H. B. XXXX

(By Delegates \_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_)

[Introduced January XX, 2019; referred to the Committee on Banking and Insurance.]



A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-2-9b; to amend said code by adding thereto a new section, designated §33-2-15e, all relating to health insurance coverage of mental health and substance use disorders; setting forth Commissioner implementation requirements; setting forth Commissioner reporting requirements.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §33-2-9b; that said code be amended by adding thereto a new section, designated §33-2-15e, all to read as follows:

**CHAPTER 33. INSURANCE.**

**ARTICLE 2. ACCIDENT AND SICKNESS INSURANCE**

**§33-2-9b. Parity implementation requirements.**

 (a) The commissioner 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:

 (1) Proactively ensuring compliance by insurers that issue, deliver, or renew policies of accident and sickness insurance coverage under Article 15 that provide mental health and substance use disorder benefits and health insurers that issue, deliver, or renew health benefit plans under Article 16 that provide mental health and substance use disorder benefits.

(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 insurers that issue, deliver, or renew policies of accident and sickness insurance coverage under Article 15 that provide mental health and substance use disorder benefits and health insurers that issue, deliver, or renew health benefit plans under Article 16 that provide mental health and substance use disorder 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.

(4) Requesting that insurers, as defined in Article 15, and health insurers, as defined under Article 16, 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.

(5) The Commissioner may adopt rules, under §33-2-10, 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.

**CHAPTER 33. INSURANCE.**

**ARTICLE 2. ACCIDENT AND SICKNESS INSURANCE**

**§33-2-15e. Parity reporting requirements.**

(a) Not later than February 14, 2020, the commissioner shall issue a report and educational presentation to the Legislature, which shall:

(1) Cover the methodology the commissioner 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.

(2) Cover the methodology the commissioner is using to check for compliance with §33-15-4a and §33-16-3a.

(3) 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 under state and federal laws and summarize the results of such market conduct examinations.

(4) Detail any educational or corrective actions the commissioner has taken to ensure insurer compliance with MHPAEA and §33-15-4a and §33-16-3a.

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 commissioner finds appropriate, posting the report on the Internet website of the Offices of the Insurance Commissioner.

NOTE: The purpose of this bill is to require mental health and substance use disorder parity implementation. The bill sets for commissioner implementation and reporting requirements.

These sections are new; therefore, they have been completely underscored.