



# **State Parity Legislative and Regulatory Compliance Workgroup**

January 13, 2021

# Agenda

- **Federal Parity Update**
- **State Updates**
  - **Connecticut**
  - **Georgia**
  - **Kentucky**
  - **Missouri**
  - **Washington**
- **State Model Bill**

# COVID-19 Relief Package

- Previous high-water mark was revised HEROES Act (\$8.5 billion)
- Congress finally passed COVID relief package. Signed into law Dec. 27<sup>th</sup>
- Included \$4.25 billion in emergency MH/SUD funding (in addition to regular annual appropriations)
  - \$1.65 billion for the Substance Abuse and Prevention Treatment Block Grant;
  - \$1.65 billion for the Mental Health Services Block Grant;
  - \$600 million for Certified Community Behavioral Health Clinics;
  - \$50 million for suicide prevention programs;
  - \$50 million for Project AWARE to support school-based mental health for children;
  - \$240 million for emergency grants to States; and
  - \$10 million for the National Child Traumatic Stress Network;
  - Not less than \$125 million of funds provided to SAMHSA must be allocated to tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes across a variety of programs.
- Not clear how quickly funds will get administered to states – no SAMHSA head currently

# Parity in COVID-19 Relief Package

- Important parity provisions included in COVID package (language from Rep. Joe Kennedy's H.R. 7539). Work of American Psychiatric Association and partners helped get over the finish line. Parity provisions fully in effect Feb. 10, 2021.
- Applies to ERISA and state-regulated insurance plans. Requires:
  - Health plans to perform comparative parity analyses. These are the same NQTL requirements as are in the model legislation from Kennedy Forum and American Psychiatric Association.
  - Plans to make make analyses available to US Dept. of Labor **or a state insurance regulator upon request. DOL must request analysis whenever it receives a complaint.**
  - Informing plan members of noncompliance when DOL deems plan noncompliant with MHPAEA and plan does not remedy violations within 45 days.
  - DOL to send an annual report to Congress that identifies plans that are out of compliance.
- For majority of states without reporting requirements, their insurance commissioner can request these analyses and is entitled to receive them – no state legislation needed.
- New state legislation still desirable to force annual, proactive reporting. Now likely easier because state legislation can just reference relevant federal provisions.
- For language, search “NQTL” at <https://www.congress.gov/bill/116th-congress/house-bill/133/text/enr>

# Connecticut

## HB 5014

- **Status:** Introduced, January 8, 2021
- **Sponsor:** David Michel (D)
- **Summary:**
  - Require data reporting to ensure compliance with MHPAEA (no legislative text yet)

[https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill\\_num=HB05014&which\\_year=2021](https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=HB05014&which_year=2021)

# Georgia

## HB 49

- **Status:** Prefiled, December 16, 2020
- **Sponsor:** Shelly Hutchinson (D), Calvin Smyre (D)
- **Summary:**
  - Applies to commercial and Medicaid plans
  - Contains model reporting provisions for NQTLs, regulator enforcement requirements, and annual enforcement report
  - Requires that plans use ASAM Criteria
  - Prohibit prior authorization/step therapy for MAT medications and requires they be on lowest tier of formulary

<https://www.legis.ga.gov/legislation/58841>

# Kentucky

## HB 50

- **Status:** Introduced, January 05, 2021
- **Sponsor:** Kim Moser (R)
- **Summary:**
  - Requires insurers comply with MHPAEA
  - Requires annual parity reporting per the model bill
  - Exempts group health plans with 50 or fewer employees

<https://apps.legislature.ky.gov/record/21rs/hb50.html>

# Kentucky

## HB 77

- **Status:** Introduced, January 5, 2021
- **Sponsor:** Rachel Roberts (D)
- **Summary:**
  - Mandates annual mental health wellness examination
  - Coverage must comply with MHPAEA
  - Applies to commercial, Medicaid/CHIP, and state employee health insurance plans

<https://apps.legislature.ky.gov/record/21rs/hb77.html>



# Massachusetts

## S. 2984

- **Status:** Signed 1/1/21
- **Sponsor:** Friedman (D)
- **Summary:**
  - Large bill, includes broad telehealth provisions
  - Requires insurance carriers, including MassHealth, to cover telehealth services in any case where the same in-person service would be covered and the use of telehealth is appropriate
  - Requires reimbursement parity
  - Covers audio-only
  - Telehealth coverage doesn't change network adequacy requirements

<https://malegislature.gov/Bills/191/S2984>

# Missouri

## HB 383 / SB 80

- **Status:** Introduced, January 2021
- **Sponsor:** Rep. Bill Kidd (R) / Sen. Greg Razer (D)
- **Summary:**
  - Puts federal NQTL standards in MO insurance code

<https://house.mo.gov/Bill.aspx?bill=HB383&year=2021&code=R>

[https://www.senate.mo.gov/21info/BTS\\_Web/Bill.aspx?SessionType=R&BillID=54105575](https://www.senate.mo.gov/21info/BTS_Web/Bill.aspx?SessionType=R&BillID=54105575)

# Ohio

## **SB 284**

- **Status:** Enacted, takes effect 3/24/21
- **Summary:**
  - Requires Superintendent of Insurance and Medicaid Director to:
    - Proactively enforce MHPAEA
    - Evaluate all behavioral health complaints for parity violations
    - Adopt rules necessary to enforce MHPAEA
- Final bill did not include parity reporting requirements

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-284>

# Washington

## HB 1086

- **Status:** Introduced, January 11, 2021
- **Sponsor:** Tarra Simmons (D)
- **Summary:**
  - Legislature creates a state Office of Behavioral Health Consumer Advocacy (administered by private organization), with the following duties/powers:
    - Train and certify behavioral health consumer advocates;
    - Promote access to and provide consistent quality mental health services across the state;
    - Assure mental health patients are afforded the rights given by state and federal law.

<https://app.leg.wa.gov/billssummary?BillNumber=1086&Year=2021&Initiative=false#documentSection>

# Ramstad State Model Bill

- Released late last month
- More than 30 national organizations joined! (more can still join if additional national organizations want to)
- Based off of SB 855 in California and addresses the core issues identified in the *Wit v. United Behavioral Health* case
- American Psychiatric Association will be tailoring provisions to states' unique codes

<https://www.thekennedyforum.org/app/uploads/2021/01/Ramstad-Model-Legislation-Dec-2020-FINAL.pdf>