HOUSE BILL NO. XXX

INTRODUCED BY:\_\_\_\_\_\_\_\_\_

A BILL FOR AN ACT ENTITLED: “AN ACT TO REQUIRE PARITY COMPLIANCE REPORTING; SPECIFYING PARITY IMPLEMENTATION REQUIREMENTS; SPECIFYING COVERAGE REQUIREMENTS FOR MEDICATIONS FOR THE TREATMENT OF SUBSTANCE USE DISORDERS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATE.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Parity compliance reports.** (1) Each health insurance issuer that issues, modifies, or renews individual or group health insurance coverage that provides mental health or substance use disorder benefits shall submit an annual report to the commissioner on or before April 1 that contains the following information:

(a) 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.

(b) 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.

(c) The results of an analysis that demonstrates that for the medical necessity criteria described in paragraph (a) and for each NQTL identified in paragraph (b), 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:

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

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

(iii) 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;

(iv) 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

(v) Disclose the specific findings and conclusions reached by the issuer that the results of the analyses above indicate that the issuer 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).

NEW SECTION. **Section 2. Commissioner implementation.** (1) 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:

(a) Proactively ensuring compliance by issuers that issue, modify, or renew individual or group health insurance coverage that provides mental health or substance use disorder benefits.

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

(c) Performing parity compliance market conduct examinations of issuers that issue, modify, or renew individual or group health insurance coverage that provides mental health or substance use disorder 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.

(d) Requesting that issuers 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.

(e) The commissioner may adopt rules to implement the provisions of this part.

(2) Not later than March 1, 2021, the commissioner shall issue a report and educational presentation to the Legislature, which shall:

(a) 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.

(b) Cover the methodology the commissioner is using to check for compliance with this part.

(c) 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.

(d) Detail any educational or corrective actions the commissioner has taken to ensure issuer compliance with MHPAEA and this part

(e) 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 Office of the Montana State Auditor.

NEW SECTION. **Section 3. Medication-assisted treatment.** (1) Each health insurance issuer that issues, modifies, or renews individual or group health insurance coverage that provides prescription drug benefits for the treatment of substance use disorders 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.

(2) Each health insurance issuer that issues, modifies, or renews individual or group health insurance coverage that provides prescription drug benefits for the treatment of substance use disorders shall not impose any step therapy requirements before the issuer will authorize coverage for a prescription medication approved by the FDA for the treatment of substance use disorders.

(3) Each health insurance issuer that issues, modifies, or renews individual or group health insurance coverage that provides prescription drug benefits for the treatment of substance use disorders 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 issuer.

(4) Each health insurance issuer that issues, modifies, or renews individual or group health insurance coverage that provides prescription drug benefits for the treatment of substance use disorders 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.

NEW SECTION. **Section 4. Codification instruction.** Section 1, section 2, and section 3 are intended to be codified as an integral part of Title 33, chapter 22, part 7.

NEW SECTION. **Section 5. Effective date -- applicability.** [This act] is effective on passage and applies to policies and plans offered or sold on or after [the effective date of this act].

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