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President and CEO

Ambassador (ret.) Barry B. White
Chairperson of MAMH Board of Directors

July 1, 2022

The Honorable Adrian Madaro
Chair, Conference Committee
24 Beacon Street, Room 134
Boston, MA 02133

The Honorable Julian Cyr
Chair, Conference Committee
24 Beacon Street, Room 312-E
Boston, MA 02133

The Honorable Denise Garlick
Vice Chair, Conference Committee
24 Beacon Street, Room 238
Boston, MA 02133

The Honorable Cindy Friedman
Vice Chair, Conference Committee
24 Beacon Street, Room 208
Boston, MA 02133

The Honorable Hannah Kane
Ranking Minority Member
House Committee on Ways & Means
24 Beacon Street, Room 167
Boston, MA 02133

The Honorable Bruce Tarr
Ranking Minority Member
Senate Committee on Ways & Means
24 Beacon Street, Room 308
Boston, MA 02133

Dear Chairs Madaro and Cyr, Vice Chairs Garlick and Friedman, The Honorable Hannah Kane and The Honorable Bruce Tarr:

Re: Behavioral Health Provisions of S.2584 and H.4891 before the Conference Committee

On behalf of the Massachusetts Association for Mental Health (MAMH), thank you for your ongoing leadership in addressing the needs of people with behavioral health (BH) conditions and their families. This has been an exciting year for advocates for mental health and substance use issues. Among other pivotal developments, we are grateful for the multiple opportunities to meet with members of the Joint Committee on Mental Health, Substance Use and Recovery and other concerned legislators to discuss provisions for inclusion in a mental health omnibus bill.

We are thrilled that both the House and Senate have produced such comprehensive and thoughtful bills to address the outstanding BH needs of people across the Commonwealth. We are also pleased that many of our priorities are effectively addressed in both bills. Our Appendix to this letter notes MAMH priorities that fall into that category.

As you engage in the Conference Committee process, we request that you to consider MAMH's position, outlined below, where the bills differ. In addition, as a member of the Executive Committee of the Children's Mental Health Campaign, we ask that you also consider favorably the Campaign's recommendations. Finally, we endorse the positions of Health Law Advocates, with respect to parity enforcement and consumer protections in these two bills.

Office of Behavioral Health Promotion and Prevention

We support the Senate provisions

- establishing an Office of Behavioral Health Promotion and Prevention within the Executive Office of Health and Human Services (EOHHS) to perform these tasks. S. § 2.
- tasking the Office with ascertaining the mental health needs of veterans. S. § 2.

988 Implementation

We support the Senate provisions

- including a provision that the commission's funding recommendation may include recommendations for the establishment of user fees. S. § 2
- requiring the promotion of 988 on student ID cards and on signage where there have been known suicide attempts. S. § 2.

911 Expansion

We support the House provisions

- expanding the existing State 911 Commission to include the MA Office of Disability, Department of Mental Health (DMH), Department of Public Health (DPH), Commission on Deaf and Hard of Hearing, Association for Behavioral Health member organization/Emergency Service Program provider, and a person with lived BH experience and interactions with the police. H. § 6.
- expanding the existing Public Safety Answering Point (PSAP) grant program to include PSAPS that provide mobile BH crisis response. H. § 7.
- requiring the PSAP system to be able to handle requests from people with disabilities and people with BH conditions. H. § 8.
- directing the State 911 Department to create a statewide disability indicator form which a person may complete and submit to the department to notify primary and regional PSAPs of certain disabilities. H. § 8A.

We support the Senate provision

- directing the state 911 department to update state regulations on certification requirements for enhanced 911 telecommunicators and to integrate training on identification of and response to callers experiencing BH crises. S. § 69.

Health Policy Commission (HPC) and Center for Health Information Analysis (CHIA) Reporting

We support the Senate provisions

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- requiring HPC public hearings of the HPC to examine trends in annual BH expenditures, S. § 3.
 - requiring the HPC to include data on such expenditures in its annual report. S. § 4.

Access to Care

- *We support the Senate provision* placing "**licensed supervised mental health counselor**" in the definition of licensed mental health professionals so they may be available during all operating hours of an Emergency Department (ED). S. § 23.
- *We support the House provision's* proposed G.L. 111, § 51L requiring that **acute-care hospitals and satellite emergency facilities ensure that all policies and protocols developed be applied and implemented in a way that does not discriminate** between patients presenting with a BH condition and patients presenting with a medical or surgical condition. H. § 29.
- *We support the Senate provision* in § 34 applying the provision regarding **applied BH clinic rates** to "community behavioral health centers," a clinic licensed by DPH pursuant to G.L. c. 111, §§ 3, 56-56, over the House provision in § 32 applying the provision to "community mental health centers," a clinic which provides comprehensive ambulatory mental health services and which is not financially or physically an integral part of a hospital. S. § 34.
- *We support the House provision* allowing for **coverage of dependents with disabilities without regard to age**, so long as the dependent, who is covered under the membership of their parent as a member of a family group, is mentally or physically incapable of earning their own living due to disability. H. § 41.
- *We support the Senate provision* amending G.L. c. 176O, § 16 to require that **medical necessity and utilization management determinations** for treatment for substance use disorder or co-occurring mental illness and substance use disorder be made in accordance with American Society of Addiction Medicine criteria and to prohibit additional criteria unless less restrictive, to prohibit denials of coverage on the basis that treatment was court or agency-ordered, and to provide that such authorization shall be considered a factor in support of coverage. S. § 58.
- *We support the Senate provision* establishing a **special commission to study medical necessity determinations** for BH and recommend standards for those determinations. S. § 61.
- *We support the House provision* requiring **MassHealth to cover postpartum depression screenings** during a pediatrician visit up to one year after the child's date of birth. H. § 70.
- *We support the Senate provision* establishing a **standard release form advisory group** under the Health Policy Commission to recommend a form including for digital use. S. § 62.
- *We support the Senate provision* establishing a **special commission to review barriers to accessing mental health services**. S. § 63.

Parity Enforcement/Consumer Protections

- *We support the Senate provision* requiring the Division of Insurance to conduct independent **market conduct examinations** of commercial insurance carriers regarding compliance with federal parity law (over the H. § 19 provision). S. § 14.
- *We support the Senate provisions*
 - ensuring that **MassHealth is held to the same standard under current parity law** as commercial insurers and GIC plans. S. § 36.
 - requiring **MassHealth to conduct independent examinations**, similar to market conduct examinations, of their plans regularly to look for violations of parity laws. S. § 36.
 - allowing **MassHealth the discretion to highlight any policy or practice that is found to violate parity** as an illustrative tool for other plans (lines 1311-1325). S. § 36.
- *We oppose House provisions* that **introduce a different and contradictory state law standard for compliance with federal parity law** with respect to
 - commercial carrier parity self-assessment under proposed G.L. c. 26, § 8M(a)(4). H. § 20 (lines 772-783).
 - MassHealth parity self-assessment under proposed G.L. c. 118E, § 16C(6). in H. § 33 (lines 1223-1237).
 - MassHealth plans' parity self-assessment under proposed G.L. c. 118E, § 80(c)(6). H. § 35 (lines 1331-1343).
- *We support the Senate provision amending the internal grievance processes* to require insurance carriers to acknowledge receipt of an appeal and to send answers to an appeal with some proof of delivery (and we oppose the H. § 48 provision). S. § 50.
- *We support the Senate provision* establishing a two-business-day time frame for **notice if an expedited review affirms a denial** (over the H. § 48 provision of five days). S. § 51.

Complex Case Review

We support the House provision

- establishing a fund to support the operation of a new Complex Cases Interagency Review Team, co-chaired by the EOHHS Secretary or designee and the Department of Elementary and Secondary Education (DESE) Commissioner or designee. H. § 3.
- requiring EOHHS and DESE to issue regulations for the interagency review teams within ninety days. H. § 62.

Parity of Insurance Coverage

- *We support the Senate provision* requiring **GIC plans to cover annual mental health wellness examinations** with no patient cost-sharing. S. § 18.

School Behavioral Health

We support the House provisions establishing

- **A statewide program to implement BH services and supports in school districts**, including consultation, coaching and technical assistance, implemented by EOHHS and DESE. H. §4.
- **A requirement that alternative remedies be tried and their use and results documented before student suspension.** H. § 25A.
- **A requirement that the Department of Early Education and Care develop performance standards to curtail preschool suspension and expulsion.** H. § 15.
- **A student stakeholder advisory commission to DESE on school-based mental health and well-being programs.** H. § 69.
- **School medical emergency response plans.** H. §§ 25, 26.

Youth Behavioral Health

We support the House provisions

- allowing the **Child Advocate to receive complaints from children not in the care of the commonwealth**, and to assist in ensuring access to BH services. H. § 16.
- requiring the **Department of Children and Families (DCF) to ensure BH screening and referrals** for children entering care. H. § 36.

We support the Senate provision

- establishing a **Childhood Trauma Task Force** within the Juvenile Justice Policy and Data Board to review the benefits and risks of utilizing available tools, protocols, and best practices for targeted or universal screening for childhood trauma for all children, including those entering foster care. S. § 12.

Mental Health Watch

- *We support the Senate provision* allowing a prisoner to initiate the request for transfer **within 24 hours of arrival on mental health watch**, requiring **any staff filing a petition for a prisoner do so within 8 hours of the request**; and requiring a **court clerk to forward a wrongly filed petition “forthwith”** to the appropriate court. S. § 39.

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- *We support the House provision* describing staff that may file a petition – “**an employee, representative, agent or other designee of the place of detention.**” H. § 38.

Workforce Development

- *We support the House provision* requiring a **BH advisory commission** to make recommendations for grant programs to be administered by DPH, in consultation with DMH, to enhance access to BH services and support a diverse BH workforce. H. § 56.
- *We support the Senate provision* amending **membership of the Board of Registration of Social Workers** to include the DCF Commissioner, the DMH Commissioner, a representative of an accredited school of social work, and a member representing underserved populations. S. § 9.

Red Flag Laws and Extreme Risk Protection Orders

- *We support the House provision* requiring DPH to administer an initiative to **increase public awareness of the state's red flag laws** making protection orders available in situations involving firearms. H. § 30.

Suicide Prevention

- *We support the Senate provision* directing DPH to conduct **suicide location data collection**. S. § 24.
- *We support the Senate provision* establishing within DPH a **suicide postvention task force** to address the aftereffects of a confirmed suicide. S. § 67.

Taunton State Hospital

- *We oppose the Senate provision* requiring DMH to establish a **BH ED relief pilot program** with at least 15 beds at Taunton State Hospital. Individuals seeking acute psychiatric inpatient care should be able to access that care in general and specialty hospitals just as those with other illnesses do. S. § 68.

Thank you very much for your consideration. Please do not hesitate to be in touch at dannamauch@mamh.org should you have any questions or would like additional information.

Sincerely,



Danna Mauch, PhD
President and CEO

c: The Honorable Ronald Mariano, Speaker, Massachusetts House of Representatives
The Honorable Karen Spilka, President, Massachusetts Senate

Appendix: MAMH Priority Provisions Contained in Both S. 2584 and H. 4891

Office of Behavioral Health Promotion and Prevention

We support the language common to both bills requiring an entity to advance behavioral Health (BH) promotion and wellness. H. § 1; S. § 2.

988 Implementation

We support the language common to both bills requiring interoperable technology between 988, 911, and 211 and creating a 988 Commission. H. §§ 4, 67; S. §§ 2, 75.

Emergency Department (ED) Boarding

- **ED Boarding Data Portal.** *We support the language common to both bills* requiring EOHHS to develop an online portal to access real-time data on youth boarding in EDs, awaiting disposition in care and custody of a state agency and awaiting discharge to a foster home or congregate or group care program. H. §§ 2, 66; S. §§ 1, 11, 73, 74.

Health Policy Commission (HPC) and Center for Health Information Analysis (CHIA) Reporting

- *We support the following language common to both bills* requiring:
 - The HPC to include data on BH expenditures in its annual cost trends report & hearing. H. § 9; S. §§ 3, 4.
 - The HPC, with DPH, DMH and DDS, to develop a pediatric BH planning report every three years. H. §§ 11, 64; S. §§ 6, 71.
 - CHIA's annual report must include costs, cost trends, price, quality, utilization, and patient outcomes related to BH service subcategories. H. § 12; S. § 7.
 - CHIA's annual cost trends report and continuing study on mental health/chronic pain/substance use disorder must include BH service subcategories. H. § 13; S. § 8.

Access to Care

- **Licensed mental health professionals available during all operating hours of an Emergency Department.** *We support the language common to both bills* requiring EDs to have mental health professionals available during operating hours to evaluate and stabilize patients, including through telemedicine. H. §§ 28, 68; S. §§ 23, 76.
- **Health insurance base fee schedules.** *We support the language common to both bills* requiring insurance carriers to set a minimum schedule of rates for behavioral providers, based on rates for similar licensure and location and requiring the Division of Insurance to issue regulations for the BH provider rate schedule within one year. H. §§ 47, 63, 66; S. §§ 49, 70, 74.
- **Applied BH clinic rates.** *We support the language common to both bills* requiring the Division of Medical Assistance to direct its managed care entities to pay minimum rates. H. § 32; S. § 34.

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- **Medical necessity determinations.** *We support the language common to both bills* amending G.L. c. 176O, § 16 to add requirements before a carrier or utilization review organization may amend or establish a medical necessity guideline, including a requirement for an assessment of the proposed limitation to show compliance with parity requirements. H. § 55; S. § 57.

Complex Case Review

We support the language common to both bills to create a process so youth with complex needs may better access appropriate care. S. § 13; H. §§ 3, 21, 62.

Parity of Insurance Coverage

We support the language common to both bills regarding mandated coverage for

- **Community based acute treatment (CBAT) and intensive community-based acute treatment (ICBAT).** H. §§ 22, 31, 40, 42, 43, 45 (adding G.L. c. 176G, § 4JJ); S. §§ 16, 33 (adding G.L. c. 118E, § 10O), 42, 44, 46, 48 (adding G.L. c. 176G, § 4KK).
- **Collaborative care.** H. §§ 17, 33 (adding G.L. c. 118E, § 10P), 42, 44, 46, 48; S. §§ 17, 33 (adding G.L. c. 118E, § 10P), 42, 44, 46, 48.
- **Annual mental health wellness exams.** H. §§ 24, 20, 42, 31 (adding G.L. c. 118E, § 10P), 45 (adding G.L. c. 176G, § 4LL); S. §§ 18 (adding G.L. c. 32A, § 31), 33 (adding G.L. c. 118E, § 10Q), 42, 44, 46 (adding G.L. c. 176B, § 4SS), 48 (adding G.L. c. 176G, § 4MM).
- **Emergency services.** H. §§ 24, 40, 42, 43, 45 (adding G.L. c. 176G, § JKK), (and definition in § 39); S. §§ 18, 40, 42, 44, 48.

Mental Health Care for Persons who are Incarcerated

- **G.L. c. 123, § 18.** *We support the language common to both bills* removing unconstitutional language in G.L. c. 123, § 18. H. § 37, S. § 38.
- **Mental Health Watch.** *We support the language common to both bills* establishing a procedure to petition for a transfer from mental health watch to a treatment facility. H. § 38; S. § 39.