Mental Health Matters:

Policy Framework on Workforce Mental Health

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The National Conference of State Legislatures is the bipartisan organization dedicated to serving the lawmakers and staffs of the nation's 50 states, its commonwealths and territories.

NCSL provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues, and is an effective and respected advocate for the interests of the states in the American federal system. Its objectives are:

- Improve the quality and effectiveness of state legislatures.

- Promote policy innovation and communication among state legislatures.

- Ensure state legislatures a strong, cohesive voice in the federal system.

The conference operates from offices in Denver, Colorado and Washington, D.C.

Overview

More than 1 in 5 Americans, or 50 million people, live with a mental illness. At the same time, 46% of Americans will meet the criteria for a mental health condition at some point in their lives. Before the COVID-19 pandemic, communities, states and employers were already facing strains on resources and their ability to provide adequate mental and behavioral health services. According to Mental Health America, over half (54.7%) of adults with a mental health condition did not receive treatment in 2019 and 2020. The pandemic exacerbated these preexisting issues, and nearly 90% of U.S. adults believe the country is facing a mental health crisis. Anxiety and depression symptoms, substance use rates, and deaths from alcohol and drug overdoses have all climbed in the last three years. At the center of this mental health crisis is a shortage of trained professionals to assist those in need. And the crisis appears to be deepening as state policymakers grapple with additional challenges, such as addressing the barriers to mental health services faced by various workers and populations, as well as the lack of mental health support within workplaces.

Where we work plays a significant role in our lives, as noted by the U.S. Surgeon General in the 2022 report Workplace Mental Health and Well-Being. "The COVID-19 pandemic brought the relationships between work and well-being into clearer focus," the report says, adding that workplace well-being has a direct impact on worker performance. Workplace health is public health, as it impacts individual workers, families, businesses and the U.S. economy. According to a 2018 CDC report, poor mental health and stress can negatively affect employees' productivity and performance, as well as their ability to communicate with colleagues. This, in turn, can lead to absenteeism, accidents and turnover, putting further strains on employers and employees. A Society for Human Resource Management (SHRM) study found that more than 40% of employees felt hopeless, burned out or exhausted since the start of the pandemic. Another SHRM study, The State of the Workplace 2022-2023, identifies mental health concerns as a major challenge for employers in the last year. Moving into 2023, human resources professionals place supporting employees with mental health issues and increasing mental health benefits as a top priority.

> ## Workplace Health as Public Health
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> "Workplace mental health and well-being is a critical priority for public health. It has numerous and cascading impacts for the health of individual workers and their families, organizational productivity, the bottom-line for businesses, and the U.S. economy."
>
> —U.S. Surgeon General
> Dr. Vivek Murthy

The behavioral health crisis is multifaceted and requires varied policy solutions. By considering existing efforts to promote parity, encourage the creation of workplace supports, meet the needs of underserved communities, and grow the behavioral health workforce, this framework aims to assist state policymakers in exploring various ideas to advance worker mental health.

Task Force on Workforce Mental Health Policy

The Mental Health Matters: National Task Force on Workforce Mental Health Policy was formed in response to the challenges states are facing around mental and behavioral health in the workplace. The group brought together state policymakers from across the country to hear from experts, learn from each other, and explore policy options to improve employment outcomes for people with mental health challenges and address the mental health workforce shortages.

The task force, which was created by the U.S. Department of Labor's State Exchange on Employment & Disability (SEED) and convened by The Council of State Governments (CSG) and the National Conference of State Legislatures (NCSL), consisted of four subcommittees, outlined below, which met twice in person and twice online. The at-large co-chairs and co-chairs of the four subcommittees kicked off the project at a meeting in Washington, D.C., in November 2022. Subsequent full task force meetings were held in January 2023 and April 2023.

Policy Themes

The Mental Health Matters Task Force developed a policy framework states can use to support workforce mental health policies in four categories:

- **Nondiscrimination, Parity and Benefits:** Enhancing nondiscrimination based on mental health, mental health parity, workers' compensation, short-and long-term disability insurance, paid sick and family leave, drug-free workplace provisions, and protections against adverse action for employees participating in treatment programs.

- **Workplace Care and Supports:** Developing infrastructure, telehealth, wellness programs, employee assistance programs and substance use supports, such as diversion programs and technical assistance guides.

- **Underserved Rural, Racial and Ethnic Communities:** Establishing task forces, offices or advisory councils, acknowledging and addressing health care disparities, and culturally tailored care.

- **Behavioral Health Workforce Shortages & State Resource Systems:** Addressing behavioral workforce shortages, in general, peer support specialists as health care extenders, state and local resources support systems for essential workers, and establishing behavioral health crisis service systems.

Policy Principles

The following principles, developed by the task force subcommittees, outline factors policymakers can consider when drafting and evaluating policies around mental health in the workplace.

- **Focus** on consumer-centered regulation and messaging to better inform workers of their rights.

- **Incentivize** behaviorally healthy workplaces, especially in the private sector.

- **Create** infrastructure to support behaviorally healthy workplaces by educating employers about reasonable accommodations for mental health conditions and increasing access to employer-provided telemental health coverage.

- **Provide** training and technical assistance to create inclusive workplaces to reduce stigma and boost employee recruitment and retention.

- **Examine** the accessibility of effective mental and behavioral health continuums of care, including wraparound services for under-resourced communities.

- **Identify** sustainable funding for mental and behavioral health services and ways to reduce silos and create more entry points into mental health services.

- **Establish** incentives and options for preventive care to mitigate further needs and reduce costs over time, as well as address long-term funding and sustainability of preventive care.

- **Create and strengthen** community and stakeholder engagement by ensuring underrepresented communities are involved in councils, task forces or agencies to reinforce equity, transparency and ongoing collaboration.

- **Establish and implement** a system to measure, evaluate and continuously improve community mental and behavioral health outcomes.

- **Determine** ways to recruit and maintain mental health professionals from under-resourced communities to reflect the communities they serve, such as by developing a pipeline for these workers, especially those serving in outpatient settings.

- **Improve** the quality, transparency and availability of workforce data by breaking down silos between agencies; developing resources and tools to ensure consistent data collection; and identifying trusted entities to house data collected.

- **Strengthen and diversify** high-quality behavioral health care education and training pathways by providing students with early exposure to behavioral and mental health careers; developing apprenticeship pathways as viable alternatives to traditional credentialing pathways; and permitting credit transfers between community colleges and universities.

- **Remove** barriers to entry into the mental and behavioral health workforce by identifying and addressing licensing challenges; examining certification standards related to immigration status; and developing other financial support systems.

- **Increase** retention by designing peer support models and programs; offering trauma-informed education; considering job-quality factors to avoid burnout; and supporting workforce satisfaction, well-being and resilience.

Policy Framework

The following section outlines the policy principles and overarching policy options for each policy theme, along with questions state policymakers should consider when crafting policies around mental health and employment.

Nondiscrimination, Parity and Benefits

Principle:

- Focus on consumer-centered regulation and messaging to better inform workers of their rights.

STRENGTHEN PARITY AND NONDISCRIMINATION LAWS

The Americans with Disabilities Act and regulations from the Equal Opportunity Employment Commission prohibit employers from discriminating against employees or job applicants based on physical or mental impairments. Mental health parity, or treating mental and behavioral health conditions and disorders as equivalent to other health conditions in insurance plans, is legislated at the federal and state levels. However, enforcement of the federal Mental Health Parity and Addiction Equity Act and the Affordable Care Act can be a challenge, and federal investigators often have a hard time proving parity violations. To address this, many states have enacted policies to strengthen these protections. Pennsylvania, Massachusetts and Illinois are a few states that have created state parity laws. States have also enacted policies to strengthen nondiscrimination of behavioral health in the workplace, including New Jersey, Virginia and Washington.

Other state strategies include increasing transparency and accountability for insurance companies, such as making the scope of insurance coverage more user-friendly and understandable, enhancing state enforcement tools and simplifying access to care.

Enhancing state enforcement tools could include clarifying the limits of federal preemption and the limits of state authority on insurance companies, collecting data on and analyzing private payers and Medicaid parity, and creating regulatory alignment between the state and federal enforcement. Pennsylvania passed a law in 2009 allowing the Insurance Department to audit and fine noncompliant insurance companies as it relates to issues of parity and nondiscrimination. In 2019, Wyoming enacted a measure requiring all state-regulated insurance plans to comply with the federal mental health parity laws of 2008. Massachusetts enacted legislation in 2022 to improve enforcement of parity laws by creating a clear structure for the Division of Insurance to receive and investigate parity complaints to ensure their timely resolution.

EXPAND WORKERS' COMPENSATION, PAID SICK LEAVE AND DISABILITY INSURANCE

Examining worker benefits, such as workers' compensation, paid sick leave and disability insurance, is another option for states to use in addressing discrimination and parity. Although mental health-related injuries are covered by workers' compensation to some extent, in at least 34 states, providing proof of the condition being work-related can be difficult. During and after the pandemic, some states expanded their workers' compensation laws, particularly for first responders and front-line workers. First responders have unique mental health considerations: 30% develop behavioral health conditions as compared with 20% of the general population. Arizona recently enacted legislation establishing a program for public safety workers to access counseling paid for by their employer. Illinois and Kansas both introduced bills this year requiring PTSD in first responders to be covered by workers' compensation. Minnesota introduced legislation this year to study ways to improve outcomes for people with work-related PTSD.

The pandemic also led more states to pass laws guaranteeing paid sick time. While many think of sick time as a benefit used only for physical illness, it also covers time spent obtaining treatment for mental health conditions. Fifteen states and Washington, D.C., currently mandate paid sick time.

EDUCATE CONSUMERS AND EMPLOYERS ABOUT THEIR RIGHTS AND RESPONSIBILITIES

Raising awareness and having a clear message for consumers were also of importance to this subcommittee. One way in which these could be addressed is through educating consumers around their rights and responsibilities and using plain language. In 1999, Connecticut created the Office of the Healthcare Advocate, which helps consumers understand their rights and responsibilities related to their health care plans and can assist in resolving disputes between consumers and insurers. Raising awareness among employers and policymakers around mental health parity was another priority for the subcommittee. In practice, this could be creating employer tools that help encourage preventive care, publishing information on reasonable accommodations and examples, and promoting the state as a model employer.

Below are several questions policymakers might consider as they evaluate mental health policies related to nondiscrimination, parity and benefits:

- What strategies can you use to enhance parity and nondiscrimination in your state? These may include strengthening enforcement of existing parity and/or nondiscrimination state laws.

Definitions

Parity: Mental health parity means treating mental health conditions and substance use disorders as equivalent to physical health conditions in insurance plans. The Mental Health Parity and Addiction Act of 2008 requires most health insurers and group health plans to provide the same levels of benefits for mental health conditions as they do for medical/surgical care.

Nondiscrimination: Federal law prohibits employers from discriminating against job applicants and employees based on mental or physical impairments. This includes providing reasonable accommodations for persons with these impairments.

- How can you encourage insurance companies operating in the state to provide greater transparency, accountability and consideration for the end-users? This may include rethinking communication strategies and user platforms.

- How can your state develop clear messaging and support employers in incentivizing preventive mental health care and education?

Workplace Care and Supports

Principles:

- Incentivize behaviorally healthy workplaces, especially in the private sector.

- Create infrastructure to support behaviorally healthy workplaces by educating employers about reasonable accommodations for mental health conditions and increasing access to employer-provided telemental health coverage.

- Provide training and technical assistance to create inclusive workplaces to reduce stigma and boost employee recruitment and retention.

As noted in the U.S. Surgeon General's Framework for Workplace Mental Health and Well-Being, "there are many ways that organizations can function as engines for mental health and well-being." Unfortunately, exhaustion, burnout and feelings of hopelessness are prevalent across all industries and workplaces, and those conditions were exacerbated in recent years by the pandemic. A 2022 study from the Society for Human Resource Management found that of the more than 50 million Americans with a mental illness, "only 46% have accessed mental health services." The study also states that many workers do not know where to turn within their organizations when they need mental health support from their employer. Although many of the strategies to address mental health in the workplace are implemented at the organizational level, this subcommittee discussed ways to encourage and incentivize healthy workplaces at the state level.

PROMOTE EMPLOYEE WELLNESS PROGRAMS AND DRUG–FREE WORKPLACES

In practice, strategies may include expanding and promoting employee wellness or assistance programs for state workers and/or incentivizing similar programs for private sector workers. Workplace wellness programs can help identify employees who are struggling and help connect them to treatment. For example, Kentucky and Oklahoma offer programs to state employees to promote stress management and emotional well-being. Illinois offers state workers access to an employee assistance program to help with various behavioral health issues, including alcohol and substance use disorders. North Dakota's Worksite Wellness Program provides resources and trainings to help businesses develop workplace wellness programs. Wisconsin offers an income and franchise tax credit for workplace wellness programs.

Drug-free workplace programs are another means through which employers can support worker mental health. These programs mandate drug testing and can reduce substance use among employees and identify employees who need treatment for substance use disorders. For more information, employers can utilize the Substance Abuse and Mental Health Services Administration's Drug-Free Workplace Toolkit.

PROMOTE AWARENESS OF REASONABLE ACCOMMODATIONS

Ensuring access to reasonable accommodations for employees with mental health conditions is another action states can take to support workers. More employers have already embraced remote and hybrid work since the pandemic because it allows greater flexibility, but telework also allows employees who could be triggered or distracted by certain factors in an office setting to access work from an alternative environment. Connecticut allows state employees to telecommute four days a week, and in Maine and New Jersey, agencies are granting remote work options to certain public employees.

Accommodations for employees with mental health conditions can also be made through small changes, such as providing private workspaces or white noise devices to reduce distractions. Raising employer awareness about simple but effective ways to accommodate employees' mental health needs can increase employee retention and recruitment. Additional information about accommodations can be found through the Job Accommodation Network.

Below are two questions policymakers might consider as they evaluate policies related to workplace care and supports:

- Are there ways in which your state incentivizes behaviorally healthy workplaces in the private and public sectors?

- Is your state a model employer when it comes to workplace care and supports? How can it become a model for the private sector?

Underserved Rural, Racial and Ethnic Communities

Principles:

- Examine the accessibility of effective mental and behavioral health continuums of care, including wraparound services for under-resourced communities.

- Identify sustainable funding for mental and behavioral health services and ways to reduce silos and create more entry points into mental health services.

- Establish incentives and options for preventive care to mitigate further needs and reduce costs over time, as well as address long-term funding and sustainability of preventive care.

- Create and strengthen community and stakeholder engagement by ensuring underrepresented communities are involved in councils, task forces or agencies to reinforce equity, transparency and ongoing collaboration.

- Establish and implement a system to measure, evaluate and continuously improve community mental and behavioral health outcomes.

- Determine ways to recruit and retain mental health professionals from under-resourced communities to reflect the communities they serve, such as by developing a pipeline for these workers, especially those serving in outpatient settings.

Social determinants of health, or social drivers of health, such as economic security, education, social support networks and stable housing, play a strong role in predicting health outcomes. As outlined by the U.S. Department of Health and Human Services, these drivers are:

- **Economic stability:** The connection between financial resources—income, cost of living, socioeconomic status—and health. This includes poverty, employment, food security and housing stability.

- **Educational access and quality:** The connections between and the factors that influence education, health and well-being. This includes early childhood education, educational attainment, language, literacy and quality of education.

- **Health care access and quality:** The connections between and the factors that influence people's access to and understanding of health services as well as their own health. This includes access to health care, health insurance coverage status and health literacy.

- **Neighborhood and built environment:** The connections between and the factors that influence where a person lives—housing, neighborhood, environment—and their health and well-being. This includes quality of housing, access to transportation, availability of healthy foods, air and water quality, and neighborhood crime and violence.

- **Social and community context:** The connections between and the factors that influence relationships and interactions with family, friends, co-workers and community members. There may be both positive (cohesion within a community, civic participation, etc.) and negative (discrimination or incarceration, etc.) factors that can impact connections for a person.

These social drivers of health can lead to mental and physical health disparities among ethnic, racial and socioeconomic groups. Research shows that negative social drivers disproportionately affect people of color and other minority groups. Members of these groups have less access to mental health services and are less likely to receive high-quality care when they are able to access it. This can be due to provider discrimination or lack of culturally competent care. Rural communities are also at a disadvantage when seeking care, as behavioral health workforce shortages, transportation barriers and social stigma are challenges present to a greater extent in rural communities than in urban areas.

INCREASE UNDERSTANDING OF CARE DISPARITIES WITH DATA

To effectively support underserved communities, some states have enacted legislation aimed at collecting data on mental health care disparities across various groups. Maine lawmakers directed the state health data organization to determine the best way to collect information to analyze racial disparities in health care. Washington requires health care data reports to cover patient demographics, income, language, health status and geography. Massachusetts called for a behavioral health workforce assessment specifically studying the availability of culturally competent providers. Collecting this data can help policymakers make informed decisions on how best to address mental health disparities in their states.

ENGAGE WITH COMMUNITY MEMBERS

Engagement from underrepresented communities is important to building trust and collaboration among government and rural and minority populations. This can be achieved through state task forces, councils, offices or advisory groups. In 2021, Vermont established an office of health equity and a health equity advisory committee. The committee members include people from ethnic, racial, rural and LGBTQ communities and are charged with advising the General Assembly on efforts to improve the health care system for underserved populations. Kentucky established the Commission on Race and Access to Opportunity in 2021, and in 2020, Utah created the Office of American Indian/Alaska Native Health and Family Services.

EXPAND TELEHEALTH ACCESS AND BROADBAND

Access to mental health services is critical for serving minority groups and rural populations. Expanding telehealth options is one way some states are creating more access, especially for those in rural areas where transportation and lack of medical professionals can be an impediment to care. In 2021, Arkansas and Idaho allowed the continuation of telehealth services that were created as a result of the COVID-19 pandemic.

To access telehealth services, consumers need reliable internet access, but that remains unreliable in many areas of the country. Recognizing this, states are investing in broadband infrastructure in underserved areas. As of October 2022, 43 states have pending or enacted legislation addressing lack of broadband accessibility. In 2021, Vermont and Colorado enacted legislation to accelerate community broadband deployment, citing disparities in accessing telehealth services as a growing concern.

Below are several questions policymakers might consider as they evaluate policies to support mental health in underserved communities:

- Does your state have multiple entry points into mental health services that meet the needs of every population and community?

- Does your state have ways to incentivize preventive care for all communities, and does it have the tools to measure and evaluate the effectiveness of mental health outcomes?

- Does your state actively recruit and retain mental health professionals from underserved communities to reflect the communities they serve?

Behavioral Health Workforce Shortages and State Resource Systems

Principles:

- Improve the quality, transparency and availability of workforce data by breaking down silos between agencies; developing resources and tools to ensure consistent data collection; and identifying trusted entities to house data collected.

- Strengthen and diversify high-quality behavioral health care education and training pathways by providing students with early exposure to behavioral and mental health careers; developing apprenticeship pathways as viable alternatives to traditional credentialing pathways; and permitting credit transfers between community colleges and universities.

- Remove barriers to entry into the mental and behavioral health workforce by identifying and addressing licensing challenges; examining certification standards related to immigration status; and developing other financial support systems.

- Increase retention by designing peer support models and programs; offering trauma-informed education; considering job-quality factors to avoid burnout; and supporting workforce satisfaction, well-being and resilience.

According to Mental Health America, there is one mental health provider for every 350 people in the United States, and as of June 2022, "over 152 million people lived in a mental health workforce shortage area." As the prevalence of mental and substance use disorders continues to climb, there is a growing strain on behavioral health care workers, who are dealing with large caseloads, burnout and elevated stress. Even before the COVID-19 pandemic, more than 50% of health professionals were feeling burnout and exhaustion. The pandemic has driven that number even higher, and half of all health care workers are reporting at least one symptom of mental health conditions, such as anxiety and depression. The virtual care platform Wheel published an article in 2021 outlining some of the challenges facing behavioral health workers. Specifically, three-quarters of surveyed psychiatrists reported burnout; 1 in 6 screened for depression; and over 90% of college counseling center practitioners reported burnout as well.

In response, states have begun considering ways to address the mental health of current health care workers, focusing on recruiting more workers in the mental health sector and incentivizing current providers to remain.

GATHER DATA AND PROMOTE OPPORTUNITY

Understanding the gaps and shortages in the mental and behavioral health workforce is one of the first steps to identifying how to address the workforce challenges. California, Minnesota and Pennsylvania lawmakers have completed or requested reports on the mental health workforce shortages in their states, including approaches to solving them. Bringing more workers into mental health professions is one strategy to address the shortages, and states are exploring several ways of doing this. For example, Idaho is promoting health care professions and increasing resources for training opportunities through its Behavioral Health Council. Washington state has created a behavioral health scholarship program for students who commit to going into a behavioral health profession, and a new behavioral health training facility is being established in the state. Tennessee is requiring state medical colleges and institutions to administer residency programs for psychiatrists.

EMBRACE NEW TOOLS

States are also utilizing new tools to increase access to emergency mental health care, notably in conjunction with the National Suicide Hotline, or 988 Lifeline. The 988 launch came with more than $432 million in federal funding, including $105 million from the American Rescue Plan Act. These grant funds give states flexibility to invest in various state-level programs to support 988 call centers and mental health professionals. Some states, including Virginia and Colorado, have also mandated telecommunications fees to support 988 programs.
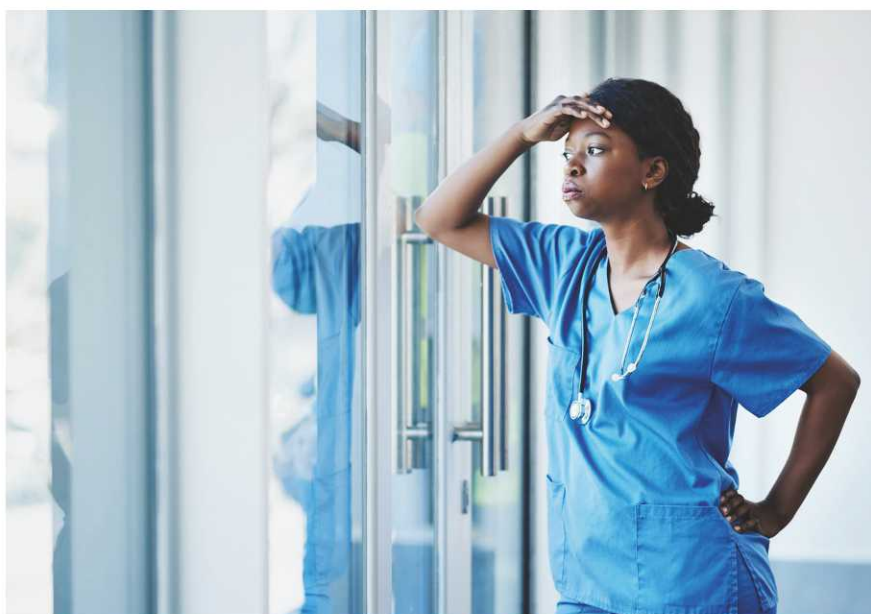
EMBRACE PEER SUPPORT SPECIALISTS

Some states are increasing the role and prevalence of peer support specialists. As nonclinical health professionals, peer support specialists brings their lived experience of mental illness or substance use disorders into a formal setting to support and advocate for those in recovery or facing a mental health challenge. Certification and training requirements vary by state, and part of the growth of the profession has been propelled by Medicaid reimbursement eligibility. At least 39 states currently allow Medicaid reimbursement for peer support specialists.

BREAK DOWN BARRIERS TO BEHAVIORAL HEALTH PROFESSIONS

Removing barriers to behavioral health professions is necessary to growing the workforce. Strategies could include examining licensing or certification requirements, which Nevada addressed in 2021. The legislation allows, among other things, social workers with certain qualifications to be licensed in behavioral health occupations. In 2022, California required the state Department of Health Care Services to report on the barriers to entry facing behavioral health professionals.

ADDRESS BURNOUT

Some states are finding opportunities to advance policies to combat behavioral health workforce fatigue and burnout by focusing on worker support and well-being. New York, Texas and Louisiana have created

mental health hotlines for behavioral health care workers. New York directed its commissioner of mental health to create a work group and corresponding report regarding front-line worker trauma. Vermont established the Emergency Service Provider Wellness Commission to recommend best practices for expanding mental health services available to emergency service providers.

Below are several questions policymakers might consider as they evaluate policies to address behavioral health workforce shortages:

- How does your state collect and track workforce data? Is the data accessible and transparent?

- Are there ways your state can retain and recruit behavioral health providers across the provider spectrum?

- Are there ways your state can expand apprenticeships and other training programs into behavioral health careers?

- Are there regulatory or structural barriers that prevent people in your state from working in behavioral health, and are there ways to address those barriers?

Conclusion

Tackling the mental and behavior health workforce challenges across the country is not an easy feat for state policymakers. However, as the Mental Health Matters Task Force stressed, the time for bold policy solutions is now. This policy framework is intended to assist policymakers in examining the various policy options and considerations that might fit best for their state. There are numerous promising practices underway nationwide, including addressing mental health parity; strengthening the recruitment and retention of the behavioral health workforce; ensuring all Americans have access to mental health care and benefits, regardless of income, race and location; and incentivizing healthy workplaces in the public and private sectors.

Acknowledgments

NCSL Contact:

elr-info@ncsl.org

NCSL

NATIONAL CONFERENCE OF STATE LEGISLATURES

7700 East First Place, Denver, Colorado 80230, 303-364-7700 | 444 North Capitol Street, N.W., Suite 515, Washington, D.C. 20001, 202-624-5400

ncsl.org