HOUSE BILL NO. XXXX

Mental Health and Substance Use Disorder Parity.

Sponsored by: Representative(s) \_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_

A BILL

for

AN ACT relating to health insurance; mandating parity for mental health and substance use disorder under health insurance policies issued in the state; specifying insurer, nonprofit corporation, and health maintenance parity reporting requirements; specifying Commissioner parity implementation; specifying coverage requirements for medications for the treatment of substance use disorders; specifying applicability; and providing for an effective date.

*Be it enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 26-20-701 is created to read:

Article 7

Parity for Mental Health and Substance Use Disorder Insurance

**26-20-701. Required mental health and substance use disorder parity in individual and group policies or contracts.**

(a) All individual or group health insurance policies providing coverage on an expense incurred basis, individual and group service or indemnity type health insurance contracts issued by any insurer, including any nonprofit corporation and individual and group service contracts issued by a health maintenance organization, shall meet the requirements of, and the Commissioner may enforce, the Mental Health Parity and Addiction Equity Act of 2008 found at 42 U.S.C. 300gg-26 and all related regulations as of January 1, 2018, including 45 CFR 146.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3).

**26-20-702. Required parity reporting.**

(a) Each insurer, nonprofit corporation, and health maintenance organization that issue individual or group health insurance policies providing coverage on an expense incurred basis, individual and group service or indemnity type health insurance contracts, and individual and group service contracts that provide mental health and substance use disorder benefits shall issue an annual report to the Commissioner by March 1 that contains the following information:

(i) A description of the process used to develop or select the medical necessity criteria for mental health and substance use disorder benefits and the process used to develop or select the medical necessity criteria for medical and surgical benefits;

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

(iii) The results of an analysis that demonstrates that for the medical necessity criteria described in item (i) and for each NQTL identified in item (ii), 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 health and substance use disorder 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 health and substance use disorder 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 health and substance use disorder benefits are comparable to, and are 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, nonprofit corporation, or health maintenance organization that the results of the analyses above indicate that the insurer, nonprofit corporation, or health maintenance organization 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).

**26-20-703. Commissioner implementation specifications.**

(a) The Commissioner 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:

(i) Proactively ensuring compliance by insurers, nonprofit corporations, and health maintenance organizations;

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

(iii) Performing parity compliance market conduct examinations of insurers, nonprofit corporations, and health maintenance organizations, 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;

(iv) Requesting that insurers, nonprofit corporations, and health maintenance organizations 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; and

(v) The Commissioner 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.

(b) Not later than March 1, 2020, the Commissioner shall issue a report and educational presentation to the Legislature, which shall:

(i) Cover the methodology the Commissioner 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;

(ii) Identify market conduct examinations conducted or completed during the preceding 12-month 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;

(iii) Detail any educational or corrective actions the Commissioner has taken to ensure compliance with MHPAEA; and

(iv) 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 Commissioner finds appropriate, posting the report on the Internet website of the Department of Insurance.

**26-20-704. Coverage of medications for treatment of substance use disorder.**

(a) Each insurer, nonprofit corporation, and health maintenance organization that provides prescription drug benefits for the treatment of substance use disorder 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 use disorders.

(b) Each insurer, nonprofit corporation, and health maintenance organization that provides prescription drug benefits for the treatment of substance use disorder shall not impose any step therapy requirements before the insurer, nonprofit corporation, or health maintenance organization will authorize coverage for a prescription medication approved by the FDA for the treatment of substance use disorders.

(c) Each insurer, nonprofit corporation, and health maintenance organization that provides prescription drug benefits for the treatment of substance use disorder shall place all prescription medications approved by the FDA for the treatment of substance use disorders on the lowest tier of the drug formulary developed and maintained by the insurer, nonprofit corporation, or health maintenance organization.

(d) Each insurer, nonprofit corporation, and health maintenance organization that provides prescription drug benefits for the treatment of substance use disorder shall not exclude coverage for any prescription medication approved by the FDA for the treatment of substance use disorders and any associated counseling or wraparound services on the grounds that such medications and services were court ordered.

**Section 2.** This act shall only apply to any individual or group health insurance policy or plan that is delivered, issued, renewed, modified, amended or extended on or after July 1, 2019.

**Section 3.** This shall is effective July 1, 2019.

(END)