\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Councilmember Vincent C. Gray

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To facilitate implementation and enforcement of the Mental Health Parity and Addiction Equity Act and strengthen parity provisions within District law.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Behavioral Health Parity Act of 2019”.

Sec. 1. Definitions.

For the purposes of this act, the term:

(1) “Department” means the Department of Health Care Finance.

(2) “Health insurer” or “insurer” shall have the same meaning as provided in § 31-3101(6B)

(3) “Mental health and substance use disorder benefits” means benefits for the treatment of any condition or disorder that involves a mental health condition or substance use disorder that falls under any of the diagnostic categories listed in the mental disorders section of the current edition of the International Classification of Disease or that is listed in the mental disorders section of the most recent version of the Diagnostic and Statistical Manual of Mental Disorders.

(4) “Nonquantitative treatment limitations” means limitations that are not expressed numerically, but otherwise limit the scope or duration of benefits for treatment.

Sec 2. Compliance and Enforcement

(a) The Department of Health Care Finance 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) Ensuring compliance by health insurers;

(2) Evaluating all consumer or provider complaints regarding mental health and substance use disorder coverage for possible parity violations;

(3) Performing parity compliance market conduct examinations of health insurers, 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 health and substance use disorder 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 of Health Care Finance may adopt rules 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.

Sec. 3 Report

(a) No later than October 1, 2019, the Department of Health Care Finance shall issue a report to the Council which will include the following:

(1) Cover the methodology the DHCF 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 the MHPAEA.

(2) Cover the methodology DHCF is using to check for compliance with Chapter 31 or Title 31;

(3) Identify market conduct examinations conducted or completed during the preceding 12-motnh period regarding compliance with parity in mental health and substance use disorder benefits under state and federal laws and summarize the results of such market conduct examinations. This shall include:

(4) Detail any educational or corrective actions DHCF has taken to ensure health plan compliance with MHPAEA and Chapter 31 or Title 31;

(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 necessary, posting the report on DHCF’s website.

Sec. 5. Rulemaking

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this act.

Sec. 6. Fiscal impact statement.

The council adopts the fiscal impact statement in the committee report as the fiscal impact a statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16,2006 (120 Stat. 2038; D.C. official Code Section 1-201.47.

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.