



September 12, 2018

The Honorable Elinore F. McCance-Katz, MD, PhD
Assistant Secretary
Substance Abuse and Mental Health Services Administration
5600 Fishers Lane
Rockville, MD 20857

Dear Assistant Secretary McCance-Katz,

On behalf of American College of Physicians (ACP), I am writing to express concern about the misuse of mental health and substance abuse treatment policies and to request stricter oversight of inadequate standards and fraudulent practices taking place in the addiction treatment industry. The opioid epidemic is taxing on our country—causing upwards of \$442 billion in lost productivity, crime, and health care costs—and it remains a major focus of public health efforts and policy.ⁱ As we work to solve this problem, we must protect patients from falling prey to fraud as they seek help.

ACP is the largest medical specialty organization and the second largest physician group in the United States. ACP members include 154,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

The Mental Health Parity and Addition Equity Act (MHPA) and the Affordable Care Act (ACA) significantly increased access to mental health services over the last decade, expanding coverage to more than 62 million Americans who had little to no benefits before.ⁱⁱ However, this rise in access to rehabilitation care through the ACA and MHPA, combined with the heightening opioid and substance abuse crisis and infusion of private equity dollars into the rehabilitation industry, has created an environment ripe for profiteering and fraud in mental health and substance abuse treatment.

One aspect of treatment that has proven to be particularly susceptible to fraud and unethical practices are sober homes, which are substance-free living environments that are typically coupled with either inpatient or outpatient addiction treatment. Commonly located in Florida, California, New England, and the Midwest, states with high incidences of substance abuse or desirable environments for recovery, these facilities admit people to help them overcome their addiction in a safe living environment in tandem with the help of counselors and medical professionals. However, these facilities have little to no regulation in terms of the number of

licensed counselors, registration, occupancy, staffing, or safety and inspection requirements. Thus, these homes often are not well-suited to care for those struggling with substance abuse disorder.

Additionally, as more patients are receiving coverage and addiction treatment becomes a lucrative business—annual spending surpasses \$35 billion—financial incentives have led to a high prevalence of fraudulent practices within the industry.ⁱⁱⁱ A 2018 assessment by the National Association of Addiction Treatment Providers identified rises in various forms of industry fraud, including the following:^{iv}

- **Patient brokers** are individuals who are paid to seek out addicts and recruit them to receive treatment at specific treatment facilities and reside in affiliated sober living homes. In exchange for directing patients to their treatment facilities and residences, patient brokers are compensated either based on a per-person fee or a monthly fee for meeting a certain quota. Brokers are known to entice vulnerable potential patients with monetary and material perks, with no regard to how good the treatment facility is or if it is the best fit for the patient.
- **Inappropriate marketing** is another way brokers and facilities can scam patients. These operations utilize internet and TV advertisements to offer addiction treatment services, but then refer those who call to facilities that need to fill beds in exchange for commission. Call center workers are not certified or licensed in addiction treatment and can steer desperate patients towards whichever facility pays the highest commission, and not necessarily what is best for the patient.
- **Unnecessary testing** runs rampant in the addiction treatment industry, and overbilling insurers for over-utilized and unnecessary drug tests is one of the most financially lucrative aspects of operating a treatment facility and sober home for some owners. This tactic manifests through testing by numerous facilities when results could have been shared (i.e. between a sober home and an outpatient treatment program). Over-testing also occurs; some of the most abusive homes will require a sample to be provided 2-3 times a week for a test that usually is only needed on a weekly or monthly basis. Some facilities conduct more intricate tests that are unneeded and much more expensive than their simpler counterparts.

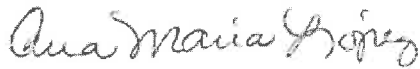
Patient brokers, inappropriate marketing, and unnecessary testing are just a few examples of how unethical practices in the addiction treatment and substance abuse industry can take advantage of those wishing to recover from addiction. These practices can charge patients thousands of dollars for empty promises, impeding the road to recovery and creating an industry with inconsistent standards and low quality of care.

Regulation of these facilities is piecemeal; there is no federal oversight and states and municipalities have different levels of regulation, making public information about them difficult to gather. This regulatory gap makes it impossible to know the quantity of sober living home facilities, the type and quality of services they provide, the standards and requirements

under which they operate, and the extent to which they participate in Medicaid and other federally funded health care programs. ACP urges SAMHSA to engage in stricter oversight of the industry, and particularly those receiving federal funds under programs including Medicaid and the Substance Abuse Prevention and Treatment block grant, to ensure that patients fighting substance use disorders are receiving quality care and taxpayers' dollars are being effectively used. Such oversight should include the establishment of certification criteria; collection of data on the number of facilities, quality, and services provided; and prosecution of any fraudulent practices that violate federal law.

The College appreciates your attention on this important issue and serious consideration of our concerns and recommendations. Should you have any questions or need any additional information, please do not hesitate to contact Renee Butkus at 202-261-4500 or rbutkus@acponline.org.

Sincerely,



Ana Maria Lopez, MD, MPH, FACP
President

CC: The Honorable Jeff Sessions, Attorney General, Department of Justice
The Honorable Alex Azar, Secretary, Department of Health and Human Services

ⁱ U.S. Department of Health and Human Services (HHS), Office of the Surgeon General, Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health. Washington, DC: HHS, November 2016

ⁱⁱ Beronio, Kirsten, Rosa Po, Laura Skopec, and Sherry Giled. "Affordable Care Act Expands Mental Health and Substance Use Disorder Benefits and Federal Parity Protections for 62 Million Americans." U.S. Department of Health and Human Services. June 16, 2016. Accessed February 13, 2018. <https://aspe.hhs.gov/report/affordable-care-act-expands-mental-health-and-substance-use-disorder-benefits-and-federal-parity-protections-62-million-americans>.

ⁱⁱⁱ Segal, David. "City of Addict Entrepreneurs." The New York Times. December 27, 2017. Accessed February 27, 2018. <https://www.nytimes.com/interactive/2017/12/27/business/new-drug-rehabs.html>.

^{iv} "NAATP to Launch Enhanced Ethics Compliance and Consumer Protection Initiative." National Association of Addiction Treatment Providers. July 19, 2017. Accessed February 12, 2018. <https://www.naatp.org/resources/news/naatp-launch-enhanced-ethics-compliance-and-consumer-protection-initiative/jul-6-2017>.