

April 14, 2021

The Honorable Donald Norcross
U.S. House of Representatives
2437 Rayburn House Office Building
Washington, DC 20515

The Honorable Brian Fitzpatrick
U.S. House of Representatives
271 Cannon House Office Building
Washington, DC 20515

The Honorable Ann Kuster
U.S. House of Representatives
320 Cannon House Office Building
Washington, DC 20515

The Honorable Joe Courtney
U.S. House of Representatives
2449 Rayburn House Office Building
Washington, DC 20515

Dear Representatives Norcross, Fitzpatrick, Kuster, and Courtney:

The Mental Health Liaison Group (MHLG) – a coalition of national organizations representing consumers, family members, mental health and addiction providers, advocates, and other stakeholders – is writing to express our strong support for the Parity Enforcement Act (H.R. 1364), which would give the U.S. Department of Labor (USDOL) a critical tool to ensure health plan compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Federal Parity Act).

Under current law, USDOL lacks the ability to assess civil monetary penalties against health issuers and plan sponsors for violations of the Federal Parity Act, which requires insurers to cover illnesses of the brain, such as depression or opioid use disorder, no more restrictively than illnesses of the body, such as diabetes or cancer. Without this power, USDOL can only require plans to reimburse consumers for wrongly denied coverage of care that was nevertheless provided. Such meager authority is not enough and is unlikely to change plans' coverage practices. USDOL must finally be able to hold plan issuers and sponsors accountable for illegal denials of mental health and substance use coverage more than 12 years after enactment of the Federal Parity Act.

H.R. 1364 corrects this major gap in USDOL's oversight authority by amending the Employee Retirement Income Security Act (ERISA) to give USDOL the authority to levy civil monetary penalties against health insurers and plan sponsors for parity violations. The provisions are identical to USDOL's existing civil monetary penalty authority for violations of the Genetic Information Non-Discrimination Act. H.R. 2848 also includes safe harbor provisions to protect issuers and sponsors that are exercising "reasonable diligence" to comply with the Parity Act and that correct violations within 30 days of becoming known (or would have been known with reasonable diligence).

The need to give USDOL this authority for parity violations is widely recognized. President Obama's Mental Health and Substance Use Disorders Parity Task Force strongly

recommended providing this authority¹, as did President Trump’s Commission on Combating Drug Addiction and the Opioid Crisis.² In fact, former New Jersey Governor Chris Christie, chair of the Commission, stated that the authority is “absolutely necessary” and that the Commission “unequivocally” supported Congressional action to give USDOL the authority to issue penalties.³

The MHLG thanks you for introducing this critical legislation that will increase compliance with the Federal Parity Act and, ultimately, increase access to life-saving mental health and substance use disorder care.

Sincerely,

2020 Mom

American Academy of Child and Adolescent Psychiatry
American Art Therapy Association
American Association for Marriage and Family Therapy
American Association for Psychoanalysis in Clinical Social Work
American Association of Nurse Anesthetists
American Association on Health and Disability
American Counseling Association
American Foundation for Suicide Prevention
American Group Psychotherapy Association
American Nurses Association
American Occupational Therapy Association
American Psychological Association
American Society of Addiction Medicine
Association for Ambulatory Behavioral Healthcare
Association for Behavioral and Cognitive Therapies
Bazelon Center for Mental Health Law
Campaign for Trauma-Informed Policy and Practice
Children and Adults with Attention-Deficit Hyperactivity Disorder
Clinical Social Work Association
College of Psychiatric and Neurologic Pharmacists (CPNP)
Depression and Bipolar Support Alliance
Eating Disorders Coalition for Research, Policy & Action
EMDR International Association

¹ Final Report of The Mental Health & Substance Use Disorder Parity Task Force, October 2016, <https://www.hhs.gov/sites/default/files/mental-health-substance-use-disorder-parity-task-force-final-report.pdf>.

² Recommendation 35 of The President’s Commission on Combating Drug Addiction and the Opioid Crisis, November 2017, <https://facesandvoicesofrecovery.org/wp-content/uploads/2019/06/Final-Report-The-Presidents-Commission-on-Combating-Drug-Addiction-and-The-Opioid-Crisis.pdf>.

³ November 1, 2017 Meeting of the President’s Commission on Combating Drug Addiction and the Opioid Crisis, https://www.youtube.com/watch?v=u0_wF92ebsc.

Global Alliance for Behavioral Health and Social Justice
International OCD Foundation
International Society for Psychiatric Nurses
The Kennedy Forum
Legal Action Center
Mental Health America
NAADAC, the Association for Addiction Professionals
National Alliance on Mental Illness
National Alliance to Advance Adolescent Health
National Association for Behavioral Healthcare
National Association for Children of Addiction (NACoA)
National Association for Children's Behavioral Health
National Association of County Behavioral Health and Developmental Disability Directors
National Association of Rural Mental Health
National Association of Social Workers
National Association of State Mental Health Program Directors
National Council for Behavioral Health
National Eating Disorders Association
National Federation of Families for Children's Mental Health
National Register of Health Service Psychologists
NHMH - No Health without Mental Health
Psychotherapy Action Network
Residential Eating Disorders Consortium
Schizophrenia and Related Disorders Alliance of America
SMART Recovery
Tourette Association of America
Treatment Communities of America
The Trevor Project
Trust for America's Health
Well Being Trust