

The Coalition Against Religious Discrimination

May 21, 2010

The Honorable Patrick J. Kennedy
407 Cannon House Office Building
Washington, DC 20515

Dear Representative Kennedy:

We write to express our concern about the possible introduction of a bill to reauthorize the Substance Abuse and Mental Health Services Administration (SAMHSA) Act that would leave intact the existing statutory charitable choice provisions (42 U.S.C. § 290kk, et. seq. and 42 U.S.C. § 300x-65) and lose an opportunity to correct a problematic part of this important legislation. Although we appreciate what we understand are plans to include a new anti-discrimination provision that would bar SAMHSA funding from being utilized by religious organizations to support religion-based discrimination in hiring, adding such a provision without removing charitable choice fails to address core problems with SAMHSA and would unduly complicate the legislation.

The Coalition Against Religious Discrimination (CARD) is deeply concerned about any SAMHSA reauthorization bill that fails to strip the existing charitable choice provisions in their entirety. The coalition was formed in the mid-1990s specifically to oppose the insertion of charitable choice into authorizing legislation for programs such as SAMHSA, and has continued since that time to oppose efforts, pursued as part of the Faith-Based Initiative, that further entrench and expand charitable choice in federal programs. Although only a small part of SAMHSA, charitable choice is a highly controversial legislative scheme that authorizes government-funded religious discrimination in employment, threatens local anti-discrimination laws, and undermines the critical religious liberty protections for both houses of worship and beneficiaries of government programs.

The charitable choice provisions contained in SAMHSA were inserted in 2000 with little debate or scrutiny. Indeed, the haste with which Congress acted is demonstrated by the fact that SAMHSA contains two sets of charitable choice provisions that, in some instances, contradict each other. Accordingly, CARD is deeply concerned about the implications of your introducing a SAMHSA reauthorization bill that leaves these charitable choice provisions intact.

Furthermore, reauthorization of the SAMHSA charitable choice provisions would contradict the current position of even those who supported charitable choice in the 1990s. This past February, President Obama's Advisory Council on Faith-Based and Neighborhood Partnerships—which relied on a taskforce made up of some of the architects of the original charitable choice language—issued a report that recommended twelve major reforms to the Faith-Based Initiative. These recommendations recognized flaws in existing charitable choice provisions, including the scheme's protections for program beneficiaries, limits placed on the use of government funds for religious purposes, and lack of transparency and oversight. At a minimum, SAMHSA should not

be reauthorized without stripping the provisions that do not meet the standards recently and unanimously endorsed by the President's Council.

Although we have not seen the proposed language, it is also our understanding that the bill to be introduced will include a new provision that would bar SAMHSA funding from being utilized by religious organizations to support religion-based discrimination in hiring. While such a provision would constitute a significant step toward correcting some of the civil rights problems currently existing in SAMHSA, including such language without removing charitable choice would complicate the legislation. We would welcome the opportunity to work with you on this language before introduction of the bill. Unfortunately, without reviewing the language of the legislation to understand its scope and effect, CARD is not able to formally support such an anti-discrimination provision.

Thank you for your work on this important issue. We stand ready to work with you on addressing the critical harm caused to religious liberty by SAMHSA's charitable choice provisions.

Sincerely,

American Association of University Women (AAUW)
American Civil Liberties Union
American Federation of State, County, and Municipal Employees (AFSCME)
American Humanist Association
American Jewish Committee
Americans United for Separation of Church and State
Anti-Defamation League
Baptist Joint Committee for Religious Liberty
Center for Inquiry
Council for Secular Humanism
Hindu American Foundation
Human Rights Campaign
Interfaith Alliance
Jewish Council for Public Affairs
National Coalition for LGBT Health
National Council of Jewish Women
OMB Watch
People For the American Way
Religious Action Center of Reform Judaism
Secular Coalition for America
Sikh Council on Religion and Education
Unitarian Universalist Association of Congregations