# Title by Title Summary:
# The Helping Families in Mental Health Crisis Act of 2015 (H.R. 2646)

Sponsored by Representatives Tim Murphy (R-Pennsylvania) and Eddie Bernice Johnson (D-Texas)

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## TITLE I --- ASSISTANT SECRETARY FOR MENTAL HEALTH AND SUBSTANCE USE DISORDERS

Creation of the Assistant Secretary for Mental Health and Substance Use Disorder (ASMH / ASMHSUD) (Sec. 101)

- The new position of ASMH is created and housed within the Department of Health and Human Services (HHS). The ASMH must be either a psychiatrist or PhD psychologist.
- The nine statutory duties of the proposed ASMH encompass a number of responsibilities related to improving care for individuals suffering from mental illness and substance use disorders. In general, they emphasize the promotion of evidence-based research, treatment, services and scientific standards, psychiatric workforce development, early diagnosis and prevention, integration of care, and crisis intervention, among other duties and priorities.
    - Note that the permanent duty "to develop and implement initiatives to encourage individuals to pursue careers as psychiatrists… and other licensed mental health professionals" is listed as the #2 duty for the ASMH.
- The proposed ASMH would be vested with considerable authority in order to carry out his or her duties. Within HHS, the ASMH would be charged to "oversee and coordinate" all programs and activities related to mental health and substance use disorders (MH/SUD), in addition to carrying out all management and policy development related to the implementation of MH/SUD programs. Across the federal government, the ASMH would identify evidence-based best practices related to MH/SUD, evaluate relevant programs, and make recommendations related to expanding, eliminating, coordinating, or merging such programs.
- The proposed ASMH is explicitly tasked with coordinating activities related to mental health parity for health insurance benefits
- All grants or financial assistance awarded by the Office of the ASMH must meet certain requirements based on applied scientific research, effectiveness, and replicability, among other requirements.

Nationwide Strategy to Increase the Psychiatric Workforce (Sec. 101)

- Among the duties listed above, the ASMH is tasked with the development of a continuing "Nationwide Strategy" to increase the psychiatric workforce and recruit medical professionals for the treatment of individuals with serious mental illness (SMI) and substance use disorders.
- The Nationwide Strategy will include methods to "encourage and incentivize students enrolled in accredited medical or osteopathic medical schools to enter the specialty of psychiatry", to promote research-oriented psychiatric residency training, and to increase access to child and adolescent

psychiatric services. Moreover, it would promote adoption of collaborative care models and "the necessary psychiatric workforce capacity for these models, including psychiatrists (including child and adolescent psychiatrists)", in addition to other professionals.

Transfer of SAMHSA authorities and renaming (Sec. 102)

- All authorities, personnel, assets, and obligations of the Substance Abuse and Mental Health Services Administration (SAMHSA) are transferred to the ASMH. The ASMH is provided authorization to employ personnel to carry out these activities.
- All references to SAMHSA in statute and regulations are replaced with references to the Office of the Assistant Secretary; all references to the SAMHSA Administrator are replaced with references to the ASMH

Annual reports on compliance with Mental Health Parity, and other reports (Sec. 103)

- Section 103 requires that the federal Departments responsible for enforcement of the Mental Health Parity and Addiction Equity Act annually report to Congress on federal parity investigations conducted in the previous year, including the results of such investigations.
- These reports must include the number of investigations opened and closed, details on the subject matter of the investigation, and a summary of final decisions made as a result of each investigation. The reports must be de-identified, consistent with federal privacy protections
- *Note: Title IX of the Helping Families in Mental Health Crisis Act further requires the Government Accountability Office (GAO) to investigate compliance with the parity law by health insurance plans (see description further in this document)*

Other required reports in this section:

- The ASMH would be required to report biannually on best practices for peer support specialist programs, training, and certification.
- The ASMH would also be required to report to Congress biannually on "the state of the States" related to MH/SUD. These reports would cover a wide range of topics, including the use of treatment funds, how funds impact individuals with SMI, models of best practice, certain statistical reporting, and other information.
- The Institute of Medicine would be required to develop a report on the paperwork burden on community mental health centers.

## TITLE II --- GRANT REFORM AND RESTRUCTURING

Creation of the National Mental Health Policy Laboratory (Sec. 201)

- A National Mental Health Policy Laboratory (NMHPL) is established under the supervision of the ASMH. It would collect information from grantees under federal mental health programs and disseminate evidence-based practices and service delivery models. The Director of the NMHPL would

give preference to models that improve coordination of care among providers, coordination between providers and the justice system, and other aspects of care for individuals with SMI.

- The NMHPL would be required to be staffed by psychiatrists, clinical psychologists, experts in substance use disorders, and experts in research design and methodologies. At least 20% of the staff must be psychiatrists.
- The Director for the NMHPL would be broadly empowered to set certain standards for grant programs that are administered under the ASMH.

Authorization of new Innovation Grants (Sec. 202)

- The ASMH would be authorized to award grants to State and local governments, educational institutions, and nonprofit organizations for expanding models of care that have been scientifically demonstrated to show promise, but would benefit from further research. The grants must adhere to certain requirements on the amounts of funding obligation for prevention-targeted purposes and funds that are designed for child and adolescent services.
- Authorizes up to 5% of certain non-block grant SAMHSA funding to carry out this section

Authorization of new Demonstration Grants (Sec. 203)

- The ASMH would be authorized to award grants to similar eligible entities described above for the expansion of evidence-based programs to advance mental health care, with priority for applied delivery of care and integration of models across specialties and jurisdictions. Half of the amounts of these grants must be obligated for services for youth, among other requirements.
- Authorizes up to 10% of certain non-block grant SAMHSA funding to carry out this section

Authorization of new Early Childhood Intervention and Treatment Grants (Sec. 204)

- The NMHPL is authorized to award grants to certain eligible nonprofit institutions that are accredited by state mental health and education agencies to undertake early childhood intervention and treatment programs that are based on sound scientific models that show evidence and replicability, with the goal of preventing chronic and serious mental illness.
- Grantees would be required to use these funds for an array of services, including for the delivery of medically based treatment, education, and treatment for the emergency needs of children. Grantees would have to provide no less than 10% matching funds to be eligible.
- Authorization amounts for this grant program are based on 5% of the total appropriation for the Comprehensive Community Mental Health Services for Children with Serious Emotional Disturbances program, which was $117m in FY2015.

Extension of Assisted Outpatient Treatment Grant Program (Sec. 205)

- The voluntary federal Assisted Outpatient Treatment (AOT) grant program would be extended to 2020 and its authorized funding amount would be raised from $15m to $20m. This grant program authorized funding to entities that can implement, monitor, and oversee new assisted outpatient treatment programs. The funding under this program may be used by entities that provide an array of services to individuals with serious mental illness in order to prevent hospitalization and unnecessary

incarceration for individuals with mental illness. These services include evaluating the medical and social needs of patients and executing comprehensive treatment plans with appropriate case management.

Obligated funding to NIMH for translating evidence-based interventions (Sec. 206)

- 5% of the Community Mental Health Services Block Grant would be set aside for the Secretary of HHS, acting through the National Institute of Mental Health, to translate evidence-based interventions into systems of care. Suggested models include the Recovery After Initial Schizophrenia Episode project and the North American Prodrome Longitudinal Study.

New integrated services requirements, SMI focus, reporting requirements, and expansion of models under the mental health block grant (Sec. 206)

- Requirements for state plans under the Community Mental Health Services Block Grant are amended to emphasize the integration of physical and mental health services, and to include a detailed focus on outcomes for individuals with SMI.
- Requirements for state plans are further amended to require more specificity in data collection, additional reporting requirements (largely focused on SMI outcomes), and collaboration with the proposed National Mental Health Policy Laboratory.
- The proposed ASMH is given broad authority to, through rulemaking, expand the use of evidence-based service delivery models by providers funded under the MH block grant. The expansion of models must be vetted by NIMH and is subject to Congressional review, among other requirements.

Assisted Outpatient Treatment under state law and promoting "Active Outreach and Engagement" (Sec. 206)

- Provides more flexible requirements for proposed state Assisted Outpatient Treatment (AOT) provisions, providing a 2% block grant bonus for states that have an outpatient commitment (AOT) law on the books. While language in this section has been read by some to condition SAMHSA block grant eligibility on whether or not a state has an AOT law (as the prior version of the Murphy-Johnson bill mandated), Representative Murphy has clearly articulated that the revised bill was designed to incentive states to adopt AOT laws without jeopardizinga state's access to block grant funding. This is an area where further clarification may be needed.
- Establishes a condition for block grant eligibility that states have active evidence-based assertive outreach and engagement services targeting individuals who are homeless, have co-occurring disorders, or a history of treatment failure. The ASMH along with the Director of NIMH would collaborate to develop a list of these services.

Telepsychiatry and Primary Care Physician Training Grant Program (Sec. 207)

- Establishes a new grant program under which 10 states are provided funding for training primary care physicians (PCPs) in the use of standardized behavioral-health screening tools, for best practices in mental health crisis intervention, and for the purposes of implementing the evidence-based collaborative care model.

- Eligible states must also use this grant funding for the payment of consultation provided by a psychiatrist or psychologist through the use of qualified telehealth technology (broadly defined) if such consultation occurs not later than the first business day that follows the visit.
- A state must provide at least a 20% funding match in order to be eligible. This grant program would be authorized at $3m for each of FY2016-2020.

Liability protections for healthcare professional volunteers (Sec. 207)

- Adds liability protections similar to those provided for Public Health Service employees for healthcare professionals who volunteer at community mental health centers

Explicit authorization of the Minority Fellowship Program (Sec. 207)

- The Minority Fellowship Program would be explicitly authorized in statute, and its authorized funding would be set at $6m for FY2016-2020. Concerns had been raised that the Minority Fellowship Program may have been unintentionally eliminated as a result of language that appeared in the Helping Families in Mental Health Crisis Act of 2014. That language in no longer included in this new legislation.

Child and adolescent psychiatrist eligibility for loan repayment in the National Health Service Corp (Sec. 207)

- Provides explicit eligibility for child and adolescent psychiatrists to participate in the National Health Service Corp (NHSC) and explicit eligibility for loan repayment through participation in the NHSC. Child and adolescent psychiatrists currently face a technical barrier to loan repayment due to the structure of fellowship years and requirements under the NHSC.

Crisis Intervention Training Grants for Police Officers and First Responders (Sec. 207)

- Authorizes the ASMH to award grants for training law enforcement officers and first responders to recognize mental illness and safely intervene.
- Authorizes up to 5% of certain non-block grant SAMHSA funding to carry out this section

Reauthorization of the National Child Traumatic Stress Network and the Garrett Lee Smith Memorial Act (Sec. 208)

- The National Child Traumatic Stress Network (NCTSN) is reauthorized with new provisions that allow hospitals and universities to be eligible for grant funding, among other new provisions and requirements related to outcome data reporting, peer review, and other requirements. NCTSN is proposed to be reauthorized at $46m for FY2014-2018.
- Reauthorizes the Garrett Lee Smith Memorial Act, which established federal funding to states, tribes, and colleges across the nation to implement community-based youth and young adult suicide prevention programs.

National stigma reduction campaign (Sec. 208)

- The Secretary of Education and the proposed ASMH would be required to organize a national awareness campaign involving public health organizations, advocacy groups, and social media companies to reduce the stigma associated with serious mental illness among students and to help

students understand how to assist their peers.

## TITLE III --- INTERAGENCY SERIOUS MENTAL ILLNESS COORDINATING COMMITTEE

Establishment of an Interagency Serious Mental Illness Coordinating Committee (Sec. 301)

- An Interagency Serious Mental Illness Coordinating Committee (ISMICC) is established in order to assist the ASMH with carrying out his or her duties. The ISMICC is tasked with annually updating Congress on advances in SMI research, monitoring federal activities with respect to SMI, and creating an annual Strategic Plan for the conduct and support of SMI research.
- The ISMICC is made up of representatives from the Office of the ASMH, NIMH, NIH, DoJ, CDC, and, other HHS agencies. It must also have representatives unaffiliated with the government, including requirements for a psychiatrist, a clinical psychologist, a corrections officer, a judge, a law enforcement official, a representative of a patient advocacy association, a family member of an individual with SMI, and an individual with SMI, among other members. Members serve a four year term and all meetings are public.
- The ISMICC must provide biannual reports to Congress that evaluate federal mental health programs for efficiency, effectiveness, quality, and coordination.
- Notably, the ISMICC is explicitly required to report on the progress and activities of the proposed "Nationwide Strategy" to address the psychiatric workforce (Sec. 101)

## TITLE IV --- HIPAA AND FERPA CAREGIVERS

Modifications to HIPAA and FERPA permitted disclosures (Sec. 401 and 402)

- **HIPAA -** Permits certain disclosures of protected health information (PHI) of individuals with serious mental illness to their caregivers by licensed health professionals if the disclosure is determined to meet a number of tests. Notably, these tests include that the disclosure is (1) determined to be necessary to protect the health, safety, or welfare of the individual or public, (2) the absence of the disclosed information will contribute to a worsening prognosis or an acute medical conditions, and (3) the patient, by nature of SMI, lacked or lacks capacity to understand or follow a treatment plan or may become gravely disabled in absence of treatment.
- Information disclosed must be limited to certain relevant categories, including information on diagnoses, medications, and appointment scheduling. Therapy notes are explicitly excluded from disclosure.
- **FERPA –** Permits educational agencies to disclose educational records of students to caregivers if a mental health clinician reasonably believes the disclosure to be necessary to protect the health, safety, or welfare of the student or the safety of other individuals.

Modifications to federal restrictions on disclosure of certain addiction records (Sec. 403)

- 42 CFR Part 2 (or "Part 2") is federal regulation that generally limits disclosure of health records from addiction treatment providers to circumstances of (1) direct written consent by the patient, (2) emergency, or (3) court order. This provision would create an exception to Part 2 requirements within Accountable Care Organizations, health information exchanges, health homes, and other integrated care arrangements that involve the exchange of electronic health records.

## TITLE V --- MEDICARE AND MEDICAID REFORMS

Medicaid financing proposals including same day billing, partial raise of the IMD exclusion, and lifting the 190 day Medicare inpatient limit (Sec. 501, Sec. 503)

- Mandates that states allow for same day Medicaid billing of psychiatric and primary care services when furnished at community mental health centers or federally qualified health centers.
- Partially raises the Medicaid exclusion for reimbursement of care at Institutes for Mental Disease (IMD / "the IMD exclusion") for psychiatric hospitals and acute-care units within state psychiatric hospitals that have an average length of stay of less than 30 days. In order for this provision to go into effect, the Centers for Medicare and Medicaid Services must certify that it would not result in any increase in federal Medicaid expenditure.
    - The reintroduced Helping Families in Mental Health Crisis Act contains new reporting and study requirements that are designed to prevent potential cost shifting from states to the federal government as a result of this new financing.
- Eliminates the Medicare 190 day lifetime coverage limit on inpatient psychiatric hospital care. In order for this provision to go into effect, the Centers for Medicare and Medicaid Services must certify that it would not result in any increase in Medicare expenditure.

Improved coverage for psychiatric medications (Sec. 502)

- The Secretary of HHS could no longer establish exceptions that permit Medicare Part D plans to exclude a particular covered Part D drug that is an antipsychotic or antidepressant, two of the six "classes of clinical concern".
- In administering its Medicaid formulary, a state cannot exclude or restrict access to a drug used for the treatment of specified mental health disorders other than a permitted prior authorization program.

Modifications to Medicare Discharge Planning Requirements (Sec. 504)

- Requires the Secretary of HHS to develop additional guidelines and standards related to the discharge planning process of psychiatric hospitals and psychiatric units. These must include standards surrounding the identification of outside services, efforts towards establishing relationships with community organizations, and coordination with the patient.

Modification to "Excellence in Mental Health Act" demonstration project (Sec. 505)

- The Demonstration Program to Improve Community Mental Health Services (previously passed into law as Section 223 of the Protecting Access to Medicare Act of 2014) will establish "certified community behavioral health clinics" according to specific criteria that emphasize high quality and evidence based practices which will make these clinics eligible for enhanced Medicaid funding

through a new Prospective Payment System. H.R. 2646 would amend this program to increase the amount of eligible states from eight to ten, and increase the amount of demonstration years from two to four.

## TITLE VI --- RESEARCH BY NATIONAL INSTITUTE OF MENTAL HEALTH (NIMH)

NIMH authorized funding increase (Sec. 601)

- Under this section, the NIMH would receive an authorized funding increase of $40m annually for the Brain Research through Advancing Innovative Neurotechnologies (BRAIN) Initiative and for research into the determinants of self and other-directed violence.

## TITLE VII --- BEHAVIORAL HEALTH INFORMATION TECHNOLOGY (HIT)

Inclusion of certain mental health facilities and clinical psychologists within HIT incentive program (Sec. 701)

- Extends federal Medicare and Medicaid health information technology incentives to currently ineligible professionals (e.g., clinical psychologists) as well as facilities including community mental health centers, psychiatric hospitals, and addiction treatment facilities.

## TITLE VIII --- SAMHSA

Proposed requirements on SAMHSA grant review and advisory councils (Sec. 801)

- New requirements that half the members of a program or grant peer review group, as well as an advisory council, be physicians or clinical psychologists. Further, the provision includes new requirements that grant peer review be based on scientific controls and standards related to whether the intervention reduces symptoms, improves outcomes, and improves social functioning for individuals with mental illness.

Modifications to the Protection and Advocacy for Individuals with Mental Illness (PAIMI) program (Sec. 811 – 815)

- PAIMI activities would be restricted to those that focus on "safeguarding the rights of individuals with mental illness to be free from abuse and neglect", and PAIMI would be newly obligated to ensure that individuals with SMI have access to evidence-based treatment, among other modifications.
- PAIMI grantees would be restricted from lobbying or retaining a lobbyist, counseling an individual with SMI who lacks insight into their condition on refusing medical treatment, and further restricted in other circumstances.

## TITLE IX --- REPORTING

GAO report on mental health parity implementation (Sec. 901)

- The Government Accountability Office is instructed to submit a report to Congress that details the extent to which insurance plans, including Medicaid managed care plans, comply with the Mental Health Parity and Addiction Equity Act of 2008. This report would include information on certain treatment limitations, federal activities on plan compliance, and recommendations for federal departments and agencies for ensuring full compliance with the law.