

**April 8<sup>th</sup>, 2020**

The Honorable Greg Abbott  
Governor of Texas  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711-2428

Dear Governor Abbott,

NAMI Texas cares deeply about the mental health of our communities and are ready to play our part in responding to and combating the COVID-19 pandemic. We commend you for your quick action in response to the COVID-19 outbreak in Texas. We know you and your entire Administration, including the Department of State Health Services (DSHS), Health and Human Services Commission (HHSC), and Texas Department of Insurance (TDI), and other agencies are working around the clock, and we are grateful for the tireless efforts of executive agency staff.

While this pandemic has placed a tremendous burden on our health care system, economy, and way of life, the role this pandemic has taken on our mental health has been underestimated. Although we all may struggle with the stress during this trying time, individuals living with mental illness may be experiencing heightened symptoms while having their services disrupted.

We have worked closely with the Texas Legislature and Governor's Office over the years on mental health as it relates to provider capacity, criminal justice, state hospitals, insurance, schools, and many other issues. We know you are committed to the mental health and well-being of all Texans. We are making the following recommendations to ensure Texans with mental health conditions can receive the services they desperately need during this time.

### **PPE for In-Person Mental Health and Substance Use Disorder Service Providers<sup>1</sup>**

NAMI Texas recommends as many services as possible should be moved to remote means such as telehealth, telemedicine, and telephonic communication. However, not every mental health service can be provided remotely. Inpatient services, crisis services, Medication Assisted Treatment, and many other services can only be provided in person. Providers are placing themselves at risk to ensure individuals living with mental health or substance use disorders receive the vital services they need to effectively recover. **We need to protect the health and well-being of providers, clients, and their families by increasing access to personal protective equipment for individuals who must provide services in person.** Some considerations may include:

- Direct state and local agencies, and encourage private organizations, to provide employees and volunteers with access to appropriate personal protective equipment.
- Provide guidelines to government and private organizations on how to safely provide services in person.

## Telehealth and Telemedicine Services<sup>2</sup>

NAMI Texas was please to hear about the Executive Order regarding state-regulated plans being required to cover telehealth and telemedicine services. **We would like to see telehealth and telemedicine services promoted and supported in every area that touches mental health.** This may include:

- Evaluating and ensuring removal of any barriers that prevent mental health providers from using telehealth services and receiving compensation on par with in-person reimbursement rates
- Investing in public-private partnerships to expand access to telehealth software and hardware, with specific funding set aside for tele-mental health programs.
- Disseminating guidance on best practices for providing mental health services over telecommunication.

## Centralizing Charity Care<sup>3</sup>

We join with the Texas Psychological Association in asking for your support in directing the Texas Department of State Health Services (DSHS) to establish a database of mental health professionals to supplement mental health access on a temporary basis. This was most recently done by DSHS following Hurricane Harvey, as well as Texas Health and Human Services after the El Paso shooting.

## Support groups and peer services<sup>4</sup>

We all know peer support programs have a positive impact on a person's recovery. When the emergency order took effect, NAMI Texas acted quickly to ensure our members would still have access to our individual and family support groups by starting statewide online groups. This statewide support group helps individuals across Texas, not just NAMI members, cope during this challenging time.

However, not every support group has the online infrastructure or funding to run secure, confidential, online support groups. We would recommend:

- Funding or free software available to support mental health and substance abuse recovery support services.
- Providing guidance on best practices for facilitating online support groups and psychosocial education courses.
- Ensuring peer support and peer recovery services can be reimbursed through Medicaid and private insurance plans.

## Student mental health services - K-12 and Higher Education<sup>5, 6, 7</sup>

The 86th legislative session was a tremendous success for student mental health in our K-12 schools. We expanded access to critical resources for school districts, educators, and students, to

learn about mental health and suicide prevention, and provide more counseling options to students. As with Hurricane Harvey, this pandemic has the potential to be a very traumatic event for many children. Not just for health risks, but for the major disruptions they have experienced in their day-to-day lives. For children who were receiving mental health services in schools or engaging in counselor-based support groups, they may lose months' worth of progress in their recovery. We recommend:

- Encouraging school districts to provide school counselors and mental health professionals with the resources to continue providing mental health counseling and support group services. Major school districts such as Austin ISD and North East ISD have already begun to offer mental health programming through telehealth, but smaller school districts may not yet have the capacity to continue these services.
- Exploring opportunities to expand tele-mental health services to underserved school districts during this time.
- Providing guidance to school districts on how to effectively provide counseling and support services through telecommunication.
- Using existing trauma-informed practice and mental health training policy to provide guidance to teachers and administrators on helping students cope with trauma during and after the pandemic.

Students in higher education settings are experiencing even more disruptions, as many transition out of student housing and lose access to their on-campus mental health supports and services. This may include:

- Providing colleges and universities with guidance and appropriate resources to continue offering counseling and support group services through telecommunications.
- Ensuring student health insurance plans cover off-campus health services.

#### Maintain crisis hotlines<sup>8</sup>

Mental health and suicide prevention hotlines are seeing an extremely high increase in their call volume. Suicide attempt rates tend to increase during times of crisis. High call volumes mean many people may not reach the support they need in time. We were happy to hear about the creation of the Health and Human Services COVID-19 mental health hotline, and we want to make sure that hotline capacity matches the current needs of the public. **We need to ensure crisis hotlines receive additional resources during this time to account for the crisis.**

- Evaluating current capacity of different types of mental health and well-being crisis lines across Texas.
- Providing emergency funding to mental health crisis and suicide prevention hotlines to ensure adequate staffing and safe social distancing and administrative practices for staff.

## **Health Care and Medication Access<sup>9</sup>**

### Ensure continuity of medication access

Access to health and mental health medication is one of the most critical needs for individuals experiencing mental health issues. As health facilities and pharmacies become overwhelmed with COVID-19 treatment needs, individuals with chronic mental health needs may struggle to receive the medication they need. We recommend:

- Encouraging insurance plans to provide extended supplies and/or mail order refills of prescriptions.
- Easing restrictions around prescription refills for psychotropic medications while exempting psychotropic medication from pharmacist-initiated therapeutic substitutions.
- Ensuring all Medicaid and CHIP allow advance or early refills to ensure enrollees have an adequate supply of their medications, including psychotropic medication, for an extended period of social distancing.

### Expand access to health insurance for individuals who are uninsured

Texas has the highest uninsured rate in the country. Individuals who are uninsured may be less likely to seek out screening and treatment, and when they do, are more likely to visit the Emergency Room for services at a time when hospitals are overwhelmed with high-risk patients. To mitigate the burden on Emergency Rooms and ensure individuals can receive the care they need, we recommend the state explore different strategies for expanding access to health insurance. This may include:

- Minimizing verification of eligibility criteria required from applicants by relying on self-attestation and electronic data sources to the maximum extent possible. Texas should enroll people based on their self-attestation and follow up with verification requests only when the attestation is not compatible with electronic data sources.
- Asking the federal government to open a special enrollment period for individuals to purchase commercial health insurance on HealthCare.gov during this crisis and future public health crises. Taking this step and publicizing a ‘get enrolled’ message broadly will help reach additional uninsured Texans.
- Seeking further enhancement of the federal Medicaid matching funds rate to further ease pressure on the state budget in this economic crisis.
- Providing special funding for Community Health Centers (FQHCs) to help with costs of serving uninsured individuals and the costs of helping Texans enroll in Medicaid, CHIP, and HealthCare.gov coverage.
- Allocating additional federal funds for outreach and enrollment assistance for public and private insurance.

## Criminal Justice

Criminal Justice is a mental health issue, especially during this pandemic. Individuals involved with the criminal justice system are disproportionately more likely to have a mental health condition. Individuals involved in the criminal justice system are especially vulnerable during this time for both health risks and stressors.

The Governor's Office and Texas Legislature have recognized the need to treat mental illness as a central strategy to reduce incarceration and reform the criminal justice system. NAMI Texas wants to ensure this work is not disrupted by making sure Texas maintains the medical and mental health and well-being of those with criminal justice system involvement.

### Competency Restoration

According to Articles 46B.0711 and 46B.072, Code of Criminal Procedures, courts shall release on bail a defendant who is determined to be incompetent to stand trial on a Class B or Class A misdemeanor, and who does not pose a danger to others. The court shall require that individual to be treated in an appropriate outpatient competency restoration program. The court must receive a comprehensive plan regarding the treatment provided to the individual as well as the person who will provide treatment. The provisions apply when care is available and will be provided. Courts may also place people who do not pose a danger to others, and who are charged with felony offenses, into outpatient competency restoration programs so long as the conditions described above are satisfied. Given the danger of extended periods of detention required for jail-based competency restoration, or delays awaiting placement into hospital-based competency restoration, it is imperative that courts maximize the use of outpatient competency restoration.

- Where outpatient competency restoration program exist, courts should exercise maximum latitude in releasing individuals determined to be incompetent to stand trial who are charged with felony or misdemeanor offenses into these programs.
- Courts should communicate with outpatient competency restoration providers about the need to continue these programs and receive new clients, recognizing the need for protective distance and precautions to prevent contagion.

### Access to Mental Health Care

Access to mental health care in criminal justice facilities is especially changing during COVID-19. We recommend the following measures:

- Remind county jails of their upcoming requirement to provide 24 access to mental health care, by August 31, 2020 (per Chapter 273, Rule 273.2, Texas Jail Standards).
- Distribute technical assistance memo on complying with Diversion Statutes described in Chapter 3 of this book: <https://namitexas.org/texas-criminal-justice-guide/>
- Provide funding to county jails to bolster their provision of mental health care and/or acquire tele-mental health infrastructure.

## Mediate Impact of Isolation

Individuals in confinement are more likely to be put in isolation as a result of COVID-19. Social distancing is important, but the impact of isolation must be mitigated. Isolation can exacerbate existing symptoms of mental illness and can, in some cases, cause new symptoms. We recommend the following measures:

- Require more frequent cell checks
- Require correctional officers to take online suicide prevention refresher training and provide time to take training on the clock. One example of free, brief online suicide prevention training is the ASK to Save a Life Training provided by Texas Suicide Prevention Council

## Ease restrictions under GA-13 for inmates<sup>10, 11</sup>

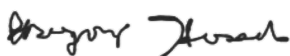
NAM Texas has concerns about the executive order provided on Sunday, March 29th, regarding the prohibition of releasing certain inmates in county jails on no-cost personal bonds. Many criminal justice advocates have noted the importance of reducing our jail population at this time to reduce the spread of COVID-19 in close quarters and to flatten the curve in a high-risk environment. We encourage the state to explore different opportunities to keep these facilities safe.

This executive order allows exceptions for health concerns, but not mental health concerns. Individuals living with serious mental illness are more likely to become involved in the criminal justice system, and may be detained under incidents related to a mental health crisis episode. This individual may not actually be a threat to the general public. They may also not have the income needed to be released on a bail bond.

Although we appreciate the Governor's concerns around public safety, we believe it is best to allow local judges to determine what is in the best interest for the jails, the individual, and public safety, in each case. We urge the Governor's office to re-evaluate this executive order and ease restrictions around judicial discretion to ensure individuals living with mental illness receive appropriate interventions.

In conclusion, we must address the public health concerns of COVID-19 while ensuring we protect the mental health and well-being of all Texans, especially those with chronic mental health conditions. The CARES Act passed by the federal government provides tremendous funding opportunities for the strategies we included above, including increased flexibility in Medicaid spending and an increased federal match rate for Medicaid, and \$425 million nationwide set aside specifically for mental health initiatives. NAMI Texas appreciates the steps the state of Texas has already taken to protect access to mental health services and medications, and hopes to see continued progress promoting and maintaining the mental health and well-being of Texans through this difficult time.

Sincerely,



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CC: HHSC Commissioner Phil Wilson  
HHSC Medicaid Director Stephanie Muth  
Texas Department of Insurance Commissioner Kent Sullivan  
DSHS Commissioner John Hellerstedt  
Lt. Gov. Dan Patrick  
House Speaker Dennis Bonnen

### **Relevant Resources**

1. [Mental health workers seek protections during COVID-19 crisis](#). Roll Call.
2. [Insurance companies not paying telehealth claims for mental health care in Texas](#). KXAN News Austin.
3. [The TPA Pro Bono Project: COVID-19](#). Texas Psychological Association.
4. [Therapy groups can save lives, but how now with social distancing?](#) Austin-American Statesman.
5. [North East ISD offering virtual counseling for students amid COVID-19 closing schools](#). News 4 San Antonio - NBC.
6. [Analysis | A trauma-informed approach to teaching through coronavirus — for students everywhere, online or not](#). The Washington Post.
7. [Mental health support systems for coping with pandemic](#). Inside Higher Ed.
8. [Faced with their own coronavirus fears, crisis hotline counselors answer surge in calls](#). NBC News.
9. [Over 50 Groups Urge Governor to Ensure Health Insurance Meets Texans' Needs During Pandemic](#). Cover Texas Now.
10. [Coronavirus is officially in Texas prisons and jails. Now what?](#) The Texas Tribune.
11. [Some Officials Want to Divert People from Jail Amid Coronavirus Scare](#). The Texas Observer.