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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. 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. 1355.353. 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.  This Act takes effect September 1, 2019.