Senate Bill XXX

By: Senators \_\_\_\_\_\_\_\_

A BILL TO BE ENACTED

AN ACT

To amend Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance generally, so as to provide that insurers authorized to issue accident and sickness insurance benefit plans, policies, or contracts shall be required to report compliance with the Mental Health Parity and Addiction Equity Act (MHPAEA) of 2008; to provide that the Office of Insurance and Safety Fire Commissioner shall implement MHPAEA; to provide that the Office of Insurance and Safety Fire Commissioner shall report about MHPAEA implementation; to provide updated definitions; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**Section 1**

Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance coverage for mental illness, is amended as follows:

“33-24-28.1

(a) As used in this Code section, the term:

(1) "Accident and sickness insurance benefit plan, policy, or contract" means:

(A) An individual accident and sickness insurance policy or contract, as defined in Chapter 29 of this title; or

(B) Any similar individual accident and sickness benefit plan, policy, or contract.

(2) "Mental disorder" shall have the same meaning as defined by the most recent version of The Diagnostic and Statistical Manual of Mental Disorders (American Psychiatric Association) or The International Classification of Diseases (World Health Organization) ~~as of January 1, 1981~~, or as the Commissioner may further define such term by rule and regulation.

(b) Every insurer authorized to issue accident and sickness insurance benefit plans, policies, or contracts shall be required to make available, either as a part of or as an optional endorsement to all such policies providing major medical insurance coverage which are issued, delivered, issued for delivery, or renewed on or after July 1, 1984, coverage for the treatment of mental disorders, which coverage shall be at least as extensive and provide at least the same degree of coverage as that provided by the respective plan, policy, or contract for the treatment of other types of physical illnesses. Such an optional endorsement shall also provide that the coverage required to be made available pursuant to this Code section shall also cover the spouse and the dependents of the insured if the insured's spouse and dependents are covered under such benefit plan, policy, or contract. Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage for the treatment of mental disorders shall provide such coverage in accordance with the Mental Health Parity and Addiction Equity Act of 2008 found at 42 U.S.C. 300gg-26 and its implementing and related regulations found at 45 CFR 146.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3) ~~In no event shall such an insurer be required to cover inpatient treatment for more than a maximum of 30 days per policy year or outpatient treatment for more than a maximum of 48 visits per policy year under individual policies~~.

(c) The optional endorsement required to be made available under subsection (b) of this Code section shall not contain any exclusions, reductions, or other limitations as to coverages, deductibles, or coinsurance provisions which apply to the treatment of mental disorders unless such provisions apply generally to other similar benefits provided or paid for under the accident and sickness insurance benefit plan, policy, or contract.

(d) Nothing in this Code section shall be construed to prohibit an insurer, nonprofit corporation, health care plan, health maintenance organization, or other person issuing any similar accident and sickness insurance benefit plan, policy, or contract from issuing or continuing to issue an accident and sickness insurance benefit plan, policy, or contract which provides benefits greater than the minimum benefits required to be made available under this Code section or from issuing any such plans, policies, or contracts which provide benefits which are generally more favorable to the insured than those required to be made available under this Code section.

(e) Nothing in this Code section shall be construed to prohibit the inclusion of coverage for the treatment of mental disorders that differs from the coverage provided in the same insurance plan, policy, or contract for physical illnesses if the policyholder does not purchase the optional coverage made available pursuant to this Code section.

 (f) Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage 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.

(g) Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage for the treatment of substance use disorders shall not impose any step therapy requirements before the insurer will authorize coverage for a prescription medication approved by the FDA for the treatment of substance use disorders.

(h) Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage 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 insurer.

(i) Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage 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.

**Section 2**

Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance coverage for mental illness, is amended as follows:

“33-24-29.1

(a) As used in this Code section, the term:

(1) "Accident and sickness insurance benefit plan, policy, or contract" means:

(A) A group or blanket accident and sickness insurance policy or contract, as defined in Chapter 30 of this title;

(B) A group contract of the type issued by a health care plan established under Chapter 20 of this title;

(C) A group contract of the type issued by a health maintenance organization established under Chapter 21 of this title; or

(D) Any similar group accident and sickness benefit plan, policy, or contract.

(2) "Mental disorder" shall have the same meaning as defined by the most recent version of The Diagnostic and Statistical Manual of Mental Disorders (American Psychiatric Association) or The International Classification of Diseases (World Health Organization) ~~as of January 1, 1981~~, or as the Commissioner may further define such term by rule and regulation.

(b) This Code section shall apply only to accident and sickness insurance benefit plans, policies, or contracts, certificates evidencing coverage under a policy of insurance, or any other evidence of insurance issued by an insurer, delivered, or issued for delivery in this state, except for policies issued to an employer in another state which provide coverage for employees in this state who are employed by such employer policyholder, providing major medical benefits covering all groups ~~except small groups as defined in subsection (a) of Code Section 33-30-12~~.

(c) Every insurer authorized to issue accident and sickness insurance benefit plans, policies, or contracts shall be required to make available, either as a part of or as an optional endorsement to all such policies providing major medical insurance coverage which are issued, delivered, issued for delivery, or renewed on or after July 1, 1998, coverage for the treatment of mental disorders, which coverage shall be at least as extensive and provide at least the same degree of coverage and the same annual and lifetime dollar limits as that provided by the respective plan, policy, or contract for the treatment of other types of physical illnesses. Such an optional endorsement shall also provide that the coverage required to be made available pursuant to this Code section shall also cover the spouse and the dependents of the insured if the insured's spouse and dependents are covered under such benefit plan, policy, or contract. Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage for the treatment of mental disorders shall provide such coverage in accordance with the Mental Health Parity and Addiction Equity Act of 2008 found at 42 U.S.C. 300gg-26 and its implementing and related regulations found at 45 CFR 146.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3).

(d)

(1) The optional endorsement required to be made available under subsection (c) of this Code section shall not contain any exclusions, reductions, or other limitations as to coverages, including without limitation limits on the number of inpatient treatment days and outpatient treatment visits, which apply to the treatment of mental disorders unless such provisions apply generally to other similar benefits provided or paid for under the accident and sickness insurance benefit plan, policy, or contract, except as otherwise provided in paragraph (2) of this subsection.

(2) The optional endorsement required to be made available under subsection (c) of this Code section may contain deductibles or coinsurance provisions which apply to the treatment of mental disorders~~, and such deductibles or coinsurance provisions need not apply generally to other similar benefits provided or paid for under the accident and sickness insurance benefit plan, policy, or contract; provided, however, that if a separate deductible applies to the treatment of mental disorders, it shall not exceed the deductible for medical or surgical coverages. A separate out-of-pocket limit may be applied to the treatment of mental disorders, which limit, in the case of an indemnity type plan, shall not exceed the maximum out-of-pocket limit for medical or surgical coverages and which, in the case of a health maintenance organization plan, shall not exceed the maximum out-of-pocket limit for medical or surgical coverages or the amount of $2,000.00 in 1998 and as annually adjusted thereafter according to the Consumer Price Index for health care, whichever is greater~~.

(e)

(1) Nothing in this Code section shall be construed to prohibit an insurer, nonprofit corporation, health care plan, health maintenance organization, or other person issuing any similar accident and sickness insurance benefit plan, policy, or contract from issuing or continuing to issue an accident and sickness insurance benefit plan, policy, or contract which provides benefits greater than the minimum benefits required to be made available under this Code section or from issuing any such plans, policies, or contracts which provide benefits which are generally more favorable to the insured than those required to be made available under this Code section.

(2) Nothing in this Code section shall be construed to prohibit any person issuing an accident and sickness insurance benefit plan, policy, or contract from providing the coverage required to be made available under subsection (c) of this Code section through an indemnity plan with or without designating preferred providers of services or from arranging for or providing services instead of indemnifying against the cost of such services, without regard to whether such method of providing coverage for treatment of mental disorders applies generally to other similar benefits provided or paid for under the accident and sickness insurance benefit plan, policy, or contract.

(f) The requirements of this Code section with respect to a group or blanket accident and sickness insurance benefit plan, policy, or contract shall be satisfied if the coverage specified in subsections (c) and (d) of this Code section is made available to the master policyholder of such plan, policy, or contract. Nothing in this Code section shall be construed to require the group insurer, nonprofit corporation, health care plan, health maintenance organization, or master policyholder to provide or make available such coverage to any insured under such group or blanket plan, policy, or contract.

 (g) Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage 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.

(h) Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage for the treatment of substance use disorders shall not impose any step therapy requirements before the insurer will authorize coverage for a prescription medication approved by the FDA for the treatment of substance use disorders.

(i) Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage 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 insurer.

(j) Every insurer that issues accident and sickness insurance benefits plans, policies, or contracts that provide coverage 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.

**Section 3**

All laws and parts of laws in conflict with this Act are repealed.