**HOUSE BILL No. XXXX**

DIGEST OF INTRODUCED BILL

**Citations Affected**:

**Synopsis:** Parity reporting and implementation requirements. Establishes parity reporting requirements for insurers. Specifies parity implementation guidance for the Department of Insurance. Establishes parity implementation reporting for the Department of Insurance. Establishes substance abuse medication requirements.

**Effective:** July 1, 2019.

**\_\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_\_, \_\_\_\_\_\_\_**

January 15, 2019, read for the first time and referred to the Committee on Insurance

 Introduced

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~. Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution. Conflict reconciliation: Text in a statute in *this style type* or *~~this style type~~* reconciles conflicts between statutes enacted by the 2018 Regular Session of the General Assembly.

**HOUSE BILL No. XXXX**

A BILL FOR AN ACT to amend the Indiana Code concerning insurance

*Be it enacted by the General Assembly of the State of Indiana:*

 SECTION 1. IC 27-8-5-15.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 15.8. (a) All insurers that issue policies of individual or group accident and sickness insurance that provide coverage of mental illness or substance abuse benefits shall submit an annual report to the department on or before December 31, 2019 that contains the following information:**

**(1) A description of the process used to develop or select the medical necessity criteria for mental illness and substance abuse benefits and the process used to develop or select the medical necessity criteria for medical and surgical benefits.**

**(2) Identification of all non-quantitative treatment limitations (NQTLs) that are applied to both mental illness and substance abuse benefits and medical and surgical benefits within each classification of benefits; there may be no separate NQTLs that apply to mental illness and substance abuse benefits but do not apply to medical and surgical benefits within any classification of benefits.**

**(3) The results of an analysis that demonstrates that for the medical necessity criteria described in item (1) and for each NQTL identified in item (2), as written and in operation, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to mental illness and substance abuse benefits within each classification of benefits are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to medical and surgical benefits within the corresponding classification of benefits; at a minimum, the results of the analysis shall:**

**(A) Identify the factors used to determine that an NQTL will apply to a benefit, including factors that were considered but rejected;**

**(B) Identify and define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each NQTL;**

**(C) Provide the comparative analyses, including the results of the analyses, performed to determine that the processes and strategies used to design each NQTL, as written, and the as written processes and strategies used to apply the NQTL to mental illness and substance abuse benefits are comparable to, and are applied no more stringently than, the processes and strategies used to design each NQTL, as written, and the as written processes and strategies used to apply the NQTL to medical and surgical benefits;**

**(D) Provide the comparative analyses, including the results of the analyses, performed to determine that the processes and strategies used to apply each NQTL, in operation, for mental illness and substance abuse benefits are comparable to, and applied no more stringently than, the processes or strategies used to apply each NQTL, in operation, for medical and surgical benefits; and**

**(E) Disclose the specific findings and conclusions reached by the insurer that the results of the analyses above indicate that the insurer is in compliance with this section and the Mental Health Parity and Addiction Equity Act of 2008 and its implementing and related regulations, which includes 45 CFR 146.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3).**

SECTION 2. IC 27-8-5-15.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 15.9. (a) The department shall implement and enforce applicable provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, and any amendments to, and any federal guidance or regulations relevant to, that act, including 45 CFR 146.136, 45 CFR 147.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3, which includes:**

**(1) Proactively ensuring compliance by insurers that issue policies of individual or group accident and sickness insurance that provide coverage of mental illness or substance abuse benefits.**

**(2) Evaluating all consumer or provider complaints regarding mental illness and substance abuse coverage for possible parity violations.**

**(3) Performing parity compliance market conduct examinations of insurers that issue policies of individual or group accident and sickness insurance that provide coverage of mental illness or substance abuse benefits, particularly market conduct examinations that focus on nonquantitative treatment limitations such as prior authorization, concurrent review, retrospective review, step-therapy, network admission standards, reimbursement rates, and geographic restrictions, among other nonquantitative treatment limitations.**

**(4) Requesting that insurers submit comparative analyses during the form review process demonstrating how they design and apply nonquantitative treatment limitations, both as written and in operation, for mental illness and substance abuse benefits as compared to how they design and apply nonquantitative treatment limitations, as written and in operation, for medical and surgical benefits.**

**(5) The department may adopt rules, as authorized under IC 27-1-3-7, as may be necessary to effectuate any provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 that relate to the business of insurance.**

**(b) Not later than March 1, 2020, the department shall issue a report and provide an educational presentation to the General Assembly; such report and presentation shall:**

**(1) Cover the methodology the department is using to check for compliance with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), and any federal regulations or guidance relating to the compliance and oversight of MHPAEA.**

**(2) Cover the methodology the department is using to check for compliance with IC 27-8-5-15.5 and IC 27-8-5-15.6.**

**(3) Identify market conduct examinations conducted or completed during the preceding 12-month period regarding compliance with parity in mental illness and substance abuse benefits under state and federal laws and summarize the results of such market conduct examinations.**

**(4) Detail any educational or corrective actions the department has taken to ensure insurer compliance with MHPAEA, IC 27-8-5-15.5, and IC 27-8-5-15.6.**

**(5) The report must be written in non-technical, readily understandable language and shall be made available to the public by, among such other means as the department finds appropriate, posting the report on the department’s website.**

SECTION 3. IC 27-8-5-15.10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

**Sec. 15.10. (a) All insurers that issue policies of individual or group accident and sickness insurance that provide coverage of substance abuse benefits shall not impose any prior authorization requirements on any prescription medication approved by the federal Food and Drug Administration (FDA) for the treatment of substance abuse.**

 **(b) All insurers that issue policies of individual or group accident and sickness insurance that provide coverage of substance abuse benefits shall not impose any step therapy requirements before the insurer will authorize coverage for a prescription medication approved by the FDA for the treatment of substance abuse.**

 **(c) All insurers that issue policies of individual or group accident and sickness insurance that provide coverage of substance abuse benefits shall place all prescription medications approved by the FDA for the treatment of substance abuse on the lowest tier of the drug formulary developed and maintained by the insurer.**

 **(d) All insurers that issue policies of individual or group accident and sickness insurance that provide coverage of substance abuse benefits shall not exclude coverage for any prescription medication approved by the FDA for the treatment of substance abuse and any associated counseling or wraparound services on the grounds that such medications and services were court ordered.**