

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

## A Section-by-Section Analysis

Originally Co-Sponsored by Sen. Cassidy (R-LA), Sen. Murphy (D-CT), Sen. Collins (R-ME), Sen. Franken (D-MN), Sen. Stabenow (D-MI), Sen. Vitter (R-LA)

---

### Section 1: Short Title; Table of Contents

This section identifies the bill as the “Mental Health Reform Act of 2015” (S. 1945) and lists the table of contents.

### Section 2: Definitions

This section defines “Assistant Secretary” as the Assistant Secretary for Mental Health and Substance Use Disorders. This section also defines “evidence-based” as the “conscientious, systematic, explicit, and judicious appraisal and use of external, current, reliable, and valid research findings as the basis for making decisions about the effectiveness and efficacy of a program, intervention, or treatment.”

### Title I: Assistant Secretary for Mental Health and Substance Use Disorders

#### Section 101: Assistant Secretary for Mental Health and Substance Use Disorders

This section creates a new position within the Department of Health and Human Services (HHS) called the **Assistant Secretary for Mental Health and Substance Use Disorders** (Assistant Secretary). The Assistant Secretary will report to the HHS Secretary and be appointed by the President and confirmed by the Senate. The Assistant Secretary must have a number of credentials, either: 1) have a doctoral degree in medicine or osteopathic medicine; have clinical, research, and policy experience in psychiatry; graduated from an accredited psychiatric residency program; and have an understanding of the treatments for mental illness and substance use disorders; 2) have a doctoral degree in psychology; clinical, research, and policy experience regarding mental illness and substance use disorders; completed an internship with a member of the Association of Psychology Post-Doctoral and Internship Centers; and an understanding of the treatments for mental illness and substance use disorders; or 3) have a doctoral degree in social work; clinical, research, and policy experience in mental illness and substance use disorders; and an understanding of the treatments for mental illness and substance use disorders.

The Administrator of the Substance Abuse and Mental Health Services Administration (SAMHSA) will report to the Assistant Secretary.

The Assistant Secretary will be responsible for the following duties:

- Across the federal government, promote, evaluate, and coordinate research, treatment, and services regarding mental illness and substance use disorders;
- Carry out HHS functions related to improving services for individuals with mental illness and/or substance use disorders; ensuring access to evidence-based services for individuals with mental illness and/or substance use disorders; ensuring that grants are evidence-based and consistent with the management standards of HHS; developing and implementing initiatives to encourage health professionals to work with individuals with serious mental illness (SMI); consulting and supporting States and other entities to improve community-based and other mental health services; disseminating best practices developed by the National Mental Health Policy Laboratory (NMHPL) and other organizations for mental illness, serious mental illness, and children and adolescents with a serious emotional disturbance (SED); and developing criteria to apply best practices within the mental illness and substance use disorder service delivery system;
- Oversee and coordinate all HHS programs and activities relating to diagnosis, prevention, intervention, treatment, and rehabilitation relating to mental illness and substance use disorders; parity in health insurance benefits for mental illness and substance use disorders; or the reduction of homelessness and incarceration among individuals with mental illness and/or substance use disorders;
- Make recommendations to the HHS Secretary regarding public participation in decisions relating to mental health, serious mental illness, and severe emotional disturbance;

- Review and make recommendations regarding the HHS budget;
- Across the federal government, in conjunction with the Interagency Serious Mental Illness Coordinating Committee (ISMICC), reviewing all programs relating to mental illness and substance use disorders, identifying duplicative or non-evidence-based programs, and formulating recommendations for coordinating and improving programs and activities and merging them into other successful programs;
- Across the federal government, identify evidence-based and promising best practices across the federal government for individuals with mental illness and/or substance use disorders by reviewing them for effectiveness; and
- Within 18 months after enactment and every two years after, submit a report to Congress with a national strategy to recruit, train, and increase the mental health workforce to treat individuals with mental illness, serious mental illness, substance use disorders, and co-occurring disorders.

The Assistant Secretary will ensure that the national strategy (mentioned above) will encourage students to specialize in the mental health field, promote research-oriented training on evidence-based delivery models for individuals with mental illness and/or substance use disorders, promote federal support for evidence-based collaborative care models and the necessary mental health workforce, increase access to child and adolescent psychiatric services, identify underserved mental health populations, and identify how to reduce the financial burden on criminal justice and correctional systems that serve individuals with mental illness and/or substance use disorders.

In carrying out the duties of the position, the Assistant Secretary will prioritize the integration of MH, SUD, and physical health services; the early diagnosis and intervention services for prevention, crisis intervention, and treatment for serious mental illness and/or substance use disorders; and workforce development for the treatment of serious mental illness and substance use disorders, research into serious mental illness and substance use disorders, and increasing the number of mental health professionals. The Assistant Secretary will give preference to models that improve coordination, quality, and efficiency of services for individuals with serious mental illness. This may include clinical protocols used in the Recovery After an Initial Schizophrenia Episode project of the National Institute of Mental Health (NIMH) or similar models such as the Specialized Treatment Early in Psychosis program.

### Section 102: Reports

Within 18 months after enactment and biannually after, the Assistant Secretary will submit a **report to Congress on best practices and professional standards in States for establishing and operating health programs using peer support specialists** and training and certifying peer support specialists. The Assistant Secretary will also make this report available to the public. “Peer support specialist” is defined as someone who is credentialed by the State, uses his/her lived experience of recovery from mental illness and/or substance use disorders and formal training, has been an active participant in mental illness and substance use disorder treatment for at least one year, provides non-medical services, and only performs services within his/her area of expertise. Each report will include hours of formal work/volunteer experience required related to mental illness and substance use disorders, types of peer specialist exams required, code of ethics, additional training required prior to certification, requirements for how to complete all of the mandatory activities, required or recommended skill sets, and annual requirements for continuing education credits.

Within 18 months after enactment and at least 18 months after, the Assistant Secretary, in collaboration with the Director of the Agency for Healthcare Research and Quality (AHRQ) and the Director of the National Institutes of Health (NIH), will submit a **report to Congress on mental health and substance use disorder treatment in the United States**. The Assistant Secretary will also make the report public. The report will include information on how federal mental illness and substance use disorder treatment funds are used in each State, including the numbers of individuals with mental health, serious mental illness, substance use disorders, or co-occurring disorders who are served and the types of programs made available to people with mental health, serious mental illness, substance use disorders, or co-occurring disorders. The report will also include a summary of best practice models in the States, a statistical report of outcomes measures, and a comparative effectiveness study looking at outcomes for different models for outpatient treatment programs that include rates of treatment compliance, participants’ perceived effectiveness, rates of programs helping individuals with serious mental illness, alcohol and

drug abuse rates, incarceration/arrest rates, rates of violence, rates of homelessness, treatment costs, and health outcomes.

Within 18 months after enactment, the National Academy of Medicine (NAM) will submit a **report to the appropriate Congressional committees that evaluates the combined paperwork burden of community mental health centers** under the Community Mental Health Services Block Grant. In drafting the report, NAM will look at licensing, certification, service definitions, claims, billing codes, and financial requirements and make recommendations on how to reduce the paperwork burden.

### Section 103: Advisory Council on Graduate Medical Education

This section amends section 762(b) of the Public Health Service Act to add the Assistant Secretary to the Advisory Council on Graduate Medical Education.

#### *Title II: Grants*

### Section 201: National Mental Health Policy Laboratory

This section authorizes the Assistant Secretary to establish the **National Mental Health Policy Laboratory (NMHPL)** within the Office of the Assistant Secretary. The Director of the NMHPL will have the following responsibilities:

- Identify, coordinate, and implement policy changes likely to have an impact on mental health services and monitor their impact;
- Collect information from mental health-related program grantees;
- Evaluate and disseminate evidence-based practices and models to grantees; and
- Establish standards for peer review panels to evaluate grant applications.

In disseminating evidence-based practices and models, the Director will give preference to models that improve coordination between mental health and physical health, improve coordination between providers and the justice and corrections systems, improve cost-effectiveness and quality of services provided to individuals with SMI or in crisis, and recognize the importance of family participation in recovery. These models may include practices used in the Recovery After Initial Schizophrenia Episode project of the NIMH and the Specialized Treatment Early in Psychosis program. The Director will begin implementation of these duties by January 1, 2018.

The Director will consult with representatives of the NIMH, other appropriate federal agencies, clinical and analytical experts, and other individuals and agencies as the Assistant Secretary deems appropriate. In terms of staffing the NMHPL, the Director will include individuals with advanced degrees and clinical and research experience with the biological, psychosocial, and pharmaceutical treatments of mental illness and substance use disorders.

Within two years after enactment and every two years after, the Director of the NMHPL will submit a report to Congress on the quality of care provided by grant programs administered by the Assistant Secretary. The report will include outcomes related to reduced rates of suicide, substance abuse, overdose, emergency hospitalizations, incarceration, etc. and rates of employment and enrollment in education/vocational programs.

### Section 202: Innovation Grants

The Assistant Secretary will award three-year grants to State and local governments, educational institutions, and nonprofits to **expand a model that has been scientifically demonstrated to show promise, but needs more applied research**. The model should enhance the prevention, diagnosis, intervention, treatment, and rehabilitation of mental illness, severe emotional disturbance, substance use disorders, and co-occurring disorders. The model should also integrate or coordinate physical health, mental health, and substance use disorder services. Of the grant funds awarded, no more than one-third will be used for prevention and at least one-third will be used for screening, diagnosis, treatment, or services for individuals under age 18. Grantees will agree to adhere to the guidelines developed by the NMHPL.

This section authorizes \$10,000,000 to be appropriated for each of the fiscal years 2017-2021.

### Section 203: Demonstration Grants

The Assistant Secretary will award two- to five-year grants to States, counties, local governments, educational institutions, and private nonprofits to expand, replicate, or scale evidence-based programs to **enhance effective screening, early diagnosis, intervention, and treatment related to mental illness and serious mental illness**. This includes training staff in effective evidence-based treatment and integrating models of care across specialties and jurisdictions. Of the grant funds awarded, at least half will be used for screening, diagnosis, intervention, and treatment for individuals under age 26. Funding may not be used for programs that are not evidence-based, primary prevention, or solely for the purpose of expanding facilities or increasing staff at an existing program. Awardees will adhere to guidelines developed by the NMHPL, report program results to the NMHPL and the Assistant Secretary, including any data that is specifically requested by the NMHPL or the Assistant Secretary.

This section authorizes \$10,000,000 to be appropriated for each of the fiscal years 2017-2021.

#### **Section 204: Early Childhood Intervention and Treatment**

The Director of the NMHPL will award three- to ten-year grants of up to \$600,000 to eligible entities to initiate **early childhood intervention and treatment programs** and specialized programs for preschool and elementary aged children at risk for social or emotional disability. The Director will ensure that programs funded through grants under this section use promising or evidence-based models. Eligible entities will be nonprofits that are accredited by a State mental health or education agency for the intervention, treatment, or education of children ages 3 to 12 years old. The entity must also provide services that include early intervention and treatment for preschool and elementary school aged children whose primary need is a social or emotional disability. Applicants will submit an application to the Secretary of HHS and will use grant funds for the following activities:

- Delivering mental health education and treatment, early childhood and intervention, and specialized programs for eligible participants who are at significant risk or who show early signs of social or emotional disability;
- Providing funding for program and curricula development, staff, assessment and intervention services, administrative costs, enrollment costs, collaboration with medical professionals, emergency services, and communication with families and professionals; and
- Developing and implementing other strategies to address intervention, treatment, and education needs of children to ensure outcomes are based on sound scientific methods.

Grantees must agree to make non-federal contributions toward at least 10 percent of federal funds provided in the grant.

This section authorizes \$10,000,000 to be appropriated for each of the fiscal years 2017-2021.

#### **Section 205: Extension of Assisted Outpatient Treatment Grant Program for Individuals with Serious Mental Illness**

This section amends section 224 of the Protecting Access to Medicare Act of 2014 to extend the assisted outpatient pilot program to 6 years, increases the authorization to \$20,000,000, and extends the authorization to 2020.

#### **Section 206: Block Grants**

This section amends section 1920(a) of the Public Health Service Act by increasing the authorization for the Community Mental Health Services Block Grant to \$483,000,000 for fiscal year 2017 and such sums as necessary for each of the fiscal years 2018-2019. This section also amends section 1920 of the Public Health Service Act to add a new provision empowering the Assistant Secretary, acting through the SAMHSA Administrator, in collaboration with the Director of the NIMH, to obligate 5 percent of the amount appropriated for **translating evidence-based interventions**. The proposed changes also require that State plans for community mental health services demonstrate the importance of integrating and coordinating services to produce the best possible outcomes for individuals with serious mental illness. Plans will include a separate description of case management services and provide for activities leading to a reduction in suicide, substance abuse, overdose, hospitalizations, incarceration, homelessness, and more. The plan will include a detailed list of services available for eligible patients in each county. Patients who receive services through block grant funds will be included in a de-identified report on the services provided.

In addition to the grant funds provided by formula, in 2019, States that meet the conditions set forth by the HHS Secretary may receive up to two percent in additional funds. The Assistant Secretary may use block grant funds to expand the use of evidence-based service delivery models as long as the expansion will result in a more effective use of funds without reducing quality and will improve quality without increasing spending. The Assistant Secretary must also determine that the change will significantly reduce the severity and duration of mental illness symptoms; reduce rates of suicide, overdose, hospitalizations, etc.; or significantly improve the quality of patient care and mental health crisis outcomes with increasing spending. The Director of the NIMH must determine that such an expansion will improve the quality of care.

Funds may be made available to providers under the CMHS block grant and may be used in any fiscal year. States that receive CMHS block grant funds must agree to have active programs that engage individuals with serious mental illness in services to avoid relapse, repeated hospitalizations, arrest, incarceration, suicide, and to provide the patient with the opportunity to live in the least restrictive setting. Outreach and engagement services should focus on individuals who are homeless, have co-occurring disorders, are at-risk for incarceration or re-incarceration, or who have a history of failed treatment.

The SAMHSA Administrator, in cooperation with the NIMH, will develop a list of evidence-based assertive outreach and engagement services and criteria to be used to assess the effectiveness of such approaches. These programs may include peer support programs, the Wellness Recovery Action Plan, Assertive Community Treatment, and others. States must also have active programs that engage individuals with serious mental illness in proactively making their own decisions and enhancing communication between themselves, their family, and their providers.

#### **Section 207: Telehealth Child Psychiatry Access Grants**

The HHS Secretary, acting through the Administrator of the Health Resources and Services Administration (HRSA), will award grants to States and Indian tribes to **promote behavioral health integration with pediatric primary care**. Funds may be used to support the creation of Statewide child psychiatry access programs and support the expansion of existing Statewide or regional child psychiatry access programs. Eligible access programs must have a Statewide network of providers that support pediatric primary care sites as an integrated team; support and further develop State networks of child and adolescent psychiatrists to support primary care sites; conduct an assessment of behavioral consultation needs among pediatric providers; develop an online database and communication mechanisms to facilitate consultation support; provide rapid Statewide clinical telephone consultations between the mental health and primary care providers; conduct training and provide technical assistance to primary care providers; inform and assist pediatric providers in accessing child psychiatry consultations; assist with referrals to specialty care; and establish mechanisms for measuring and monitoring increased access to child and adolescent psychiatric services.

States or other eligible organizations will submit an application to the HHS Secretary as he/she requires that includes a plan for evaluating the activities. State grantees must agree to make non-federal contributions of at least 20 percent of the federal funds provided.

This section authorizes \$25,000,000 to be appropriated for fiscal year 2017 and such sums as necessary for each of fiscal years 2018-2021.

#### **Section 208: Liability Protections for Health Care Professional Volunteers at Community Health Centers and Community Mental Health Centers**

This section amends section 224 of the Public Health Service Act to add a new definition for community mental health center. This section also **extends liability protections to professional volunteers at community mental health centers** if the following conditions are met: the services are provided at a federally qualified community behavioral health clinic, the center is sponsoring the professional volunteer, the volunteer doesn't receive any compensation, the limit liability protections are clearly posted, and the professional is licensed or certified in accordance with the law.

By May 1<sup>st</sup> of each fiscal year, the Attorney General, in consultation with the HHS Secretary, will submit a report to Congress with an estimate of the claims that will be paid in response to actions by health care professional volunteers.

### Section 209: Minority Fellowship Program

This section amends Title V of the Public Health Service Act by adding a new section: “**Minority Fellowship Program.**” Under this program, the HHS Secretary will award fellowships to increase mental health and substance use disorder practitioners’ knowledge of issues relating to prevention, treatment, and recovery support for mental illness and substance use disorders among racial and ethnic minority populations; improve the quality of mental illness and substance use disorder prevention and treatment delivered to ethnic minorities; and increase the number of culturally competent professionals who teach, conduct research, and provide direct mental health and substance use disorder services to underserved minority populations. The training provided under the fellowship will be for master’s and doctoral degrees in mental health and substance use disorder counseling.

This section authorizes \$10,000,000 to be appropriated each of the fiscal years 2017-2021.

### Section 210: National Health Service Corps

This section amends section 331(a)(3)(D) of the Public Health Service Act to **include pediatric mental health subspecialty services in the list of primary health services under the National Health Service Corps.** This section also includes pediatric mental health professionals in the behavioral and mental health professionals list under the National Health Service Corps. Children and adolescents must qualify as a population group in determining a health professional shortage area. Medical residency or fellowship training programs for child and adolescent psychiatry will qualify as medical facilities in determining a health shortage area. Finally, individuals in child and adolescent psychiatry medical residency or fellowship training programs may be eligible for loan repayment under the National Health Service Corps.

### Section 211: Reauthorization of Mental and Behavioral Health Education Training Grant

This section amends section 756 of the Public Health Service Act to **reauthorize the Mental and Behavioral Health Education Training Grant.** The HHS Secretary, acting through the SAMHSA and HRSA Administrators, may award grants to eligible institutions to support the recruitment of students for institutions of higher education or professional training programs that are establishing or expanding internships in psychiatry, psychology, social work, substance abuse prevention and treatment, etc.; accredited doctoral, internship, and postdoctoral residency programs in health service psychology for providing mental health services and substance use disorder prevention and treatment services; accredited master’s and doctoral degree programs in social work for mental health and/or substance use disorder services; or paraprofessional certificate training programs offered by community and technical colleges granting State licensure, with a preference for child and adolescent MH workers. Eligible institutions must demonstrate an ability to recruit and place professionals in high-need areas; encourage participation of diverse individuals; demonstrate understanding of the concerns of diverse individuals, particularly children and adolescents and transition aged youth 16-25; prioritize cultural competencies in training programs; and be willing to provide data to the HHS Secretary.

The Secretary will prioritize programs that have demonstrated the ability to train professionals to work in an integrated care environment and that offer curriculum that emphasizes the role of the family and patients’ lived experience. At least four of the grants awarded must be given to historically black colleges or other minority-focused institutions. Within two years after enactment and every year after, the Secretary, acting through the SAMHSA and HRSA Administrators, will submit a report to Congress on the effectiveness of providing graduate students support for field training, recruiting students in behavioral health practice, developing and implementing accredited field placements, and data on the number of students trained and the number of field placements.

This section authorizes \$44,000,000 to be appropriated for each of the fiscal years 2017-2021. Of this, \$15,000,000 will be allocated to expand mental health field placements, \$14,000,000 for training in graduate psychology, \$10,000,000 for training in graduate social work, and \$5,000,000 for training paraprofessionals.

### Section 212: National Suicide Prevention Lifeline Program

This section amends subpart 3 of part B of Title V of the Public Health Service Act to **authorize the National Suicide Prevention Lifeline Program**. The HHS Secretary will maintain the National Suicide Prevention Lifeline Program. This will include coordinating a network of crisis centers across the country that provide suicide prevention and crisis intervention services and maintaining a suicide prevention hotline to link callers to local emergency, mental health, and social services resources. The Secretary will also consult with the Secretary of Veterans Affairs to ensure that veterans who call the hotline have access to a specialized hotline for veterans.

This section authorizes \$5,000,000 to be appropriated for each of the fiscal years 2016-2020.

### ***Title III: Integration***

#### **Section 301: Primary and Behavioral Health Care Integration Grant Programs**

This section amends section 520K of the Public Health Service Act to replace grants for co-locating primary and specialty care in community-based mental health settings with the **“Primary and Behavioral Health Care Integration Grant Program.”** The grant program will be established in SAMHSA and the Assistant Secretary may award grants and cooperative agreements for improvements in integrated settings with integrated practices. “Integrated care” is defined as: “full collaboration in merged or transformed practices offering mental and physical health services within the same practice space in the same facility, where the entity provides services in a shared space that ensure services will be available and accessible promptly and in a manner that preserves human dignity and assures continuity of care; ensures communication among the integrated care team that is consistent and team-based; ensures shared decision-making between mental health and primary care providers; provides evidence-based services in a mode of service delivery appropriate for the target population; employs staff who are multidisciplinary and culturally and linguistically competent; provides integrated services related to screening, diagnosis, and treatment of mental illness and co-occurring primary care conditions and chronic diseases; and provides targeted case management, including services to assist individuals gaining access to needed medical, social, education, and other services and applying for income security, housing, employment, and other benefits to which they may be entitled.”

The grant program will be designed to encourage full collaboration between primary and “behavioral” services in an integrated practice model and a Statewide level. Programs must ensure that the overall wellness and physical health status of individuals with SMI and co-occurring SUD is supported through integrating primary care into community mental health centers or certified community behavioral health clinics and that the MH status of individuals with co-occurring psychiatric and physical conditions will be supported through integration. State health departments, State mental health or substance use disorder agencies, or State Medicaid agencies will be eligible to apply. The SAMHSA Administrator will give preference to States that have existing integrated care models.

Applicants will submit an application to the Administrator that includes a description of the plan to achieve fully collaborative services, a document that summarizes the State-specific policies that inhibit the provision of integrated care and how they will be addressed, and a plan to develop and share a de-identified patient registry to track implementation and outcomes. Up to \$2,000,000 may be awarded for a five-year grant, of which, not more than 10 percent may be allocated to State administrative functions.

Grantees will submit an annual report to the Administrator on the progress made to reduce barriers to integrated care and a description of outcomes for special populations. There are specific outcome measures required for 1) individuals with serious mental illness, and 2) children and adolescents with serious emotional disorders. The Assistant Secretary will establish a technical assistance center for primary-behavioral health care integration to provide assistance to grantees with developing and selecting integrated care models, disseminating evidence-based interventions, establishing organizational practices, and other activities as appropriate. Other relevant entities may also have access to the technical assistance provided by the center.

This section authorizes \$50,000,000 to be appropriated for each of the fiscal years 2017-2021, of which \$2,000,000 will be made available to the technical assistance center.

### ***Title IV: Interagency Serious Mental Illness Coordinating Committee***

### Section 401: Interagency Serious Mental Illness Coordinating Committee

This section amends Title V of the Public Health Service Act to create **an Interagency Serious Mental Illness Coordinating Committee (ISMICC)**. The Assistant Secretary will establish the ISMICC to assist the Assistant Secretary with his/her duties. The committee will develop and annually update a summary of advances in serious mental illness research, monitor federal programs and activities related to serious mental illness, make recommendations to the Assistant Secretary and to the Director of NIH relating to the strategic plan, make recommendations relating to public participation in serious mental illness-related decisions, and develop and update a strategic plan for serious mental illness every three years. The strategic plan will include a summary of advances in research, a list of federal programs, an analysis of the efficiency and effectiveness of federal programs, and a plan with recommendations on coordinating and improving programs related to serious mental illness. The ISMICC will submit the strategic plan to Congress.

The committee will have no more than nine federal representatives, including the Assistant Secretary (who will serve as Chair), the Director of the NIMH, the Attorney General, the Director of the Centers for Disease Control and Prevention (CDC), the Director of the NIH, a member of the US Interagency Council on Homelessness, representatives of federal agencies that serve individuals with serious mental illness, and additional members as appointed. At least 14 of those appointed by the Assistant Secretary will be members of the public including one member in recovery from serious mental illness, a parent or guardian of an individual with serious mental illness who has either attempted suicide or is incarcerated, a representative of a leading research or advocacy organization for individuals with serious mental illness, at least two providers, a provider with focus on children and adolescents, a provider with cultural competencies in working with minority populations, a State certified peer specialist, a judge with experience with serious mental illness cases, a law enforcement officer, and four members appointed by specific Congressional leaders.

Within one year after the first strategic plan is released, the committee will submit an annual report to Congress that evaluates the impact that projects addressing priority mental health needs of regional and national significance have on public health. The report will look at outcomes such as suicide rates, overdose, substance abuse, hospitalizations, and other items. The report will also provide recommendations for the coordination and improvement of federal programs, identify programs that are duplicative, and summarize recommendations made under the workforce development strategy. The Assistant Secretary will provide administrative support to the committee and committee members will serve four-year terms and meet at least twice per year.

### *Title V: HIPAA Clarification*

#### Section 501: Findings

This section defines the following findings made by the Senate:

- A lack of understanding by health professionals of the privacy regulations under section 264(c) of the Health Insurance Portability and Accountability Act (HIPAA) has been a barrier to many families when assisting in the treatment of an individual with SMI;
- The privacy rule under section 164.510(b)(2) of Title 45 allows for the disclosure of protected health information in the event that an individual consents after having an opportunity to object;
- The privacy rule under section 164.510(b)(3) of Title 45 allows for the disclosure of protected health information if an individual is non present or is incapacitated and the provider determines that the disclosure is in the best interests of the patient;
- Engagement of family members has been shown to help individuals with serious mental illness adhere to treatment and have improved outcomes;
- Whenever possible, individuals should be given advanced notice of the desire to share their information with family members or other caregivers; and
- The use of psychiatric advance directives should be encouraged for individuals with serious mental illness.

#### Section 502: Modifications to HIPAA

In determining whether disclosure of a patient's protected health information when they are not present or incapacitated is in the patient's best interest, the HHS Secretary will consider the following factors: timely intervention to treat a serious mental illness or medical problem; safe and stable housing for the individual;

increased daily living skills that are likely to allow the individual to live in the community; and an increase capacity of caregivers to support the patient to live within the community.

### Section 503: Development and Dissemination of Model Training Programs

Within one year after enactment, the HHS Secretary, in consultation with experts, will **develop and disseminate a series of model programs and training materials**. One model program and set of training materials will be designed for health care providers (physicians, emergency medical professionals, psychiatrists, etc.) on the circumstances under which the protected health information of patients with a MI may be disclosed with and without patient consent. The Secretary will also develop a program and training materials for lawyers and other legal experts on such circumstances and a program for patients and their families regarding their rights to protect and obtain information under these standards. The Secretary will review, update, and disseminate these programs periodically. The programs will address the guidance released by HHS on February 20, 2014: HIPAA Privacy Rule and Sharing Information Related to Mental Health.

The Secretary will coordinate these efforts with the Director of the Office for Civil Rights within HHS, the SAMHSA Administrator, the HRSA Administrator, and the heads of other relevant HHS agencies. The Secretary will also solicit input from relevant national, State, and local associations, medical societies, and licensing boards in developing materials.

This section authorizes \$5,000,000 to be appropriated for each of fiscal years 2017-2022.

### Section 504: Confidentiality of Records

This section amends section 543 of the Public Health Service Act to add a new section defining **streamlined consent in integrated care settings**. For the sharing of certain records; defined as the identity, prognosis, or treatment of any patient relating to substance abuse education, prevention, training, treatment, rehabilitation, or research; that involve the interchange of electronic health records solely for the purposes of improving the provision of health care coordination within accountable care organizations, health information exchanges, or other integrated care arrangements, a patient's prior written or electronic consent for disclosure and re-disclosure of records may be provided annually in a general and revocable format. For all other types of disclosure, patient consent is required in accordance with 42 CFR part 2. Health plans or health insurance programs may not use the records disclosed to deny or refuse to issue a plan or policy. Health care providers may not discriminate the provision of medically necessary services based on such records.

## Title VI: Medicare and Medicaid Reforms

### Section 601: Enhanced Medicaid Coverage Relating to Certain Mental Health Services

This section amends section 1902(a) of the Social Security Act to add a new section stating that State plans must not prohibit payment for a mental health service or primary care service furnished at a community mental health center or a federally qualified health center that would otherwise be covered if it were not provided on the same day. This section also amends section 1902 of the Social Security Act that defines same-day qualifying services. This refers to a **primary care service at a facility on the same day that a mental health service is provided** at the facility and to a MH service provided at a facility on the same day a primary care service is provided at the facility.

This section also amends section 1905 of the Social Security Act to add "qualified inpatient psychiatric hospital services for individuals" between 21 and 65 years old to the list of covered services, altering the "**IMD exclusion**." These services are defined as services provided in an acute care psychiatric unit in a State-operated psychiatric hospital or a psychiatric hospital if the facility has an average length of stay of less than 20 days. The HHS Secretary will conduct a study to determine the impact of these changes to the IMD exclusion and will submit the results to Congress within two years after enactment. The report will assess the level of State expenditures on short-term acute inpatient psychiatric hospital care for the year prior to the IMD change as compared to after the change. The report will also assess the extent to which States used disproportionate share hospital (DSH) payment adjustments to fund short-term acute inpatient psychiatric hospital care prior to the IMD changes. The report will describe the total amount by which State expenditures and DSH payments have been reduced due to the IMD changes. The

report will also make recommendations for strategies to encourage States to reinvest savings in community-based mental health services. These changes will not go through unless the Chief Actuary of the Centers for Medicare and Medicaid Services (CMS) certifies that the changes will not result in any net increase in program spending.

### **Section 602: Modifications to Medicare Discharge Planning Requirements**

This section amends section 1861(ee) that instructs the HHS Secretary to **develop guidelines and standards for discharge planning** in psychiatric hospitals or psychiatric units in order to ensure a timely and smooth transition to the most appropriate type of post-hospital or rehabilitative care. The Secretary will issue regulations implementing these guidelines within 24 months after enactment. The standards will include the following: the hospital will identify the types of services needed upon discharge, identify organizations that offer community services, and make a demonstrated effort to establish connections, relationships, and partnerships with such organizations. The hospital will also arrange for the development and implementation of a discharge plan as part of the patient's overall treatment plan. Finally, the hospital will coordinate with the patient any referrals, including transmitting the referral to the receiving organization and appropriate patient information.

### **Title VII: Research by National Institute of Mental Health**

#### **Section 701: Increase in Funding for Certain Research**

This section amends section 402A(a) of the Public Health Service Act to add a new section on **funding for the brain initiative at NIMH**. The funding must be used to conduct or support research on the determinants of violence in MI, including studies directed at reducing the risk of self-harm, suicide, and interpersonal violence. The funding may also be used for the Brain Research through Advancing Innovative Neurotechnologies Initiative.

This section authorizes \$40,000,000 to be appropriated for each of the fiscal years 2017-2021.

### **Title VIII: SAMHSA Reauthorization and Reforms, Subtitle A: Organization and General Authorities**

#### **Section 801: Peer Review**

This section amends section 501(h) of the Public Health Service Act to define the **membership for any peer review group** that reviews a proposal or grant related to mental illness. At least half of the members will have a medical degree, doctoral degree in psychology, or advanced degree in nursing or social work and specialize in mental health. These same specifications are also added to section 504 of the Public Health Service Act.

#### **Section 802: Advisory Councils**

This section amends paragraph 3 of section 502(b) of the Public Health Service Act to specify the **membership of SAMHSA advisory councils**. At least half of the members will have a medical degree, a doctoral degree in psychology, or advanced degree in nursing or social work. Each advisory committee will include at least one member of the NIMH and one member from any federal agency that has a program serving a similar population.

#### **Section 803: Grants for Jail Diversion Programs Reauthorization**

This section amends section 520G(i) of the Public Health Service Act to replace the authorization with \$5,000,000 for each of the fiscal years 2017-2021.

#### **Section 804: Projects for Assistance in Transition from Homelessness**

This section amends section 535(a) of the Public Health Service Act to replace the authorization with \$65,000,000 for each of the fiscal years 2017-2021.

#### **Section 805: Comprehensive Community Mental Health Services for Children with Serious Emotional Disturbances**

This section amends section 565 of the Public Health Service Act to extend technical assistance from the HHS Secretary to entities regardless of whether they receive grant funds for community mental health services for children with a severe emotional disturbance. This section also replaces the authorization with \$117,000,000 for each of the fiscal years 2017-2021.

#### **Section 806: Reauthorization of Priority Mental Health Needs of Regional and National Significance**

This section amends section 520A(f)(1) of the Public Health Service Act to replace the authorization with \$370,000,000 for each of the fiscal years 2017-2021.

***Title IX: Mental Health Parity*****Section 901: GAO Study on Preventing Discriminatory Coverage Limitations for Individuals with Serious Mental Illness and Substance Use Disorders**

Within one year after enactment, the Comptroller General, in consultation with the Assistant Secretary, the HHS Secretary, the Secretary of Labor, and the Secretary of the Treasury, will submit a report to Congress looking at the extent to which covered group health plans, including Medicaid managed care plans, **comply with the Mental Health Parity and Addiction Equity Act (MHPAEA)**. The report will include how non-quantitative treatment limitations comply, how the responsible federal agencies ensure that plans comply, and how proper enforcement, education, and coordination activities within federal agencies can be used to ensure full compliance.

**Section 902: Report on Investigations Regarding Parity in Mental Health and Substance Use Disorder Benefits**

Within one year after enactment and annually thereafter, the CMS Administrator, in collaboration with the Assistant Secretary of Labor of the Employee Benefits Security Administration, Secretary of the Treasury, and the Assistant Secretary, will submit a report to Congress that identifies any **federal investigations into parity compliance** that have taken place in the previous 12 months and summarizes the results of such investigations. The report will include the number of investigations opened and closed during the reporting period, the benefit classification(s) examined, the subject matter of each investigation, and a summary of the final decision. Individually identifiable information will be excluded from the reports consistent with federal privacy protections.

**Section 903: Strengthening Parity in Mental Health and Substance Use Disorder Benefits**

This section amends section 2726(a) of the Public Health Service Act to add a new section on **disclosure and enforcement requirements**. By March 1, 2016, the HHS Secretary, in cooperation with the Secretaries of Labor and the Treasury, will issue additional regulations or guidance, including an explanation of documents that are required to be disclosed, and analyses that are required to be conducted. This includes how non-quantitative treatment limitations are applied to mental health and substance use disorder benefits covered under the plan. The disclosure requirements will include a report detailing the specific analyses performed to develop a compliance review under MHPAEA. The report will identify the specific factors that plans use in analyzing their non-quantitative treatment limitations; identify and define the specific evidentiary standards relied on to evaluate the factors; describe how the evidentiary standards were applied to each service category; disclose the results of the analysis; and disclose the plan's specific findings in each service category and the conclusions reached regarding compliance. The HHS Secretary will issue guidance to group health plans and health insurance issuers on how to satisfy the requirements of this section with respect to making information available to beneficiaries regarding the plan's benefits.

The HHS Secretary will issue guidance to clarify the process and timeline for current and potential beneficiaries for filing complaints regarding parity compliance. The Secretary will make de-identified information on audits and investigations publicly available. The Secretary is authorized to conduct randomized audits of health plans and insurers to determine compliance with MHPAEA. These audits will be conducted on at least 12 plans per year and the information will be made publicly available on the HHS and Labor Department websites. Plans with at least 5 substantiated claims of the same kind of non-compliance during one year will be audited by the Secretary and the results will be made available to the public on the HHS website.