



**Testimony of
Kelly O'Brien
Executive Director
The Kennedy Forum Illinois
Before the Illinois General Assembly Mental Health Committee
Regarding Amendment 1 to House Bill (HB) 68
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Good morning Chairwoman Conroy, Vice-Chair Fine, Spokesperson Demmer and Members of the Committee on Mental Health. Thank you for the opportunity to participate in this brief discussion of Amendment 1 to House Bill (HB) 68. The amendment provides some clarifications and improvements to the mental health and addiction parity provisions of the historic Heroin Crisis Act (HB1) in order to ensure that that the intent of this law is actually realized for Illinois families. I have provided a full written copy of our testimony for the record.

This issue is incredibly salient, as demonstrated just yesterday by the lead article in *Crain's Chicago Business* about the dramatic increase in private insurance claims for opioid dependence treatment as well as the "Opioid Crisis Next Door" provider gathering here yesterday in Springfield. For many of us, these are not statistics, but our friends and family. We need all hands on deck to address this crisis - providers, payers, and regulators.

I am here today as the Executive Director of The Kennedy Forum Illinois, a nonpartisan, nonprofit organization founded nationally by former U.S. Rep. Patrick J. Kennedy and in Illinois by a group of civic leaders. I'm also speaking today on behalf of a group of people and organizations in Illinois that have been working together to advance parity over the past year.ⁱ

The mission of The Kennedy Forum Illinois is to end stigma and discrimination against those with mental health and substance use disorders. We do this not just by changing the conversation around these issues, but also by working to improve the system that so often fails to provide care to the millions of Illinois residents with mental health and addiction health needs. We aim to align best practices with the best possible policies and work with partners, public officials and policymakers from both sides of the aisle to advance solutions that work for families, taxpayers, businesses and state governments.

The Kennedy Forum does not represent a particular group; we are not a health provider, payer or association. In Illinois, we are supported by grants from foundations such as The Chicago Community Trust and The Michael Reese Health Trust, and diverse donors including individuals, businesses, health providers and payers.

Achieving parity is a central focus of our work and The Kennedy Forum's expertise on this topic is well established. Our national founder, Patrick Kennedy, fought a national battle during 16-year career in Congress to end medical and societal discrimination against these illnesses, highlighted by his lead sponsorship of the landmark federal Mental Health Parity and Addiction Equity Act of 2008ⁱⁱ. We launched paritytrack.org/ early last year to track federal and state efforts to advance parity, and parityregistry.org/ to assist families with complaints and appeals. We have convened State and National Coalitionsⁱⁱⁱ. We have been an advisor to the White House, Federal agencies, and Congress on parity implementation.

Parity is about fairness.

Parity is fundamentally about fairness and equity. It's about eliminating stigma and discrimination where it hits families hardest - accessing and affording the care they need.

Parity laws at the federal and state level are designed to ensure that health insurance plans treat individuals with behavioral health conditions the same as individuals with other types of conditions. These laws do not mandate that insurance plans offer coverage for specific services (although other state and federal laws, including the Affordable Care Act, do). Rather, parity laws simply require that, if plans offer mental health and substance use disorder benefits, plans must do so at the same levels of coverage and using the same payment-approval process as for other benefits they offer. In short, insurers are not permitted to put more restrictions on behavioral health benefits that are not in place for other medical care.

Families continue to face barriers the law should be protecting against.

We know that families are still having a hard time getting their mental health and addiction services paid for by their insurance plan. Just because a health plan *offers* a benefit, does not mean it actually reimburses for it. On average, patients seeking mental health services from private insurers are denied payment at a rate double that of those seeking other medical services. Patients also encounter more barriers in getting psychiatric and substance use medications.^{iv} It's like having car insurance you pay premiums for, but when you get in an accident, it does not cover your claims.

For the most part, state and federal laws have helped to ensure that the inequity between copays and deductibles have been resolved. Insurers cannot impose a separate deductible for behavioral health care or require higher copays for behavioral health conditions, and there have been improvements on this front. However, in order to control costs, insurance companies still employ medical management techniques, including varying levels of prior authorizations in order to access services and medications and "medical necessity" review following physician recommendations as a form of utilization control. Basically, they look at someone's care and ask

if it is really medically necessary. And they are applying those sorts of cost-control techniques way more stringently on the mental health and substance use disorder side than they are on the physical health side.

For example, in a recent survey of Illinois providers, 61% of respondents indicated that commercial insurers sometimes or often refused to cover Medication-Assisted Treatment that the provider thought medically necessary. More than half of providers surveyed said commercial insurance companies often or always reimbursed for a lower level of care than the provider believed necessary. It's hard to imagine these types of denial rates for non-mental health and substance use disorder health conditions. And, when asked what happens when providers attempted to obtain commercial insurers' mental health and substance use disorder medical necessity criteria, *half* of providers said they never or rarely were given this critical information. Information plans are required under the law to provide.

So people are left with this perception that they have access to care, but when they're in a crisis for themselves or their loved one the care is not actually available because of these excessive management techniques.

Illinois' has been a leader in advancing parity for mental health and addiction.

Because of actions taken by the General Assembly, our state laws are now -- at least on paper -- some of the most comprehensive in the nation. With the exception of representatives who were just elected, every member of this Committee voted for Public Act 99-0480, the Heroin Crisis Act, in 2015. That vote was a vote to improve Illinois' parity requirements to help ensure that no Illinois resident is discriminated against by health plans due to their mental health or substance use disorder.

The purpose of this amendment to House Bill (HB) 68 is to ensure that that the intent of this law is actually realized for Illinois families. The amendment includes requirements for regulatory oversight and transparent reporting to ensure the existing law is doing its job. Because despite the law's protections, treatment limits are still getting in the way of care for too many families.

The current administration has been working to improve implementation efforts, but more needs to be done. IDOI successfully applied and received a \$1.3 million grant to fund improved parity enforcement and public education efforts, efforts such as those outlined in HB68. The Department's Working Group Report^v to the General Assembly was thoughtful and included a number of recommendations reflected in HB68, which we support.

Better enforcement by the State and transparency by the insurers is critical. Absent that, we essentially deputize Illinois residents who need treatment for mental illness and/or addiction (and their families) to enforce the law themselves by identifying opaque barriers, filing lengthy and technical appeals, and spending hundreds of hours fighting repeated denials. We are asking people to battle their health plans while they are in the middle of a much bigger battle -- the fight for their lives. Families are forced to put second mortgages on their homes, empty

retirement and college savings, even bankruptcy, just to keep their child alive or their spouse in treatment. Left untreated, many people eventually shift from private insurance to Medicaid, or need to rely on other sources of state support, such as unemployment insurance.^{vi} **Patients and their families should not bear the burden of implementation and enforcement; this is the job of insurance plans and agency regulators.**

Yes, we need more consumer education. Yes, we need an easier appeals process. And The Kennedy Forum supports this and we are committed helping do this, in partnership with the State and with commercial payers. But the answer cannot be simply that we need more people to complain and file appeals. You cannot and should not ask families to enforce the law. And if that is what you want them to do, then give them real power to enforce the law through a private right of action.

HB68, Amendment 1 would enforce the parity laws on our books.

This bill provides the tools to ensure the laws you enacted help families as intended. We cannot end discriminatory treatment unless patients and the regulators charged without oversight and transparency. In addition to cleaning up a number of definitions and legacy language, much of which was also recommended in the Workgroup Report submitted to the General Assembly by The Illinois Department of Insurance. HB68 also amends the following:

- Specifies information that plans must report to ensure compliance;
- Specifies how the respective agencies are expected to enforce the law; and
- Allows individuals and providers to pursue causes of action against the plan or issuer of the policy for mental health and substance use disorder parity violations.

The mission statement of the Illinois Department of Insurance reads: "To protect consumers by providing assistance and information, by efficiently regulating the insurance industry's market behavior and financial solvency, and by fostering a competitive insurance marketplace."

HFS says it is about "ensuring quality health care coverage at sustainable costs, empowering people to make sound decisions about their well-being and maintaining the highest standards of program integrity on behalf of the citizens of Illinois."

This amendment simply directs both of these agencies to fulfil their stated mission, and asks health plans to provide the information we need to ensure that laws currently on the books are helping families as intended.

Thank you for the opportunity to speak with you today.

Contact:

Kelly@thekennedyforum.org

www.thekennedyforumillinois.org

REFERENCES AND RESOURCES

ⁱ AFSP Illinois - American Foundation for Suicide Prevention, Alexian Brothers Health System; Childress, Loucks, & Plunkett; Depression and Bipolar Support Alliance; Greensfelder, Hemker & Gale, P.C.; Family Guidance Centers, Inc.; Gateway Foundation; Health & Medicine Policy Research Group; Illinois Association for Behavioral Health; Illinois Hospital Association; Illinois Psychiatric Society; The Kennedy Forum; MADO Healthcare; NAMI Chicago; Illinois Consortium on Drug Policy; Rosecrance Health Network; Scattergood Foundation; Sinai Hospital; Thresholds.

ⁱⁱ https://www.cms.gov/ccio/programs-and-initiatives/other-insurance-protections/mhpaea_factsheet.html

ⁱⁱⁱ ASAM, National Center on Addiction and Substance Abuse, Community Catalyst, NAMI, National Council for Community Behavioral Health, American Foundation for Suicide Prevention, Health Law Advocates, APA, American Psychological Association, The Satcher Health Leadership Institute.

^{iv} <http://www.nami.org/parityreport>

^v http://insurance.illinois.gov/newsrsls/2017/01/MHSUDWGRptToGA_Jan2017.pdf

^{vi} An analysis by the Minneapolis *Star Tribune* found that dozens of companies issuing policies in Minnesota owed the state \$51 million for mental health care for people who had private insurance but for whom the state had to pay after their insurer turned them down. BCBS settled with the State, paying \$8.2 million, for shifting to Minnesota taxpayers the cost of care it contracted to provide its beneficiaries by forcing insureds to turn to the public sector for mental health care after Blue Cross delayed or denied care they sought.

http://psychnews.psychiatryonline.org/doi/full/10.1176/pn.36.14.0015?trendmd_shared=0

Federal Mental Health and Substance Use Disorder Parity Task Force Report

<https://www.hhs.gov/sites/default/files/mental-health-substance-use-disorder-parity-task-force-final-report.PDF>

IDOI Working Group Regarding Treatment and Coverage of Substance Abuse Disorders and Mental Illness

http://insurance.illinois.gov/newsrsls/2017/01/MHSUDWGRptToGA_Jan2017.pdf

Parity Track <https://www.paritytrack.org/>