



June 6, 2019

The Honorable James T. Welch  
Chair, Joint Committee on Financial Services  
Massachusetts State House, Room 413-B  
Boston, MA 02133

The Honorable James M. Murphy  
Chair, Joint Committee on Financial Services  
Massachusetts State House, Room 254  
Boston, MA 02133

**RE: In Support of H.910/S.588: *An Act Relative to Mental Health Parity Implementation*,  
H.909/S.590: *An Act to Require Health Coverage for the Emergency Psychiatric Services***

Dear Chair Welch, Chair Murphy, and Honorable Members of the Committee:

On behalf of the Massachusetts Association for Mental Health, thank you for your leadership on the Joint Committee on Financial Services and for the opportunity to submit testimony today. H.910/S.588: *An Act Relative to Mental Health Parity Implementation* and H.909/S.590: *An Act to Require Health Coverage for the Emergency Psychiatric Services* help ensure critical protections and advance access for people with behavioral health conditions and their families.

Formed over a century ago, the Massachusetts Association for Mental Health (MAMH) is dedicated to promoting mental health and preventing mental health conditions and associated disability. We are committed to advancing prevention, early intervention, effective treatment, and research for people of all ages. We seek to eliminate stigma and discrimination and advance full inclusion in all aspects of community. MAMH has a demonstrated track record of furthering its mission by convening stakeholders across the behavioral health and public health communities; disseminating emerging knowledge; and providing subject matter expertise to inform public policy, service delivery, and payment methods.

Support for H.910/S.588: *An Act Relative to Mental Health Parity Implementation*

MAMH is grateful for Representative Balser's and Senator Friedman's leadership in filing H.910/S.588: *An Act Relative to Mental Health Parity Implementation*. Mental health parity, at its core, is a social justice issue. The purpose of parity legislation is to ensure insurance coverage for mental health and substance use conditions that is equal or equivalent to coverage for physical health conditions. Parity statutes aim to protect people with behavioral health conditions from discriminatory treatment and ensure access to critical services and supports.

Despite passage of the parity legislation at both the state and federal levels, coverage and access to mental health and substance use services remain more restrictive than coverage and access to physical health services. In December 2017, a landmark Milliman Research Report found nonquantitative treatment limitations (NQTLS) as a “key trouble area” in the enforcement of parity statutes. The study specifically identified disparities in both out-of-network utilization patterns and reimbursement rates (proxies for network adequacy and provider fee level NQTLS) for behavioral health providers in comparison to medical/surgical providers. Both national and Massachusetts state-level data reveal disparities and concerns related to NQTL compliance.<sup>i</sup>

Similarly, in 2018 The Kennedy Forum released a technical paper assessing the relative strength of state parity laws in ensuring to effective parity enforcement. The Satcher Health Leadership Institute at the Morehouse School of Medicine and The Kennedy Forum developed a Statutory Coding Instrument (SCI) that evaluated state laws across 10 dimensions, including coverage of mental health and substance use services, requirements for NQTLS, state agency enforcement and reporting, etc. Massachusetts scored a 61 out of a total of 100 points, earning a grade “D.” Fifteen states currently score better than our Commonwealth, including Alabama, Kentucky, and Texas.<sup>ii</sup> I know we can do better, and H.910/S.588 helps us do just that.

Finally, the Massachusetts Office of the Attorney General has taken legal action for violations in the Commonwealth. In December 2018, Aetna Health Insurance Company and two affiliated companies reached an agreement with the Attorney General’s Office to help members access mental health and substance use services. Part of the agreement requires Aetna to disclose to its members that it does not require prior authorizations for routine behavioral health visits, and to disclose to its members any circumstances where it does require prior authorizations for any behavioral health services. The ruling helps ensure transparency and addresses once discriminatory barriers for people with behavioral health conditions and their families.<sup>iii</sup>

MAMH strongly supports H.910/S.588: *An Act Relative to Mental Health Parity Implementation* as it provides crucial protections in the development and selection of medical necessity criteria, as well as the in application of NQTLS. These bills also support the Division of Insurance in conducting critical functions related to ensuring carrier compliance, evaluating consumer and provider complaints, and performing parity compliance market conduct examinations.

MAMH is proud to stand with our partners today at the Children’s Mental Health Campaign, the Mental Health Coalition, and the Massachusetts Mental Health and Substance Use Parity Coalition in support of H.910/S.588. This broad-based support points to the timeliness and urgency of these bills and the critical need they address in our Commonwealth.

#### Support for H.909/S.590: An Act to Require Health Coverage for the Emergency Psychiatric Services

MAMH further supports H.909/S.590: *An Act to Require Health Coverage for the Emergency Psychiatric Services*, which requires the Group Insurance Commission and commercial insurers to coverage medically necessary emergency behavioral health service programs on a non-discriminatory basis. As illuminated in the January 2019 BCBSMA Foundation report, coverage of emergency services varies widely by payer type. MassHealth and some commercial plans (i.e., Aetna Health Inc., BCBSMA HMO Blue Inc., Health New England Inc., Minuteman Health

Inc., Harvard Pilgrim Health Care Inc., and ConnectiCare of Massachusetts Inc.) cover emergency services in full, while other carriers provide partial or no coverage.<sup>iv</sup>

Clearly, the onset or incidence of a behavioral health emergency does not discriminate by an individual's insurance status or insurance type. Carriers, therefore, should not be permitted to deny access to these critical services. The refusal of some carriers to cover emergency services programs results in their members either not receiving services – which has potentially life-threatening consequences – or receiving substandard care, such as emergency rooms visits that are often not optimal – or sometimes exacerbating - for people in behavioral health crisis. Failure of these carriers to cover emergency services also contributes to significant financial pressures on “existing programs to operate at or near capacity at all times.”<sup>v</sup>

Thank you again for your leadership, consideration of this testimony, and attention to the needs of your constituents with behavioral health conditions and their families. MAMH strongly supports both H.910/S.588: *An Act Relative to Mental Health Parity Implementation* and H.909/S.590: *An Act to Require Health Coverage for the Emergency Psychiatric Services*, and I urge you to take swift action to favorably report them out of committee.

Sincerely,



Danna Mauch, PhD  
President and CEO

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<sup>i</sup> Melek SP, Perlman D, Davenport S. *Milliman Research Report: Addiction and Mental Health vs. Physical Health: Analyzing Disparities in Network Use and Provider Reimbursement Rates*. Commissioned by Mental Health Treatment and Research Institute, LLC, a nonprofit subsidiary of The Bowman Family Foundation, December 2017.

<sup>ii</sup> Douglas M, Wrenn G, Bent-Weber S, Tonti L, Carneal G, Keeton T, Grillo J, Rachel S, Lloyd D, Bryd E, Miller B, Lang A, Manderscheid R, Park J. *Evaluating State Mental Health and Addiction Parity Statutes: A Technical Report*. The Kennedy-Satcher Center for Mental Health Equity at the Morehouse School of Medicine, The Kennedy Forum, Well Being Trust, The Carter Center, and The Scattergood Foundation, 2018.

<sup>iii</sup> Office of Attorney General Maura Healey. *Press Release: Aetna Agrees to Make Substantial Improvements to Behavioral Health Care Access*. 12 December 2018.

<sup>iv</sup> BCBSMA Foundation and Manatt. *The Massachusetts Behavioral Health Care System: Strengths, Gaps, and Opportunities for Improvement*. January 2019.

<sup>v</sup> Ibid.