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On Behalf of the

American Psychiatric Association

Given On

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Submitted to the

U.S. House of Representatives Energy and Commerce Committee

HEALTH SUBCOMMITTEE HEARING:

Communities in Need:
Legislation to Support Mental Health and Well-Being

Chair Eshoo and Ranking Member Guthrie, on behalf of the American Psychiatric Association (APA), the national medical specialty association representing over 37,000 psychiatric physicians, I want to thank you for conducting the hearing today entitled, "*Communities in Need: Legislation to Support Mental Health and Well-Being*." The APA appreciates the Committee's continued work on mental health and substance use disorder legislation that will ultimately help save lives. I would also like to thank you for the opportunity to testify on behalf of the APA. My name is Rebecca W. Brendel, MD, JD, and I am the APA's President-Elect and the director of the Master's Degree Program at the Harvard Medical School Center for Bioethics, where I am also an associate director. I base my clinical work in psychiatry at Massachusetts General Hospital where I am the director of Law and Ethics at the Center for Law, Brain, and Behavior. I am also Assistant Professor of Psychiatry at Harvard Medical School. Thank you for having me here today to address the status of our nation's mental health.

I sit here before you today because the United States is experiencing a profound crisis of mental health and well-being, one compounded by the disruption, isolation, and loss experienced during the COVID-19 pandemic. Sadly, it is a crisis that shows no signs of abating. As the pandemic continues to exacerbate mental health conditions, including substance use disorders (MH/SUD), the consequences are plain to see: rising rates of suicide, record overdose deaths, and increased depression and anxiety across nearly all ages and demographics. Even beyond these sobering statistics, COVID-19 has impacted almost every single aspect of our lives, from job security to health equity, health outcomes, and beyond. Indeed, this is a crisis which has impacted not just individuals, or families, but entire communities.

Fortunately, there are many policies which Congress can promote to strengthen communities in need, both now, and into the future. These policies include but are not limited to incentivizing the integration of behavioral healthcare into primary care, bolstering the MH/SUD workforce, promoting stronger enforcement and better implementation of the parity law, addressing health equity, increasing access to telehealth, expanding crisis care services, and improving psychiatric bed supply. Championing evidence-based policies that ensure that every American and every community receive the MH/SUD care that they need will save lives, improve overall health outcomes, and reduce overall health costs. I will detail these policy proposals throughout my testimony below.

Reauthorization of Mental Health and SUD Programs

The APA is encouraged by this Committee's focus on reauthorizations for MH/SUD programs that currently fall under the Public Health Service Act. It is important that most of these reauthorizations occur at a level that addresses the years of neglect in funding for public mental health programs. Sustained increases across the board for MH/SUD programs, especially given the significant MH/SUD challenges communities and patients are experiencing across the country, is the only way that we will reach every patient who needs help. The APA is grateful for recent Congressional efforts to boost funding for many of these programs, however, funding levels have not having kept pace with the need.

For example, the APA supports reauthorizing the **Community Mental Health Services Block Grant (MHBG) (42 U.S.C. §300x-9),** funding that is distributed by formula to help states establish new or supplement existing state-based MH service activities. H.R. 7241, the **Community Mental Health Services Block Grant Reauthorization Act** introduced by Reps Crenshaw (R-TX), Butterfield (D-NC), Garcia (R-CA) and Luria (D-VA), proposes a 5-year reauthorization that would fund the block grant at FY22 enacted levels. However, it is important to note that last year appropriators proposed doubling that amount to correspond to the need, but ultimately took only a step in that direction with a $78 million increase. The Biden Administration's recently proposed budget also proposed a substantial funding increase for the block grant, but ultimately took only a step in that direction with a $78 million increase. As Congress considers the long-term reauthorization of the MHBG, the APA recommends that the program authorization be significantly increased and that the authorization for the crisis services set-aside be increased from 5% to 10%. The APA also supports a more significant increase in the authorization for the **Substance Use Prevention, Treatment, and Recovery Services Block Grant** than what has been proposed in H.R. 7235.

Similarly, the APA supports increasing the reauthorizations for the **Encouraging Innovation and Evidence-Based Programs within the National Mental Health and Substance Use Policy Laboratory (42 U.S.C. §290aa-0),** which is the focus of H.R. 7237 and the **Reauthorizing Evidence-based and Crisis Help Initiatives Needed to Generate Improved Mental Health Outcomes for Patients Act of 2022,** otherwise called the **REACHING Improved Mental Health Outcomes for Patients Act of 2022**, introduced by Reps Griffith (R-VA), Tenney (R-NY), Davids (D-KS) and Craig (D-MN)**.** The policy laboratory at the Substance Use Disorder and Mental Health Services Administration (SAMHSA) ensures that providers, administrators and others implementing mental health and substance use disorder programs have access to best practices that have been rigorously evaluated and proven in real-world settings to improve patient outcomes across the prevention, treatment and recovery continuum.

The **Priority Mental Health Needs of Regional and National Significance (42 U.S.C. §290bb32)** program reauthorized by the bill allows SAMHSA flexibility to address emerging needs and changing trends related to mental health and is vital to addressing mental illness across a patient's lifespan. The **Assisted Outpatient Treatment (42 U.S.C. §290aa)** program has been shown effective in ensuring that patients get care in states that have Assisted Outpatient Treatment laws. However, as Congress considers the AOT reauthorization proposed in H.R. 7237, the APA recommends examining outcomes with regard to implementation, utilization and equity, and that this program be coordinated with SAMHSA's Center of Excellence for SMI – SMI Advisor.

In addition to the programs H.R. 7237 proposes to reauthorize, the APA supports the reauthorization of the **Grants for Jail Diversion Programs (42 U.S.C. §290bb-38)** as this program promotes and educates drug courts through SAMHSA to ensure that patients receive resources on all FDA-approved medications for opioid use disorders and other treatments available for their individual SUD needs. Furthermore, as Congress works on reauthorizing **Development and Dissemination of Model Training Programs under the Health Insurance Portability and**

Accountability Act (42 U.S.C §1320d-2), the APA recommends that the Department of Health and Human Services continue to educate clinicians about changes to privacy laws, and also to consider how they interact with regulatory changes to improve interoperability and prevent information blocking.

The APA also supports the reauthorization of the **Promoting Integration of Primary Care and Behavioral Health (42 U.S.C. §290bb-42)** program. Though the APA supports this program, we encourage Congress to strengthen it by pushing awardees of these grants to move towards models of integration that are population-focused, evidence-based, and measurement-based to show improvement in patients' medical and behavioral health incomes. The APA is also pleased to support ***H.R. 7076, the Supporting Children's Mental Health Care Access Act***, introduced by Reps. Schrier (D-WA) and Miller-Meeks (R-IA), which reauthorizes both the Pediatric Mental Health Care Access Grant and the Infant and Early Childhood Mental Health Promotion, Intervention and Training Grant. These grant programs support the integration of behavioral health into pediatric primary care and support human services agency and nonprofit infant and early childhood mental health promotion, intervention and treatment programs, all of which are essential to the health of our nation's children.

Finally, the APA supports H.R. 7249, the ***Anna Westin Legacy Act of 2022***, as introduced by Reps. Matsui (D-CA), McKinley (R-WV), Deutch (D-FL) and Van Drew (R-NJ) and H.R. 7255, ***the Garrett Lee Smith Memorial Reauthorization Act***, as introduced by Reps. McMorris Rodgers (R-WA), Trahan (D-MA), Axne (D-IA) and Kim (R-CA). H.R. 7249 would reauthorize the Center of Excellence for Eating Disorders through 2027. The Center of Excellence for Eating Disorders is vital to the proliferation of training and education of clinicians in how to appropriately recognize, screen, diagnose and treat eating disorders. H.R. 7255 would reauthorize the Suicide Prevention Resource Center, the Garrett Lee Smith State and Tribal Youth Suicide Prevention and Early Intervention Grant Program, the Garrett Lee Smith Campus Suicide Prevention Program and authorize funding for suicide prevention through mental and behavioral health outreach and education programs.

Integrating Behavioral Health & Primary Care

Long term investments in our behavioral health care workforce are much needed and overdue, but as we continue to grapple with the dual epidemics of mental health and substance use disorder, action is also needed to ensure access for those currently in need. One of the more promising near-term solutions can be found in the promotion of population-focused, and evidence-based, integrated care models. The Collaborative Care Model (CoCM) in particular, has proven adept in providing prevention, early intervention, and timely treatment of mental illness and SUDs. Many individuals first display symptoms of a MH/SUD in the primary care setting but do not receive the necessary follow-up treatment. Often, they have difficulty finding a mental health clinician or avoid seeking treatment due to the stigma that still exists around MH/SUDs. CoCM provides a strong building block to address these problems by ensuring that patients can receive timely behavioral health treatment within the office of their primary care physician.

The CoCM integrates behavioral health care within the primary care setting and features a primary care physician, a psychiatric consultant, and a care manager working together in a coordinated fashion. Importantly, the team members use measurement-based care to ensure that patients are improving, and treatment is adjusted when they are not. The CoCM is supported by more than 90 statistically validated studies to show its effectiveness, but has demonstrated a particular and significant utility in treating depression, where patients have seen a fifty percent decline in symptoms. In addition to demonstrated clinical efficacy, the CoCM's population-based approach helps to alleviate the psychiatric workforce shortage by leveraging the expertise of the psychiatric consultant to provide treatment recommendations for a panel of 50-60 patients in as little as 1-2 hours per week. All of these features function to prevent downstream emergency room visits or hospitalizations, and ultimately, reduce costs to our healthcare system.

The CoCM is currently being implemented in many large health care systems and practices, and is also reimbursed by Medicare, most private insurers, and numerous state Medicaid programs. Despite its strong evidence base and availability of reimbursement, uptake of the Collaborative Care Model by primary care physicians and practices remains low due to the up-front costs associated with implementing the model. As a result, the APA strongly encourages the Committee to support ***H.R. 5218, the Collaborate in a Cohesive and Orderly Manner Act****.* This important legislation, introduced by Reps. Fletcher (D-TX) and Herrera Beutler (R-WA), would expand access to high-quality behavioral health care by providing grants to primary care practices to cover start-up costs and by establishing technical assistance centers to provide support as practices implement the model. Additionally, the bill authorizes funding for research grants to identify additional evidence-based models of integrated care. H.R. 5218 is supported by a diverse group of 42 national stakeholders including members of the mental health community, every major primary care physician association, patient advocates, employers and payors.

In addition to adopting proven models like CoCM, which seek to leverage existing resources, the APA likewise supports additional evidence-based care that aims to improve outcomes and reduce strain on our stressed behavioral health workforce. In particular, research has shown that evidence-based peer support services reduce recurrent psychiatric hospitalization for patients at risk of readmission, and that these services also improve individuals' relationship with their health care providers, therefore reducing outpatient visits. The APA is thus supportive of ***H.R. 2929* the *Virtual Peer Support Act of 2021***, introduced by Reps. Lee (D-NV) and Upton (R-MI), which would boost the capacity and accessibility of behavioral health support programs by creating a grant program to support and enable eligible local, tribal, and national organizations who currently offer behavioral health support services to transition to online platforms or to build out their current online capacity to meet increased need due to the COVID-19 pandemic.

Finally, a robust and diverse mental health workforce is essential to ensure that children have timely access to high-quality, developmentally- and culturally-appropriate care. Shortages in the mental health workforce are especially acute within pediatric specialties, and are projected

to increase over time. A 2018 report from the U.S. Health Resources and Services Administration called “Behavioral Health Workforce Projections, 2016-2030” used a mathematical model to find that there was a 20 percent greater demand for pediatric psychiatry services than the current supply. To address barriers to entry into these critical professions and to recruit a more diverse workforce, the APA supports workforce development in a wide array of pediatric mental health fields where shortages persist, and accordingly supports ***H.R. 4944, the Helping Kids Cope Act***. Introduced by Reps. Blunt Rochester (D-DE) and Fitzpatrick (R-PA), this much needed legislation would provide grant funding in support of pediatric behavioral health care integration and coordination. The legislation also supports recruitment and retention of community health workers and expands evidence-based and integrated models of care for pediatric, mental, emotional and behavioral health care services. Finally, the legislation supports pediatric behavioral health workforce training for child and adolescent psychiatrists, psychiatric nurses, psychologists, APRNs, family therapists, social workers, and other practitioners.

Reducing Health Disparities and Improving Health Equity

The APA is encouraged by the Committee’s ongoing efforts to address social determinants of health and to reduce health disparities by prioritizing policies and funding programs to advance access to evidence based and culturally-competent care. The APA supports the reauthorization and increased authorization of appropriations to $25 million per year for SAMHSA’s **Minority Fellowship Program (42 U.S.C. §290ll)**. This program improves behavioral health care outcomes for racial and ethnic minority populations by growing the number of racial and ethnic minorities in the nation’s behavioral health workforce. The APA is honored to be a part of this program and each year we, along with our MH/SUD clinician colleagues take part in the program train hundreds of psychiatrists and non-physician MH/SUD workers through this program.

In addition to the Minority Fellowship Program, the APA is pleased to support the ***Into the Light for Maternal Mental Health Substance Use Disorders Act of 2022*, *H.R. 7073***, introduced by Reps. Clark (D-MA), Herrera Beutler (R-WA), Burgess (R-TX), Clarke (D-NY), Matsui (D-CA) and Kim (R-CA). This bill reauthorizes and expands the U.S. Health Resources and Services Administration’s Screening and Treatment for Maternal Mental Health program and authorizes the recently created maternal mental health hotline. H.R. 7073 is vital in ensuring that pregnant and post-partum individuals, especially those who come from communities with high maternal mortality and maternal morbidity, are screened early and treated appropriately for MH/SUD conditions during and after pregnancy. Further, the APA supports ***H.R. 4251, the Native Behavioral Health Access Improvement Act of 2021,*** as introduced by Chairman Pallone (D-NJ) and Rep. Ruiz (D-CA). This legislation provides funds through the Indian Health Service to tribal health programs for the prevention and treatment of MH/SUD conditions, which is vital given the high prevalence of MH/SUD conditions amongst tribal members when compared to the general population.

Though reauthorization of these health equity-related programs is encouraging, the APA continues to be concerned about social determinants of health as they are among the most significant contributors to negative health outcomes and overall health inequity. As such, the

APA is pleased to support ***HR 2376 – Excellence in Recovery Housing Act*** as introduced by Reps. Trone (D-MD), Chu (D-CA), Levin (D-CA) and McKinley (R-WV) which would require SAMHSA to promote high quality recovery housing for individuals with SUDs. Although legislation noticed for today's hearing is a good start, the APA encourages the Committee to continue to focus further on policies that **(1) increase the culturally competent workforce of mental health and substance use disorder practitioners, (2) increase the availability of culturally competent resources for practitioners and states to help them meet unmet mental health and substance use disorder screening and treatment needs in hard to reach populations, (3) work to reduce discrimination and bias in the screening and treatment of minority patients, (4) increase access to culturally competent and inclusive maternal prenatal, delivery and post-partum care to help reduce maternal mortality and severe maternal morbidity, and (5) increase resources for public health campaigns that use evidence-based practices to reduce mental health and substance use disorder stigma, encourage community support such as housing assistance, and dispel population distrust in the medical profession, specifically mental health professionals.**

Implementing, Strengthening and Enforcing MH/SUD Parity

Passed by Congress in 2008, the Mental Health Parity and Addiction Equity Act (MHPAEA) requires that insurance coverage for MH/SUD services be no more restrictive than coverage for other medical care. We thank the committee for playing a central role in the important changes to the law that were included in the December 2020 Consolidated Appropriations Act. These changes strengthened MHPAEA by requiring insurance plans and insurers to demonstrate their compliance with the parity law, including codifying key guidance developed by the Department of Labor (DOL).

However, the report issued on January 25, 2022 by DOL, Health and Human Services and Treasury, found numerous parity violations potentially affecting millions of beneficiaries. In addition, a report issued last week by the Government Accountability Office found that consumers experience myriad challenges in accessing mental health services because their insurance coverage is not in compliance with parity law. Both of these reports validate concerns that insurance plans and insurers are still not compliant with the federal parity law and that more transparency and accountability are needed. In addition, I would like to stress that insurers were given thorough and detailed guidance about how to demonstrate compliance with the law beginning in 2018 and continuing through 2021, yet according to both reports, they still failed to produce adequate compliance materials to federal regulators and failed to provide coverage for essential MH/SUD services that patients so desperately need. **The APA encourages the Committee and Congress to support policies that would bring insurers into compliance with MHPAEA immediately.** It is also crucial that federal and state agencies receive the resources necessary to enforce the law and hold insurance plans and issuers accountable when they are not in compliance. The recent Biden Administration FY2023 Budget Request echoes the need for resources by requesting funding for both the federal government and states to enforce mental health parity requirements. As such, the APA encourages this Committee to support legislation such as ***H.R. 7232, the 9-8-8 and Parity Assistance Act of 2022*** introduced by Reps. Cardenas (D-CA) and Fitzpatrick (R-PA) which would authorize grant funding to state insurance departments to help them implement and enforce the parity

law. Additionally, Congress needs to close the loophole that allows non-federal governmental health plans to opt-out of MHPAEA. To this end, the APA encourages the Committee to support legislation that prohibits these non-federal governmental health plans from opting out of coverage requirements, as H.R. 7254, the ***Mental Health Justice and Parity Act of 2022***, introduced by Reps. Porter (D-CA) and Dingell (D-MI).

Further, in light of the recent reversal by the Ninth Circuit of the February 2019 decision of the U.S District Court for the Northern District of California in *Wit v. United Behavioral Health,* **Congress should take actions like those taken by the states of California, Oregon and Illinois, to prevent insurers from adopting restrictive internal guidelines for making medical necessity determinations and level of care placements that are contrary to generally accepted standards of care.** *Wit*, while not technically a parity decision, is certainly related. Congress should enact legislation for ERISA plans as well as for Medicare and Medicaid, that is analogous to what these states have done. While states such as Oregon, California, and Illinois have codified important medical necessity standards, most Americans are covered by ERISA plans that operate beyond state jurisdiction. Only an act of Congress can ensure that all patients with MH/SUD are guaranteed fair and equitable coverage for MH/SUD services and that federally regulated plans are held accountable to parity law.

Finally, it is important to note that Medicare beneficiaries are not protected by MHPAEA. That means that many of those with the most severe mental illnesses do not receive the MH/SUD care that they need. **The APA, along with our colleagues at the National Council for Mental Wellbeing, the National Association for Behavioral Healthcare and the American Society of Addiction have developed a legislative proposal to apply parity requirements to Medicare.**

Last week, the Biden Administration also stressed that parity protections should be applied to Medicare through its FY2023 Budget Request. Not only is the lack of Medicare parity protections a major shortcoming that harms those 65 and older, but it is also a serious barrier for the nine million Americans who have Medicare coverage because of their disability status. Also in the Biden budget request, the Administration also revised Medicare criteria for psychiatric hospital terminations by eliminating the 190 day lifetime limit on these services.

Maintaining Access to MH/SUD Services via Telehealth

Though not an explicit focus for this hearing, I want to express our thanks to Congress and this Committee for the recent passage of legislation through the 2022 Omnibus that extended telehealth flexibilities allowed under the COVID-19 public health emergency (PHE) five months beyond the PHE's expiration. This included audio-only services and a delay in the six-month in-person requirement for mental health services. Prior to COVID-19, substance use disorders and co-occurring mental health services were exempt from geographic and site of service restrictions under Medicare, but mental health treatment services alone were not. At the end of 2020, Congress took an important step forward by permanently waiving these restrictions for mental health. However, Congress also included a 6-month, in-person requirement for mental health services via telehealth, which is not required for other services. This requirement is discriminatory as there are no other services that have such a requirement, and it also doesn't

align with current requirements for substance use disorders and co-occurring telemental health services. The APA strongly supports permanently removing the six-month, in-person requirement, which is unnecessary and is a barrier to a clinician's clinical judgment of when to treat a patient in-person.

988 Implementation, Crisis Services and Psychiatric Beds

I would also like to thank the Committee for its past support of the *National Suicide Hotline Designation Act of 2019*, the passage of which enabled the forthcoming launch of the new three-digit number (988) for suicide prevention. The July launch of 988 represents an important first step in reimagining crisis response, but significant unfinished work remains to ensure that those calling 988 receive the response they need and deserve. Unfortunately, most communities presently have limited or no options when it comes to services that support someone in a behavioral health crisis. Law enforcement and hospital emergency departments often function as the de-facto response, placing a strain on these systems and delaying mental health treatment for those in need. Too often, there is a lack of a continuum of care and patients with mental illnesses often end up boarding in emergency departments (ERs). Due to a lack of crisis beds, these patients are typically discharged from the ER prematurely, without receiving the care they need, resulting in readmissions at best and further crisis and even completed suicide at worst. To fully support the mission of 988, critical investments are needed in our national crisis support infrastructure. APA thus encourages the Committee to support ***H.R. 7232, the 9-8-8 and Parity Assistance Act of 2022*** introduced by **Reps. Cardenas (D-CA)** ***and Fitzpatrick (R-PA)***. With the new crisis line set to go live in a few short months, this legislation would authorize $1 billion for Health Resources and Services Administration Capital Development Grants. This legislation includes specific language broadening eligible uses to include crisis receiving and stabilization programs as well as call centers. Importantly, recipients of these grants would be required to demonstrate working relationships with local Certified Community Behavioral Health Clinic (CCBHCs) and other local mental health and substance use care providers.

In closing, I thank you for your attention to the mental health needs of our patients across the country. I am encouraged by the bipartisan, bicameral support we're seeing from Congress and in particular this Committee with regards to addressing our most pressing mental health and substance use disorder needs. Finally, I thank you for extending me the opportunity to testify on behalf of the American Psychiatric Association before you here today and look forward to both hearing my colleagues on the panel testify and to answering each of your questions.