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July 14, 2009

The Honorable Charles B. Rangel
Chairman, Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Henry A. Waxman
Chairman, Committee on Energy and Commerce
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable George Miller
Chairman, Committee on Education and Labor
United States House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Rangel, Waxman, and Miller:

On behalf of the American Psychiatric Association (APA), the medical specialty representing more than 38,000 psychiatric physicians nationwide, I would like to thank you for this opportunity to provide feedback on the "Tri-Committee" comprehensive health reform proposal and the America's Affordable Health Choices Act of 2009, H.R. 3200, which will be under consideration in your committees this week.

The APA commends you on your work to provide high-quality healthcare to all Americans and to address the increasing costs of healthcare for patients, physicians, and other healthcare providers. The reforms proposed in the Tri-Committee legislation reflect a genuine interest in improving our nation's healthcare system, and we thank you for your hard work. We are in the process of reviewing changes within the bill as introduced, and would welcome the opportunity to provide further comments as the legislative process continues.



In particular, the APA would like to express deep appreciation for the inclusion of mental health and substance-use disorder treatment within the basic benefit package required by all qualified health benefit plans within the Health Insurance Exchange, and extending this coverage requirement to all health insurance plans within five years. This provision recognizes the crucial role of mental health within the overall health of our nation, and builds on the remarkable achievement of enacting mental health “parity” last year.

In addition, on behalf of our patients, psychiatric physicians thank you for your bold steps to eliminate gaps in healthcare coverage by:

- Including language preserving advances in parity for mental health and substance-use disorder treatment;
- Blocking insurance discrimination based on health status and pre-existing conditions;
- Phasing out the Part D “donut hole” in prescription coverage for Medicare beneficiaries, and allowing mid-year changes for beneficiaries adversely impacted by formulary changes;
- Including cultural competency provisions to address racial and ethnic disparities in healthcare;
- Expanding participation in the 340B program including community mental health services; and
- Extending the Medicaid eligibility to 133 1/3% of the federal poverty level, and providing federally-funded affordability credits to assist lower-income Americans in purchasing health insurance.

Enactment of these patient-care provisions would significantly improve access to care for Americans of all ages, particularly those who are suffering from mental illnesses and substance-use disorders.

Our physician members also would like to express appreciation for the following provisions related to Medicare physician payment:

- Wiping clean the Sustainable Growth Rate debt and rebasing the volume target at the 2009 level; resetting future accumulated debts every sixth year; and allowing medical services to grow beyond the Gross Domestic Product growth rate, with special growth allowances for primary and preventive care.
- Extending the physician fee schedule mental health add-on as enacted in the Medicare Improvements for Patients and Providers Act of 2008.

In recognition of your request for feedback, we would like to identify the following comments and concerns about certain provisions of the America’s Affordable Health Choices Act of 2009:

- The APA was pleased to see a provision eliminating Medicare’s 190-day lifetime limit on psychiatric hospital stays included in the discussion draft. It has been removed from the bill as introduced, and we regret this change. Eliminating the

cap in inpatient Medicare coverage would address remaining inequities in the Medicare program and greatly improve the care available to beneficiaries with severe mental illnesses. We urge reinstatement of the provision during markup and inclusion in the final draft of the bill.

- We commend your efforts to ensure that physician workforce levels are sufficient to meet national needs. To that end, we recommend that psychiatry be considered a primary care service within Medicare and the Health Insurance Exchange. As included in the discussion draft, we were encouraged to see mental health and substance-use disorder treatment considered as primary care for public health workforce capacity building grants, and the specification of behavioral and mental health professions as public health workforce severe shortage disciplines. We ask that health reform legislation follow the precedent set by the National Health Service Corps loan repayment program and include psychiatry as a primary care service.
- Under terms of the current legislation, the Health Benefits Advisory Committee and the Comparative Effectiveness Research Commission require only one physician member each. With such potentially significant consequences for the practice of medicine, particularly in determining appropriate coverage decisions, we urge you to ensure a more significant role for physicians on these supervisory panels.
- The APA appreciates your efforts to streamline the process of coverage decisions by instituting a Health Benefits Advisory Committee to make these decisions, rather than looping through Congress for each new consideration. We would ask that language be added to this provision ensuring for patients and physicians alike that the decision-making process of the Health Benefits Advisory Committee is transparent and has an explicit opportunity for stakeholder comment. While streamlining is crucial, it is also important to protect our ability to advocate on behalf of our patients and their care.
- Reducing fraud and abuse in the Medicare program is essential to delivering the right care to the right patients. However, we have concern about adding a payment modifier for any evaluation and management (E&M) coding that results in additional services, such as the prescribing of prescription drugs. Psychiatrists use E&M codes for monitoring the care of their patients, and oftentimes E&M requires prescribing and modifying psychiatric medications such as antipsychotics, antidepressants, and at times, anticonvulsants. We are concerned that this policy could inadvertently penalize psychiatrists for proper patient care, and we ask that clarification of this provision be included in the final language.
- We commend your efforts to bolster the healthcare workforce within your health reform legislation. Through your leadership in the past year, Congress enacted profound changes that will help end a half century of insurance discrimination against our patients, both in private third party insurance and in the Medicare

program. Along with the work included in the Tri-Committee health reform bill, the combined impact will make a dramatic difference in the lives of our patients. Improved access to treatment requires a robust health professional workforce including psychiatrists to meet the demand for treatment. Medical education provisions in your bill will impact psychiatric residencies and should be designed to help meet demand that would specifically improve the workforce crisis in the practice of psychiatry, particularly geriatric psychiatry and child and adolescent psychiatry. We call your attention to current legislation to achieve this end: Retooling the Health Care Workforce for an Aging America Act of 2009, H.R. 468; and the Child Health Care Crisis Relief Act of 2009, H.R. 1932.

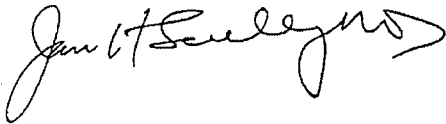
- The APA is concerned about preserving certain state-mandated coverage requirements in relation to the federally-funded affordability credits for low-income participants in the Health Insurance Exchange. We agree with you that federal funding of these credits is critical. With severe cuts facing many state budgets, we are concerned that requiring states to repay the federal government for additional premium costs due to coverage mandates would punish states for hard-fought improvements to health insurance benefits and threaten access to improved benefits for low-income participants in the Health Insurance Exchange. In addition, this provision could provide an incentive for cash-strapped states to rescind coverage mandates in order to cut costs, thereby disenfranchising each member of that state.
- The APA urges inclusion of language to end the 24-month waiting period for Medicare eligibility once an individual has qualified to receive Social Security Disability Insurance. Up to 40 percent of the individuals in this waiting period do not have health insurance coverage, and a substantial percentage of them have a primary or secondary diagnosis of severe and persistent mental illness, often accompanied by a co-occurring substance use disorder. The two-year waiting period puts people with severe disabilities at risk. With a gap in coverage, individuals forego medical treatments, stop medications, and otherwise compromise their health. We call your attention to the Ending Medicare Disability Waiting Period Act of 2009, H.R. 1708, and urge you to close this gap for our most vulnerable citizens.
- As Congress considers innovated payment reforms for physicians, we join the American Academy of Neurology in supporting a temporary bonus payment over the Medicare fee schedule for E&M coded services provided to patients suffering from the chronic conditions identified by the Medicare Special Needs Plan Chronic Condition Panel (SNCCP). The SNCCP as authorized by the Medicare Improvements for Patients and Providers Act of 2008 identified 15 conditions for inclusion in the 2010 Medicare Advantage Special Needs Plans. These high-risk conditions, which include chronic and disabling mental health conditions, alcohol and drug dependence, and dementia, are medically complex and require specialized care delivery across several domains. We expect that recognizing the special coordination of care necessary for treating these patients will result in high

quality, patient-centered, and cost-effective care for Medicare beneficiaries with severe or disabling chronic conditions.

- The APA supports efforts to expand and enhance access to telemedicine services for Medicare beneficiaries in rural and underserved areas, and commend the establishment of a Telehealth Advisory Committee through the Tri-Committee bill. Advances in telemedicine carry great potential for overcoming access to care in rural and underserved areas, particularly for medical specialties like psychiatry where services are not procedure-based. It is important, however, that an expansion of telemedicine capabilities not be used to undercut the importance of face-to-face medical consultation when it is available.

Thank you for the opportunity to share these comments and concerns with you. The APA commends your bold efforts to improve our nation's health care system, and your thoughtful consideration of America's myriad patients and providers, physicians and health care practitioners. We would welcome the opportunity to provide further information on any of the appreciations and concerns listed above. As we continue our review of the Tri-Committee bill as introduced, please let us know if additional information is needed for the Committees' consideration.

Sincerely,



James H. Scully Jr., M.D.
Medical Director and C.E.O.
American Psychiatric Association

CC: Rep. Dave Camp, Ranking Member, Committee on Ways and Means
Rep. Joe Barton, Ranking Member, Committee on Energy and Commerce
Rep. Howard "Buck" McKeon, Ranking Member, Committee on Education and Labor
Members of the Committees on Ways and Means, Energy and Commerce, and Education and Labor