



California Association of Mental Health Peer Run Organizations (CAMHPRO)

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► NEWS ALERT:

December 9, 2016

The 21st Century CURES Act passed both the House and Senate and is going to the President for signature. President Obama has publicized that he will sign the bill. This a huge bill that covers cancer research, the opiate epidemic and more. Within the bill is a lengthy section entitled, "Helping Families in Mental Health Crisis Reform Act of 2016."

Although this mental health legislation is not the same repressive legislation that was introduced 4 years ago and actively opposed by mental health advocacy organizations, including consumer advocacy organizations, there are still measures in it that threaten to turn the clock back on the recovery oriented direction of the behavioral health system of the last 20 plus years.

Following is an excellent analysis of the "Helping Families in Mental Health Crisis Reform Act of 2016" by NYAPRS, the New York Association of Psychiatric Rehabilitation Services.

- Sally Zinman



NYAPRS Summary of Key Mental Health Provisions within the '21st Century Cures Act'

<http://www.nyaprs.org/e-news-bulletins/2016/015375.cfm>

NYAPRS Note: After almost 4 years of deliberation and often contentious debate, the House has approved "21st Century Cures Act" legislation that features a lengthy section entitled "Helping Families in Mental Health Crisis Reform Act of 2016."

There are a number of very positive advances here, especially as regards holding the line on preserving protection and advocacy and HIPAA rights protections while advancing criminal justice, parity, workforce and child, youth and school based mental health initiatives.

However, there are some measures here that implicitly threaten to reverse course and potentially move us back from the recovery and rehabilitation agenda that SAMHSA and our movement and field have worked so hard and for so long to advance.

Elevating and integrating mental health policy and service initiatives within the federal government sounds very positive....but will that agenda remain prominent in a design where SAMHSA is absorbed within the greater

Health and Human Service agency bureaucracy?

It's critical that we make a front and center commitment to ratchet up the help we provide to individuals and families in crisis and to offer many more robust alternatives to the intolerable numbers of our community who live on the streets or in jails and prisons. But these must not be achieved at the expense of the groundbreaking advances we have made over the past 5 decades.

There's a lot of mention here of 'evidence based practice' and 'clinical focus' that can easily be read as dismissing the newer under-researched recovery and peer practices and defaulting to a solely reductionist illness, medication and hospitalization based paradigm.

There are an extraordinary number of evaluations, reports and oversight measures over SAMHSA that appear to come from some folks out there who want to rein in the recovery, rights and consumer movements, regarding them as antithetical to the challenges experienced by the 'most needy.' This narrative comes from the same folks who, in their endless zeal for more court orders, more admissions and less rights and privacy protections, are either ignorant of or ignore all of the community innovations we have or are developing that will remain un or underfunded because more scarce public dollars will now go to more, costly AOT and inpatient services.

And there's hardly any mention of the social determinants that are crucial factors to advancing health or relapse prevention, like employment, economic self-sufficiency and housing.

So, there're a number of good things in this bill but some very real cautions too. The bill will pass the Senate and, ultimately that's for the good, because who knows what a 2017 mental health reform bill could contain?

In any event, it will be up to each of us to ensure that the agenda championed by SAMHSA and the recovery community not be disrupted or diminished as we head into a different federal government structure and focus....and that we add to rather than subtract from that great agenda.

NYAPRS Summary of Key Mental Health Provisions within the '21st Century Cures Act'

Federal Mental Health Agency Changes

- While preserving SAMHSA, the bill moves the current duties of the SAMHSA Administrator to the new post of **Assistant Secretary for Mental Health and Substance Use**, seen by some as an 'elevated' position for behavioral health policy.
- It also takes a number of steps to move the agency to a more 'evidence based' and 'clinical' focus, which is the specific charge of a new Chief Medical Officer post and the primary intent of a number of new planning and evaluation requirements, including a biennial report to Congress.
- The bill also creates a **National Mental Health and Substance Use Policy Laboratory (NMHSUPL)** within SAMHSA to "promote evidence-based practices and service delivery models", which will be shared with states, local communities, nonprofit entities, and other stakeholders.

- The bill creates an **Inter-Departmental Serious Mental Illness Coordinating Committee** to better coordinate mental health services for people with serious mental health conditions amongst adults and children. The committee is made up of HHS, the Centers for Medicare and Medicaid Services (CMS), the Department of Justice (DOJ), VA, DOD, HUD, the Department of Education, DOL, and the Social Security Administration (SSA), as well as patients, health care providers, researchers, a judge, and a law enforcement officer.
- The bill directs CMS to provide states with “opportunities to design **innovative service delivery systems** to improve care for individuals with serious mental illness or serious emotional disturbance.”

Protection and Advocacy Organizations

- The bill preserves in full the focus and duties of the nation’s Protection and Advocacy agencies, which have long played a critical role in protecting and advocating for the human and civil rights of people with serious mental health conditions, as well as investigating reports of abuse and neglect in places that either provide care or treat individuals with those conditions.
- It authorizes a review by the Government Accountability Office (GAO) of P&A programs carried out by states and private, non-profit organizations and implements an independent grievance procedure for complaints.

Medicaid Reimbursement for Institution for Mental Diseases (IMD)

- While groups like NYAPRS opposed previous legislative proposals to extend Medicaid to pay for state and psychiatric hospital services instead of expanding the range of community crisis, prevention and recovery services, this policy is already in the process of being implemented....not via federal legislation but by a regulatory change approved under the Obama Administration. As a result, Medicaid managed care plans have been authorized to pay for up to 15 day inpatient stays per month in those facilities.
- This legislation simply directs CMS to conduct a study and report on the implementation of this policy.

Health Information Portability and Accountability Act (HIPAA)

- The bill outlines the need for clarity around HIPAA protections, but rejects previous efforts to add exemptions to the law.
- It requires HHS to issue final regulations within 1 year to clarify circumstances in which a health care provider may share protected health information
- And it adds funding for the creation of training and educational programs to educate health

care providers and regulatory compliance staff around the exact limitations and permissions available under current legislation.

Assisted Outpatient Treatment

- In late 2015, Congress authorized a number of pilot programs to advance and evaluate the increased use of court mandated outpatient treatment (often called ‘Assisted’ Outpatient Treatment). The ‘Cures Bill’ extends and funds the pilots out several years more to 2022.
- The bill does not tie state mental health block funding to expanding the use of outpatient treatment orders, as originally proposed.

Peer Support Specialists

- The bill authorizes a study and Congressional report of SAMHSA funded peer specialist programs in states that receive SAMHSA grants that looks at hours of formal work or volunteer experience, types of peer support specialist exams and codes of ethics required for such programs and recommended skill sets and requirements for continuing education.
- Happily, it does not engage Congress in establishing national credentialing, licensing or program standards (at least, at this time).

Grants: The bill creates, re-authorizes and/or increases funding for numerous critically important initiatives, including:

- Treatment and Recovery for Homeless Individuals
- Jail Diversion Programs
- Promoting Integration of Primary and Behavioral Health Care
- Projects for Assistance in Transition from Homelessness
- National Suicide Prevention Lifeline Program
- Connecting Individuals and Families with Care
- Strengthening Community Crisis Response Systems
- Suicide Prevention
- Mental Health Awareness Training Grants
- Evidence-Based Practices for Older Adults

- National Violent Death Reporting System
- Assertive Community Treatment teams, evaluation
- Sober Truth on Preventing Underage Drinking Reauthorization

Same Day Coverage

- The bill permits same day reimbursement for services delivered by both mental health and primary care practitioners

Enhanced Compliance with Mental Health Parity Requirements

The bill requires various federal agencies to

- release guidance on requirements to comply with parity law
- conduct audits of health plans that have violated parity laws 5 times.
- issue new guidance to health plans
- convene a public meeting to produce an action plan for improved federal and state coordination relative parity law enforcement
- report on federal investigations on any serious parity enforcement violations
- provide a review of how the various federal and state agencies responsible for enforcing mental health parity requirements have improved enforcement in line

Criminal Justice

- Encourages the use of federally funded law enforcement, policing and fire prevention grants to create or expand mental health response and corrections programs, including police crisis intervention teams, specialized mental health response training, including crisis de-escalation, training first responders and paramedics on best practices for responding to mental health emergencies, including crisis de-escalation.
- Encourages the creation of Drug and Mental Health Court pilot programs
- Encourages the creation and deployment of behavioral health risk and needs assessments for mentally ill individuals in the criminal justice system.
- the operation of Forensic Assertive Community Treatment (FACT) Initiatives.
- use reentry demonstration project grant funds for the provision and coordination of mental health treatment and transitional services (including housing) for individuals re-entering society

with mental illness, substance abuse problems, or a chronic homelessness

- Requires mental health crisis and response training programs for members of each of the Federal Uniformed Services.
- Creates a National Criminal Justice and Mental Health Training and Technical Assistance Center
- Requires a report to Congress detailing the federal, state, and local costs of imprisonment for individuals with serious mental illness, including the number and types of crimes committed by mentally ill individuals.
- Authorizes funding for prison and jail-based programs, including transitional and re-entry programs that reduce the likelihood of recidivism when a mentally-ill offender is released.
- Authorizes resources for expanded law enforcement training activities, providing more officers with a basic understanding of the issues involved when responding situations with individuals with mental health crises.
- requires a report detailing the practices that federal first responders, tactical units, and corrections officers are trained to use in responding to individuals with mental illness, procedures to appropriately respond to incidents, the application of evidence-based practices in criminal justice settings, and recommendations on how the Department of Justice can improve information sharing and dissemination of best practices.

Strengthening the Health Care Workforce

- Funds grants to institutions of higher education or accredited professional training programs to support the recruitment and education of mental health care providers
- Uses existing mental and Substance Use Disorders Workforce grants for medical residents, nurse practitioners, physician assistants, health service psychologists, and social workers to provide mental and substance use disorder services in underserved community-based settings and programs for paraprofessionals that emphasize the role of the family and the lived experience of the consumer and family-paraprofessional partnerships.
- Codifies into law the Minority Fellowship Program to increase the number of professionals who provide mental or substance use disorder services to underserved, minority populations, and to improve the quality of mental and substance use disorder prevention and treatment for ethnic minorities.

Mental Health on Campus Improvement

- Authorizes existing funds to be used to increase awareness and training to respond effectively to students with mental health and substance use disorders, to provide outreach to administer voluntary screenings and assessments to students, to enhance networks with health care providers who treat mental health and substance use disorders, and to provide direct mental health services.
- Establishes an interagency working group to discuss mental and behavioral health on college campuses and to promote federal agency collaboration to support innovations in mental health services and supports for students on college and university campuses
- Convenes an interagency, public-private sector work group to plan, establish, and begin coordinating and evaluating a targeted, public-education campaign to focus on mental and behavioral health on the campuses of institutions of higher education.

Strengthening Mental and Substance Use Disorder Care for Women, Children, and Adolescents

- Reauthorizes and updates programs to provide comprehensive community mental health services to children with SED.
- Increasing Access to Pediatric Mental Health Care
- Substance Use Disorder Treatment and Early Intervention Services for Children and Adolescents
- Children's Recovery from Trauma
- Reauthorizes the National Child Traumatic Stress Initiative (NCTSI)
- Screening and Treatment for Maternal Depression
- Infant and Early Childhood Mental Health Promotion, Intervention, and Treatment
- Establishes a grant program to develop, maintain, or enhance mental health prevention, intervention, and treatment programs for infants and children at significant risk of developing or showing early signs of mental disorders, including SED, or social or emotional disability.

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Sally Zinman, Executive Director
