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Ann O'Hara, Associate Director, Housing and Homelessness Team, Technical Assistance Collaborative;  
Andrew Sperling, JD, Director of Federal Legislative Advocacy, National Alliance on Mental Illness

State governments' evolving community integration policies—developed as a result of the 1999 U.S. Supreme Court's *Olmstead* decision and Mental Health System Transformation initiatives—have prompted a reexamination of the government's supportive housing and residential services policies for people with serious mental illness, including the continued reliance on nursing homes and segregated board-and-care homes. In fact, some states' community integration policies no longer permit development of the kind of highly concentrated housing settings that are still the norm in many federal programs.

Through these new policies, a housing and services paradigm has emerged that seeks to fulfill the vision of community integration embedded in the Americans With Disabilities Act of 1990. This paradigm envisions that people with disabilities who have an extremely low income will have access to an increasing supply of decent, safe, affordable, accessible, and integrated rental housing. Moreover, this housing will be produced routinely and at scale through mainstream affordable rental housing programs, particularly the federal Low-Income Housing Tax Credit program, the U.S. Department of Housing

and Urban Development's HOME program and, most important, the new National Housing Trust Fund authorized by Congress in 2008.

The principles, financing, and supportive services approaches for people with mental illness and other disabilities have also evolved; they have developed from models that required mandatory site-based services to evidence-based best practice models that emphasize voluntary, individualized, and flexible services that can be adjusted to a person's changing needs in the permanent housing of his or her choice. Many states are in the process of designing and implementing these community-based supportive services policies through a realignment of Medicaid and state financing strategies.

Two states, North Carolina and Louisiana, have already adopted housing policies that demonstrate the feasibility and cost-effectiveness of integrating permanent supportive housing set-asides for people with disabilities within LIHTC-financed affordable housing developments. The North Carolina Housing Finance Agency has financed more than 2,000 units, and Louisiana has approximately 1,000 units in the pipeline financed with recovery funds from Hurricanes Katrina and Rita.

#### SECTION 811 HAS FAILED TO KEEP UP

To ensure expansion of supportive housing options that achieve the goals of community integration, consumer choice, and recovery, agencies must ensure that the programs and resources they have conform to this model and maximize their capacity to develop new affordable and accessible units. One critical federal program that has failed to keep pace with changes in disability policy is the HUD Section 811 program.

Historically, Section 811 has been one of the few programs that focuses resources on the housing needs of adults with severe disabilities, including serious mental illness. Despite setbacks in recent years, the program is still able to create new supportive housing units, although budget cuts and operating subsidy renewal costs have significantly eroded its capacity to develop new units (only 930 new units were funded nationally in 2008). In reality, the future of Section 811 is being jeopardized by an outdated statute and program models, excessive HUD bureaucracy, and rapidly declining production levels.

#### WHY SAVE SECTION 811?

Many in the disability field have asked, "Why save Section 811? Other HUD programs can create per-



manent supportive housing.” The reasons to save the Section 811 program are clear and compelling. **Most important, Section 811 is the only federal program dedicated to addressing the housing crisis facing millions of extremely low-income people with significant and long-term disabilities who also need access to services and supports to live successfully in the community. In addition, Section 811 is one of the few remaining HUD programs that can provide the essential project-based rent subsidy needed to ensure that rents in new permanent supportive housing units are affordable for the most vulnerable people with disabilities and with the lowest incomes.**

Merely tinkering with the Section 811 statute will not be enough to save it. To effectively respond to the housing choices and service approaches preferred by most people with disabilities—and to produce new permanent supportive housing units at the scale needed—Congress must reform and revitalize the Section 811 program. This new approach to Section 811 must bring the program into alignment with the other major government programs that fund affordable rental housing in the United States today—particularly the new National Housing Trust Fund program as well as the federal LIHTC program and HUD’s HOME program.

Section 811 needs to coordinate effectively with these programs to develop new, high-quality rental units that are targeted for the lowest income peo-

ple with serious mental illness and linked with the community-based supportive services they want and need. The vision for this new Section 811 approach includes small set-asides of permanent supportive housing units integrated within larger rental housing developments funded routinely each year by state and local governments. For example, a new 100-unit LIHTC property could include 10 permanent supportive housing units funded by Section 811. Alternatively, a nonprofit organization could create a “mixed-income” rental property that incorporates into a 60-unit building 15 permanent supportive housing units financed with Section 811 funds.

How can these reforms be achieved? **Congress is moving forward on legislation to reform HUD Section 811 and ensure its long-term viability as a critical source of integrated housing for people with severe disabilities.**

#### NEW SECTION 811 LEGISLATION

The Frank Melville Supportive Housing Investment Act of 2008 (HR 1675 and S 1481) will spur the creation of thousands more new Section 811 units every year by

- >> Authorizing a new Section 811 Demonstration Program that fulfills the promise of true community integration as envisioned in the Americans With Disabilities Act.
- >> Enacting long-overdue reforms and improvements to the existing Section 811 production program that

are essential for the program’s long-term viability.

The basic structure of the Section 811 program is quite simple. Under current federal law, Section 811 is a competitive program with three distinct components:

1. A Section 811 Capital Advance (essentially a grant with a 40-year use restriction) to help nonprofit organizations buy, rehabilitate, or newly construct supportive housing.
2. A 5-year renewable Section 811 Project Rental Assistance Contract linked to Capital Advance projects that helps cover project operating costs (insurance, utilities, maintenance, etc.) and ensures that tenants pay no more than 30 percent of their income for housing.
3. A separate Section 811 tenant-based rental assistance program administered primarily by public housing agencies such as the Section 8 Mainstream Housing Opportunities for Persons With Disabilities program.

Section 811 projects financed through the Capital Advance/PRAC components are single-purpose properties that fall into two basic categories: (a) Small group homes with no more than 8 units, and (b) Independent living facilities, which can have up to 24 units. An extremely small number of the estimated 30,000 funded Section 811 units are condominiums or cooperative units that are integrated within other housing settings. This approach has proven extremely difficult to implement under current Section 811 rules, however.

#### KEY FEATURES

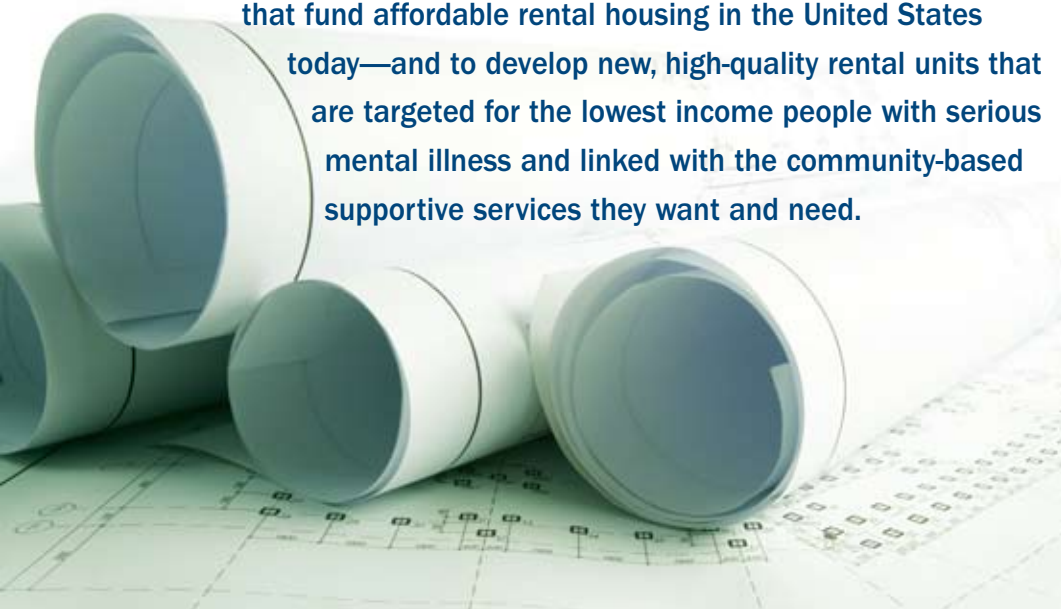
The primary goals of the new Section 811 legislation are to create more units of permanent supportive housing every year, to produce these units more efficiently by leveraging other affordable rental housing financing, and to promote more integrated Section 811 housing opportunities.

The key provisions of HR 1675 and S 1481 are summarized in the sections below.

#### *Section 811 Demonstration Program*

The most innovative and exciting component of the legislation is a proposed PRAC-ONLY Demonstration program. The PRAC-ONLY Demonstration could create 2,500 to 3,000 new integrated Section 811 units each

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year without increasing current Section 811 appropriations. The demonstration has been designed to take advantage of the hundreds of thousands of “affordable” units routinely produced each year by states and localities through the new National Housing Trust Fund program, as well as through the LIHTC and HOME programs and perhaps other sources of affordable housing financing.

The PRAC-ONLY Demonstration would provide a long-term commitment of Section 811 PRAC funding to ensure that a small but significant percentage of permanent supportive housing units—not to exceed 25 percent of the total units—could be set aside in projects financed by the National Housing Trust Fund, HOME, or LIHTC. The demonstration program would be administered through state housing agencies and local governments willing to create set-aside policies that align with the community integration goals of state disability and supportive services policies.

Under the PRAC-ONLY demonstration, rents for Section 811 units would be set at 30 percent of monthly income, and the Section 811 PRAC would provide the long-term rental subsidy up to the “affordable” rent charged in the LIHTC, HOME, or similar affordable rental housing financing program. This cost-effective approach means that the annual cost of a Section 811 unit could be as low as \$3,000 per year and would require no Section 811 capital funding to implement.

Section 811 PRAC funding could be linked when projects are financed or could be provided at any time as long as the project owner is willing to accept the long-term commitment of PRAC funding. Linkages to supportive service resources would be structured through formal partnerships with state health and human services agencies and Medicaid agencies implementing policies focused on community integration.

### *Improvements to the Existing Section 811 Program*

HR 1675 and S 1481 also propose changes to the existing Section 811 production program to encourage nonprofit Section 811 grantees to better leverage other capital funding and to eliminate barriers

to mixed-finance Section 811 projects that target LIHTC investment. These long-overdue reforms include the use of Section 811 Capital Advance and PRAC funding to support a percentage of the units—not to exceed 25 percent of the total units in the project—in a multifamily rental housing development project. The legislation would also streamline HUD Section 811 processing requirements and remove outdated HUD regulatory barriers to help increase the number of new units that can be created each year by nonprofit organizations through the Section 811 Capital Advance/PRAC program.

### *Shifting Renewal of Section 811-funded Mainstream Vouchers to the Housing Choice Voucher Program Budget*

Since its inception, the Section 811 tenant-based rental assistance program has been plagued with problems. The provisions of HR 1675 and S 1481 related to this component of Section 811 are essential for two reasons:

1. HR 1675 and S 1481 finally will undo the ill-advised and ill-fated HUD decision made in the 1990s to convert Section 811 tenant-based rental assistance funding to Section 8 Mainstream Housing Choice Vouchers administered primarily by public housing agencies.
2. HR 1675 and S 1481 could free up more than \$80 million in Section 811 funding, which could be redirected to the PRAC-ONLY Demonstration program.

Many problems arose when HUD created the Mainstream Voucher Program. Stated simply, although they were funded and renewed from Section 811 appropriations, more than 14,000 Mainstream Housing Choice Vouchers were awarded to public housing agencies, which issued them to people with disabilities who were on Section 8 Housing Choice Voucher waiting lists. The Section 811-funded vouchers were rarely—if ever—used by public housing agencies to provide permanent supportive housing, and they were not necessarily targeted to people with the most serious and long-term disabilities. Ineffective tracking of the Mainstream program by HUD and public housing agencies compounded the problems.

## **YOUR VOICE CAN MAKE A DIFFERENCE**

Time is running out on the Section 811 program, and the need to create new permanent supportive housing units has never been greater. Disability housing policy is at a critical juncture as the community integration paradigm takes hold—unfortunately, without the housing resources to ensure its success. Section 811 legislation that supports this new paradigm is essential, because it will provide important new resources to ensure its implementation in states and localities around the country.

**Even a reinvigorated and modernized Section 811 program cannot be expected to address the full extent of the unmet need for permanent supportive housing for people with the most significant and long-term disabilities. Nonetheless, a newly authorized Section 811 program that truly supports community integration for people with disabilities will symbolize a renewed, serious, and sustainable commitment from the federal government to respond to this housing crisis.**

By enacting new Section 811 legislation, Congress can ensure that a reinvigorated Section 811 program is ready to create thousands of new permanent supportive housing units every year without the need for Congress to double or triple appropriation levels. The removal of many bureaucratic barriers that cause protracted delays in Section 811 project development will also produce new units more efficiently. Shifting renewal costs associated with the flawed 811-funded Mainstream Housing Choice Voucher program—which has drained funding away from essential permanent supportive housing production since 1997—also is long overdue.

*Ann O'Hara is nationally known for her public policy work to expand affordable housing opportunities for people with disabilities and her expertise in housing programs for people who are homeless or at risk of homelessness. She has over 25 years experience in the development and administration of the full range of subsidized rental and homeownership programs. She has successfully advocated for national housing policy initiatives and helped numerous federal and state agencies address housing problems of low-income people with special needs.*

*Andrew Sperling leads NAMI's legislative advocacy initiatives in Congress and before federal agencies. He works on issues affecting the mental health community with a focus on improving the lives of people with severe mental illnesses. Since 1994, Mr. Sperling has also served as Co-Chair of the Consortium for Citizens with Disabilities Housing Task Force.*