

RACIAL DISPARITIES IN MENTAL HEALTH TREATMENT: HOW INDIANA MISSES THE MARK IN PROVIDING ACCESSIBLE AND QUALITY TREATMENT AMIDST THE CORONAVIRUS PANDEMIC

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I. INTRODUCTION

Doctors, organizations, and citizens have expressed the importance of mental health, equating its significance to physical health.¹ Despite the numerous conversations about mental health, treatment continues to fall short.² This is especially the case for people of color.³ People of color are at a significant disadvantage in terms of access to quality mental health treatment.⁴ Living in poverty, lacking access to health insurance coverage, and discrimination by providers are just a few examples of how people of color struggle to receive quality mental health treatment.⁵

The coronavirus pandemic has exacerbated people of color's limited access to mental health care.⁶ While some providers have offered telemedicine as an alternative to in-person mental health treatment,⁷ this is not an accessible option for everyone.⁸ Those living in low-income households may lack the required technology to access telemedicine,⁹ or the providers within a person's community

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1. See Nicole Spector, *Mental Health: How We've Improved and Where We Need to Do Better in 2020*, NBC NEWS (Jan. 10, 2020, 3:53 PM), <https://www.nbcnews.com/better/lifestyle/mental-health-how-we-ve-improved-where-we-need-do-ncna1108721> [<https://perma.cc/KF42-DM2H>].

2. *Id.*

3. *Person of Color*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/person%20of%20color> [<https://perma.cc/DQD2-A2LB>] (last visited Mar. 28, 2021) (“A person whose skin pigmentation is other than and especially darker than what is considered characteristic of people typically defined as white; a person who is of a race other than white or who is of mixed race.”).

4. See *Racism and Mental Health*, MENTAL HEALTH AM., https://www.mhanational.org/racism-and-mental-health#_ftn4 [<https://perma.cc/46KA-29XD>] (last visited Jan. 30, 2021).

5. *Id.*

6. Nirmita Panchal et al., *The Implications of COVID-19 for Mental Health and Substance Use*, KAISER FAM. FOUND. (Feb. 10, 2021), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/> [<https://perma.cc/RWQ4-NRTF>].

7. *Id.*

8. *Id.*

9. *Underserved Populations Least Likely to Use Telehealth Options*, GW TODAY (Dec. 3, 2018), <https://gwtoday.gwu.edu/underserved-populations-least-likely-use-telehealth-options> [<https://perma.cc/2MXS-M66Z>].

or health care network may not offer virtual mental health appointments.¹⁰ As a result, many people of color are developing mental health conditions as a result of social isolation and other stressors brought on by the coronavirus pandemic and are unable to receive mental health treatment.¹¹

It is imperative that health care providers and government officials review current legislation regarding mental health treatment to address inaccessibility, with an emphasis on inaccessibility for people of color. From there, legislation should be proposed that will better protect people of color and allow them easier access to quality mental health treatment. Programs that address accessibility and quality of mental health care for people of color should also be enacted to help increase the number of individuals who seek treatment. Not only will more people of color be seeking treatment, but they will also experience quality treatment that produces positive outcomes.

A. Issue: Racial Disparities in Mental Health Treatment

While white people experience reasonable accessibility and good quality mental health care, people of color still face great disparity in accessibility and quality.¹² These disparities include being discriminated against by providers, limited access to mental health resources due to being disproportionately poor and experiencing higher rates of persistent and chronic mental health conditions.¹³ The coronavirus pandemic has helped to intensify these disparities.¹⁴

1. Racial Discrimination by Providers

Discrimination by providers against people of color significantly contributes to the disparities in mental health treatment.¹⁵ Many providers have racial bias and are unable to properly treat a person of color in a non-discriminatory manner.¹⁶ Placing time constraints on when a person of color may receive mental health services or limiting the mental health resources for a person of color are just two ways in which providers choose to discriminate against people of color when they are seeking mental health services.¹⁷

10. *Id.*

11. See Dennis Thompson, *Mental Health 'Epidemic' Threatens Communities of Color Amid COVID-19*, U.S. NEWS (Feb. 26, 2021), <https://www.usnews.com/news/health-news/articles/2021-02-26/mental-health-epidemic-threatens-communities-of-color-amid-covid-19> [<https://perma.cc/A8RB-58JV>].

12. *Racism and Mental Health*, *supra* note 4.

13. *Id.*

14. Panchal et al., *supra* note 6.

15. Susan Fiske, *Stereotyping, Prejudice, and Discrimination*, in 2 THE HANDBOOK OF SOCIAL PSYCHOLOGY 357, 357 (McGraw-Hill 4th ed., 1998).

16. *Id.*

17. See Brian D. Smedley, *The Lived Experience of Race and Its Health Consequences*, 102 AM. J. PUB. HEALTH 933 (2012).

Cultural competence plays a pivotal role in racial discrimination.¹⁸ People of color are less likely to experience discrimination when seeking mental health treatment from culturally competent providers.¹⁹ Cultural competence allows providers to treat patients who are people of color based on their values and needs.²⁰ Culturally incompetent providers are unable to tailor services to a patient of color's needs, likely minimizing the positive effects of mental health treatment.²¹

2. People of Color Are Limited in Their Access to Mental Health Due to Being Disproportionately Poor

Accessibility to mental health services is limited for people of color.²² The poverty rate for people of color is much higher than it is for white people.²³ Over 21% of black people and 17% of Hispanic people live in poverty, compared to 9% of white people.²⁴ People of color living in poverty often do not have access to health insurance, or to other resources that would make mental health treatment a feasible option for their household.²⁵ Racial and ethnic minorities may not have access to health services, may have to wait a long time to receive services, or may not receive the correct services that would create a positive mental health outcome.²⁶ People of color cannot benefit from receiving quality mental health care if they cannot access it.²⁷

3. People of Color Are More Likely to Suffer from Mental Health Illnesses

A person of color's mental health is greatly affected by provider discrimination and their limited access to mental health care. Research has found that black people experience higher rates of anxiety and depression as a result of provider discrimination, living in poverty, and their limited access to mental health care.²⁸ Also, people of color have higher rates of suicide than white

18. Fiske, *supra* note 15, at 360.

19. *Racism and Mental Health*, *supra* note 4.

20. *Id.*

21. *Id.*

22. *Id.*

23. *Poverty Rate by Race/Ethnicity*, KAISER FAM. FOUND, <https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> [<https://perma.cc/LH2N-KRUC>] (last visited Feb. 5, 2021).

24. *Id.*

25. Smedley, *supra* note 17, at 933.

26. *Id.* at 934.

27. *See id.*

28. Thomas A. Vance, *Addressing Mental Health in the Black Community*, COLUM. UNIV. DEP'T PSYCHIATRY (Feb. 8, 2019), <https://www.columbiapsychiatry.org/news/addressing-mental->

people.²⁹ Mental health conditions among people of color tend to be more persistent and the severity of the conditions increase over time.³⁰ In order to address the higher rates of mental health problems with people of color, the issues of discrimination, lack of access, and the numerous other barriers people of color face in mental health care must be resolved.³¹

4. COVID-19 Has Exacerbated Racial Disparities in Mental Health Treatment

COVID-19 disproportionately affects people of color.³² The “essential” workforce is mainly comprised of people of color, and people of color are more likely to become unemployed as a result of the pandemic.³³ As a result, many people of color either lack the time or the income to seek mental health treatment.³⁴ Despite the heightened levels of anxiety and stress in individuals in the U.S. due to the pandemic,³⁵ people of color continue to experience racial disparities in mental health care.³⁶ Not only is their physical health in danger, due to the higher rates of being exposed, but their mental health is at risk as well.³⁷

B. Indiana’s Lack of Legislation and How the State Compares to Others

In 2020, Indiana enacted legislation that requires the Behavioral Health Commission to release a report each year that evaluates access to mental health treatment, funding, mental health providers, and makes a comparison to other state and national programs.³⁸ Since this is new legislation, a report has yet to be released. Indiana offers no other legislation on racial disparities in mental health care, especially legislation that actively works on diminishing racial disparities in mental health treatment. The purpose of the Behavioral Health Commission is to evaluate access to treatment, but it is not specified whether they will offer

health-black-community [<https://perma.cc/3ZJY-Q8EQ>].

29. David R. Williams, *Stress and the Mental Health of Populations of Color: Advancing Our Understanding of Race-Related Stressors*, 59 J. HEALTH SOC. BEHAV. 466, 479 (2018).

30. *Id.* at 466.

31. *See id.*

32. *See Double Jeopardy: COVID-19 and Behavioral Health Disparities for Black and Latino Communities in the U.S.*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN. 1, <https://www.samhsa.gov/sites/default/files/covid19-behavioral-health-disparities-black-latino-communities.pdf> [<https://perma.cc/8QGC-RZB6>] (last visited Feb. 15, 2021).

33. Jeanna Smialek & Jim Tankersley, *Black Workers, Already Lagging, Face Big Economic Risks*, N.Y. TIMES (June 2, 2020), <https://www.nytimes.com/2020/06/01/business/economy/black-workers-inequality-economic-risks.html> [<https://perma.cc/6JLM-3GBL>].

34. *Id.*

35. *Id.*

36. *Double Jeopardy*, *supra* note 32.

37. *Id.*

38. IND. CODE § 12-21-7-1 (2020).

strategies or solutions to access barriers.³⁹ Due to the statute's enactment being so recent, it is likely that it will take several years for it to be effective, if it proves to be effective at all.⁴⁰

In comparison, many other states have drafted, proposed, and passed legislation relating to mental health care.⁴¹ Most of these bills recognized the existence of racial disparities and emphasized the rampant provider discrimination present in the mental health care system.⁴² The federal government has also attempted to enact legislation to improve mental health and limit the disparities in treatment that people of color experience.⁴³ Despite these attempts, few were enacted into law.⁴⁴ Those that were codified often did not produce the results intended.⁴⁵ In order for states, including Indiana, to improve the quality and access to mental health treatment, the federal government needs to take the necessary measures to address it.⁴⁶

C. The Coronavirus Pandemic and Its Role in the Shift Toward Telemedicine

COVID-19 has had a significant effect on access to mental health care.⁴⁷ Providers are shifting to the use of telemedicine to ensure that individuals still have access to healthcare.⁴⁸ “Telemedicine involves the use of electronic communications and software to provide clinical services to patients without an in-person visit.”⁴⁹ However, many providers use telemedicine for patients to use for appointments related to their physical health.⁵⁰ Fewer telemedicine appointments are available for mental health treatment.⁵¹

People of color are at a significant disadvantage in accessing quality mental health care through the means of telehealth.⁵² People of color disproportionately live in poverty and low-income areas, and often lack technology for telehealth to

39. *Id.*

40. *Id.*

41. *The Federal and State Role in Mental Health*, MENTAL HEALTH AM., <https://www.mhanational.org/issues/federal-and-state-role-mental-health> [<https://perma.cc/E942-SW3Q>] (last visited Mar. 28, 2021).

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. Panchal et al., *supra* note 6.

48. *Id.*

49. *What is Telemedicine?*, CHIRON HEALTH, <https://chironhealth.com/telemedicine/what-is-telemedicine/> [<https://perma.cc/G8HM-M5TU>] (last visited Sept. 30, 2020).

50. *Id.*

51. *Id.*

52. *Underserved Populations Least Likely to Use Telehealth Options*, *supra* note 9.

even be an option.⁵³ Providers within these communities or healthcare network also did not offer virtual mental health appointments.⁵⁴ Since many mental health care providers did not offer telemedicine as a means of receiving treatment, people of color were left to cope with their mental health conditions on their own.⁵⁵ The coronavirus pandemic has limited access to mental health services for people of color even though those services were severely limited prior to the pandemic.⁵⁶

II. BACKGROUND

A. The Growing Importance of Access to Mental Health Treatment

Mental health treatment in the U.S. has increased over the last decade as more of the U.S. population has recognized the importance of mental health and access to mental health care.⁵⁷ Before this, people only acknowledged and spoke of mental health when referring to severe mental illnesses.⁵⁸ Federal and state laws were enacted that recognize the importance of mental health and attempt to “[put] mental health on the same level as physical health.”⁵⁹ One piece of legislation is the Mental Health Parity and Addiction Equity Act of 2008 (“MHPAEA”).⁶⁰ MHPAEA prohibits health insurance plans and networks from limiting mental health benefits more than medical benefits for physical health.⁶¹ Another example of legislation that recognizes the importance of mental health is the Affordable Care Act of 2010 (“ACA”).⁶² The ACA discusses mental health in numerous aspects, including recognizing it as an “essential health benefit.”⁶³

In the last decade, the United States has seen tremendous growth in recognizing mental health as an essential health service and is reflected in their inclusion of it in legislation.⁶⁴ The ACA has expanded Medicaid coverage to over 37 million individuals.⁶⁵ Yet, this expansion did not improve the accessibility to

53. *Id.*

54. See Celeste Campo-Castillo & Denise Anthony, *Racial and Ethnic Differences in Self-Reported Telehealth Use During the COVID-19 Pandemic: A Secondary Analysis of a US Survey of Internet Users from Late March*, 48 J. AM. MED. INFORMATICS ASSN. 119 (2020).

55. *Double Jeopardy*, *supra* note 32.

56. *Id.*

57. Spector, *supra* note 1.

58. *Id.*

59. *Id.*

60. H.R. 6983, 110th Cong. (2008).

61. *Id.*

62. See Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119 (2010) (Codified as Amended 42 U.S.C. § 18001).

63. H.R. 6983.

64. *The Federal and State Role in Mental Health*, *supra* note 41.

65. See Patient Protection and Affordable Care Act of 2010.

mental health services.⁶⁶ People of color continue to struggle in accessing mental care treatment that will prove to be successful and is covered through their insurance.⁶⁷ This is an even more pressing issue for the people of color who were unable to retain health insurance and remain uninsured.⁶⁸

Legislation is not the only area in which mental health treatment is recognized. Social media has “played a positive role here as have influential people who are starting to speak more about their mental health, which helps to reduce the stigma.”⁶⁹ Through the sharing of personal mental health stories, other people have been able to understand and accept common mental health conditions.⁷⁰ The recognition and acceptance of mental health conditions by society also encourages those with mental health conditions to seek mental health services.⁷¹ It subsides their fear of being ridiculed for seeking help and allows them to relate to others in society who may be in the same or similar situation.⁷² This is especially important for people of color, as there is often a stigma around seeking mental health treatment.⁷³

Society also has much influence over addressing racism.⁷⁴ People of color have been advocating for equal rights for decades.⁷⁵ While progress has been made, many organizations and groups continue to fight against racism and educate others on the subject.⁷⁶ Racial trauma is a significant factor in a person of color’s mental health.⁷⁷ The eradication of racial violence and discrimination will significantly reduce the racial trauma people of color experience.⁷⁸ The discrimination people of color experience exists within mental health services, as providers racially discriminate against their patients of color.⁷⁹ By eliminating or greatly diminishing racism, society will also be significantly reducing racial disparities in mental health care.⁸⁰

66. *Id.*

67. Williams, *supra* note 29.

68. *Id.*

69. Spector, *supra* note 1.

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

74. See Alex Pieterse & Shantel Powell, *A Theoretical Overview of the Impact of Racism on People of Color*, in *THE COST OF RACISM FOR PEOPLE OF COLOR: CONTEXTUALIZING EXPERIENCES OF DISCRIMINATION* 11 (Alvin N. Alvarez et al. eds., 2016).

75. *Id.*

76. *Id.*

77. Monnica T. Williams, *Uncovering the Trauma of Racism*, *AM. PSYCH. ASS’N* (Feb. 13, 2019), <https://www.apa.org/pubs/highlights/spotlight/issue-128> [<https://perma.cc/7HYT-UAQV>].

78. *Id.*

79. Fiske, *supra* note 15.

80. *Id.*

B. History of Discrimination in Mental Health Treatment

People of color have experienced discrimination in health care treatment for decades.⁸¹ As such, this reflects the outcomes people of color receive from their mental health treatment.⁸² “Experiences of discrimination in healthcare settings may contribute to disparities in mental health outcomes for Blacks and Latinos.”⁸³ Because discrimination in mental health treatment is so prominent, the accessibility of mental health care is just the first of many obstacles people of color must face when they are in need of mental health treatment.⁸⁴ “Even when Blacks and Latinos do receive mental health/substance abuse services, they are more likely than Whites to obtain inappropriate diagnoses, drop out of treatment early, report less satisfaction with treatment, and receive inadequate or substandard care.”⁸⁵ Studies have shown that there are several factors that contribute to people of color not receiving quality mental health treatment.⁸⁶ These factors include lack of insurance, difficulty finding services that can be provided in their native language, and a sense of distrust toward healthcare professionals due to the “historical mistreatment in health care settings.”⁸⁷

Multiple studies show how disparate mental health treatment is between white people and people of color, that the disparities have worsened, and little progress is being made to correct these disparities.⁸⁸ In 2015, only 31% of black and Hispanic people received mental health services, compared to 48% of white people.⁸⁹ Factors contributing to the access to treatment include lack of insurance, stigma around mental illness, lack of mental health providers who are people of color, culturally incompetent providers, and distrust in the health care system due to misdiagnosis.⁹⁰ One study found that black men are over diagnosed with schizophrenia, as they four times more likely than white men to be diagnosed.⁹¹ Yet, they are underdiagnosed with posttraumatic stress disorder and mood

81. See Vickie M. Mays et al., *Perceived Discrimination in Healthcare and Mental Health/Substance Abuse Treatment Among Blacks, Latinos, and Whites*, 55 MED. CARE 173 (2017).

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*

87. *Id.*

88. See Thomas G. McGuire & Jeanne Miranda, *Racial and Ethnic Disparities in Mental Health Care: Evidence and Policy Implications*, 27 HEALTH AFF. 393 (2008).

89. *Mental Health Disparities: Diverse Populations*, AM. PSYCHIATRIC ASS’N, <https://www.psychiatry.org/psychiatrists/cultural-competency/education/mental-health-facts> [<https://perma.cc/C8N7-VR7H>] (last visited Jan. 30, 2021).

90. *Id.*

91. Tahmi Perzichilli, *The Historical Roots of Racial Disparities in the Mental Health System*, COUNSELING TODAY (May 7, 2020), <https://ct.counseling.org/2020/05/the-historical-roots-of-racial-disparities-in-the-mental-health-system/> [<https://perma.cc/L7AQ-YBZ>].

disorders.⁹² When people of color are diagnosed with a mental illness or disorder, they receive medication or therapy at a lower rate than white people.⁹³ Another study suggests that white mental health professionals, who make up 86% of licensed psychologists, are often culturally incompetent, leading to misdiagnosis of mental illness in people of color.⁹⁴ Cultural incompetence creates barriers, such as language differences or cultural presentations of symptoms, that limit a provider's ability to identify an explanation for misdiagnosis or from preventing a misdiagnosis.⁹⁵ As a result, "Black and African American people are more likely to experience chronic and persistent, rather than episodic, mental health conditions."⁹⁶

C. Telemedicine and Its Growing Presence

Telemedicine is "the use of technology (computers, video, phone, messaging) by a medical professional to diagnose and treat patients in a remote location."⁹⁷ There has been an increase in the use of telemedicine for mental health care in recent years.⁹⁸ This is due to the development of technology and the push to streamline delivering health care services and making the health care system more efficient.⁹⁹ Providers are able to treat more patients through telemedicine and can reach patients who are unable to travel to a provider's office.¹⁰⁰ Despite the rapid development of telemedicine, not all providers offer telemedicine or have plans to incorporate it into their practice of medicine.¹⁰¹

However, more mental health services are being offered through telemedicine due to the coronavirus pandemic.¹⁰² "The federal government and many states governments have expanded coverage of telemedicine and relaxed certain regulations to alleviate the impact of business closures and social distancing on access to needed care."¹⁰³ The Coronavirus Aid, Relief, and Economic Security

92. *Id.*

93. See *Racial/Ethnic Differences in Mental Health Services Among Adults*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN. 1 (Feb. 2015), <https://www.samhsa.gov/data/sites/default/files/MHServicesUseAmongAdults/MHServicesUseAmongAdults.pdf> [<https://perma.cc/F2EH-8JDF>].

94. See Perzichilli, *supra* note 91.

95. See *id.*

96. *Black and African American Communities and Mental Health*, MENTAL HEALTH AM., <https://www.mhanational.org/issues/black-and-african-american-communities-and-mental-health> [<https://perma.cc/KM43-LP39>] (last visited Jan. 30, 2021).

97. *What is Telemedicine?*, *supra* note 49.

98. Panchal et al., *supra* note 6.

99. *Id.*

100. *Id.*

101. *Id.*

102. *Id.*

103. *Id.*

Act (“CARES Act”) appropriated \$425 million to the Substance Abuse and Mental Health Services Administration (“SAMHSA”).¹⁰⁴ This funding helps alleviate the costs associated with offering telemedicine as a means for receiving mental health services.¹⁰⁵ By offering these funds to mental health care providers, the government is encouraging providers to use telemedicine to effectively treat patients and offer quality mental health resources amidst a pandemic where in-person visits are virtually impossible.¹⁰⁶ Despite the increase in use of telemedicine as a result of the coronavirus pandemic, telemedicine is still not accessible for everyone.¹⁰⁷ This is especially the case for people of color in low-income areas.¹⁰⁸ Those who are unable to obtain mental health resources for their mental health conditions must cope with the additional stressors that derive from the coronavirus pandemic, such as social isolation, lack of income, and fear of contracting or contracting COVID-19.¹⁰⁹

III. ANALYSIS

A. Racial Disparities in Mental Health Treatment

Several racial disparities in mental health care severely limit a person of color’s ability to obtain quality, accessible mental health treatment.¹¹⁰ The disparities are closely related, leaving it nearly impossible to solve one without addressing the others.¹¹¹ Without addressing the disparities people of color experience, such as racial discrimination, being disproportionately poor, higher rates of chronic mental health conditions, and the exacerbation of disparities due to the coronavirus pandemic, the mental health of people of color will continue to deteriorate.¹¹²

1. Racial Discrimination by Providers

Nearly 86% of licensed psychologists are white.¹¹³ Of those, research suggests that many have racial biases and stereotype their patients.¹¹⁴ “Many minority patients receive a lower quality of health care than Whites, even when

104. See Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

105. *Id.*

106. *Id.*

107. Campo-Castillo & Anthony, *supra* note 54.

108. *Id.*

109. *Id.*

110. Perzichilli, *supra* note 91.

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

access-related factors are controlled.”¹¹⁵ The bias and stereotyping of these providers create a sense of fear and mistrust among people of color.¹¹⁶ This may deter people of color from seeking treatment completely or may prevent a person of color from taking a provider’s advice.

Racism has been institutionalized in white people since before the founding of the United States.¹¹⁷ With this came scientific racism.¹¹⁸ Samuel Cartwright, an American physician in the nineteenth century, defined the word “drapetomania” as a mental illness that black people suffered from, causing them to seek freedom.¹¹⁹ Along with coining this term, Cartwright claimed that any black person who was free experienced mental illness at a higher rate than those who remained enslaved.¹²⁰ Even with a lack of evidence to support this claim, the U.S. census supported this claim, using it as “a political weapon against abolitionists.”¹²¹ As years progressed, people of color were subject to various medical experimentation and the mislabeling of their behavior.¹²² People of color, particularly black people, were viewed as angry, unwell, and hostile.¹²³ Rather than being provided with quality mental health treatment, black people were often incarcerated or institutionalized in state psychiatric hospitals.¹²⁴ This history of mental health treatment, or lack thereof, for people of color provides an explanation for why racial disparities in mental health care remain prominent presently. Years of people of color being ignored and mislabeled has contributed to the cultural incompetence of mental health providers, greatly inhibiting the dismantling of institutional racism and discrimination.

The cultural incompetence of mental health providers limits their ability to properly treat people of color. A provider must be able to “recognize and understand the role of culture . . . and the ability to adapt the treatment to meet the client’s needs within their cultural framework.”¹²⁵ Mental health providers can educate themselves and become well-versed in treating people of color and those who belong to different cultures by recognizing what they do not know and proceeding to ask questions.¹²⁶ By asking questions, mental health providers can then ensure they are meeting their client’s needs as well as future clients with similar concerns. If more mental health providers become culturally competent

115. Smedley, *supra* note 17.

116. *Black and African American Communities and Mental Health*, *supra* note 96.

117. Perzichilli, *supra* note 91.

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.*

125. Vance, *supra* note 28.

126. See Mona Shattell & Paula Brown, *Racism, White Privilege, and Diversity in Mental Health*, 55 J. PSYCHOSOCIAL NURSING & MENTAL HEALTH SERVS. 2 (2017).

when treating clients, it will greatly decrease the discrimination of people of color when seeking mental health treatment.

Psychiatrists and psychologists associations, such as the American Psychological Association have acknowledged the issue of racism in mental health treatment and developed guidelines to address it but have failed to offer solutions.¹²⁷ The guidelines include being aware of racial issues, adapting to the needs of people of color to properly address their concerns, and include an approach in treatment that addresses racism-related issues people of color experience.¹²⁸ For example, there is a stigma that seeking help for mental health issues is a sign of weakness.¹²⁹ It is imperative that mental health providers help dismantle this stigma and encourage those in need to seek help and put in the work to help improve their mental health.¹³⁰

2. People of Color Are Limited in Their Access to Mental Health Due to Being Disproportionately Poor

21% of black people and 17% of Latinx are living in poverty in the U.S., compared to only 9% of white and Asian people.¹³¹ Based on these statistics, people of color are more likely to be poor than white people. Lack of access to resources and experiencing additional stressors are two examples of how people of color who live in poverty experience disparities in mental health treatment.

Those living in poverty often lack the resources to access quality mental health care. Low-income people are less likely to have health insurance.¹³² Only 31% of low-income workers receive employer health care plans, compared to 58% of high-income workers.¹³³ When employers do not offer their low-income employees health care benefits, low-income workers are forced to receive healthcare elsewhere, leaving nearly 26% of low-income workers uninsured.¹³⁴ People of color are disproportionately affected by this since they are nearly twice as likely to live in poverty than white people are.¹³⁵ Black people are 1.5 times more likely and Hispanic people are 2.5 times more likely to be uninsured than white people.¹³⁶ Uninsured people of color living in poverty experience several

127. See Jude Mary Cénat, *How to Provide Anti-Racist Mental Health Care*, 7 LANCET PSYCHIATRY 929 (2020).

128. *Id.*

129. Shattell & Brown, *supra* note 126.

130. *Id.*

131. *Poverty Rate by Race/Ethnicity*, *supra* note 23.

132. See Ronald M. Andersen et al., *Access to Medical Care for Low-Income Persons: How Do Communities Make a Difference?*, 59 MED. CARE RSCH. & REV. 384 (2002).

133. Alanna Williamson et al., *ACA Coverage Expansions and Low-Income Workers*, KAISER FAM. FOUND. (June 10, 2016), <https://www.kff.org/report-section/aca-coverage-expansions-and-low-income-workers-issue-brief/> [<https://perma.cc/DU4M-CJQZ>].

134. *Id.*

135. *Poverty Rate by Race/Ethnicity*, *supra* note 23.

136. Samantha Artiga et al., *Changes in Health Coverage by Race and Ethnicity Since the*

barriers in access mental health care.¹³⁷ With no health insurance, they are forced to pay for most, if not all, medical expenses out of pocket.¹³⁸ Many choose to forego seeking any health treatment, including mental health care.¹³⁹ People of color living in poverty lack the necessary income to afford physical health care, not to mention mental health care.¹⁴⁰ Those who do choose to seek mental health care often receive care of lesser quality than those who are considered high-income.¹⁴¹ Reasons for this include racial discrimination and lack of coverage from their group or employee insurance plan.¹⁴² While some still choose to seek mental health care despite these reasons, others may be deterred from seeking treatment.¹⁴³ Quality mental health care is difficult to obtain if you are a person of color living in poverty, a glaring disparity in mental health treatment.¹⁴⁴

Low-income people of color have higher rates of behavioral and environmental factors to cope with.¹⁴⁵ Studies have shown that living in poverty can trigger depressive episodes, as people in poverty often experience more stressful situations than someone who lives above the poverty level.¹⁴⁶ Low-income Americans also experience higher rates of smoking, obesity, substance use, and chronic stress than higher income Americans.¹⁴⁷ With these additional stressors, low-income people of color are likely to experience higher rates of mental health issues.¹⁴⁸ Despite coping with mental health issues at a higher rate, low-income people of color face the difficulty in receiving quality mental health care, or mental health care at all.

ACA, 2010-2018, KAISER FAM. FOUND. (Mar. 5, 2020), <https://www.kff.org/racial-equity-and-health-policy/issue-brief/changes-in-health-coverage-by-race-and-ethnicity-since-the-aca-2010-2018/> [<https://perma.cc/XWM7-A543>].

137. Jennifer Tolbert et al., *Key Facts About the Uninsured Population*, KAISER FAM. FOUND. (Nov. 6, 2020), <https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/> [<https://perma.cc/QRG4-HS8Y>].

138. *Id.*

139. *Id.*

140. *Id.*

141. Andersen et al., *supra* note 132.

142. *Id.*

143. *Id.*

144. *Id.*

145. Dhruv Khullar & Dave Chokski, *Health, Income, & Poverty: Where We Are & What Could Help*, HEALTH AFF. (Oct. 4, 2018), <https://www.healthaffairs.org/doi/10.1377/hpb20180817.901935/full/> [<https://perma.cc/2UWM-QFMZ>].

146. See Krysia N. Mossakowski, *Is the Duration of Poverty and Unemployment a Risk Factor for Heavy Drinking?* 67 SOC. SCI. & MED. 947 (2008).

147. Khullar & Chokski, *supra* note 145.

148. See Jennifer Robinette et al., *Neighborhood Features and Physiological Risk: An Examination of Allostatic Load*, 41 HEALTH & PLACE 110, 110 (2016).

3. *People of Color Suffer More from Mental Illness*

Mental health conditions occur in people of color at about the same rate as white people.¹⁴⁹ However, cases of mental illness in black people and Latinx are often more severe and tend to last longer than other race groups.¹⁵⁰ In addition, people of color living in poverty are two times as likely to experience psychological distress than those living above the poverty level.¹⁵¹ Provider discrimination and living in poverty are both detrimental to a person of color's health and must be addressed in order to improve the severity and frequency of mental health illnesses among people of color.

Black people experience higher rates of anxiety and depression,¹⁵² and people of color have higher rates of suicide than white people.¹⁵³ The rate of people of color suffering from a serious mental illness has continued to rise from 2008 to 2018.¹⁵⁴ There are numerous reasons that contribute to the higher rates of chronic mental illnesses among people of color. Racial trauma significantly contributes to mental health conditions among people of color.¹⁵⁵ People of color are subject to microaggressions, racial violence, and oppression which all leave an effect on their mental health.¹⁵⁶ People of color are subjected to these actions frequently, making the mental health effects persistent. Living in poverty, which people of color experience at a higher rate than white people, is another factor that creates additional stressors for people of color.¹⁵⁷ There are many other factors that people of color subject to that create a lasting effect on their mental health.¹⁵⁸ Despite these numerous factors that have been identified, people of color continue to suffer with poorer mental health at an increasing rate and are limited in their treatment plan due to other racial disparities in mental health care.

4. *COVID-related Racial Disparities*

The coronavirus pandemic has created further mental health disparities for people of color. On a global scale, people are reporting higher levels of stress,

149. *Black and African American Communities and Mental Health*, *supra* note 96.

150. Williams, *supra* note 29.

151. See *Serious Psychological Distress in the Past 30 Days Among Adults Aged 18 and Over, by Selected Characteristics: United States, Average annual, Selected Years 1997-1998 through 2015-2016*, CTR. DISEASE CONTROL & PREVENTION (2017), <https://www.cdc.gov/nchs/data/has/2017/046.pdf> [<https://perma.cc/CC4E-MSRK>].

152. Vance, *supra* note 28.

153. Williams, *supra* note 29.

154. *Black and African American Communities and Mental Health*, *supra* note 96.

155. Kristen Rogers, *People of Color Face Significant Barriers to Mental Health Services*, CENT. NEWS NETWORK (Oct. 10, 2020), <https://www.cnn.com/interactive/2020/10/health/mental-health-people-of-color-wellness/> [<https://perma.cc/A9YT-ZKYC>].

156. *Id.*

157. *Poverty Rate by Race/Ethnicity*, *supra* note 23.

158. See generally Williams, *supra* note 29.

anxiety, and other mental health disorders.¹⁵⁹ There are several factors that contribute to the increase in mental health illnesses, specifically for people of color. First, an individual who has been exposed to COVID-19 or has had a close family member or friend exposed to COVID-19, often will experience a rise in stress or anxiety as a result.¹⁶⁰ Second, people of color make up a large proportion of the “essential” workforce, leaving them at a greater risk of exposure and less time to seek mental health treatment.¹⁶¹

30% of the confirmed cases of COVID-19 are black individuals, and another 14% are those who identify with multiple backgrounds.¹⁶² Black people make up nearly 13% of the U.S. population, but make up 25% of COVID-19 deaths.¹⁶³ “The latest overall COVID-19 mortality rate for black Americans is 2 times as high as the rate for whites and 2.2 times as high as the rate for Asians.”¹⁶⁴ This is partially due to a higher risk of chronic illnesses among people of color.¹⁶⁵ Due to the increased risk of contracting COVID-19, people of color are already disproportionately impacted by the COVID-19 pandemic.¹⁶⁶ This coupled with being deemed an “essential” worker or being furloughed, and the limited access and racial discrimination experienced when seeking mental health treatment, people of color’s mental health is likely to suffer more.

Being deemed as an “essential” worker amidst a pandemic is dangerous to one’s mental health. Since many of the essential workers are people of color, they are especially at risk for developing mental health disorders.¹⁶⁷ Not only do they have to cope with the fear of contracting COVID-19 but are often forced to cope in isolation to avoid putting their family and close friends at risk for exposure.¹⁶⁸ Quarantining and maintaining social distancing are two of the main ways to

159. Maria Cohut, *COVID-19: The Mental Health Impact on People of Color and Minority Groups*, MED. NEWS TODAY (May 18, 2020), <https://www.medicalnewstoday.com/articles/covid-19-mental-health-impact-on-people-of-color-and-minority-groups> [https://perma.cc/S68F-MA8E].

160. *Id.*

161. Smialek & Tankersley, *supra* note 33.

162. *Double Jeopardy*, *supra* note 32.

163. *Id.*

164. *The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U.S.*, AM. PUB. MEDIA RSCH. LAB, <https://www.apmresearchlab.org/covid/deaths-by-race> [https://perma.cc/359T-WBWK] (last updated Feb. 4, 2021).

165. See Shikha Garg et al., *Hospitalization Rates and Characteristics of Patients Hospitalized with Laboratory-Confirmed Coronavirus Disease 2019*, 69 MORBIDITY & MORTALITY WKLY. REP. 458 (Apr. 17, 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6915e3.htm?s_cid=mm6915e3_w#suggestedcitation [https://perma.cc/N7AH-U87G].

166. *BIPOC Communities and COVID-19*, MENTAL HEALTH AM., https://mhanational.org/bipoc-communities-and-covid-19#_edn10 [https://perma.cc/X2XV-AB8W] (last visited Feb. 15, 2021).

167. *See id.*

168. *Id.*

minimize being exposed to COVID-19.¹⁶⁹ While 29.9% of white people report that they are able to work from home, only 19.7% of black workers and 16.2% of Hispanic workers are able to do so.¹⁷⁰ More people of color are forced to go to work with the fear of being exposed to COVID-19 and are not provided adequate resources to cope with such stress. Not to mention, many people of color who are essential workers do not have time or funds to seek mental health treatment on their own.¹⁷¹ If not deemed as an “essential” worker, people of color are at greater risk of becoming unemployed.¹⁷² With no job, people of color often lack health insurance and an income to afford mental health care. Additionally, the shift to telemedicine for mental health care treatment has disproportionately affected people of color who live in poverty.¹⁷³ The coronavirus pandemic has greatly exacerbated the racial disparities in mental health care, despite the lives of people of color being at such a heightened risk.

*B. Indiana’s Legislation on Addressing the Disparities
in Mental Health Treatment*

Indiana Code section 12-21-7-2 created the Behavioral Health Commission to draft and share reports on behavioral health in Indiana.¹⁷⁴ The first report was due October 1, 2020.¹⁷⁵ The purpose of this commission is to “conduct an assessment of behavioral health in Indiana,”¹⁷⁶ as well as “[e]valuate barriers to mental health and substance use disorder treatment in Indiana...[which] must include an evaluation of the following: (A) Mental health systems. (B) Access to mental health systems. (C) Mental health providers. (D) Funding for mental health systems and providers.”¹⁷⁷ An assessment of these areas of mental health care allows officials to identify where Indiana’s mental health care systems fails in providing accessible, quality mental health care to all who need it.¹⁷⁸ The commission’s report will also determine how these failures specifically affect people of color.¹⁷⁹ The goal of the commission is also to “assess how age, race, and geographic location affect access to behavioral and mental health treatment.”¹⁸⁰

Indiana offers no other legislation that aims to improve people of color’s

169. *Id.*

170. Tiana Rogers et al., *Racial Disparities in COVID-19 Mortality Among Essential Workers in the United States*, WORLD MED. & HEALTH POL’Y 1, 2 (2020).

171. *Id.*

172. Smialek & Tankersley, *supra* note 33.

173. Campo-Castillo & Anthony, *supra* note 54.

174. IND. CODE § 12-21-7-2 (2020).

175. IND. CODE § 12-21-7-4(a)(1) (2020).

176. IND. CODE § 12-21-7-4(c)(1) (2020).

177. IND. CODE § 12-21-7-4(c)(2) (2020).

178. *See* IND. CODE § 12-21-7-4 (2020).

179. *Id.*

180. IND. CODE § 12-21-7-4(f)(6) (2020).

access to quality mental health care. Since the Behavioral Health Commission was enacted in early 2020, the commission has been unable to prove its effectiveness.¹⁸¹ Not to mention, the commission is in place to assess areas of behavioral health and to offer recommendations on how to improve or evolve the mental health care system, Indiana Code section 12-21-7-4 does not require the Behavioral Health Commission to enact any policies or laws that would require these improvements or developments be required. Recognizing disparities in mental health treatment is merely the first step in ensuring that all Hoosiers have access to mental health care and that the treatment they are receiving is quality care that will promote successful outcomes regardless of race. The State has failed to enact legislation that not only promotes, but requires equitable, accessible, and quality treatment to people of color.

C. How Indiana Compares to Other States' and Federal Legislation

Indiana is not the only state that has proposed mental health legislation. “During the 2017 legislative sessions, legislators in at least 19 states considered 74 bills related to behavioral health disparities.”¹⁸² The “vast majority of bills focused on raising awareness of behavioral health disparities or promoting cultural competency among providers or services.”¹⁸³ For example, Massachusetts considered H.B. 495, which “focused on quality improvements and also tied hospital reimbursement rates to their ability to reduce racial and ethnic disparities in health care.”¹⁸⁴ While this legislation was only proposed and not enacted, Massachusetts took a step in the right direction by acknowledging that providers do not provide the same mental health care to people of color as they do to white people and proposed legislation that would incentivize them. In Pennsylvania, the State adopted H.R. 141, “which focuses on mental health issues in the black community.”¹⁸⁵ Pennsylvania is acknowledging that mental health is prevalent in Black communities and that racial disparities limit the access to mental health care or hinder the quality of it.

The federal government has also attempted to enact legislation that will identify and address racial disparities in mental health by drafting H.R. 6637, the Health Equity and Accountability Act of 2020.¹⁸⁶ H.R. 6637 has not been passed since it was introduced in the House on April 28, 2020.¹⁸⁷ Unfortunately, it is unlikely that this bill will ever become law since it has been left untouched for so

181. IND. CODE § 12-21-7-2.

182. *The Costs and Consequences of Disparities in Behavioral Health Care*, NAT’L CONF. STATE LEGISLATURES (Feb. 2018), https://www.ncsl.org/Portals/1/HTML_LargeReports/DisparitiesBehHealth_Final.htm [<https://perma.cc/YDT3-4B6E>].

183. *Id.*

184. *Id.*

185. *Id.*

186. H.R. 6637, 116th Cong. (2020).

187. *Id.*

long. This bill would have been beneficial for eliminating disparities in the health care system, including mental health care.¹⁸⁸ The bill included multiple sections on mental health and the racial disparities currently present.¹⁸⁹ Section 604 of the H.R. 6637 discusses racial mental health disparities and how there are gaps in the studies pertaining to those disparities.¹⁹⁰ This section would have required the identification of where the research on racial mental health disparities is nonexistent or how research in certain areas of mental health may differ.¹⁹¹ By identifying these gaps, the federal government could have then determined a course of action for filling in those gaps to ensure that the racial disparities in mental health care are being properly researched and identified in their entirety.¹⁹² H.R. 6637 further addresses racial mental health disparities in Section 605.¹⁹³ Section 605 identifies the competency level of health professionals and their ability to properly address the racial and ethnic disparities in mental health care.¹⁹⁴ This would allow the federal government to see whether health professionals are working to solve the racial disparities or working against it.¹⁹⁵

Comparatively, Indiana fails to identify and address racial mental health disparities at the same level as other states' as well as the federal government.¹⁹⁶ The enactment of Indiana Code section 12-21-7-1 is a step in the right direction in terms of addressing racial disparities in mental health treatment.¹⁹⁷ However, more legislation and awareness are needed to ensure that the disparities identified by the Behavioral Health Commission are resolved in a manner that is beneficial to people of color.¹⁹⁸

D. Coronavirus, the Increased Presence of Telehealth and Its Effect on Access and Quality to Mental Health Treatment

The emergence of the coronavirus pandemic drastically affected the everyday life of the world population.¹⁹⁹ The risk of transmitting COVID-19 and the severity of the illness forced many countries to issue stay-at-home orders and

188. *Id.*

189. *Id.*

190. *Id.*

191. *Id.*

192. *Id.*

193. *Id.*

194. *Id.*

195. *Id.*

196. *Id.*

197. IND. CODE § 12-21-7-1 (2020).

198. *Id.*

199. *COVID-19 Overview and Infection Prevention and Control Priorities in Non-US Healthcare Settings*, CTR. DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/non-us-settings/overview/index.html> [<https://perma.cc/9XPR-FBYY>] (last updated Aug. 12, 2020).

implement safety procedures.²⁰⁰ In Indiana, Governor Eric Holcomb issued Executive Order No. 20-08, Directive for Hoosiers to Stay at Home.²⁰¹ This Executive Order ordered Indiana residents to stay at home beginning on March 24, 2020, and ending on April 6, 2020.²⁰² As COVID-19 continued to rapidly spread, Governor Holcomb extended the stay-at-home order under Executive Order No. 20-08 to April 20, 2020.²⁰³ He then issued another Executive Order that ordered Hoosiers to stay at home until May 1, 2020.²⁰⁴ As fewer cases were being reported, Governor Holcomb released “Back on Track Indiana,” a roadmap to reopen the State following the stay-at-home orders.²⁰⁵ COVID-19 cases continue to rise across the country, greatly affecting access to health care.²⁰⁶

The issuance of the stay-at-home orders forced many businesses to close, including many healthcare services.²⁰⁷ People were unable to obtain access to health care services that they needed, including mental health care.²⁰⁸ For people of color, gaining access to mental health care was already difficult.²⁰⁹ Those living in poverty may lack technology for telehealth to even be an option.²¹⁰ Or providers within their community or healthcare network did not offer virtual mental health appointments.²¹¹ In fact, “[o]nly 38 percent of community health centers – major health service providers for underserved populations – offered telehealth,” as a way for patients to receive health care services.²¹² The coronavirus pandemic made access even more difficult.²¹³ “Limited access to mental health care and substance use treatment is in part due to a current shortage of mental health professionals, which will likely be exacerbated by the COVID-19 pandemic.”²¹⁴

The coronavirus pandemic also created a higher demand for mental health services.²¹⁵ “People who were sheltering in place (47%) reported negative mental health effects resulting from worry or stress related to coronavirus among those

200. *Id.*

201. Ind. Exec. Order No. 20-08 (2020).

202. *Id.*

203. *Id.*

204. *Id.*

205. *What’s Open, What’s Closed?*, IN.GOV, <https://backontrack.in.gov/2348.htm> [<https://perma.cc/255L-8CHM>] (last visited Nov. 7, 2020).

206. *COVID-19 Overview and Infection Prevention and Control Priorities in Non-US Healthcare Settings*, *supra* note 199.

207. Panchal et al., *supra* note 6.

208. *Id.*

209. *Id.*

210. *Underserved Populations Least Likely to Use Telehealth Options*, *supra* note 9.

211. *Id.*

212. *Id.*

213. Panchal et al., *supra* note 6.

214. *Id.*

215. *Id.*

not sheltering-in-place (37%).”²¹⁶ “More than one in three adults in the U.S. have reports symptoms of anxiety or depressive disorder during the pandemic.”²¹⁷ With a higher demand and limited access to mental health services, many people were unable to obtain proper mental health care for their mental health conditions that were either brought on or exacerbated by the coronavirus pandemic.²¹⁸ Many of those who were fortunate to obtain mental health care, received such care through telemedicine.²¹⁹

The United States saw an increased use of telemedicine due to the stay-at-home orders issued across the country.²²⁰ Prior to this, telemedicine was not used as a common alternative to in-person health care services.²²¹ “However, recent policy changes during the COVID-19 pandemic have reduced barriers to telehealth access and have promoted the use of telehealth as a way to deliver acute, chronic, primary and specialty care.”²²² This included authorizing insurance providers to provide coverage for telemedicine.²²³

In Indiana, there are “staggering increases in the number of people seeking help for mental health and addiction during the coronavirus pandemic, state officials are encouraging Hoosiers to utilize telehealth.”²²⁴ To ensure that patients can obtain insurance coverage for mental health services through telemedicine, the State passed Indiana Code section 27-8-34-6.²²⁵ This statute provides that “a policy must provide coverage for telemedicine services in accordance with the same clinical criteria as the policy provides coverage for the same health care services delivered in person.”²²⁶ Telemedicine services for the purposes of this statute include behavioral health.²²⁷ However, there are troubling limitations to telemedicine insurance coverage in Indiana.²²⁸ Coverage may not be provided if the provider should deem the services as inappropriate.²²⁹ And for those with Medicaid coverage, “prior authorization is required for telehealth/telemedicine

216. *Id.*

217. *Id.*

218. *Id.*

219. *Id.*

220. *Using Telehealth to Expand Access to Essential Health Services During the COVID-19 Pandemic*, CTR. DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/telehealth.html> [<https://perma.cc/XFS9-BB6F>] (last updated June 10, 2020).

221. *Id.*

222. *Id.*

223. *Id.*

224. Elizabeth DePompei, *Virtual Therapy is Booming During the Pandemic. Here's What It's Like*, INDYSTAR (Apr. 8, 2020, 6:00 AM), <https://www.indystar.com/story/news/health/2020/04/08/what-you-need-know-telehealth-therapy-during-coronavirus-pandemic/5078096002/> [<https://perma.cc/28Y3-UD9E>]

225. IND. CODE § 27-8-34-6 (2015).

226. *Id.*

227. IND. CODE § 27-8-34-5 (2015).

228. IND. CODE § 27-8-34-7 (2015); § 27-8-34-6.

229. § 27-8-34-7.

services provided to Medicaid covered members.”²³⁰

Accessibility to telemedicine was the first obstacle health care providers and government officials had to face.²³¹ They then had to ensure that the mental health care and other health care services patients would receive through telemedicine would be quality care.²³² “Further action by policymakers and public health decision-makers is needed to build on these initiatives and supports the provision of Telemental Health services, throughout this crisis and beyond.”²³³ Mental health care should not be of lesser quality simply because it is being administered through telemedicine rather than in-person.

E. Solutions to Ending Racial Disparities in Mental Health Treatment

1. Legislation

Enacting legislation that ensures access to mental health care and requires providers to provide quality mental health treatment to people of color is one of the easiest ways in which the United States to greatly reduce or even eliminate racial disparities in mental health treatment.²³⁴ Very few states, including Indiana, have enacted legislation that does this, as well as the federal government.²³⁵ Should the federal government propose and enact legislation that works toward solving racial disparities in mental health care, states may feel the pressure to do so as well.²³⁶ While there is currently legislation that calls for research on and identifying racial disparities in the health care system, they offer no requirements or calls to action to eliminate such disparities.²³⁷

The enactment of the Affordable Care Act (“ACA”) expanded the number of people eligible for Medicaid, as well as declared mental health services and substance abuse care as essential health benefits.²³⁸ Over 37 million Americans who were uninsured were able to gain Medicaid coverage as a result of the ACA.²³⁹ This included people in Indiana, as the state chose to accept the Medicaid expansion.²⁴⁰ Many of these individuals were low-income and people

230. § 27-8-34-6.

231. See Emile Whaibeh et al., *Telemental Health in the Context of a Pandemic: The COVID-19 Experience*, 7 CURRENT TREATMENT OPTIONS PSYCHIATRY 198 (2020).

232. *Id.*

233. *Id.*

234. Artiga et al., *supra* note 136.

235. *The Federal and State Role in Mental Health*, *supra* note 41.

236. *Id.*

237. *Id.*

238. Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119 (2010).

239. *Id.*

240. *Status of State Action on the Medicaid Expansion Decision*, KAISER FAM. FOUND. (Feb. 12, 2021), <https://www.kff.org/health-reform/state-indicator/state-activity-around-expanding->

of color.²⁴¹ Many legislators believed that by expanding the number of individuals eligible for Medicaid, the racial disparities associated with access to health care would dissipate.²⁴² By ensuring that mental health services and substance use treatment were an essential health benefit that had to be provided within a health insurance plan, legislators expected mental health care to be easily accessible for people of color.²⁴³ Despite this expansion in 2010, mental health services did not become more accessible for people of color.²⁴⁴ Accessibility to insurance coverage does not alter the racial discrimination by providers.²⁴⁵ White patients are twice as likely than black patients to receive follow-up care after being discharged from an inpatient facility.²⁴⁶ Additionally, people of color who live in poverty may not have as many services available to them near their residence who accept their insurance plan.²⁴⁷ Expanding those who are eligible for Medicaid and other health insurance coverage did not eliminate racial disparities people of color experience in mental health care.²⁴⁸

The ACA failed to properly address accessibility to mental health care for people of color as it intended.²⁴⁹ Legislators must amend the ACA to address accessibility to mental health care, specifically for people of color. Enacting programs that help tailor the services to the patient is one way in making quality mental health accessible.²⁵⁰ This includes locations for facilities²⁵¹. Not all people of color, especially those who are uninsured and in poverty, live near facilities that offer mental health services.²⁵² Offering mobile mental health services or providing resources for telemedicine are two programs that can help ensure populations receive treatment without having to travel to the closest facility.²⁵³ The ACA should also emphasize the importance of tailoring services to the patient's preferences.²⁵⁴ It can do this by requiring mental health providers to collect data on each patient's mental health needs, their preferred treatment

medicaid-under-the-affordable-care-act/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D [https://perma.cc/65CC-9M48].

241. See Margarita Alegria et al., *Removing Obstacles to Eliminate Racial and Ethnic Disparities in Behavioral Health Care*, 35 HEALTH AFFAIRS 991 (2016).

242. *Id.*

243. *Id.*

244. *Id.*

245. *Id.*

246. See Nicholas J. Carson et al., *Quality of Follow-Up After Hospitalization for Mental Illness Among Patients from Racial-Ethnic Minority Groups*, 65 PSYCHIATRY SERV. 888 (2014).

247. Alegria et al., *supra* note 241.

248. *Id.*

249. *Id.*

250. *Id.*

251. *Id.*

252. *Id.*

253. *Id.*

254. *Id.*

options, and the barriers they face when seeking mental health treatment.²⁵⁵ This requirement would help ensure that people of color receive accessible, quality mental health care.²⁵⁶ Treatment options that are more tailored to the patient will help diminish the persistent mental health conditions that disproportionately affect people of color, as well as provider discrimination.²⁵⁷

By the federal government taking action and amending the ACA, they are encouraging other states to do so as well.²⁵⁸ Many states have adopted the ACA expansions thus far.²⁵⁹ Rather than drafting their own legislation, states can easily adopt the specific programs and initiatives enacted in the ACA. Since Indiana has adopted the Medicaid expansions in the ACA, they will likely codify these recommended programs should the federal government enact them.²⁶⁰ People of color residing in Indiana can then experience mental health services with easier accessibility that is tailored to their specific needs, greatly reducing the disparities they currently experience.²⁶¹

2. *Pressure from the Public*

Racism is very much prevalent in American society, but there has been an increase in demanding the recognition of racial injustices and elimination the discrimination people of color experience in their everyday life. One prime example of this is the Black Lives Matter movement.²⁶² The Black Lives Matter movement was created to put an end to violence and discrimination on black people, as well as ensuring equal accessibility.²⁶³ Americans continue to advocate for black people and ensuring that they are valued as much as white people are valued in society. As the movement continues to exponentially grow, it includes advocating for access to mental health care and demanding that the treatment they receive is of utmost quality.²⁶⁴

Society has caused for a push in recognizing the importance of mental health as well as normalizing seeking mental health treatment.²⁶⁵ Because of this, mental health has become an overwhelmingly important topic in American society.²⁶⁶ More American citizens are seeking mental health treatment and are therefore

255. *Id.*

256. *Id.*

257. *Id.*

258. *The Federal and State Role in Mental Health*, *supra* note 41.

259. *Status of State Action on the Medicaid Expansion Decision*, *supra* note 240.

260. *Id.*

261. *Id.*

262. BLACK LIVES MATTER, <https://blacklivesmatter.com/> [<https://perma.cc/BV95-LJZY>] (last visited Oct. 4, 2020).

263. *Id.*

264. *Uncovering the Trauma of Racism*, *supra* note 77.

265. *Underserved Populations Least Likely to Use Telehealth Options*, *supra* note 9.

266. *Id.*

more likely to see positive mental health outcomes.²⁶⁷ Mental health care has made great progress in terms of accessibility and quality as a result of the overwhelming discussions that occurred throughout the years in society.²⁶⁸ Society has great influence in dictating what should be made available to the people and how it is being delivered.²⁶⁹ American society is more than capable of pushing for the elimination of racial disparities in the mental health care system.²⁷⁰ Educating the public on the racial disparities that are actively occurring in the mental health care system may be beneficial in pressuring in governmental officials and health care providers to ensure that these racial disparities are immediately addressed.²⁷¹

In order to eradicate racial violence and discrimination, including in mental health care, the people must support it.²⁷² The public has the power to significantly reduce racial disparities in mental health treatment in several ways.²⁷³ The eradication of racial violence will decrease the number of people of color who experience racial trauma.²⁷⁴ Racial trauma contributes to the increased rates of mental health conditions.²⁷⁵ People of color will experience lower rates of chronic mental health conditions, which will likely decrease the amount of treatment they need to receive.²⁷⁶ Addressing racism will also address the disproportionate number of people of color who are considered low-income.²⁷⁷ More people of color will likely gain access to affordable housing and higher paying jobs, as their opportunities will be the same as white people.²⁷⁸ Access to affordable housing and better job opportunities offers better insurance coverage and better mental health programs.²⁷⁹ Better mental health programs offer services tailored to a person of color's needs by a culturally competent provider.²⁸⁰ None of these solutions are plausible without society pressuring legislators to enact laws that discuss these programs in-depth.²⁸¹

267. *Id.*

268. *Id.*

269. *Id.*

270. *Id.*

271. Alegria et al., *supra* note 241.

272. Michael P. Jaycox, *The Black Lives Matter Movement: Justice and Health Equity*, HEALTH PROGRESS (Nov.-Dec. 2016), <https://www.chausa.org/publications/health-progress/article/the-common-good/the-black-lives-matter-movement-justice-and-health-equity> [<https://perma.cc/4N2Z-6MVT>].

273. *Id.*

274. *Uncovering the Trauma of Racism*, *supra* note 77.

275. *Id.*

276. *Id.*

277. Jaycox, *supra* note 272.

278. *Id.*

279. *Id.*

280. *Id.*

281. Alegria et al., *supra* note 241.

3. *Improvements in Accessibility to Mental Health Care*

The quality of mental health care does not matter if it is not accessible.²⁸² On the local and state level, officials and community members can actively work toward improving accessibility to mental health care for people of color in addition to eradicating racism.²⁸³ This can include providing adequate resources to people of color and ensuring that people of color are being made aware of the resources that are available to them.²⁸⁴ This is especially necessary in low-income areas.²⁸⁵ Many households who lack insurance coverage and the financial resources to obtain mental health services may not be aware of free or low-cost mental health services.²⁸⁶ Many Americans are also not made aware of the telemedicine services that are available amidst the coronavirus pandemic.²⁸⁷ Local and state officials and community members should be broadcasting telemedicine as an option for receiving mental health services, as well as encourage providers to use telemedicine within their practice.

Establishing and advertising free or low-cost mental health care facilities in communities where people of color lack the resources to seek mental health treatment is one way in which the accessibility of mental health care can be improved.²⁸⁸ There are currently clinics located across the U.S. that offer health services at little to no cost for individuals who are not eligible for Medicare and Medicaid and have no health coverage.²⁸⁹ However, not all of these clinics offer mental health services.²⁹⁰ It is imperative that more of the free to low-cost facilities be established in areas where people of color would typically not have access to such resources. These facilities should also be required to offer mental health services. The ACA recognizes mental health care and substance use treatment as an essential health benefit and should be accessible to any person who is in need of it, regardless of health insurance coverage.²⁹¹

Success has been seen in communities that have offered mental health services within programs that also offer housing and employment.²⁹² Low-income people, which are predominately people of color, “are more likely to adhere to behavioral interventions when these are combined with community resources that

282. *Id.*

283. *The Federal and State Role in Mental Health*, *supra* note 41.

284. Alegria et al., *supra* note 241.

285. Khullar & Chokski, *supra* note 145.

286. *Id.*

287. Campo-Castillo & Anthony, *supra* note 54.

288. *See Paying for Care*, MENTAL HEALTH AM., <https://www.mhanational.org/paying-care> [<https://perma.cc/LCJ7-7SUD>] (last visited Feb.17, 2021).

289. *Id.*

290. *Id.*

291. Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119 (2010).

292. Alegria et al., *supra* note 241.

attend to basic social needs.”²⁹³ People of color do not only lack accessibility to mental health care, but also accessibility to other social programs, such as housing, employment, and other health care services.²⁹⁴ More people of color will seek out these programs if they are all available at the same place rather than having to take the time to seek out each service individually.²⁹⁵ Not to mention, there is a stigma around seeking mental health treatment among people of color.²⁹⁶ By seeing these resources readily available with other programs that do not have a stigma around them could encourage people of color to seek mental health treatment that they normally would not pursue.²⁹⁷

Providers, as well as community leaders should be encouraging their patients and residents to seek mental health care. Many people of color, especially those living in poverty, are unaware of the mental health resources that are available to them.²⁹⁸ Eliminating provider discrimination will not have an effect if they are not treating patients who are people of color.²⁹⁹ Along with the proper discrimination training, providers should also be educated on how to effectively reach people of color and successfully persuading them to seek mental health care.³⁰⁰ One recommendation to increase the number of people of color who seek mental health treatment is to establish patient and family boards.³⁰¹ These boards should include a diverse group of members who can report feedback on initiatives that are in place to reduce disparities and offer solutions to resolve any remaining disparities.³⁰² People of color who see that their disparities are being acknowledged and are in the process of being solved by a diverse board of members are more likely to seek treatment from those facilities.³⁰³

IV. CONCLUSION

Mental health care has grown exponentially in recent decades.³⁰⁴ More people are seeking treatment and society is recognizing mental health conditions and the importance of accessible mental health care.³⁰⁵ More insurance providers are providing coverage for mental health services, and government officials are actively working toward making mental health services accessible for all.³⁰⁶

293. *Id.* at 8.

294. *Id.*

295. *Id.*

296. *Id.*

297. *Id.*

298. *Id.*

299. *Id.*

300. *Id.*

301. *Id.*

302. *Id.*

303. *Id.*

304. *Underserved Populations Least Likely to Use Telehealth Options*, *supra* note 9.

305. *Id.*

306. *The Federal and State Role in Mental Health*, *supra* note 41.

However, there are many racial disparities in mental health treatment, which have been aggravated by the coronavirus pandemic.³⁰⁷ Mental health services are not as accessible due to stay-at-home orders and business closures, and more people are suffering from mental health conditions due to stressors brought on by COVID-19.³⁰⁸ Mental health care providers continue to discriminate against people of color when administering treatment, greatly affecting the outcomes.³⁰⁹

The United States has failed to eliminate the racial mental health disparities and has offered very little legislation to work toward doing so.³¹⁰ Indiana, like many other states, has failed as well.³¹¹ Indiana offers one piece of legislation about racial mental health disparities, with no requirements to improve or develop policies to eradicate the disparities.³¹² Legislation, pressure from the public, and educating people of color on the resources currently available are imperative in solving the issue of racial disparities in mental health treatment.³¹³ It will be a long process to resolve the decades of systematic racism that has been instilled in the U.S., but there are many solutions that have been recommended that need to be implemented to begin the process.³¹⁴

307. *Racism and Mental Health*, *supra* note 4.

308. Panchal et al., *supra* note 6.

309. Fiske, *supra* note 15.

310. *The Federal and State Role in Mental Health*, *supra* note 41.

311. *Id.*

312. IND. CODE § 12-21-7-1 (2020).

313. Alegria et al., *supra* note 241.

314. *Id.*