

# Mental Health Parity A State Imperative

## Research and a Start

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LHHS Committee October 26,

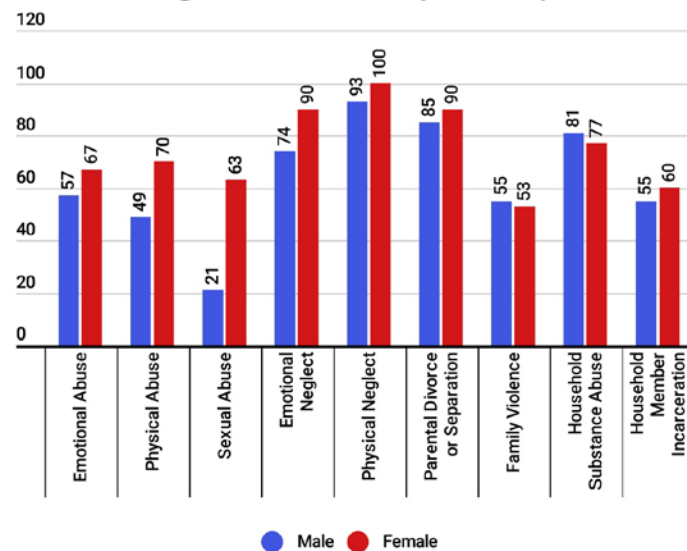
# Mental Health Parity

- ▶ Why
- ▶ Definitions/Requirements
- ▶ Key Federal Laws, Regulations, Tools; Other States, and Organizations
- ▶ Other Key Considerations
- ▶ Why State when Federal
- ▶ 2022: Memorial or Legislation

# Why:

- ▶ New Paradigm in Health: Mind = Body
- ▶ 1 out of 5 in US experience a mental health condition
- ▶ 50% of mental health conditions undiagnosed
- ▶ Only 15% of substance use disorder under treatment
- ▶ Rising Impact of Adverse Childhood Events - ACE's
- ▶ Secondary Costs: Chronic Disease, Justice System, Economy
- ▶ 2019 HB 436 Issues: Exclusion Of Substance Use Disorder; lack of clear definition of Mental Health Parity\*
- ▶ Long process of court adjudication vs clarifying legislation
- ▶ Stigma Reduction

### 75% of boys and 87% of the girls in detention reported exposure to 5 or more ACEs



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Economic Forum Presentation.pdf - Adobe Acrobat Standard 2020

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## Conditions Affecting Youth Before Incarceration

- 13.6%** Suicide attempt by child
- 28.6%** Suffer from PTSD
- 36.4%** Prior determination of Special Education Eligibility
- 47.7%** Struggled with depression
- 74.1%** Report to Child Protective Services
- 96.4%** Youth diagnosed with Substance Abuse Disorder
- 99.5%** Major psychiatric diagnosis; schizophrenia, depression

**Average of 9.8 CYFD referrals before incarceration**

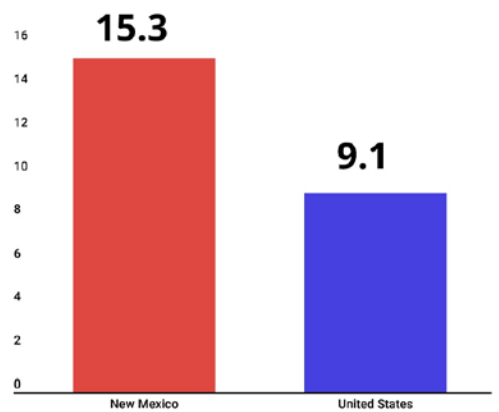
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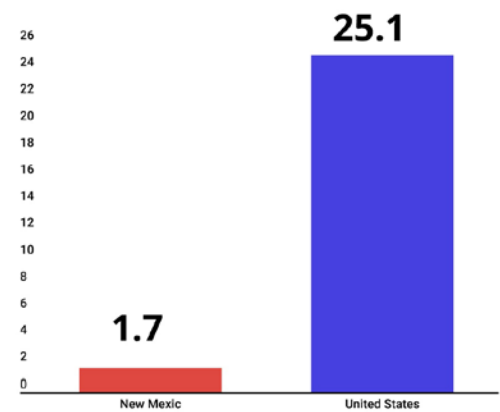
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### Child Victimization Rate per 1,000 (2016)



### Prevention Services Rate per 1,000 (2016)



Source: U.S. Dept. of Health and Human Services (2018) Child Maltreatment in 2016 Report

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# Definitions/Requirements

- ▶ In general, Mental Health Parity and Addiction Equity Act (MHPAEA) requires that the financial requirements (such as co-insurance and co-pays) and treatment limitations (such as visit limits) imposed on mental health or substance use disorder benefits cannot be more restrictive than the predominant financial requirements and treatment limitations that apply to substantially all medical/surgical benefits in a classification.
- ▶ Nonquantitative treatment limitation (NQTL) for MH/SUD benefits cannot be any more restrictive or stringent than Med/Surg benefits, and have to have the same medical necessity approach, evidentiary standard use, and other factors as used for Med/Surg benefits.
- ▶ Disclosure and written policy on establishment of MH/SUD and comparable Med/Surg benefits are required of all health plans.

# Key Federal Laws, Regulations, Tools; Other States, and Organizations

- ▶ Mental Health Parity and Addiction Equity Act (MHPAEA) 2008 (Domenici)
- ▶ ACA 2010
- ▶ 21<sup>st</sup> Century Cures Act Part 39 Sections 13001 - 13005
- ▶ Consolidated Appropriations Act (Covid) 2021 Part 45
- ▶ Dept. of Labor, HHS, Treasury Self Compliance Tool for MHPAEA - 2020, updated every two years
- ▶ Wit vs. United Behavioral Health 32019
- ▶ California Mental Health Parity SB 855 2020\*; other states (IL, NY, ...)
- ▶ Kennedy Forum Model State Health Parity Law



# Other Key Considerations, or, State in addition to Federal

- ▶ MH/SUD Provider Rate Equity with Med/Surg Provider Rates at all levels\*
- ▶ Clear provider definitions such as family therapists, associate professional clinical social worker
- ▶ California premium increase of 0.002% due to Parity
- ▶ Reduction of Chronic Disease Costs by a factor of 2-3 (2/3 of MH/SUD have co-morbid chronic condition)
- ▶ All Health Plans are currently required by Federal Law to have written NQTL comparisons between Medical Surgical NQTLs and MH/SUD NQTLs
- ▶ Medicaid Managed Care Plans are included
- ▶ Medicare Advantage and Supplemental?
- ▶ Geographic and timely access - if not available then plan must provide out of network providers/programs (including out of state) at in network patient cost
- ▶ Inclusion of "Diagnostic and Statistical Manual of Mental Health Disorders

# Legislation or Memorial

- ▶ Short and packed 2022 session
- ▶ Additional Federal Guidance in 2022
- ▶ Complexity; Clarity of nuance
- ▶ Stakeholder input

# Memorial

- ▶ OSI coordination and leadership
- ▶ Involve key stake holder group
- ▶ Goal of proposed legislation for NM State Mental Health Parity Law for 2023 session based upon Federal Law and Guidance, other state laws and especially California, Kennedy Forum model legislation, NQTL production by plans, clear provider rate parity at all levels, full DSM incorporation, adherence to geographic and timely access including out of network if in network not available, telehealth access, requirement of medical necessity standards based on Behavioral Health Professional Associations, requirement for prevention and minimization of progression coverage, etc.
- ▶ Proposed regulation based on proposed law
- ▶ Establishment of a Mental Health Parity section in OSI, fully staffed and IT enabled, to review plans compliance and undertake enforcement; and the ongoing appropriations to achieve
- ▶ Apply to Trump era loosened regulations for ACA non compliant plans
- ▶ Appropriation of funds to meet memorial goals

# Stakeholders:

- ▶ OSI team
- ▶ Division of Behavioral Health Collaborative (DH and HSD)
- ▶ NM Behavioral Health Association
- ▶ Health Plans, commercial and Medicaid
- ▶ NM Medical Association and Hospital Association
- ▶ UNM MSC MH/SUD Professionals
- ▶ Health Law Expert
- ▶ Telehealth
- ▶ Knowledgeable senators and representatives
- ▶ Outside consultants as needed
- ▶ Other

# THANK YOU

## ▶ Comments and Questions

- ▶ Detailed Legislation and Regulation Summaries available upon request: [Martin@senatormartinhickey.com](mailto:Martin@senatormartinhickey.com)