

October 27, 2021

The Honorable Alex Padilla
U.S. Senate
B03 Russell Senate Office Building
Washington, DC 20510

Dear Senator Padilla,

We write to request your support to ensure the inclusion of a critical provision that will increase access to life-saving mental health and addiction services in the Senate's Build Back Better Act. The House Education and Labor Committee has already included this provision (Section 21005) that will provide the U.S. Department of Labor (USDOL) the ability to assess civil monetary penalties for violations of the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), the landmark law that requires equal coverage of mental health and addiction care. The Committee also included \$195 million over five years for the Employee Benefits Security Administration (EBSA) for enforcement. The Senate must now follow suit.

Providing USDOL this authority would close a significant gap in the Employee Retirement Income Security Act (ERISA), which does not allow USDOL to levy penalties against health insurers, plan sponsors, and administrators for parity violations. The absence of this authority means USDOL lacks a powerful tool to deter parity violations *before* they lead to Americans being denied coverage for mental health and addiction services they need. The ability to deter violations is essential, because USDOL has only 1 investigator for every 12,500 plans to monitor compliance and identify violations after they have occurred.¹

The crisis facing California and our country couldn't be more urgent. Survey after survey show deep negative impacts from the COVID-19 pandemic on our nation's mental health², while new shocking data from the CDC shows that overdose deaths surged 30 percent in 2020.³ Even before the pandemic, inequities in health plans' coverage of mental health and substance use disorder treatment, including low reimbursement and grossly inadequate networks, had grown in recent years.⁴ Providing USDOL this critical power has had bipartisan support in the past. President Obama's Mental Health and Substance Use Disorders Parity Task Force strongly recommended it⁵, as did President

¹ U.S. Government Accountability Office, "State and Federal Oversight of Compliance with Parity Requirements Varies, December 2019, <https://www.gao.gov/assets/gao-20-150.pdf>.

² Audrey Kearney, Liz Hamel, and Mollyann Brodie, "Mental Health Impact of the COVID-19 Pandemic, Kaiser Family Foundation, April 14, 2021, <https://www.kff.org/coronavirus-covid-19/poll-finding/mental-health-impact-of-the-covid-19-pandemic/>.

³ CDC, "Drug Overdose Deaths in the U.S. Up 30% in 2020," July 14, 2021, https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2021/20210714.htm.

⁴ Steve Melek, Stoddard Davenport, and T.J. Gray, "Addiction and mental health vs. physical health: Widening disparities in network use and provider reimbursement," Milliman, November 19, 2019, https://assets.milliman.com/ektron/Addiction_and_mental_health_vs_physical_health_Widening_disparities_in_network_use_and_provider_reimbursement.pdf.

⁵ 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>.

Trump's Commission on Combating Drug Addiction and the Opioid Crisis.⁶ It was also recently a recommendation of the Bipartisan Policy Center's Behavioral Health Integration Task Force.⁷

We hope you will support this vital step toward ending coverage discrimination that prevents individuals living with mental health and addiction from receiving the care they need.

Sincerely,



Theresa Comstock

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⁶ 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>.

⁷ *Tackling America's Mental Health and Addiction Crisis Through Primary Care Integration*, Bipartisan Policy Center's Behavioral Health Integration Task Force, March 2021, https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2021/03/BPC_Behavioral-Health-Integration-report_R03.pdf.