

# inseparable

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Washington, D.C. 20004  
February 28, 2024

Senate Finance Committee  
Maryland General Assembly  
3E Miller Senate Building  
Annapolis, MD 21401

Via electronic submission

## **RE: SUPPORT FOR SB 684**

Dear Chair Beidle, Vice-Chair Klausmeier, and Members of the Committee:

On behalf of Inseparable, I am testifying in favor of SB 684. Inseparable is a national nonprofit focused on closing the treatment gap for people with mental health and substance use conditions, improving crisis response, and supporting prevention and early intervention. I recently joined Inseparable after having been the Chief Policy Officer at The Kennedy Forum, an organization founded by former Congressman Patrick J. Kennedy, author of the Mental Health Parity and Equity Act of 2008 (Federal Parity Act). Over the past eight years, I have become a national parity expert and have worked with numerous states and the federal government to improve parity laws and make parity a reality.

Without parity, access cannot be a reality. That is why Inseparable is grateful to Delegate Bagnall for her commitment to ensuring parity and for being the prime sponsor of SB 684. More than 15 years after its enactment, insurers continue to violate the law, as evidenced by two recent reports to Congress from the Departments of Labor, Health and Human Services, and Treasury (tri-agencies) that found widespread violations.<sup>1</sup> Indeed, these Departments found overwhelming non-compliance with the Federal Parity Act's requirements, and many health plans have not been conducting the parity compliance analyses that the law requires.

Yet, despite this increased federal activity, states have primary enforcement authority over individual marketplace and fully insured employer-sponsored (ERISA) plans. Thus, it is imperative that legislators and the Maryland Insurance Administration (MIA) make compliance and enforcement a top priority to increase access during the ongoing mental health and addiction crisis.

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<sup>1</sup> See [2022](#) and [2023](#) MHPAEA Reports to Congress.

To ensure the intent of parity is realized, it is critical that Maryland adopt policies that will hold insurers and plans accountable. Therefore, we support language in SB 684 that will improve the ability of Maryland residents to access needed MH/SUD care. Key provisions include:

- **Ensuring annual plan reporting on all non-quantitative treatment limitations (NQTLs).** The Federal Parity Act’s requirements apply to each individual plan. This includes federal requirements that, for each plan, insurers conduct detailed parity compliance analyses for every NQTL that the plan imposes on MH or SUD benefits. Calculations to assess compliance with the Federal Parity Act’s requirements for financial requirements and quantitative treatment limitations must also be done at the plan level. Therefore, it is critical that Maryland not establish a lesser standard. Twenty-five states require insurers to submit parity compliance and/or outcomes data reports, and over half of these (16) require annual reports. Of the 17 states that identify the scope of the NQTL report, all but one requires reporting on all NQTLs. Therefore, we support provisions in SB 684 that would align Maryland law with both federal law and with other state laws. These standards exist at the federal level and in other states because they protect people with MH and SUD: they require insurers to analyze and document how they comply with the Federal Parity Act so that any discriminatory barriers to MH and SUD treatment can be removed.
- **Facilitate in-depth reviews by the Maryland Insurance Administration (MIA) while holding plans accountable.** Of course, we recognize that regulators must prioritize their NQTL reviews to ensure compliance and increase access to care most effectively. After insurers have submitted all NQTL compliance analyses, we encourage MIA to prioritize their enforcement efforts across insurers’ various product lines to the extent that there are no differences in the design or implementation between plans within a given product. We support SB 684’s emphasis on broad insurer accountability that does not alert insurers which NQTLs will be reviewed in advance. There is ample evidence in the tri-agencies reports to Congress that plans are engaging in elaborate *post hoc* justifications of their discriminatory NQTLs.
- **Retain and expand data reporting requirements.** The Federal Parity Act requires compliance both “as written” in plan documents and “in operation.” Key to assessing “in operation” compliance is collecting quantitative data relating to MH/SUD and physical health coverage. Indeed, new proposed federal parity rules to improve implementation of the Federal Parity Act that are likely to be finalized soon will significantly expand data reporting requirements. Therefore, we support provisions in SB 684 that ensure alignment with expected changes to Federal Parity Act rules and that gather quantitative data to show how insurance standards affect access to MH and SUD care.
- **Improve enforcement authority.** A near-constant theme of parity compliance is the inability of regulators to hold insurers sufficiently accountable. We support SB 684’s enforcement provisions, including an explicit provision that failure to file complete parity compliance analyses is itself a violation of the parity requirements and that, when an insurer does not demonstrate compliance, consumers and providers subject to that treatment limitation obtain relief.

Inseparable is grateful to Delegate Bagnall for prioritizing mental health parity. We are proud to support SB 684 to finally hold insurers accountable and help realize the promise of mental health and addiction parity.

Thank you for the opportunity to testify.

Respectfully,

A handwritten signature in blue ink that reads "David Lloyd". The signature is written in a cursive, flowing style.

David Lloyd  
Chief Policy Officer