## COMPARISON OF KEY PROVISIONS | House and Senate Comprehensive Mental Health Reform Legislation

**Note:** A full title-by-title summary of H.R. 2646, the Helping Families in Mental Health Crisis Act of 2015 (Murphy/Johnson) is available at psychiatry.org/CMHR

### Helping Families in Mental Health Crisis Act of 2015 (H.R. 2646)

*Tim Murphy (R-PA), Eddie Bernice Johnson (D-TX)*

**Assistant Secretary for Mental Health and Substance Use Disorders (ASMH)**

- New position of Assistant Secretary of Mental Health and Substance Use Disorders (ASMH) is created and housed within HHS, tasked with overseeing and coordinating Mental Health/Substance Use Disorders (MH/SUD) activities. (Sec. 101)
- ASMH must be a psychiatrist or PhD psychologist. (Sec. 101)
- Among a number of duties, responsibilities, and priorities, the ASMH is tasked with coordinating mental health parity activities and identifying evidence-based best practices related to MH/SUD. (Sec. 101)
- Substance Abuse and Mental Health Services Administration (SAMHSA) authorities, personnel and obligations are transferred to ASMH. (Sec. 102)

### Mental Health Reform Act of 2015 (S. 1945)

*Bill Cassidy (R-LA), Chris Murphy (D-CT)*

- Substantially similar duties, responsibilities, and priorities in the establishment of an ASMH as in H.R. 2646
- No transfer of SAMHSA authorities; the SAMHSA Administrator would report directly to the proposed ASMH.

### Establishment of a Nationwide Mental Health Workforce Strategy

- 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 Severe Mental Illness (SMI) and SUD. Strategy would promote adoption of collaborative care models and the necessary mental health workforce capacity for these models. (Sec. 101)

### Mental Health Parity Enforcement

- Requires federal departments responsible for enforcement of parity to annually report to Congress on investigations conducted in the previous year and the results of said investigations. (Sec. 103)
- Requires the Government Accountability Office (GAO) to report on the extent to which insurance plans comply with The Mental Health Parity and Addiction Equity Act (MHPAEA). (Sec. 901)

- Substantially similar to H.R. 2646
- Provision more explicitly includes non-physician mental health professionals.

- Includes parity provisions from H.R. 2646
- Establishes new and detailed disclosure and reporting requirements, allows for randomized audits by HHS, and provides a new process for parity complaints to be filed by the public.
### Health Insurance Portability and Accountability Act (HIPAA) Clarification and Education

- Permits certain disclosures of protected health information of individuals with serious mental illness (SMI) to their caregivers by licensed health professionals. Disclosure must meet a specified test to be permissible. Further details are available in APA’s H.R. 2646 title-title-summary document. (Sec. 401, 402)
- Information disclosed must be limited to certain relevant categories. Therapy notes are explicitly excluded from disclosure. (Sec. 401, 402)
- Provides guidance to help health professionals determine the “best interests” of the patient for purposes of disclosure of protected health information. (Sec. 501, 502)
- Requires the development and dissemination of model training programs for clinicians, other professionals, and family members regarding the circumstances under which protected health information may be disclosed. (Sec. 503)

### Modifications to 42 CFR Part 2 (Confidentiality of Addiction Treatment Records)

- Creates 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 mental health electronic health records. (Sec. 403)
- Permits annual blanket consent for the disclosure and re-disclosure of Part 2-covered addiction records within accountable care organizations, health information exchanges, health homes, or other integrated care arrangements. (Sec. 504)

### Interagency Serious Mental Illness Coordinating Committee (ISMICC)

- Establishes the ISMICC to assist the ASMH with carrying out his or her duties. ISMICC is tasked with annually updating Congress on advances in SMI research, monitoring federal activities related to SMI, and developing and updating an annual Strategic Plan for conduct and support of SMI research. ISMICC is explicitly required to report on the progress and activities of the proposed Nationwide Strategy. (Sec. 301)
- Substantially similar to H.R. 2646

### Assisted Outpatient Treatment (AOT) and Assertive Community Outreach Efforts

- Reauthorizes the voluntary AOT implementation grant program passed in bipartisan March 2014 Medicare SGR patch legislation. Raises authorized annual funding from $15M to $20M. (Sec. 205)
- Provides more flexible requirements for proposed state AOT provisions, providing a 2% block grant bonus for states that have an AOT law on the books. Provision is intended to incentivize states to adopt AOT laws without jeopardizing block grant funding. (Sec. 206)
- Establishes as a condition for block grant eligibility that states have active evidence-based “assertive outreach and engagement services” targeting specific populations. (Sec. 206)
- Contains reauthorization of voluntary AOT grant program as proposed in H.R. 2646
- Contains substantially similar condition for block grant eligibility provided that states have active evidence-based assertive outreach and engagement services.
### National Mental Health Policy Laboratory (NMHPL)

- Establishes the NMHPL under supervision of the ASMH with broad powers of collecting information from grantees under federal mental health programs and disseminating evidence-based practices and delivery models. (Sec. 201)
- Director of NMHPL is empowered to set standards for grant programs administered under the ASMH. (Sec. 201)
- Requires that at least 20% of NMHPL staff be psychiatrists. (Sec. 201)

- Duties of NMHPL similar to H.R. 2646.
- Provides general guidance about the types of clinical and research professionals who shall staff NMHPL. (Sec. 201)

### Explicit Authorization for the SAMHSA Minority Fellowship Program

- The program would be explicitly authorized in statute with a yearly funding authorization of $6M for FY 2016-2020. (Sec. 207)
- Substantially similar to H.R. 2646 with funding authorization at $10M annually (close to actual FY15 authorization level) for FY 2017-2022. (Sec. 209)

### Telepsychiatry Grants

- Establishes a new grant program under which 10 states are provided funding for training primary care providers (PCPs) in the use of standardized behavioral health screening tools, best practices, and implementing the Collaborative Care Model (CCM). (Sec. 207)
- States must also use this grant funding for the payment of consultation provided by a psychiatrist or psychologist through qualified telehealth technology. (Sec. 207)
- States must match at least 20% of funding to be eligible. (Sec. 207)
- Establishes a grant program to support the creation or expansion of state child psychiatry access programs (e.g. Massachusetts Child Psychiatry Access Project). These programs include pediatric mental health teams (including child and adolescent psychiatrists) who provide rapid telephone consultations when requested, among other activities. Proposes annual authorization of $25m for FY 2017 and such sums as necessary for FY 2018-2021. (Sec. 207)

### Liability Protection for Mental Healthcare Professional Volunteers

- Adds liability protections for healthcare professionals who volunteer at community mental health centers, similar to those provided to Public Health Service employees and commissioned officers. (Sec. 207)
- Substantially similar to H.R. 2646

### Medicaid: Same Day Billing and Institutions for Mental Disease (IMD) Exclusion

- 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. (Sec. 501, 503)
- Substantially similar same day billing language as proposed in H.R. 2646
- Partial raise of the IMD exclusion applies to psychiatric hospitals with an average length of stay of 20 days or less. Does not include Medicaid
- Partially raises the Medicaid exclusion for reimbursement of care at Institutes for Mental Disease (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. (Sec. 501, 503)  
  reimbursement for psychiatric rehabilitation treatment centers. (Sec. 601)

### Medicare Discharge Planning

- Requires the Secretary of Health and Human Services (HHS) to develop additional guidelines and standards related to the discharge planning process of psychiatric hospitals and psychiatric units. (Sec. 504)  
  Substantially similar to H.R. 2646

### Proposed National Institutes of Mental Health (NIMH) Funding Increase

- Provides NIMH with 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. (Sec. 601)  
  Substantially similar to H.R. 2646

### SAMHSA Grant Peer Review and Advisory Council Requirements

- New requirements that half of the members of a program or grant peer review group, as well as an advisory council, be physicians or clinical psychologists. Requires any research concerning an intervention be based on scientific controls and standards related to whether the intervention reduces symptoms and improves outcomes. (Sec. 803)  
  Substantially similar to H.R. 2646  
  Does not include requirements that grant peer review be based on scientific controls and standards.

### MH/SUD Innovation and Demonstration Grants

- The ASMH is authorized to award grants to state and local governments and other organizations for expanding models of care that have been scientifically demonstrated to show promise but would benefit from further research. Authorizes up to 5% of non-block grant SAMHSA funding to carry out the section. (Sec. 202)  
  Substantially similar grant programs as proposed in H.R. 2646  
  Grants would have specific authorizations of appropriations (not SAMHSA block grant set-asides as proposed in H.R. 2646).  
- The ASMH is authorized to award grants to similar entities to expand evidence-based programs to advance mental healthcare with priority for applied delivery and integration of care. Authorizes up to 10% of certain non-block grant SAMHSA funding to carry out this section. (Sec. 203)
### National Health Service Corps (NHSC) Loan Repayment for Child and Adolescent Psychiatrists

- Provides explicit eligibility for child and adolescent psychiatrists to participate in the NHSC, including eligibility for loan repayment. (Sec. 207)

- Substantially similar to H.R. 2646. Broader application to all pediatric subspecialty physicians

### Obligated Funding to NIMH for Translating Evidence-Based Interventions

- 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.

- Substantially similar to H.R. 2646

### Provisions in H.R. 2646 not included in S. 1945

- Improved Medicare/Medicaid coverage of psychiatric medications (Sec. 502)
- Repeal of the 190-day lifetime limit on Medicare inpatient psychiatric hospital coverage (Sec. 503)
- Behavioral Health Information Technology Extension Act, which would extend Medicare and Medicaid HIT incentives to currently ineligible mental health clinicians and facilities (Sec. 701, 702)
- Modifications to permitted third party disclosures under the Family Educational Rights and Privacy Act (Sec. 402)
- Reauthorizations of the Garrett Lee Smith Memorial Act, which established federal funding to states, tribes, and colleges to implement young adult suicide prevention programs (Sec. 208)
- Modifications to the Excellence in Mental Health Act demonstration project that would increase the number of eligible states by two and the number of demonstration years to four (Sec. 505)
- Modifications to the Protection and Advocacy for Individuals with Mental Illness (PAIMI) program (Sec. 811-815)
- Authorization of 5% set-aside of certain non-block grant funding for law enforcement crisis intervention training grants (Sec. 207)

### Provisions in S. 1945 not included in H.R. 2646

- Reauthorization of SAMHSA block grant at the current funding level, among other SAMHSA program reauthorizations (Sec. 206 and Secs. 803-806)
- Reauthorization of the Health Resources and Services Administration (HRSA) Mental Health and Behavioral Health Education Training Grants program, which was originally passed under the ACA and funded through the Now is the Time effort. While psychiatrists are eligible for funding under this grant program (currently, and through S.1945’s proposed reauthorization), it prioritizes non-physician mental health practitioners over psychiatrist training. (Sec. 211)
- Replaces SAMHSA’s Primary and Behavioral Health Care Initiative with a new state grant program for statewide integration of primary and behavioral evidence-based health services. Defines integrated care team as specifically including primary care physicians and board-certified psychiatrists, among other relevant clinicians and staff. (Sec. 301)