LEGISLATURE OF NEBRASKA

ONE HUNDRED SIXTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL XXX**

Introduced by \_\_\_\_\_\_\_\_\_

Read first time \_\_\_\_\_\_\_\_\_

Committee: Banking, Commerce and Insurance

A BILL FOR AN ACT relating to insurance; to provide definitions; to provide requirements for parity transparency; to provide duties for the Director of Insurance.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) For the purposes of this section:

(a) Director shall mean the Director of Insurance;

(b) Classification of benefits means inpatient in-network benefits,

inpatient out-of-network benefits, outpatient in-network benefits, outpatient

out-of-network benefits, prescription drug benefits, and emergency care

benefits. These classifications of benefits are the only classifications that may

be used except that there may be sub-classifications within both outpatient

classifications differentiating office visits from other outpatient items and

services, including outpatient surgery, facility charges for day treatment

centers, laboratory charges, and other medical items;

(c) Health insurance plan means (a) any individual or group sickness and accident insurance policy, individual or group health maintenance organization contract, or individual or group subscriber contract delivered, issued for delivery, or renewed in this state and (b) any self-funded employee benefit plan to the extent not preempted by federal law; health insurance plan includes any group policy, group contract, or group plan offered or administered by the state or its political subdivisions; health insurance plan does not include group policies providing coverage for a specified disease, accident-only coverage, hospital indemnity coverage, disability income coverage, Medicare supplement coverage, long-term care coverage, or other limited-benefit coverage;

(d) Mental health and alcohol or substance abuse benefits mean benefits for the diagnosis and 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; and

(e) Nonquantitative treatment limitations mean limitations that are not expressed numerically, but otherwise limit the scope or duration of benefits for treatment.

Sec. 2. (1) The Director 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 insurers that deliver, issue, or renew any health insurance plan that provides coverage of mental health and alcohol or substance abuse benefits;

(b) Evaluating all consumer or provider complaints regarding mental health and alcohol or substance abuse coverage for possible parity violations;

(c) Performing parity compliance market conduct examinations of by insurers that deliver, issue, or renew any health insurance plan that provides coverage of mental health and alcohol 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;

(d) 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 alcohol or substance abuse benefits as compared to how they design and apply nonquantitative treatment limitations, as written and in operation, for medical and surgical benefits; and

(e) The Director may adopt rules, under section 44-101.01, 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. (1) Not later than March 1, 2020, the Director shall issue a report and educational presentation to the Legislature; such report and presentation shall:

(a) Cover the methodology the Director 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 Director is using to check for compliance with sections 44-791, 44-792, 44-793, 44-794, 44-795 and sections 44-778, 44-779, 44-780, 44-781;

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

(d) Detail any educational or corrective actions the director has taken to ensure insurer compliance with MHPAEA and sections 44-791, 44-792, 44-793, 44-794, 44-795 and sections 44-778, 44-779, 44-780, 44-781; and

(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 Director finds appropriate, posting the report on the website of the Department of Insurance.