The Ohio Council
Of Behavioral Health & Family Services Providers

35 E. Gay Street, Suite 401
Columbus, OH 43215
614-228-0747 • www.TheOhioCouncil.org

**Teresa Lampl – Testimony in Support of SB 254**
**Senate Insurance & Financial Institutions Committee**
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Chairman Hackett, Vice Chair Hottinger, Ranking Member Craig, and members of the Senate Insurance and Financial Institutions Committee, my name is Teresa Lampl and I am the CEO of the Ohio Council of Behavioral Health and Family Services Providers (The Ohio Council). I am also here today on behalf of the Ohio Parity at Ten Coalition – a diverse and experienced group of 26 advocacy organizations that make up the Coalition. Our membership reflects the great interest of so many people in Ohio to raise awareness about the Mental Health Parity and Addiction Equity Act (MHPAEA) and advocate for greater enforcement of the law.

President George W. Bush signed the Parity Act 11 years ago to end discrimination in insurance coverage of mental health and substance use disorder (MH/SUD) benefits, recognizing that these diseases must be afforded the same level of treatment as other medical conditions. Unfortunately, the law's implementation has been slow and enforcement weak. The best available data shows that there is a problem in Ohio with insurers authorizing and paying for people to access mental health and addiction treatment services.

According to a November 2019 Milliman report: Addiction and Mental Health vs. Physical Health: Widening disparities in network use and provider reimbursement, it is clear that despite efforts to enforce mental health parity, the lack of timely and affordable access to treatment is not getting better. The Milliman research report, which analyzed private insurance claims data for 2016-2017, shows significant out-of-network and reimbursement rate disparities for mental health and addiction treatment services when compared to physical health care. Other report findings include:

- Children's mental health office visits are 10 times more likely to be out-of-network than a primary care office visit.
- A patients' use of inpatient and outpatient treatment facilities are over 500 percent more likely to face out-of-network charges for behavioral health care than physical care.
- Spending for behavioral health care by private insurance plans has not shifted, despite the dire need, and sits at just 2.4 percent of overall health care spending.

In the midst of our nation's worst opioid epidemic and rising rate of suicide deaths, Ohio has made substantial investments to expand access to MH/SUD treatment, including $2 million in the most recent biennial budget for the Ohio Department of Insurance (ODI) to work on parity issues. Robust enforcement of the anti-discrimination protections in the federal Parity Act is needed now to ensure that Ohioans have access to the services they and/or their employer pay for and are seeking for their recovery. The provisions set out in SB 254 are essential to that enforcement. Ensuring compliance with existing mental health and addiction parity laws – which require insurers to treat illnesses of the brain, such as depression and

addiction, the same way they treat illnesses of the body, such as diabetes and cancer – is essential to addressing Ohio's opioid crisis and rising suicide rates.

Align State Law with Federal MHPAEA

The federal Parity Act requires health plans that offer coverage of MH/SUD to ensure that those benefits are provided on par as those for medical conditions. Insurers cannot impose financial requirements or quantitative limitations on the amount of treatment for MH/SUD that are stricter than those imposed for other medical conditions. The Parity Act also explicitly prohibits insurers from using – whether in writing or in practice – any plan design features, known as non-quantitative treatment limitations (NQTLs), for MH/SUD that are not used for other medical conditions. Because much of Ohio's legislative efforts on parity pre-date the federal law some of Ohio's insurance standards need to be updated. SB 254 would make the necessary technical corrections to do just that and codify the federal protections in one place in state law to reduce confusion and ensure that Ohioans have equal access to MH/SUD care.

Demonstrate Compliance Through Analysis and Reporting

SB 254 will also help ensure that state-regulated health plans meet their legal obligation as required under the Parity Act. Federal law prohibits insurance plans from offering health plan products that do not comply with the Parity Act. 45 C.F.R. § 146.136(h). The State must also ensure that Medicaid managed care plans comply with the Parity Act and provide documentation of its compliance to the general public. 42 C.F.R. § 438.920(b). Yet, under the current enforcement practices, neither state regulators nor consumers receive the plan information that is necessary to determine whether the plan satisfies federal requirements of the Parity Act. While plan documents provide basic information on a consumer's numerical limits to MH/SUD care, such as deductibles and cost-sharing requirements or the amount of care, plans provide no information on the NQTLs that effectively determine whether an individual gets the prescribed care. In addition to the NQTLs such as different reimbursement rates for MH/SUD providers and different standards for approving and re-authorizing treatment, plans often impose additional barriers to care that include more stringent or too vague medical necessity criteria, provider credentialing and network adequacy requirements.

A compliance reporting system is the most effective means of enforcing the Parity Act. Insurance plans already possess all the information regarding their plan designs, and they have a legal obligation to conduct a comprehensive analysis to ensure that their plan standards comply with parity requirements before selling those plans. The current enforcement paradigm, however, lacks transparency and places the responsibility on consumers to file complaints with state agencies if they believe their plan is failing to comply. These complaints require consumers to assess whether their plan offers comparable MH/SUD benefits to other medical benefits. Without the information to make this comparison, they cannot file a meaningful complaint under the Parity Act. Furthermore, in the face of a health care crisis, most consumers are focused on pursuing necessary and life-saving health care for themselves or a loved one. They are not attending to their legal rights or looking for the number for the complaint line. SB 254 will level the playing field for regulators and consumers by requiring transparency and

improve accountability. Insurance plans will report Parity Act compliance information for state regulators to make the results of those reports available to the public.

Ohio is not alone in pursuing Parity Act compliance reporting through the proposed process. In April 2018, the U.S. Department of Labor implemented Parity Act compliance reporting guidelines consistent with those proposed in SB 254 for issuers of ERISA covered group and self-funded plans. Thus, making it clear that health plans must conduct and provide a detailed analysis, including records documenting any NQTLs and how they are applied. Further, between 2018 and 2019, a host of states – Colorado, Connecticut, the District of Columbia, Delaware, Illinois, New Jersey and Tennessee – enacted legislation that requires annual reports of parity compliance for NQTLs. In 2019, eight more states – California, Florida, Maine, Maryland, Massachusetts, Mississippi, Missouri and Montana – introduced similar legislation that would require issuers in those states to submit reports like those outlined in SB 254. By passing SB 254, Ohio would join these other states as a leader in parity enforcement.

Codifying Best Practices for SUD Treatment

SB 254 would also take critical steps to codify best practices in the treatment of substance use disorders with evidence-based medications. When people with SUD are prepared to enter treatment, it is critical that they do not face unnecessary delays or undue financial burdens that could prevent them from accessing the services they need. Ohio is not alone in its goal of removing utilization management barriers to prescription medications for substance use disorder treatment to address the opioid epidemic. At least seventeen states have taken similar action as proposed in this bill such as: Arkansas, Delaware, Missouri, Montana, New York, Vermont, Colorado and Illinois. Additionally, bipartisan companion bills have been introduced in Congress (H.R. 3165 / S. 1737) that are consistent with the reporting provisions of SB 254.

Conclusion

Importantly, SB 254 takes needed action to implement Governor DeWine's RecoveryOhio Task Force report recommendation to align state law with the federal Parity law. SB 254 also seeks to implement several recommendations of President Trump's Opioid Commission regarding insurance reimbursement and enforcement of the MHPAEA. Led by former New Jersey Governor Chris Christie, the Opioid Commission report encouraged the standard collection of parity compliance data and information from health insurance plans and requires that insurers demonstrate compliance in terms of how they design and apply their managed care practices. Tennessee was the first state to codify this common-sense approach in 2018 and other states have followed suit. I hope Ohio will be the next. Indeed, the Ohio General Assembly has made significant investments to enhance services for people with MH/SUD. This legislation supports your investment by removing unfair barriers to care and works in concert with the goals of Governor DeWine to expand access to such services so that Ohioans can recover and resume productive lives.

Mr. Chairman and members of the committee, thank you for your time and attention on this important matter. I am happy to answer any questions you may have at this time.