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By:  \_\_\_\_\_\_\_\_ H.B. No XXXX

A BILL TO BE ENTITLED

AN ACT

relating to access to and benefits for mental health conditions and substance use disorders.

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

SECTION 1.  Section 1355.254, Insurance Code, is amended to read as follows:

Sec. 1355.254.  COVERAGE FOR MENTAL HEALTH CONDITIONS AND SUBSTANCE USE DISORDERS. (a) A health benefit plan must provide benefits and coverage for mental health conditions and substance use disorders under the same terms and conditions applicable to the plan's medical and surgical benefits and coverage.

(b)  Coverage under Subsection (a) may not impose quantitative or nonquantitative treatment limitations on benefits for a mental health condition or substance use disorder that are generally more restrictive than quantitative or nonquantitative treatment limitations imposed on coverage of benefits for medical or surgical expenses**[**~~.~~**]**, provided that the health benefit plan may not impose a nonquantitative treatment limitation with respect to mental health or substance use disorder benefits in any classification unless, under the terms of the health benefit plan as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the nonquantitative treatment limitation to mental health or substance use disorder benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation with respect to medical/surgical benefits in the classification.

SECTION 2.  Chapter 1355, Insurance Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. PARITY TRANSPARENCY AND ACCOUNTABILITY REQUIREMENTS

Sec. 1355.351. DEFINITIONS. In this subchapter:

(1) “Issuer” means:

(A) an insurance company;

(B) a group hospital service corporation operating under Chapter 842;

(C) a fraternal benefit society operating under Chapter 885;

(D) a stipulated premium company operating under Chapter 884;

(E) a health maintenance organization operating under Chapter 843;

(F) a reciprocal exchange operating under Chapter 942;

(G) a Lloyd's plan operating under Chapter 941;

(H) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844; or

(I) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846.

Sec. 1355.352. PARITY REPORTING REQUIREMENTS. (a) All issuers that offer individual or group health benefit plans that provide benefits for mental health and substance use disorders shall submit an annual report to the department on or before March 1 that contains the following information:

(1) 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;

(2)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;

(3) The results of an analysis that demonstrates that for the medical necessity criteria described in paragraph (1) and for each NQTL identified in paragraph (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 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 issuer that the results of the analyses above indicate that the issuer is in compliance with this section, section 1355.254 of Subchapter F of this Chapter, 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).

Sec. 1355.353. DEPARTMENT IMPLEMENTATION REQUIREMENTS FOR PARITY. (a) The department shall implement and enforce applicable provisions of subchapter F or this Chapter and 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 issuers that offer individual and group health benefit plans that provide benefits for mental health and substance use disorders;

(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 issuers that offer individual and group health benefit plans provide benefits for mental health and substance use disorders, 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 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; and

(5) The department may adopt rules as may be necessary to effectuate any provisions of this section and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 that relate to the business of insurance.

SEC. 1355.354. DEPARTMENT REPORTING REQUIREMENTS. (a) Not later than May 1, 2021, the department shall issue a report and educational presentation to the Legislature, which shall:

(1) Cover the methodology the department is using to check for compliance with subchapter F of this Chapter and 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) 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 and summarize the results of such market conduct examinations;

(3) Detail any educational or corrective actions the department has taken to ensure issuer compliance with parity requirements; and

(4) 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 Internet website.

SECTION 3. Chapter 1368, Insurance Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. MEDICATION-ASSISTED TREATMENT

Sec. 1368.051. MEDICATION-ASSISTED TREATMENT COVERAGE REQUIREMENTS. (a) All issuers that offer individual or group health benefit plans that provide prescription drug benefits chemical dependency shall not impose any prior authorization requirements on any prescription medication approved by the federal Food and Drug Administration (FDA) for the treatment of chemical dependency.

(b) All issuers that offer individual or group health benefit plans that provide prescription drug benefits chemical dependency 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 chemical dependency.

(c) All issuers that offer individual or group health benefit plans that provide prescription drug benefits chemical dependency shall place all prescription medications approved by the FDA for the treatment of chemical dependency on the lowest tier of the drug formulary developed and maintained by the issuer.

(d) All issuers that offer individual or group health benefit plans that provide prescription drug benefits chemical dependency shall not exclude coverage for any prescription medication approved by the FDA for the treatment of chemical dependency and any associated counseling or wraparound services on the grounds that such medications and services were court ordered.

SECTION 4.  This Act takes effect September 1, 2019.