



## H.R. 2646: Helping Families in Mental Health Crisis Act of 2016, as amended (Murphy, R-PA)

CONTACT: [Rebekah Armstrong](mailto:Rebekah.Armstrong@rsc.house.gov), 202-226-0678

### FLOOR SCHEDULE:

July 6, 2016 under a suspension of the rules, which requires a 2/3 majority for passage.

### TOPLINE SUMMARY:

[H.R. 2646](#) would make numerous changes to the current federal mental health system including: strengthening the grant process while reauthorizing current and authorizing new programs; codifying new Medicaid regulations to allow reimbursements for inpatient mental health treatment; directing new rulemaking to clarify circumstances under which the disclosure of protected health information is permitted; studying advancements in research for serious mental illness; and, enhanced compliance with mental health parity coverage.

### COST:

The [Congressional Budget Office](#) (CBO) estimates that enacting H.R. 2646 would reduce net direct spending in the Medicaid program by \$5 million over the 2017-2026 period.

Implementing the legislation also would affect spending subject to appropriation mostly because it would reauthorize and make changes to several grant programs administered by the Substance Abuse and Mental Health Services Administration. However, CBO has not yet completed an estimate of the effects the bill would have on discretionary spending.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

### CONSERVATIVE CONCERNS:

Some conservatives may be concerned about the secretary of Health and Human Services promulgating regulations based on prior [guidance](#) on health privacy matters. This guidance addresses frequently asked questions about when it is appropriate for a health care provider to share protected health information of a patient who is being treated for a mental health condition. It clarifies specific circumstances when HIPAA permits health care providers to communicate with family members or caregivers.

Some conservatives may be concerned that CBO analysis of the new discretionary authorizations provided in the bill is not available.

- **Expand the Size and Scope of the Federal Government?** The bill would create several new grant programs to address mental health issues.

- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## **DETAILED SUMMARY AND ANALYSIS:**

In 2013, about 43.8 million Americans suffered from mental illness, and among those 10 million adults had a serious mental illness. The [Government Accountability Office](#) (GAO) identified 112 federal programs that supported individuals with mental illness; however, interagency coordination is lacking. In addition, the GAO found programs with specific target populations – such as those with serious mental illness – may not be able to properly identify certain populations due to poor tracking and lack of coordination. The GAO also noted agencies rarely complete evaluations on mental health programs, and little is known about their effectiveness.

In December 2015, Speaker Ryan announced on “[CBS This Morning](#)” the House republican response to mass shootings would be legislation to address an “outdated” mental health system.

### **Title I**

#### **SAMHSA Structure**

This title would [amend](#) the Public Health Service Act to replace the deputy administrator of the Substance Abuse and Mental Health Services Administration (SAMHSA) with an assistant secretary, who would be appointed by the president and confirmed by the Senate. The assistant secretary could appoint a deputy assistant secretary. In addition to the duties given to the deputy administrator, the assistant secretary would be directed to evaluate the information used for oversight of grants related to mental health and establish a peer-review panel to evaluate grant applications, and review all federal programs related to the diagnosis and prevention of mental illness. In addition, the assistant secretary would be responsible for increasing the standards related to mental health grant programs by requiring the National Mental Health and Substance Use Policy Laboratory, with public input, to set standards that emphasize proposals based on evidence-based practices and details on how the grantee will reach new populations and increase the number of clients served. The assistant secretary would be tasked with creating and carrying out a strategic plan that would: (1) identify strategic priorities, goals and measurable objectives for mental illness; (2) identify ways to improve services for individuals with mental illness; (3) ensure programs provide appropriate access to services; (4) identify opportunities for collaboration with states, and; (5) specify a strategy for disseminating best practices.

This title would aim to improve the oversight of mental health and substance abuse use programs by directing the Assistant Secretary for Planning and Evaluation (ASPE) to collect and organize relevant data and evaluate programs related to mental illness across all federal departments. An evaluation strategy would be created that identifies priority programs to be evaluated by the assistant secretary or other relevant agencies. Recommendations on improving the programs would be provided.

This title would create a National Mental Health and Substance Use Policy Laboratory that would carry out the authorities of the office of Policy, Planning, and Innovation, and provide leadership in facilitating policy changes, coordinating programs, and reviewing and identifying programs that are duplicative. The Laboratory would place an emphasis on programs that are evidence-based and give preference to models that include coordination between mental health and physical health providers, cost effectiveness, and efficiency of health care services furnished. The Laboratory would begin carrying out their duties no later than January 1, 2018.

The comptroller general would be directed to conduct a study on peer-support specialist programs in up to ten states and submit a report to Congress identifying best practices related to training and credential requirements for peer-support specialists.

This title would reaffirm current appropriation law that prohibits protection and advocacy groups to use federal funds to lobby.

This title would amend the [Protection and Advocacy for Individuals with Mental Illness Act](#) to require reports containing information on activities and expenditures of advocacy organizations sent to the secretary to be made publicly available. In addition, it would require reports transmitted from the secretary to the president, Congress, and the National Council on Disability to contain a detailed accounting of how funds are spent, disaggregated according to whether the funds were received from the federal government, the state government, the local government, or a private entity.

This title would include the [Center for Behavioral Health Statistics and Quality](#) as one of the [agencies](#) within SAMSHA. The Center would be responsible for coordinating the administration's integrated data strategy. Every two years, the Center would submit a report to Congress on the quality of services furnished through grant programs, including measures of outcome for individuals and the public.

Finally, this title would increase collaboration between the Center for Mental Health Services and the National Institute of Mental Health to ensure programs related to the prevention and treatment of mental illness are carried out in a manner that reflects the best available science and evidence-based practices. In addition, it would create a clearinghouse for mental health information to assure widespread dissemination of mental health information.

## **Title II**

### **Medicaid Reimbursement for Institutional Care**

This title would codify a recent Medicaid [managed care rule](#) to allow states to make monthly capitated payments to managed care organizations for individuals aged 21 through 64 receiving short-term, inpatient treatments at an institution for mental diseases (IMD), in lieu of other services covered by the state plan. The rule caps the number of days for payment at no more than 15. [Historically](#), the Centers for Medicare and Medicaid Services (CMS) has had a policy in place since Medicaid began that does not provide federal financial participation for any services for a member between the ages of 21 and 64, either inside or outside an IMD, while that member is a patient in an IMD. This exclusion was included when mental illness was treated in large, state-run and built institutions, and the federal government wanted the state to continue to bear the brunt of the cost. Through the use of 1,115 waivers, states have received federal reimbursements for IMD; however, this was not a policy throughout the whole Medicaid system. This would become effective July 5, 2016. CBO estimates this provision would have no effect on the federal budget since it is codifying current policies.

The Secretary of Health and Human Services (HHS) would be required to conduct a study on the services provided through a managed care organization for the treatment of mental health disorders in an IMD. The study would examine the number of individuals receiving medical assistance and the lengths of stay of each individual at the institution. In addition, the study would examine how organizations determine when to provide inpatient treatment in lieu of other benefits offered under the plan.

Under current law, Medicaid-eligible children under the age of 21 who are receiving inpatient psychiatric services are not eligible for [Early and Periodic Screening, Diagnostic and Treatment](#)

(EPSDT) benefits. This title would make children in the Medicaid program receiving inpatient services eligible for these screening services beginning January 1, 2019.

This title would encourage states to adopt an electronic visit verification systems used for personal care services or home health services. Due to high amounts of fraud, these systems would hold providers accountable by verifying the type of service performed, the date of the service and the location. States would need to implement a system by January 1, 2019, or be subject to cuts in their Medicaid reimbursements for these services. States that demonstrate a good faith effort to adopt this technology would not be subject to a reduction in reimbursements. No later than January 1, 2018, the secretary would disseminate best practices for training providers on this technology and informational notices to family and caregivers. It is important to note, no particular or uniform electronic verification system is required.

### **Title III** **Research**

This title would establish the Interdependent Serious Mental Illness Coordinating Committee that would report to Congress on advances in serious mental illness and serious emotional disturbance research. In addition, the committee would evaluate how serious mental illness and serious emotional disturbance affect public health programs, and plan with specific recommendations for the improvement of outcomes for individuals with these disorders. This committee would terminate six years after establishment.

### **Title IV** **Medical Information Disclosure**

This title contains a sense of Congress stating that more clarity is needed surrounding the existing HIPAA [privacy rule](#) to permit health care professionals to communicate, when necessary, with the caregivers of persons with serious mental illness.

Finally, the secretary would be directed to promulgate final regulations clarifying the circumstances under which a health care provider or covered entity may disclose the protected health information of a patient with mental illness. This information could be disclosed for the purposes of communicating with family members or caregivers, and, in cases where the patient is a minor, regardless of patient consent. In addition, communication would be allowed with family, caregivers or law enforcement when the patient presents a serious threat to harm self or others and about the admission to receive care a facility or the release of a patient who was admitted on an involuntary hold.

These new regulations must be consistent with previous [regulations](#) issued by HHS in February 2014. According to those regulations, “health care providers may communicate with a patient’s family members, friends, or other persons the patient has involved in his or her health care or payment for care, so long as the patient does not object.” In addition when a, “patient is not present or is incapacitated, a health care provider may share the patient’s information with family, friends, or others involved in the patient’s care or payment for care, as long as the health care provider determines, based on professional judgment, that doing so is in the best interests of the patient.”

The secretary would be required to convene a meeting of stakeholders one year after the finalization of the updated regulations regarding confidentiality of alcohol and drug abuse records to determine the effect on patient care, privacy and health outcomes.

The secretary would create materials for training health care providers on the circumstances under which protected health information could be shared. The contents of the material would be based off the guidance released by HHS in February 2014. This section would authorize for appropriation \$4 million for fiscal year 2018, \$2 million for fiscal years 2019 and 2020, \$1 million for fiscal years 2021 and 2022.

## **Title V**

### **Grants for Database of Available Services**

The secretary would award grants to state and local governments to develop and enhance a database of beds at inpatient psychiatric facilities, crisis stabilization units and residential community centers for individuals with serious mental illness. The database would have to provide real-time information about the number of beds available at each facility, the type of patient that could be admitted, and the level of security provided. When applying for a grants, states must display a community-based crisis response plan promoting integration and coordination between local public and private entities. \$5 million would be authorized to be appropriated for fiscal years 2018 through 2022.

### **Liability Protections**

This section would extend current-law liability protections to health professional volunteers at community health centers.

## **Title VI**

### **State Plans**

This title would require states that receive a community mental health service block grant to provide the secretary with a state plan that provides a description of the system of care in the state. The plan would provide for an organized, community-based system of care for individuals with mental illness, and a description of how the state maximizes services and programs to produce the best outcome. In addition, the plan must contain an estimate of the incidence and prevalence of serious mental illness in the state. Finally, the plan would establish goals and objectives for the period of the plan.

### **Grants for Youth Mental Health Care**

This title would provide grants for strengthening mental health care for children and adolescents. First, grants would be awarded to state and local governments to promote behavioral health integration in pediatric primary care through the expansion of current programs and the development of statewide child mental health care access programs. \$9 million would be authorized to be appropriated for fiscal years 2018 through 2020. In addition, the secretary would award grants to eligible entities to develop or enhance infant and early childhood mental health promotion and treatment programs. \$20 million would be authorized to be appropriated for fiscal years 2018 through 2022.

Finally, the National Child Traumatic Stress Initiative would be reauthorized though 2021. The last authorization for this program expired in 2006. \$46,887,000 would be authorized to be appropriated, which is slightly less than the previous authorization.

## **Title VII**

This title would reauthorize numerous existing programs including:

- [Garrett Lee Smith Memorial Act](#), which is a youth suicide prevention grant program and would reauthorize the Suicide Prevention Technical Assistance Center. It would authorize \$5,988,000 for each fiscal year 2017 through 2021, the same amount as the last appropriated level.

- [Youth Suicide Early Intervention and Prevention Strategies](#), which provides grants to entities for early intervention and prevention strategies to children and youth. It would authorize \$35,427,000 for each of fiscal years 2017 through 2021. This authorization level is slightly higher than when the program expired in 2007.
- [Mental Health and Substance Use Disorders on Campus](#), which is a program to award grants on a competitive basis to institutions of higher education to enhance services for students with mental and behavioral health problems. It would authorize \$6,488,000 for each of fiscal years 2017 through 2021. This authorization level is slightly higher than when the program expired in 2007.
- [National Suicide Prevention Lifeline Program, which](#) is a network of 161 crisis centers that provide a 24/7 toll-free hotline available to anyone in suicidal crisis or emotional distress. It would authorize \$7,198,000 for each of fiscal years 2017 through 2021. This amount is equivalent to its last appropriated level.

This title would also authorize \$264.345 million for the following programs:

- The Minority Fellowship Program would be a new program that would aim to increase behavioral health specialists knowledge of substance use disorders among racial and ethnic minorities. It would authorize \$12,669,000 for each of fiscal years 2017 through 2019, \$13,669,000 for each of fiscal years 2020 through 2021.
- Adult suicide prevention grants would be awarded and designed to raise suicide awareness and improve clinical care practice standards. It would authorize \$30,000,000 for fiscal years 2018 through 2022.
- Crisis intervention grants for police officers and first responders would be awarded to provide specialized training and to establish collaborative law enforcement and mental health programs. It would authorize for appropriation \$9,000,000 for fiscal years 2018 through 2020.
- Grants would be awarded to develop and sustain behavioral health paraprofessional training and education programs, including through tuition support. It would authorize \$10,000,000 for fiscal years 2018 through 2022.
- A grant program to support the recruitment, education, and clinical training experiences of health services psychology students, interns and postdoctoral residents for education and clinical experience in community mental health settings. It would authorize \$12,000,000 for fiscal years 2018 through 2022.

According to the section headings in the bill, in order to bring the bill into cut-go compliance, the [authorization](#) for revitalizing the Centers for Disease Control and Prevention would be cut in fiscal years 2017 and 2018 by \$80.3 million, or 58%. The [Majority Leader's cut-go protocol](#) for discretionary authorizations requires that new authorizations in excess of currently authorized or appropriated spending be offset by equal or greater reductions in ongoing discretionary spending.

### **Title VIII**

This title would enhance compliance with mental health and substance use disorder coverage requirements and aim to improve mental health payment parity. New standards would be developed for updating program compliance documents. In addition, the secretary would convene a meeting of stakeholders to produce an action plan for improved federal and state coordination for mental health parity and addition equity requirements. The Administrator of CMS, in collaboration with other relevant agencies, would report on serious violations of mental health parity compliance standards.

This title would also allow the secretary to update information and fact sheets related to eating disorders and advance public awareness on the seriousness of eating disorders. The GAO would be required to conduct make publically available a report detailing federal oversight of group health plans and health insurance coverage in the individual markets to ensure compliance guidelines with parity requirements.

**COMMITTEE ACTION:**

This bill was introduced by Representative Murphy and referred to the Committee on Energy and Commerce, the Committees on Ways and Means, and the Education and the Workforce Committee. The bill was marked -up by the Committee on Energy and Commerce and reported out by a vote of [53-0](#).

**ADMINISTRATION POSITION:**

No Statement of Administration Policy is available at this time.

**CONSTITUTIONAL AUTHORITY:**

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 1.