The Massachusetts Psychological Association (MPA) represents over 1,700 psychologists in Massachusetts in carrying out our mission to advance psychology as a science, as a profession, and as a means of promoting human welfare. We strongly support S. 555 and H. 907, An Act relative to the continuity of care of mental health treatment, which requires health plans to maintain coverage of clinicians for consumers already in treatment, even if the provider is no longer contracted with that health plan. This consumer-focused legislation is necessary to protect them from predatory business practices, in which health plans use their care as leverage in contract negotiations, create unnecessary and harmful disruptions in consumers' behavioral health care, and undermine efforts to reduce overall healthcare costs. Given the ways in which the Affordable Care Act has made it easier for patients to compare and change plans, this legislation is vital and urgently needed.

A large body of science has demonstrated that the relationship between patients and their therapists is an essential factor in the efficacy of behavioral health treatment, accounting for anywhere between 30% and 50% of treatment outcomes. In fact, virtually all evidence-based treatment for mental health conditions include a strong therapist-patient relationship as a critical factor in treatment success. Such relationships, often referred to as therapeutic alliance, take time to develop and cannot simply be passed along to the next clinician. To the contrary, changing therapists during treatment for reasons that are unrelated to the treatment itself can lead to increased symptoms, relapse, or even dropping out of therapy altogether. Such findings are not surprising, since this change means that a patient, already experiencing symptoms of distress, who have finally gathered the courage to seek treatment and work towards getting better, must essentially start over with a new therapist, slowly building that trust again and having to relive distressing or traumatic memories by telling their stories again. Forcing patients to endure this disruption in their treatment solely because of a health plans’ decision to use their care as a bargaining chip is simply unconscionable and unacceptable; yet it routinely happens for therapy patients because of the way that many health plans structure their behavioral health benefits.

On June 30, 2015 the Attorney General’s Office issued its report on Health Care Cost Trends and Cost Drivers. This report found that “current approaches for managing and administering behavioral health benefits complicate efforts to better coordinate patient care over time and across settings.” The AGO’s report described how behavioral healthcare is treated differently from all other forms of medical care, by essentially “carving out” that aspect of care and hiring outside companies to manage those benefits. Such an arrangement is unique only to behavioral health, and does not exist for any other category of healthcare. One consequence of these carve-outs is that the companies hired to manage behavioral health benefits tend to be for-profit companies, which may be based out of state. The AGO’s report highlights many of the ways that this arrangement undermines our overall healthcare system, and our ability to contain healthcare costs. Senate Bill 555 and House Bill 907 seek to protect consumers from one of the predatory business practices that causes great harm to consumers.

When a patient changes health plans or a provider contract is terminated for any reason, health plans have the option to provide continuing care for patients already in treatment, through the use of “single case
agreements” or “out-of-network agreements”. However, health plans often refuse to provide this option, forcing consumers to either terminate treatment with their current provider, or pay for their ongoing treatment themselves. Such a refusal is even more concerning given the fact that many of these companies continue to refuse to add new providers to their networks. So even if a therapist wanted to join a new health plan’s provider network to provide continuity of care to their patient, they are rarely given the option to do so. Furthermore, most patients are not aware of this situation, unique only to behavioral health, when they are evaluating health plans, and only find out later on, when they are told their treatment will no longer be covered.

Historically, health plans have also used termination of contracts with providers as leverage in contract negotiations, essentially using a provider’s care and concern for their patients’ well-being if treatment ended abruptly as a means to coerce them into contracts they would not otherwise agree to. In an apparent effort to protect consumers against this practice, Massachusetts law prohibits health plans from “terminating” contracts with health care providers without cause.

Companies who manage these behavioral health carve-outs, however, have found a way around this law by using 1-year contracts with providers that automatically renew annually, unless either party provides notice of “non-renewal.” With this loophole option, these companies have also begun to use the tactic of issuing notices of non-renewal of mental health provider contracts as a way to effectively terminate contracts- an aggressive business practice that causes great risk for therapy patients in the course of treatment.

In June 2010, while representing the Massachusetts Psychological Association, a colleague, who is the director of a large group practice, worked with a major health plan in Massachusetts to help it understand that it was denying authorization for behavioral health services via a process that was not in compliance with Massachusetts laws and regulations. When MPA presented them with written clarification from the Chief Counsel for the Office of Patient Protection the health plan reluctantly admitted their mistake and changed their processes for reviewing and authorizing services. However, several weeks later they sent a written notice to my colleague that they were unilaterally choosing to “non-renew” his practice’s contract, putting thousands of patients at tremendous danger.

That experience made us aware that in spite of the intended protections in the law, health plans are able to terminate contract for mentally ill patients in care without any ramifications. S. 555 and H. 907, An Act relative continuity of care of mental health treatment, is an attempt to remedy these dangers without creating any new mandates for services or additional costs for any health plan. This is achieved by requiring that managed behavioral health plans continue to cover payments for existing patients, at the usual network per unit reimbursable rate, until such treatment is no longer medically necessary. Thus, ongoing care for patients already in treatment would be protected with no additional costs to the health plan.

Healthcare in Massachusetts is changing at a pace that is unprecedented, and the need for advocacy to protect access to mental health services has never been clearer. Without creating any new benefit mandates, these bills aim to protect mental health patients from harm caused by interrupted treatment that is the result of behavioral health plans effectively terminating contracts with providers. I respectfully urge this committee to move this bill favorably and to increase the protections for the patient with mental illness and substance abuse problems and their families.

Respectfully,

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Director of Professional Affairs