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From the Affordable Care Act to the American Rescue Plan – and Everything in Between: Developments at NACBHDD from 2009 to 2021

It is axiomatic that in order to know where you are going and what has been accomplished, you need to know where you came from. As NACBHDD pursues the selection of a new President/CEO and prepares for the challenges that lie ahead, Ron Manderscheid reflected on NACBHDD's progress and evolution since he took the reins in December 2009.

Though the efforts and accomplishments of NACBHDD and its members during this period are now clear, Manderscheid recalls that "there were huge ups and downs on many occasions. Yet we, together with our allies and with thoughtful people on the Hill – from both sides of the aisle – were able to hang in there and work together." Foremost among his recollections are these:

The Affordable Care Act

During 2009, he recalls, "I had very early exposure to the Affordable Care Act. I met frequently – numerous times over breakfast – with the woman on the Hill who was writing the bill. And, by speaking with her and understanding her concerns, there was an opportunity to influence what went into the bill. It was absolutely thrilling to see the bill pass in March 2010, but the difficulty with passage was that the ACA received no Republican votes. I cannot recall any other major piece of legislation where an entire party voted against it. I think that the negativity that occurred around the ACA made it a watershed event for health, definitely for behavioral health, and for politics in the U.S."

Behavioral Healthcare and the ACA. "Prior to the Affordable Care Act, there never was good national data available on health insurance coverage for people

with behavioral health conditions. My own analysis was that, prior to ACA, there were about 31 million people with behavioral health conditions who did not have insurance. In 2016, I produced another analysis that showed the ACA had reduced the number of uninsured with behavioral health conditions to about 16 million. Within those numbers, there was a huge change in enrollment of people with behavioral health conditions, and that is a very positive thing. But the negative is that the number of uninsured people with behavioral health conditions was still very large. A lesson learned in the Massachusetts health insurance program – and again in the Affordable Care Act – is that people with behavioral health conditions are the hardest to get enrolled in insurance and the hardest to keep enrolled in insurance. That was one very important take-away from the ACA."

He added that another key issue was the creation of health homes in ACA Section 2703. "Health homes set the philosophical stage for what we now call person-centered care, the idea that a person is an individual, not a diagnosis. That philosophical change has, over time, really enabled the field of behavioral health to put a toe in the water on the concept of integrated care. But it did not come easily. When I offered technical assistance in support of integration, there always was a lot of concern in the field, because providers worried that they would lose their patients and their jobs to primary care. . .. What I always pointed out was that they had nothing to fear, because only half of the people with behavioral health conditions are receiving any treatment anyway. I told them that their organization or practice might have to adapt and change, but that it wouldn't be going away."

And practices did change: "Integrated care is not just a change in clinical practice, it's a huge organizational change. And because of that, there was a lot of foot-dragging. But once virtual integration – the linking of behavioral health and primary care using technology – became possible, the organizational problems became much easier to solve. And the dramatic expansion of virtual care during the period of COVID-19 has only accelerated the trend toward virtual integrated care."

Medicaid Expansion. "As you will recall, the ACA wasn't really implemented until 2014. And, at that time, it opened the door to health insurance for everyone, including those with behavioral health conditions, either through

marketplace coverage or through the mandatory Medicaid Expansion. But then, there was the huge Supreme Court case involving the coverage mandate, and the agony of waiting out the Supreme Court decision. Fortunately, Chief Justice Roberts led an effort that found the individual mandate's tax penalty constitutional under the federal government's taxing authority, and made the Medicaid Expansion optional, not mandatory, for the states. This finding allowed the ACA to proceed."

(Note: On June 17, 2021, the Supreme Court announced its decision in California v. Texas, ruling 7-2 that Texas and other plaintiffs had no standing to question the constitutionality of the ACA because no Americans had been harmed by Congress' 2017 action to 'zero-out' the tax penalty for the individual mandate. This decision reversed two lower-court decisions and, once again, left the ACA intact.)

Despite the 2014 decision making the Medicaid Expansion optional, Manderscheid says that "the Medicaid Expansion itself has worked out very well, especially with regard to getting people with behavioral healthcare conditions insured. Today, all but 12 states have decided to expand."

The Threat of Medicaid Cuts. There was another major push against Medicaid itself in 2017, when Republicans led an effort to make $800 billion in cuts, essentially ending the Medicaid entitlement. "That was a very, very difficult time, with the entire health field lobbying hard against those cuts, recalls Manderscheid. "In the end, it all came down to John McCain—he made the right decision. He refused to vote with Republicans on a decision that would have set all of us in behavioral health back by decades. What would we have done if there had been an $800 billion cut from Medicaid? We were hanging by a thread."

COVID-19 and the Rise of the American Rescue Plan

When COVID-19 came along, "We didn't know exactly what to do. So, we had to figure it out," he recalls. "To do that, NACBHDD conducted a series of online meetings to hear what counties were experiencing, what problems they were having, and how NACBHDD might help."

There were a lot of problems, but the major ones were:

- Behavioral health providers and workers were not getting PPE because they were not considered "essential health providers."
- Counties and providers were having trouble financially because the MCOs were paying them too slowly.
- Reimbursement rates for virtual care, which was now the preferred method, were far lower than those for in-person care.

"But after the meetings, NACBHDD and members were well underway on solving those problems in late April and early May, with members actively transitioning to virtual care, starting to get better reimbursements on an accelerated basis, and having providers and workers recognized as essential and made eligible for the right to receive PPE. So, we made a huge transition to virtual care practically overnight – a transition that might otherwise have taken three to five years.

"At the same time, we also recognized that psychiatric hospitals and jails were 'closing the front doors and opening the back doors' in an effort to deal with COVID-19, but that there was little or no coordination with local officials, including county behavioral health authorities, to care for these newly released people. So, many localities started to accumulate numbers of homeless people without services, reflecting a huge failure of coordination by the entities responsible.

"So, NACBHDD collaborated with Elinore McCants-Katz, the Assistant Secretary of Mental Health and Substance Use, to conduct advocacy on the Hill, and locally, to help mitigate this issue. We saw help in the form of FEMA housing in some areas and were able to roll back this problem—get people into care—as the payment picture improved and as hospitals and jails, especially, learned how to take advantage of available PPE."

COVID Relief Legislation. "We were very grateful for all of the COVID-19 relief legislation," says Manderscheid. He notes that the first relief legislation, the CARES Act, which passed in May 2020, "was a huge bill that did much to deliver help, support existing hospitals, set up temporary hospitals, and put money into vaccine development—all very important issues. . ..

"But it was not until the fourth bill—the American Rescue Plan (ARP), passed in March 2021—that states and counties got assistance to address the huge revenue losses they had been experiencing since March of 2020. States had lost approximately $500 billion in revenue, while counties had lost about $150 billion. The ARP brought back $359 billion – about half of the money lost – with about $300 billion to the states and $59 billion to the counties, so behavioral health services definitely benefitted. The Rescue Plan also brought an additional $4 billion to SAMHSA, $3 billion of which went out just a few weeks ago to assist with COVID, building crisis response capabilities, and developing 988 crisis line services. Were it not for COVID – and for the Rescue Plan – behavioral health would never have received resources like these."

"So, on the legislative side, we went from the Affordable Care Act to the American Rescue Plan, but we experienced some huge blips along the way – in 2014, in 2017, and over the past year. But overall, NACBHDD and county behavioral health services have not just survived, but generally improved during this period."

Evolving and Strengthening the NACBHDD Organization

Manderscheid also traced efforts to strengthen the evolving NACBHDD organization, including these:

Strengthening Communications. "When I joined NACBHDD in late 2009, planning for the annual 2010 Legislative and Policy Conference was already underway. This, along with Board meetings, was the core of NACBHDD. At the time, NACBHDD did not do much in the way of communications – really just an occasional newsletter. So, with the help of Teddi Fine, I worked on getting a series of routine publications underway, starting with a scheduled monthly newsletter, followed by Under the Microscope – an in-depth look at a key issue – and then Headline DC, which follows changes in legislation, public policy, key government agencies, and research.

"Initially, Teddi Fine did a superb job with all of three of those publications, developing them over a series of years, before they became too much for one person to handle. Then in 2014, Dennis Grantham, fresh from work at *Behavioral Healthcare* magazine, took over *Under the Microscope* and Kimber

Wukitsch took on *Headline DC*. And those publications, together with Teddi's newsletter, have flowed out smoothly ever since, and they all have become excellent resources.

"We have followed a similar pattern with developing and presenting webinars, which are now offered at a rate of one or two per month, via Zoom. In fact, our experience with webinars enabled us to present the entire 2021 Legislative and Policy Conference virtually, as a series of two-hour Zoom meetings, presented on Tuesdays and Thursdays during February and March 2021."

Changing Board and Committee Structure. "When I arrived at NACHBDD, there was a Board of Directors and a committee that developed the annual Legislative and Policy Conference. With the support of the Board and members, I created an Executive Committee to better manage Board meeting agendas and conduct NACBHDD business. Over time, the L & P conference planning committee evolved and expanded its responsibilities, becoming the Directors of State Associations Committee, and it also continues to play a vital role in tracking policy nationally. The Medicaid committee evolved into the Behavioral Health and Decarceration Committee, reflecting NACBHDD's leadership in the decarceration effort. And, as part of NACBHDD's effort to strengthen the role and voice of the I/DD field in our work, I put significant emphasis on building up our I/DD Committee and its annual I/DD Summit, which is devoted exclusively to these issues.

"The efforts of NACBHDD members and committees to collaborate with legislative and policy committees at NACo have been extremely important and productive. For about a decade, NACBHDD members have participated actively with NACo's Health and Justice Committees, offering important data and insights that help to shape the national policy resolutions adopted – and lobbied – nationally by NACo. These efforts have resulted in important changes and reforms involving Medicaid policy, decarceration, behavioral health care, crisis services, home and community-based services, and more."

Current NACBHDD/NACo health resolutions in the works include:

- a push for passage of the Medicaid Reentry Act,

- modifications to 42 CFR Part 2 to allow for SUD care records to be part of HIPAA-protected integrated care records, and
- eliminating antiquated, cumbersome IMD restrictions from Medicaid regulations.

Manderscheid says, "This work has dramatically expanded the availability of Medicaid-funded services for people with behavioral health conditions in nearly every area, except for those actually held in jails. NACBHDD has made a tremendous amount of progress in this area. We should be very proud of it."

Evolving Leadership/Membership. "When I came to NACBHDD, its core was formed by many of its original members, highly experienced and active people including Leon Evans, Patricia Ryan, Mark Refowitz, Frank Sullivan, and many more. And, as these people neared retirement age, we did not want to lose their knowledge. So, we invited these longtime members to continue as emeritus members, asking them to remain active on the Board, at meetings, and in various consultative roles.

"Fortunately, as these members have retired, a committed group of newer members has been emerging and taking on greater involvement and leadership. These include state directors like Cherryl Ramirez, Bob Sheehan, Kyle Kessler, Debra Wentz, and Jennifer Faison, and a newer group of very dynamic county directors from many areas of the country—both urban and rural.

"NACBHDD has also been enriched by working with NARMH – The National Association of Rural Mental Health. In 2014, NARMH and NACBHDD members joined forces with an agreement that made all equal members in both organizations. I had known and worked with NARMH for many years as a federal official – ever since the Clinton health reform effort – and have enjoyed doing so at NACBHDD as well. NARMH contributes regularly to the newsletter, conducts webinars, and will hold its annual conference in October 2021. Many NARMH members are county directors and both organizations benefit from the exchange of insights. It's been a good match."

Looking ahead

"Though I'll soon be departing from my role as President/CEO at NACBHDD, I look forward to continuing many aspects of my work – speaking, teaching, consulting, writing, and advocacy – much as before," says Manderscheid, adding that "I've already begun to consider a couple of possibilities on the horizon.

"Not long ago, I received a call from the American Public Health Association, inviting me to be considered for a position on its board of directors. I have been well acquainted with the APHA over the years, having chaired their mental health section, worked on their governing council, and assisted in efforts to place emergency resources in counties following the 9/11 emergency.

"Then, something quite unexpected happened: Not long after I completed my APHA board application, I got another call from APHA's nominating committee chair, asking if I would stand as a candidate for APHA's presidency, with the election to be held in late October. I agreed and am now writing a statement to support my candidacy. Should my election come about, I would be the first with a background in behavioral health to hold the post.
"So, the possibilities beyond NACBHDD look very interesting. Who knows?"

A Few Comments About Career

"My career has proceeded from the bench to the trench. When I started as a student at NIMH, I worked in a lab with Julius Axelrod—Nobel Laureate. My first 10 years were with pure research—100 articles. Then, during my second period in government, I was a program manager. I served as a grants chief, and I led the national mental health data system. In this capacity, I funded some of the very first grants in mental health services research. Since then that program has grown from $1 to $120 million.

"Then, I heard many consumer and family stories, and I was very taken by them. I worked hard to get the voices of peers and consumers and family members into NIMH advisory groups. We learned a lot—reimbursements, accommodations, service dogs, etc. In my final federal years at SAMHSA, I spent a lot more time in the field. Through this, I became very visible in the field, usually by giving 15-20 talks a year. Became well known. A lot of people still think I work for NIMH.

"In this career, I had three mentors:

- Julius Axelrod—who really taught me how to think. A sparkling mind. I worked with him a long time. Where did he get the idea of a neural receptor—his work catecholamine's led to the discovery of neural receptors. We did not know opioid, nicotine, or other receptors then. Axelrod was walking in Central Park, and he saw a dandelion. He thought. open all day long and closed at night—what is the mechanism that causes this. That basic idea—that analog—led to receptors in the brain and that led to a multi-generation of research and discovery.
- Carl Taube—taught me how to get through bureaucracy. Unfortunately, he died at a young age—49. Many years later, I won the Carl Taube award at APHA—very proud to know his personally.
- Max Schneier—was a tailor in New York, had a daughter with schizophrenia, went to law school and dedicated his life to advocacy. He would not take no for an answer on the Hill—He would call the Hill—He would call Ted Kennedy. He always got action. He was my third mentor. He taught me how to love mental health consumers."

Researched and written by Dennis Grantham.