

May 27, 2022

Ms. Erica Weyhenmeyer  
Chair, MHPAEA (B) Working Group  
National Association of Insurance Commissioners  
444 North Capitol Street NW, Suite 700  
Washington, D.C. 20001-1512

Mr. Damion Hughes  
Chair, MCEG (D) Working Group  
National Association of Insurance Commissioners  
444 North Capitol Street NW, Suite 700  
Washington, D.C. 20001-1512

RE: ABHW Comments on Market Regulation Handbook, MHPAEA Chapter  
24B Update

Dear Ms. Weyhenmeyer and Mr. Hughes:

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to provide comments on the draft of Chapter 24B as the Mental Health Parity and Addiction Equity Act (MHPAEA) and Market Conduct Examination Guidelines (MCEG) Working Groups coordinate to update the Market Regulation Handbook to align with new federal guidance. In addition to the comments below, ABHW supports the comments submitted by AHIP.

ABHW is the trade association that serves as the national voice for payers that manage behavioral health insurance benefits. ABHW member companies provide coverage to approximately 200 million people in both the public and private sectors to treat mental health, substance use disorders, and other behaviors that impact health and wellness. For more than two decades, ABHW

has supported mental health and substance use disorder parity and our members work vigorously to understand and implement MHPAEA.

One of ABHW's objectives with MHPAEA implementation is to have uniformity among regulators at the federal and state level. We believe a unified interpretation of MHPAEA and approach to assessing compliance would be beneficial to consumers, providers, employers, insurers/health plans, and regulators. Given the significantly increased activity around MHPAEA compliance this past year; and the forthcoming federal proposed rule, updated U.S. Department of Labor Self-Compliance Tool, and the Department of Labor, Department of Health and Human Services, and the Department of the Treasury (collectively the Tri-Departments) Report to Congress, we urge NAIC to wait to finalize the proposed updates to Chapter 24B until the aforementioned documents have been finalized.

Insurers and payers are working diligently to ensure compliance with the evolving federal reporting requirements pursuant to the Consolidated Appropriations Act (CAA) while simultaneously keeping up with the changes introduced at the state level. The lack of uniformity between state and federal requirements leads to confusion when preparing the non-quantitative treatment limitations (NQTL) analyses. As such, we strongly urge NAIC to completely align its reporting template with the U.S. Department of Labor's Self-Compliance Tool for MHPAEA, along with federal guidance, and remove any unnecessary or contrary items such as additional required documentation.


The Tri-Departments have committed to issuing further guidance on CAA implementation. In their recent FAQs, the Tri-Departments indicated that using the DOL Self-Compliance Tool will put plans and issuers "in a strong position to comply with the CAA's requirement." Therefore, any additional requirements would be unnecessary for CAA compliance. The proposed documents to be submitted for review in Chapter 24B go well beyond the current DOL Self-Compliance Tool and CAA requirements and should therefore be removed.

ABHW members strive to ensure access to behavioral health services and are committed to meeting MHPAEA compliance requirements. The CAA provides a foundation for improved compliance by codifying the NQTL comparative analysis requirements from the DOL Self-Compliance Tool, thus clarifying for both states and insurers/plans the NQTL reporting requirements. Since this is

an evolving issue, we strongly encourage NAIC to align its handbook revisions to mirror federal standards in totality and not add additional documentation.

Thank you for the opportunity to provide our comments on parity compliance. If you would like to discuss our comments, I can be reached at [greenberg@abhw.org](mailto:greenberg@abhw.org).

Sincerely,

A handwritten signature in cursive script that reads "Pamela Greenberg".

Pamela Greenberg, MPP  
President and CEO

Attachment: AHIP's comments

cc via email to: Ms. Petra Wallace, Ms. Lois Alexander, and Mr. Joe Tuschner