disease, chronic illness and chronic condition” mean any disease, illness or condition that are prolonged, lasting for at least three months, do not resolve spontaneously, and are rarely cured completely. This definition includes substance use disorders and serious mental illnesses.”

2) We ask the Committees to include clear language to ensure that the requirements of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act are extended to the healthcare plans authorized by the House draft.

We thank the Committees for their tremendous leadership in enacting the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (P.L. 110-343) in the 110th Congress. National health care reform offers an incredible opportunity to build on the principles and requirements of this landmark legislation. We were very pleased that the draft bill includes references to the new parity law.

Inclusion of addiction and mental health in national health care reform will improve the health of millions of Americans and will save millions of dollars to the healthcare system. Alcohol, nicotine, and other drug dependencies are primary diseases which produce serious secondary physical and psychiatric complications. Untreated alcohol and other drug addiction costs the U.S. \$400 billion annually. Persons with severe mental illnesses accounted for \$193 billion in lost earnings in 2002 - more than the gross revenue of every Fortune 500 company except Wal-Mart. Conversely, treating addiction and mental health confers significant cost savings on physical medical expenditures. In addition, there are measurable reductions in the healthcare costs of family members within one year of the addicted individual entering treatment.

For patients with substance use disorder-related medical conditions, integrating medical and addiction treatment services results in decreases in hospital readmissions, fewer days of inpatient treatment, and fewer emergency room visits. One dollar spent on addiction treatment has consistently produced returns of over \$3 in health care savings to states that have done these studies - and often as much as \$7 when these states have added in the benefits to public safety (arrests, incarceration and welfare/child welfare costs). States that have increased access to addiction treatment in Medicaid have reduced Medicaid costs by 11% within 2 years; and 18% within 4 years of implementation.

It has been well documented by AHRQ, the National Institutes of Health, and others that individuals who received mental health treatment had lower subsequent medical costs and a reduced risk of death compared to individuals diagnosed with mental illness who did not receive mental health treatment. A 2003 Washington State study found that costs for disabled Medicaid beneficiaries receiving outpatient mental health treatment were lowered by about \$105 per member per month in the first follow-up year and \$126 per member per month in the second year, compared to clients with mental illness who did not receive mental health treatment.

We were very encouraged by the provisions of the draft (Sections 114, 151 and 152) aimed at protecting consumers against discrimination in insurance coverage. We ask that the draft legislation be amended to make explicit that the requirements of the Wellstone/Domenici Act for people with both mental health conditions and substance use disorders will be extended to the individual and small group plans authorized by the legislation. Recommended language follows below.

Specific recommendations to ensure that the requirements of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act are extended to the healthcare plans authorized by the draft bill:

- On page 42, “Subtitle F—Relation to Other Requirements; Miscellaneous,” Section 151(a)(2)(A), line 15, strike the word “and.” After the words “mental health” insert “, and substance use disorders”. Insert a comma between the words “non-discrimination” and “mental health.”
- On page 21, Section 114. NON-DISCRIMINATION IN BENEFITS, line 2, before the words “A qualified health benefits plan” insert “(a)”
- On page 21, Section 114. NON-DISCRIMINATION IN BENEFITS, following line 8, insert the following:

(b) PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.—Each health insurance issuer that offers individual or group health insurance coverage must include coverage for mental health and substance use disorders and that coverage shall adhere to the requirements of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 as found in Section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a), Section 9812 of the Internal Revenue Code, and Section 2705 of the Public Health Service Act (42 U.S.C. 300gg–5).

(c) RULES OF CONSTRUCTION.—

(1) SPECIAL RULE ON CONTINUED OPERATION OF STATE LAWS RELATING TO SUBSTANCE ABUSE AND/OR MENTAL HEALTH TREATMENT SERVICES AND BENEFITS. Notwithstanding any other provision of this division, nothing in this

division shall be construed to preempt any State law relating to the coverage or provision of substance abuse and/or mental health treatment, including substance abuse and/or mental health treatment services and benefits, methods of access to benefits, consumer protections, and remedies, that are more favorable, from the standpoint of the insured or plan member, than required under any provision of this division.

(2) Where provisions on exempt entities in the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act conflict with provisions of the Act, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act will be superseded.

3) We ask the Committees to include substance use disorder prevention in the draft's provisions that seek to promote general prevention, wellness, and chronic disease prevention.

Addiction to alcohol and other drugs is a developmental disorder that begins in adolescence, sometimes as early as childhood, for which effective prevention is critical.¹ Addiction is a complex chronic disease and is influenced by a number of factors, including genetics, environment and age of first use.² According to studies by the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, the younger a person first uses drugs or alcohol, the greater the likelihood that they will become dependent and/or addicted to drugs and alcohol as an adult.³ It is critical that attention to and funding for substance use disorders be included in all of the authorized funds, programs and benefits that address general prevention and wellness as well as chronic disease prevention in the discussion draft.

Each year drug abuse and addiction cost taxpayers nearly \$534 billion in preventable health care, law enforcement, crime and other costs (this includes tobacco use).⁴ Research has shown that the long-term health and mental health consequences of growing up with chronic adverse childhood experiences adds additional billions of dollars to health care over the life-span, much of which could be prevented or ameliorated with known preventive interventions in childhood. Each year approximately 40 million debilitating illnesses or injuries occur among Americans as the result of their use of tobacco, alcohol or illicit drugs.⁵ The estimated total cost of medical consequences (including hospital and ambulatory care, drug-exposed infants; tuberculosis; HIV/AIDS; Hepatitis B and C; crime victim health care costs; and health insurance administration) associated with drug abuse in the United States was \$5.7 billion.⁶

Preventing substance use/abuse is cost effective: Every dollar invested in research based substance use/abuse prevention programs, strategies and activities have the potential to save up to \$7 in areas such as substance abuse treatment and criminal justice system costs.⁷

¹ Quote by Dr. Nora Volkow, Director of the National Institute on Drug Abuse

² National Institute on Drug Abuse. (2008). Reducing the public Health Burden of Substance Abuse. Bethesda, MD.

³ National Institute on Alcohol Abuse and Alcoholism. (2006). Underage Drinking A Growing Healthcare Concern. Available: <http://pubs.niaaa.nih.gov/publications/PSA/underagepg2.htm>. The National Household Survey on Drug Abuse (NHSDA) report. August 23, 2002. Available: <http://oas.samhsa.gov/2k2/MJ&dependence/MJdependence.htm>

⁴ National Institute on Drug Abuse. (2007). Research Update from the National Institute on Drug Abuse —Drug Abuse is a Preventable Behavior. Bethesda: MD. Available: <http://www.drugabuse.gov/tib/prevention.html>.

⁵ National Institute on Drug Abuse. (2008) Drug abuse and addiction: One of America's most challenging public health problems. Available: <http://www.nida.nih.gov/about/welcome/aboutdrugabuse/magnitude/>

⁶ Office of National Drug Control Policy (2001). The Economic Costs of Drug Abuse in the United States, 1992-1998. Washington, DC: Executive Office of the President (Publication No. NCJ-190636). Available:

http://www.whitehousedrugpolicy.gov/publications/pdf/economic_costs98.pdf vii Ibid.

⁷ Ibid.

Preventing substance use/abuse saves lives and reduces related medical consequences. Alcohol abuse kills approximately 100,000 Americans every year, and is the third leading preventable cause of death in the United States.⁸ Alcohol-involved crashes resulted in 16,792 fatalities, 513,000 nonfatal injuries, and \$50.9 billion in economic costs in 2000, accounting for 22 percent of all crash costs.⁹ Drugs are used by approximately 10 to 22 percent of drivers involved in crashes, often in combination with alcohol.¹⁰

For the above reasons, we ask the Committees to include language in the draft legislation to include substance use disorder prevention on par with nutrition, smoking and tobacco cessation issues within any fund, program or benefit that addresses general prevention and wellness as well as chronic disease prevention. In this context, substance use disorder prevention would include underage drinking, illegal drug use, and the abuse and misuse of over-the-counter and prescription drugs. Specific recommended language changes are outlined below.

Specific recommendations to include substance use disorder prevention in the Act's provisions that seek to promote general prevention, wellness, and chronic disease prevention:

- On page 67, Title II, Subtitle A—Health Insurance Exchange, Sec. 205(a)(1), line 9, after the word “children,” add the following words “children of substance abusing parents,”
- On page 67, Title II, Subtitle A—Health Insurance Exchange, Sec. 205(a)(1), line 10, after the word “illness,” add the following words “individuals with substance use disorders,”
- On page 349, Title II, Subtitle B—Reducing Health Disparities, Sec. 1224(6), line 24, after the word “health,” add the following words “and substance use disorder”
- On page 368, Title III—Promoting Primary Care, Mental Health Services, and Coordinated Care, line 11, after the word “HEALTH,” add the following words “AND SUBSTANCE USE DISORDER”
- On page 392, Title III—Promoting Primary Care, Mental Health Services, and Coordinated Care, Sec. 1302(d)(1)(B)(iii), line 21, after the word “workers,” add the following words “substance use disorder counselors,”
- On page 393, Title III—Promoting Primary Care, Mental Health Services, and Coordinated Care, Sec. 1302(d)(1)(B)(iii), line 5, after the word “resources” add the following words “, including access to treatment for mental health and substance use disorders,”
- On page 397, Title III—Promoting Primary Care, Mental Health Services, and Coordinated Care, Sec.1302(e)(1)(A)(v), line 14, after the word “visits” add the words “, specifically including those associated with drug and alcohol related accidents and incidents”

⁸ McGinnis, JM, Foege, WH. (1993). “Actual causes of death in the United States.” JAMA. 270:2207-2212.

⁹ Blincoe L, Seay A, Zaloshnja E, Miller T, Romano E, Luchter S, et al. The economic impact of motor vehicle crashes, 2000. Washington (DC): Dept of Transportation (US), National Highway Traffic Safety Administration (NHTSA); 2002. Available: <http://www.nhtsa.dot.gov/people/econimpact2000/index.htm>.

¹⁰ National Institute on Drug Abuse. (2008) Drug abuse and addiction: One of America's most challenging public health problems. Available: <http://www.nida.nih.gov/about/welcome/aboutdrugabuse/magnitude/>

- On page 651, Title VII—Miscellaneous Provisions, Sec. 1704, Subpart 3— Support for Quality Home Visitation Programs, Sec. 440(f)(1)(A)(i), line 21, after the word “neglect” add the words “(by addressing issues such as substance use disorders)”
- On page 653, Title VII—Miscellaneous Provisions, Sec. 1704, Subpart 3— Support for Quality Home Visitation Programs, Sec. 440(f)(1)(v)(VI), line 7, after the word “health,” add the words “specifically including substance use and abuse,”
- On page 677, Title VIII— Medicaid and Chip, Sec. 1704, Part 2— Prevention, Sec. 1812, line 4, after the word “TOBACCO” add the words “, ALCOHOL AND DRUG MISUSE AND ABUSE”
- On page 677, Title VIII— Medicaid and Chip, Sec. 1704, Part 2— Prevention, Sec. 1812 (b), line 18, after the word “tobacco” add the words “, alcohol and drug misuse and abuse”
- On page 677, Title VIII— Medicaid and Chip, Sec. 1704, Part 2— Prevention, Sec. 1812 (b)(1), line 23, after the word “services,” strike the word “and” and after the word “tobacco” add the words “, alcohol and drug misuse and abuse”
- On page 678, Title VIII— Medicaid and Chip, Sec. 1704, Part 2— Prevention, Sec. 1812 (b)(2), line 2, after the word “tobacco” add the words “, alcohol and drug misuse and abuse”
- On page 679, Title VIII— Medicaid and Chip, Part 2— Prevention, Sec. 1813(a)(2)(bb)(2), line 10, after the word “violence” add the words “by addressing issues such as substance use disorders”
- On page 786, Sec. 2252 (amending Sec.759(d)(3)), line 20, after the words “mental health” add the words “including substance use disorders,”
- On page 815, Title XXXI—Prevention and Wellness, Subtitle E—Delivery of Community-Based Prevention and Wellness Services, Sec. 3151(b)(2)(A), line 22, after the number “3121” add the words “to include substance use disorder prevention”

4) We ask that the Committees ensure that screening for mental illness and substance use disorders can be reimbursed under the Act.

The draft bill uses findings of the U.S. Preventative Task Force ratings for screenings as the baseline for inclusion for being reimbursed in the Section 122(b) of the bill, which defines the minimum services covered in an essential benefits package. In order for preventative services to be covered under the legislation, they must be items or services that have an A or B rating in the current recommendations of the United States Preventive Services Task Force.

To date the Task Force has found insufficient evidence to rate screening for illicit drug use as an A or a B. The Task Force has not yet determined the value of suicide screening and screening for drugs due to insufficient evidence. Screening for drugs and suicide ideations have been used for a number of years and have been effective tools to help identify many youth and adults in need of services. Under the Task Force’s criteria, those screening procedures would not be funded. Recent research clearly demonstrates that rapid, economical screening and brief interventions reduce substance use and significantly reduce health care costs.

Given the low risk and low cost of screening for substance use and mental illness, and the current state of knowledge about the consequences of untreated addiction and mental illness, the harms associated with not screening are too severe to be ignored. Therefore, screening for both mental illness and substance use disorders should be considered for reimbursement in the Committees' bill.

Specific recommendations to ensure that screening for mental illness and substance use disorders can be reimbursed under the Act:

- On page 25, Title I, Subtitle C—Standards Guaranteeing Access to Essential Benefits, Sec. 122(b)(8), line 3, after the word “Force” add the following words “, or with other compelling research or evidence.”
- On page 674, Title VIII—Medicaid and Chip, Part 2— Prevention, Sec. 1811(a)(2)(y)(1)(A), line 21, after the word “Force” add the words “, or with other compelling research and evidence”

5) We ask the Committees to specify that substance use disorder professionals are included in the Act's health workforce initiatives.

The draft legislation includes a number of initiatives aimed at strengthening the health workforce and we applaud the Committees' intent to include mental health and substance use disorder professionals in the programs authorized in the draft's health workforce section. We also appreciate the Committees' intention of including both mental health and substance use disorder professionals in Section 2232 on healthcare disciplines facing severe workforce shortages. It is critically important that the draft legislation explicitly state throughout that “mental health professionals” and “substance use disorder professionals” are eligible for the draft's health workforce initiatives, including those aimed at strengthening the public health workforce through scholarship and loan repayment programs, and training programs on innovation, and cultural and linguistic competence.

However, the Act does not explicitly include substance use disorder professionals in any of the legislation's health workforce development measures. Substance use disorder professionals are a critical—and distinct—component of the nation's health care workforce. There are over 60,000 health care professionals who hold state or national certification, licensure or other qualifications in substance use disorder prevention, treatment and recovery support. These credentials reflect specialty education, training and experience in providing care for substance use disorders. Each state has certification, licensure or other qualifications to meet before providing substance use disorder services, and there are nationally recognized credentials as well. Like many other health professions, the substance use disorder workforce faces serious challenges including low pay, high turnover, “graying,” and a lack of cultural and linguistic diversity. The substance use disorder field, and people in need of substance use disorder prevention, treatment and recovery support services, would benefit enormously from being explicitly included in the workforce initiatives proposed in the draft legislation.

In addition, we ask that the draft legislation be amended to ensure that substance use disorder professionals are included as Medicare providers. Substance use disorder professionals with at least a Master's degree have demonstrated extensive clinical experience and academic study of substance use disorders and their bio-psycho-social effects. We were pleased that the draft legislation would ensure that marriage and family therapists and mental health counselors were included as Medicare providers. Amending the draft to make substance use disorder professionals eligible as Medicare providers would be both clinically appropriate and cost-effective.

Specific recommendations to include substance use disorder professionals in the Act’s health workforce initiatives:

- On page 411, Section 1308 – Coverage of Marriage and Family Therapist Services and Mental Health Counselor Services, line 11, after the word “THERAPIST SERVICES” strike “AND” and add a comma; after “COUNSELOR SERVICES” add “, AND SUBSTANCE USE DISORDER PROFESSIONAL SERVICES”.
- On page 771, Section 2232, amending Sec. 765(e) – SEVERE SHORTAGE DISCIPLINES, line 4, strike the word “behavioral” and insert the words “substance use disorder”
- On page 780, Sec. 2242(a) – Loan Repayments and Fellowships Regarding Faculty Positions, after line 25, add “(b) Paragraph (3) of section 738(a) (42 U.S.C. 293b(a)) is amended by striking “behavioral” and adding “substance use disorder treatment”
- On page 840, Sec. 2501(a) – Expansion of Covered Entities Receiving Discounted Prices, page 840, line 12, strike “abuse” and add “use disorders”
- On page 420, Section 1308(b) – Coverage of Mental Health Counselor Services, page 420, after line 8, add the following:

“(c) COVERAGE OF SUBSTANCE USE DISORDER PROFESSIONAL SERVICES.—

(1) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 1235, is amended—

(A) in subparagraph (GG) by striking “and” at the end;

(B) in subparagraph (HH), by striking “and” at the end; and

(C) by adding at the end the following new subparagraph:

“(II) substance use disorder professional services (as defined in subsection (III)(1));”.

(2) DEFINITION.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as previously amended, is amended by adding at the end the following new subsection:

“Substance Use Disorder Professional Services

“(III)(1) The term ‘substance use disorder professional services’ means services performed by a substance use disorder professional (as defined in paragraph (2)) for the diagnosis and treatment of substance use disorders which the substance use disorder professional is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician’s professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(2) The term ‘substance use disorder professional’ means an individual who—

“(A) possesses a master’s or doctor’s degree which qualifies the individual for licensure or certification for the practice of mental health counseling in the State in which the services are performed;

“(B) after obtaining such a degree has performed at least 2 years of supervised substance use disorder professional practice; and

“(C) is licensed or certified as a substance use disorder professional by the State in which the services are performed.”.

(3) **PROVISION FOR PAYMENT UNDER PART B.**—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)), as amended by section 1303 and subsection (a)(3), is further amended—

- (A) by striking “and” at the end of clause (v);
- (B) by adding “and” at the end of clause (vi); and
- (C) by adding at the end the following new clause:
“(vii) substance use disorder professional services;”.

(4) **AMOUNT OF PAYMENT.**—

(A) **IN GENERAL.**—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by subsection (b), is further amended—

- (i) by striking “and” before “(Z)”;
- (ii) by inserting before the semicolon at the end the following: “, and (AA), with respect to substance use disorder professional services under section 1861(s)(2)(II), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under clause (L)”.

(B) **DEVELOPMENT OF CRITERIA WITH RESPECT TO CONSULTATION WITH A PHYSICIAN.**—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for substance use disorder professional services for which payment may be made directly to the substance use disorder professional under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) under which such a professional must agree to consult with a patient’s attending or primary care physician in accordance with such criteria.

(5) **EXCLUSION OF MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.**—Section 6 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)), as amended by subsection (a), is amended by inserting “substance use disorder professional services (as defined in section 1861(III)(1)),” after “mental health counselor services (as defined in subsection (kkk)(1)),”.

(6) **COVERAGE OF MENTAL HEALTH COUNSELOR SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.**—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)), as amended by subsection (b), is amended by striking “by a marriage and family therapist (as defined in subsection (jjj)(2)), or a mental health counselor (as defined in subsection (kkk)(2)),” and inserting “by a marriage and family therapist (as defined in subsection (jjj)(2)), a mental health counselor (as

defined in subsection (kkk)(2)), or a substance use disorder professional (as defined in subsection (lll)(2)),’.

(7) INCLUSION OF SUBSTANCE USE DISORDER PROFESSIONALS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)), as amended by subsection (a)(7), is amended by adding at the end the following new clause:

“(ix) A substance use disorder professional (as defined in section 1861(lll)(2)).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2011.”

6. We ask that the draft legislation include language in the public health and wellness sections of the draft to recognize the efficacy of community-wide strategies in improving public health outcomes.

Research substantiates that effective prevention hinges on the extent to which schools, parents, law enforcement, business, the faith community, the medical and public health providers, as well as other community groups work comprehensively and collaboratively through community-wide efforts to implement a full array of education, prevention, and wellness strategies.

The public health model, which involves data-based planning and targeted implementation in all community sectors with comprehensive strategies to change community environments, norms and policies that lead to population level outcomes has been used broadly by the community-based substance abuse prevention field, as well as other public health fields, and has achieved documented results and outcomes.

We ask that the public health and wellness provisions of the draft legislation be amended to acknowledge the effectiveness of utilizing community-wide environmental, norm- and policy-changing strategies to achieve population-level outcomes.

Specific language to recognize the efficacy of community-wide strategies in improving public health outcomes:

- On page 397, Title III—Promoting Primary Care, Mental Health Services, and Coordinated Care, Sec.1302(e)(1)(A) add a new subsection (x) after line 23 as follows “(x) improvement in achieving population level reductions in preventable chronic diseases, illnesses and conditions”
- On page 772, Sec. 2232 (amending Sec.765(d)(1)), line 6, after the word “workforce” add the words “including community coalition leaders,”
- On page 800, Title XXXI—Prevention and Wellness, Subtitle B—National Prevention and Wellness Strategy, Sec.3121(a), line 18, after the word “activities” strike the “.” and add the words “, to achieve population level reductions in preventable chronic diseases, illnesses and conditions, including substance use disorders and serious mental illness.”

- On page 801, Title XXXI—Prevention and Wellness, Subtitle B—National Prevention and Wellness Strategy, Sec.3121(b)(2), line 5, after the word “needs” add the following words “(including strategies, programs, practices and services that are implemented and supported by healthy community norms and policy interventions in order to achieve population level outcomes in the prevalence of chronic diseases, illnesses and conditions, including substance use disorders and serious mental illnesses)”
- On page 801, Title XXXI—Prevention and Wellness, Subtitle B—National Prevention and Wellness Strategy, Sec.3121(b)(3), line 9, after the word “wellness” add the words “(including the relative effectiveness of environmental and policy changes to achieve population level outcomes)”
- On page 808, Title XXXI—Prevention and Wellness, Subtitle C—Prevention Task Forces, Sec.3132(b)(1), line 6, after the word “services” add the words “, activities and environmental and policy change strategies”
- On page 808, Title XXXI—Prevention and Wellness, Subtitle C—Prevention Task Forces, Sec.3132(b)(2), line 11, after the word “services” add the words “, strategies and policy”
- On page 810, Title XXXI—Prevention and Wellness, Subtitle C—Prevention Task Forces, Sec.3132(d)(3)(C), line 8, after the word “health” add the words “community-wide environmental, norm changing and policy strategies”
- On page 810, Title XXXI—Prevention and Wellness, Subtitle C—Prevention Task Forces, Sec.3132(d)(4)(A)(iv), line 18, after the word “practitioners” add the words “(including community coalition leaders)”
- On page 814, Title XXXI—Prevention and Wellness, Subtitle E—Prevention Task Forces, Sec.3151(a), line 24, after the word “services” add the words “,environmental, norm changing and policy strategies”
- On page 815, Title XXXI—Prevention and Wellness, Subtitle E—Delivery of Community-Based Prevention and Wellness Services, Sec. 3151(a)(2), line 3, after the word “services” add the words “, environmental, norm changing and policy strategies”
- On page 815, Title XXXI—Prevention and Wellness, Subtitle E—Delivery of Community-Based Prevention and Wellness Services, Sec. 3151(b)(2)(A), line 18, after the word “services” add the words “, environmental, norm changing and policy strategies”
- On page 815, Title XXXI—Prevention and Wellness, Subtitle E—Delivery of Community-Based Prevention and Wellness Services, Sec. 3151(b)(2)(B), line 24, after the word “partnership” add the words “, which brings multiple community sectors together to ensure that comprehensive, data-driven prevention and wellness strategies, programs, services and practices are implemented and supported by healthy community norms and policy interventions to achieve population level changes in the prevalence of chronic diseases, including substance use disorders, and serious mental illness”
- On page 816, Title XXXI—Prevention and Wellness, Subtitle E—Delivery of Community-Based Prevention and Wellness Services, Sec. 3151(c)(5), line 19, after the word “services” add the words “, environmental, norm changing and policy strategies”

- On page 816, Title XXXI—Prevention and Wellness, Subtitle E—Delivery of Community-Based Prevention and Wellness Services, Sec. 3151(c)(6), line 20, after the word “services” add the words “, environmental, norm changing and policy strategies”
- On page 817, Title XXXI—Prevention and Wellness, Subtitle E—Delivery of Community-Based Prevention and Wellness Services, Sec. 3151(d), line 6, after the word “services” add the words “, environmental, norm changing and policy strategies”
- On page 817, Title XXXI—Prevention and Wellness, Subtitle E—Delivery of Community-Based Prevention and Wellness Services, Sec. 3151(e), line 13, after the word “services” add the words “, environmental, norm changing and policy strategies”

6) We ask that the draft legislation include therapeutic foster care service as a defined Medicaid service category.

Therapeutic foster care provides medically necessary, evidence-based intensive services in the least restrictive community-based environment for children with severe mental and substance use disorder needs. Currently, States rely on a patchwork of sources to fund therapeutic foster care services.

Creating a medical assistance category within Medicaid for therapeutic foster care would ensure a more stable source of funding and would improve access to these critically important services for children with severe mental illness and substance use disorder needs. In addition, the quality of care for these children and youth would be improved by offering a streamlined, transparent system of reimbursement.

Specific recommendations for including therapeutic foster care service as a defined Medicaid service category:

- On page 672, TITLE VIII—MEDICAID AND CHIP, PART 1—MEDICAID AND HEALTH REFORM, after line 2, insert the following:

“Sec. 1805. MEDICAID COVERAGE FOR THERAPEUTIC FOSTER CARE SERVICES

a) COVERAGE OF SERVICES—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended--

(1) in subsection (a)--

(A) in paragraph (27), by striking `and' at the end;

(B) by redesignating paragraph (28) as paragraph (29); and

(C) by inserting after paragraph (27) the following new paragraph:

“(28) therapeutic foster care services described in subsection (y); and'; and

(2) by adding at the end the following new subsection:

“(y)(1) For purposes of subsection (a)(28), therapeutic foster care services described in this subsection are services provided for children who have not attained age 21, and, as a result of mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities need the level

of care normally provided in an institution (including a psychiatric residential treatment facility) or nursing facility but who can be cared for in a community placement, through therapeutic foster care programs that--

^(A) are licensed by the State and accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, or the Council on Accreditation;

^(B) provide structured daily activities, including the development, improvement, monitoring, and reinforcing of age-appropriate social, communication and behavioral skills, crisis intervention and crisis support services, medication monitoring, counseling, and case management, and may furnish other intensive community services; and

^(C) provide foster care parents with specialized training and consultation in the management of children with mental illness, other emotional or behavioral disorders, medically fragile conditions, or developmental disabilities, and specific additional training on the needs of each child provided such services.

^(2) In making coverage determinations under paragraph (1), a State may employ medical necessity criteria that are similar to the medical necessity criteria applied to coverage determinations for other services and supports under this title.'."

7) We ask that the draft be amended to modify the IMD (Institutions for Mental Diseases) exclusion under Medicaid for people with substance use disorders.

We appreciate the Committees' work to improve access to health services. A significant barrier to access for people with substance use disorders is the IMD (Institutions for Mental Diseases) exclusion under Medicaid.

Under the exclusion, reimbursement is expressly disallowed for all Medicaid-covered services provided to recipients between 22 and 64 years of age in residential treatment facilities known as Institutions for Mental Diseases (IMDs). IMDs are facilities with more than 16 treatment beds that provide care for individuals with "mental diseases," with substance abuse included in the definition of "mental diseases." This exclusion was designed to prevent federal subsidies for large mental hospitals, but has been misapplied to cover free-standing, cost-effective residential substance use disorder treatment programs as well.

Community-based programs are the core of residential substance use disorder treatment services. Under the IMD exclusion, their patients are ineligible for Medicaid reimbursement, and this significantly exacerbates the gap between patient demand and service availability in this country.

Substance use disorders are preventable, treatable chronic diseases. Effective treatment requires a continuum of care that can include behavioral, psychological, pharmacological and supportive therapies and approaches. Comprehensive residential treatment for people with substance use disorders has been shown to be effective and cost-effective in reducing drug use and related behaviors. Research on and evidence-based practices for substance use disorder treatment supports individuals being placed in the most appropriate levels of care for the most appropriate length of stay. Amending the IMD exclusion to

raise the bed limit from 16 to 40 would help many more individuals with a treatable chronic disease receive the care they need and would allow many more Americans get into recovery. Comprehensive community-based residential alcohol and drug treatment needs a “community” as part of its therapeutic philosophy which supports raising the 16 bed limit.

Specific language to modify the IMD exclusion in Medicaid for people with substance use disorders:

- On page 672, TITLE VIII—MEDICAID AND CHIP, PART 1—MEDICAID AND HEALTH REFORM, after line 2, insert the following:

“Sec. 1806. MEDICAID COVERAGE FOR SUBSTANCE ABUSE TREATMENT.

a) COVERAGE OF SERVICES—Section 1905(i) of the Social Security Act (42 U.S.C. 1396d) is amended by, following the words "more than 16 beds," inserting "or a non-hospital community-based substance use disorder residential treatment facility of more than 40 beds,"

8) We ask that the Committees include the lead federal agencies on mental health and substance use disorder policy, the Substance Abuse and Mental Health Services Administration and the Office of National Drug Control Policy, where appropriate, throughout the legislation.

Throughout the draft legislation, certain federal agencies are identified as acting in an advisory capacity or having a role in implementation of certain initiatives proposed in the draft legislation. We ask, where the legislation includes provisions related to mental health conditions or substance use disorders, that Substance Abuse and Mental Health Services Administration (SAMHSA) and the White House Office of National Drug Control Policy (ONDCP) be specifically identified as agencies that will play an important role in implementation of the Act’s initiatives and to provide guidance and direction. Specific inclusion of these agencies throughout the legislation will ensure that the lead federal agencies for substance use disorders and mental health can maintain their roles, provide expertise, reduce duplication of effort and increase efficiency and effectiveness of services.

Specific recommendations to include the Substance Abuse and Mental Health Services Administration and the Office of National Drug Control Policy:

- On page 770, Division C, Title II, Subtitle C, Section 765, line 18, after the word “Prevention” add in “Substance Abuse and Mental Health Services Administration”
- On page 792, Division C, Title II, Subtitle D, Chapter 3, Section 764, (d), line 14, after the word “with” strike “the” and add “representatives from all appropriate agencies within HHS, including the Substance Abuse and Mental Health Services Administration (SAMHSA) and”
- On page 801, Division C, Title XXXI, Subtitle B, Section 3121 (c)(1), lines 20-21, after the words “Minority Health”, strike the word “and” and after the term “Women’s Health” add the words “Substance Abuse and Mental Health Services Administration (SAMHSA).”
- On page 801, Division C, Title XXXI, Subtitle B, Section 3121 (c)(1), line 25, after the word “Defense”, strike the word “and” and after the term “Women’s Health” add the words “Substance Abuse and Mental Health Services Administration (SAMHSA).”

- On page 812, Division C, Title XXXI, Subtitle B, Section 3121 (f)(2)(B)(ii), line 5, after the term “Minority Health”, strike the word “and” and after the term “Women’s Health” add the words “Substance Abuse and Mental Health Services Administration (SAMHSA).”
- On page 812, Division C, Title XXXI, Subtitle B, Section 3121 (f)(2)(B)(ii), line 11, after the word “Defense” add “Director of the Office of National Drug Control Policy”
- On page 814, Division C, Title XXXI, Subtitle E, Section 3151(a), line 21, after the word “Prevention: add the words “in consultation with the Substance Abuse and Mental Health Services Administration”
- On page 817, Division C, Title XXXI, Subtitle E, Section 3151(e), line 16/17, after the word “Prevention: add in “in consultation with the Substance Abuse and Mental Health Services Administration”
- On page 838, Division C, Title IV, Part D, Section 1709(j), line 8, strike the word “and” and add, on line 9, after the word “Health” the following – “and the Substance Abuse and Mental Health Services Administration”

9) We ask that the draft legislation clearly state that State laws which provide better coverage, rights, methods of access to health care services and consumer protections are not preempted by the federal law.

We are hopeful that federal health reform legislation will include coverage, rights, methods of access to health care services, and consumer protections that are at least as strong as those found in all state laws. However, in the event they are not, and/or to allow states in the future to improve upon federal health reform legislation, stronger state laws should not be preempted.

States across the country have enacted consumer protections that should not be undone by the draft legislation. Examples of state consumer protection laws:

- Connecticut state law mandates the provision of mental health services
 - Pennsylvania Act 106 requires all group health plans to provide coverage for a continuum of addiction-related treatment and a certification and referral from a licensed physician or licensed psychologist is the only lawful prerequisite to addiction treatment
 - Article 44 of New York State Public Health Law guarantees rights to enrollees of managed care organizations such as:
 - Consumer has the right to know what steps he or she can take if the plan will not cover a service
 - Consumer is entitled to know how much in a plan year the plan will pay doctors and health providers who contract with the plan
 - Consumer has the right to see a doctor outside of the plan if the plan does not have a provider who meets the consumer’s health needs
- (http://www.health.state.ny.us/health_care/managed_care/billofrights/bill.htm)

Specific recommendations to ensure that State laws which provide greater coverage, rights, methods of access to treatment and consumer protections are not preempted:

➤ On page 43, line 6, insert the following:

(c) SPECIAL RULE ON CONTINUED OPERATION OF STATE LAWS RELATING TO SUBSTANCE ABUSE AND/OR MENTAL HEALTH TREATMENT SERVICES AND BENEFITS. Notwithstanding any other provision of this division, nothing in this division shall be construed to preempt any State law relating to the coverage or provision of substance abuse and/or mental health treatment, including substance abuse and/or mental health treatment services and benefits, methods of access to benefits, consumer protections, and remedies, that are more favorable, from the standpoint of the insured or plan member, than required under any provision of this division.

➤ On page 59, line 15, insert the following:

(e) SPECIAL RULE REGARDING SUBSTANCE ABUSE AND/OR MENTAL HEALTH TREATMENT SERVICES AND BENEFITS. In determining the amount of any reimbursement due the Commissioner under the preceding subsection, the determination should be made without regard to any State law requirements governing the coverage or provision of substance abuse and/or mental health treatment, including substance abuse and/or mental health treatment services and benefits, methods of access to benefits, consumer protections, and remedies.