

May 5, 2020

The Honorable Elinore F. McCance-Katz, M.D., Ph.D.  
Assistant Secretary for Mental Health and Substance Use  
Substance Abuse and Mental Health Services Administration (SAMHSA)  
U.S. Department of Health and Human Services  
Parklawn Building  
5600 Fishers Lane  
Rockville, MD 20857

Dear Assistant Secretary McCance-Katz:

The National Council for Behavioral Health's Public Policy Committee held an extraordinary meeting on Friday, May 1, 2020, to discuss SAMHSA's March 20, 2020, guidance titled "Considerations for the Care and Treatment of Mental and Substance Use Disorder in the COVID-19 Epidemic." I have been asked to convey to SAMHSA our organization's serious and deep concern about the points made in this document, both in light of the COVID-19 pandemic and beyond. Mental illness and substance use disorders are chronic, relapsing illnesses that require the same attention and care as physical illnesses. We believe the guidance issued by SAMHSA will further the discrimination against these illnesses and prevent access to medically necessary care.

National Council member organizations are on the front lines of delivering care to people living with serious mental illnesses and substance use disorders. COVID-19 is testing and stretching all parts of the substance use and mental health treatment delivery system as we continue to deliver high quality care and support in the face of inadequate access to testing, personal protective equipment (PPE) or a robust telehealth infrastructure.

While it has always been true that decisions made by any one part of the treatment system have consequences for other parts of the system, the ramifications are even greater now due to social distancing requirements, revenue shortfalls and staffing shortages affecting the behavioral health industry. A decision to stop admissions to a level of care or to accelerate discharges places pressure on other providers to come up with necessary housing, staffing or other supports for individuals in acute need of care. As you are well aware, untreated addiction and mental illness can be fatal for the individual and catastrophic to their family and community.

The shortage of personal protective equipment (PPE) within the healthcare system is even more acute in behavioral health since we are outside the normal supply chain for such

purchases. Behavioral health staff engaged in all levels of outpatient and residential settings are still interacting with patients without appropriate protection. SAMHSA's help and advocacy in obtaining PPE would be most appreciated by thousands of organizations and their staff.

We agree with SAMHSA that decisions regarding the appropriate level of care should be driven by clinical standards. And clinicians have a broad array of evidence-based tools at their disposal to make treatment recommendations. In a recent court case, *Wit v. United Behavioral Health*, the court found that it is a generally accepted standard of care that the determination of the appropriate level of care for patients with mental health and/or substance use disorders should be made on the basis of a multidimensional assessment that takes into account a wide variety of information about the patient. The National Council is very concerned that SAMHSA's recent guidance could be used by insurers to deny access to medically necessary care during and after the COVID-19 pandemic by calling into question these levels of care.

We would also like to point out that the current criteria for voluntary psychiatric admissions are that a person must be very seriously psychiatrically compromised to meet criteria for admission. Delaying admission in such circumstances is not safe for the individual, their family or community.

It is also true that if psychiatric hospitalization can be avoided, the person will likely still need intensive intervention and support, including crisis stabilization, intensive monitoring and intervention. These face-to-face interventions raise some of the same concerns for patient and staff safety during the COVID-19 pandemic. Again, access to adequate PPE would greatly facilitate these interventions.

Based on multidimensional assessment and clinical judgement, admission to residential treatment for addiction has been determined to be clinically necessary and urgent. Under these standards, we would not deny access to necessary care for physical health conditions, and we expect the same to be true for substance use and mental illness conditions.

At all levels and settings of care, including admission, street outreach, crisis stabilization, recovery housing, residential or inpatient care, the most important question should be what steps the facility is taking to protect patients and staff as opposed to arbitrarily denying access to specific types of medically necessary care.

SAMHSA rightly points out that telehealth is a valid way to obtain care. Treatment organizations have rapidly implemented telehealth for many types of treatment and support. It is also true that implementation of required unanticipated expenditures for telehealth equipment is complicated by the level staff and clients have access to sufficient broadband and hardware. Additional financial support from SAMHSA and other federal agencies is needed to support

these efforts. Furthermore, it is important that after making such a significant shift in terms of workflow, systems and treatment, every effort must be made to sustain the necessary regulatory and payment flexibilities, at least until there is a vaccine for COVID, if not permanently.

There are many indications that the need for treatment of substance use and mental health conditions will increase as a result of COVID-19. We must ensure that the system for substance use and mental health disorders prevention, treatment and recovery is prepared to meet this challenge and that our clinical decisions are supported by payers and regulators.

The National Council Public Policy Committee would be willing to meet with you via Zoom to discuss these concerns and appreciates your attention to these important issues.

Sincerely,



Chuck Ingoglia  
President and CEO  
National Council for Behavioral Health