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Association of American Physicians and Surgeons, Inc.
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Hearing on Mental Health Parity

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Director of Government Affairs

Association of American Physicians and Surgeons

Submitted to:

House Ways and Means Subcommittee on Health

March 26th, 2007

Mr. Chairman and Members of the Committee:

The Association of American Physicians and Surgeons is a national organization of physicians in all specialties, founded 1943 to preserve and promote the practice of private medicine, the sanctity of the patient-physician relationship and ethical medical practices. We represent thousands of physicians of all specialties nationwide, and the millions of patients that they serve.

Congress does not itself have the constitutional authority to dictate the practice of medicine, create mandates for private insurance companies or to determine the validity of a diagnostic tool as a payment mechanism.

1. Congress has no authority to regulate the practice of medicine

We are concerned with the fact that the Federal government, which is not authorized under the constitution, specifically Article 1, continues to interfere in the practice of medicine. Medicine has historically been regulated at the State level and each time Congress interferes with the practice of medicine, it violates the 9th and 10th amendment, usurps power not granted by the Constitution, and creates the future perceived need to further intervene to fix secondary problems caused by the original intervention. The Constitution established a national government of delegated, enumerated, and thus limited powers. It is clear from our founding fathers that they too saw no place for the Federal government to interfere in the practice of medicine. Specifically, James Madison wrote, in the Federalist, No. 45: "The powers delegated to the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce....The powers reserved to the States will extend to all objects of which, in the ordinary course of affairs, concerns the lives, liberties and properties of the people, and the internal order, improvement and prosperity of the State."

2. Restoration of true insurance markets

Congress does not have the authority to interfere in the business of insurance. . Congressional interference has turned a freer market into a managed market in which mutually beneficial exchanges between buyers and sellers have been impaired. This has led to the general increase of cost of medicine, the reduction in innovation in goods and services, and the mistaken conflation of insurance with medical care. Instead of adding unconstitutional mandates to private insurance companies, Congress should move to abolish all mandates, regulations, and controls. Deregulation of the insurance market by the Federal government would allow individual insurance companies to meet the needs of their clients and allow for unique and innovative insurance products to be developed and offered to the public at large. More importantly, it would free up intellectual capital that is now wasted on compliance costs for actual use in patient care. We oppose the top-down command-and-control system that is now

in places and its further centralization and manipulation through coercive expansions of the core benefit package. Instead, we support deregulation of the insurance market as well as of the practice of medicine.

3. Psychiatry differs from other medical specialties

It is very important for Congress to recognize that psychiatry differs in fundamental ways from what might be called somatic medicine. At this time in our history and science, psychiatry is based on subjective reporting and observation of inner experiences or behavior and lacks objectively verifiable tests such as blood tests, imaging studies, and biopsies. While patients do experience real spiritual/emotional/mental/moral problems and exhibit maladaptive behaviors, manifestations that are considered a “mental illness” cannot be defined as a disease in the absence of objective, reproducible somatic abnormalities.

A mental-health parity mandate will turn the current diagnostic standards for psychiatry, the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV), into a standard for payment as well. The DSM-IV remains consensus driven, unsupported by clear empirical data. Neither taxpayer-supported nor private insurers should be forced to cover conditions diagnosable only by consensus of by self-interested psychiatrists and their partners in the pharmaceutical industry. If insurance subscribers or clients believe mental health coverage or service to be of value, and are thus willing to pay for it, this will be offered in the free market on a contractual basis. All insurance subscribers should not be forced to pay for services that they do not consider to be of value.

The concept of “biopsychiatry,” or more popularly “chemical imbalance” is at present merely a theory. Based on this theory, billions of dollars are spent by both public and private entities specifically for psychoactive drugs. Careful post-marketing surveillance of the benefits and harms of such drugs is greatly needed and seriously lacking. Some reports suggest that drugs often cause more problems than they ameliorate, and may induce objective ailments, such as diabetes, which then must be treated. As drugs either first or second line treatment protocol for most so-called “mental illnesses,” a mental health treatment mandate can be anticipated to result in increased drug usage, with its attendant problems, and hence an increase in expenditures for both psychiatric and medical treatment.

Conclusion:

Whether through genuine good intentions, or responsiveness to the demands of special interest groups, the Federal government should not regulate or restrict the freedom of the people to access medical care, to privately contract with insurance companies for the goods and services they agree to, and to utilize treatments based on their own needs. Nor should the federal government force people to use or pay for services they do not perceive to be of value. The distinction between objective measurement and subjective reporting, and between empirical data and consensus-driven diagnostic tools, must be recognized. Mental health parity should be opposed on the basis of the U.S. Constitution, ethical medicine, and good science.

Thank you.