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***Healthcare Groups Request Review of Three-Judge Panel's Ruling in
Wit v. United Behavioral Health***

WASHINGTON, D.C. (May 16, 2022) — The National Association for Behavioral Healthcare (NABH) and eight other healthcare advocacy organizations have requested the full 9th U.S. Circuit Court of Appeals to review a recent ruling by a three-judge panel, which erroneously reversed the trial court's landmark judgment in the mental health class action, *Wit v. United Behavioral Health*.

[NABH](#), the [American Hospital Association](#), [American Psychological Association](#), [American Association for the Treatment of Opioid Dependence](#), [California Hospital Association](#), [Federation of American Hospitals](#), [National Association of Addiction Treatment Providers](#), [National Council for Mental Wellbeing](#), and [REDC](#) have filed an amicus brief to request a "rehearing en banc." If granted, a rehearing could vacate the appellate panel's deeply flawed ruling.

In 2019, a federal district court in San Francisco found that United Behavioral Health (UBH), the nation's largest managed behavioral healthcare organization, illegally denied nearly 70,000 claims during a seven-year period to patients—including many children and adolescents—who sought outpatient, intensive outpatient, and residential treatment, based on defective and financially conflicted medical necessity guidelines that were inconsistent with the terms of the patients' plans and the laws of four states.

In 2020, the trial court ordered UBH to reprocess the denied claims using medical-necessity guidelines that are consistent with generally accepted standards of care (GASC). Such guidelines have been developed by non-profit professional associations, including the American Society of Addiction Medicine (ASAM). The trial court also required UBH to exclusively apply GASC-conforming, medical-necessity guidelines for the next 10 years.

In late March 2022, a three-judge panel of the 9th U.S. Court of Appeals held in a single paragraph that it is "not unreasonable" for health insurers' medical-necessity guidelines to be inconsistent with GASC.

"Surprisingly, the appellate panel did not cite one fact from the trial court's nearly 200 pages of findings," said Shawn Coughlin, president and CEO of NABH. "A rehearing by the full 9th Circuit would provide an opportunity to assess the devastating, far-reaching, and long-term effects of the panel's decision at a time when millions of Americans require critical mental health and substance use treatment."

As the amicus brief notes, this case is of exceptional importance to the health of the American public. The trial court's findings highlighted how financial self-dealing by mental health insurers infects medical-necessity guidelines and unlawfully restricts access to treatment promised by ERISA plans covering the majority of Americans.

"Unfortunately, the likely consequence of the panel decision is that the gains achieved as a result of the district court's rulings will be wiped out as even further restrictions are placed on the care patients receive for treatment of mental illness," the amicus brief states. "Instead of medical necessity determinations based on GASC developed by non-profit expert bodies, the decision-making power will be left to the discretion of for-profit insurers such as UBH."

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About NABH

The National Association for Behavioral Healthcare (NABH) represents provider systems that treat children, adolescents, adults, and older adults with mental health and substance use disorders in inpatient behavioral healthcare hospitals and units, residential treatment facilities, partial hospitalization and intensive outpatient programs, medication assisted treatment centers, specialty outpatient behavioral healthcare programs, and recovery support services in 49 states and Washington, D.C. The association was founded in 1933.