\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Councilmember Vincent C. Gray

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To facilitate implementation and enforcement of the Mental Health Parity and Addiction Equity Act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Behavioral Health Parity Act of 2019”.

Sec. 1. Definitions.

For the purposes of this act, the term:

(1) “Department” means the Department of Health Care Finance.

(2) “Health insurer” or “insurer” shall have the same meaning as provided in § 31-3101(6B)

(3) “Mental health and substance use disorder benefits” means benefits for the 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.

(4) “Nonquantitative treatment limitations” means limitations that are not expressed numerically, but otherwise limit the scope or duration of benefits for treatment.

Sec. 2. Annual report to the Department of Health Care Finance.

(a) All health insurers must submit an annual report to the Department of Health Care Finance on or before October 1 of every calendar year containing 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; 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 subsection (1) and for each NQTL identified in subsection (2) of this section, as written and in operation, the processes, strategies, evidentiary standards, or other factors used to apply the medical necessity criteria and each NQTL to mental health and substance use disorder benefits are comparable to, and are applied no more stringently than the processes, strategies, evidentiary standards, or other factors used to apply the medical necessity criteria and each NQTL, as written and in operation, to medical and surgical 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 evidentiary standards 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;

(E) Disclose the specific findings and conclusions reached by the health insurer that the results of the analyses above indicate that the insurer 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).

Sec. 3. Rulemaking

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement the provisions of this act.

Sec. 4. Fiscal impact statement.

The council adopts the fiscal impact statement in the committee report as the fiscal impact a statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16,2006 (120 Stat. 2038; D.C. official Code Section 1-201.47.

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.