**As Introduced**

**133rd General Assembly**

**Regular Session S.B N.O. XXX**

**2019-2020**

**Senators \_\_\_\_\_, \_\_\_\_\_\_**

**Cosponsors: Senators \_\_\_\_\_\_, \_\_\_\_\_\_, \_\_\_\_\_\_, \_\_\_\_\_\_, \_\_\_\_\_\_\_\_**

**A BILL**

To enact sections 3923.283 and 3923.284 of the Revised Code to provide parity transparency and accountability and to provide requirements for insurance coverage of medications for the treatment of opioid addiction.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

 **Section 1.** That section 3923.283 and 3923.284 of the Revised Code be enacted to read as follows:

 **Sec. 3923.283.** (A) Each insurer that issues, delivers, or renews any individual or group accident and sickness policy that provides coverage for mental or emotional disorders or alcohol and drug abuse or addiction shall submit an annual report to the superintendent of insurance on or before March 31st, that contains the following information:

 (1) A description of the process used to develop or select the medical necessity criteria for mental or emotional disorder or alcohol and drug abuse or addiction 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 or emotional disorder or alcohol and drug abuse or addiction benefits and medical and surgical benefits within each classification of benefits; there may be no separate NQTLs that apply to mental or emotional disorder or alcohol and drug abuse or addiction 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 item (a) and for each NQTL identified in item (b), as written and in operation, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to mental or emotional disorder or alcohol and drug abuse or addiction benefits within each classification of benefits are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to medical and surgical benefits within the corresponding classification of 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 evidence 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 or emotional disorder or alcohol and drug abuse or addiction 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 or emotional disorder or alcohol and drug abuse or addiction 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; and

(e) Disclose the specific findings and conclusions reached by the 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).

(B) The superintendent of insurance 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 each insurer that issues, delivers, or renews any individual or group accident and sickness policy that provides coverage for mental or emotional disorders or alcohol and drug abuse or addiction.

(2) Evaluating all consumer or provider complaints regarding mental or emotional disorder or alcohol and drug abuse or addiction coverage for possible parity violations.

(3) Performing parity compliance market conduct examinations of insurers that issue, deliver, or renew individual or group accident and sickness policies that provide coverage for mental or emotional disorders or alcohol and drug abuse or addiction, 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 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 or emotional disorder or alcohol and drug abuse or addiction benefits as compared to how they design and apply nonquantitative treatment limitations, as written and in operation, for medical and surgical benefits.

(5) The superintendent of insurance may adopt rules, under 3901.041, 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.

(C) Not later than March 1, 2020, the superintendent of insurance shall issue a report and educational presentation to the Legislature, which shall:

(1) Cover the methodology the superintendent of insurance 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) Identify market conduct examinations conducted or completed during the preceding 12-month period regarding compliance with parity in mental or emotional disorder or alcohol and drug abuse or addiction benefits under state and federal laws and summarize the results of such market conduct examinations.

(3) Detail any educational or corrective actions the superintendent of insurance has taken to ensure insurer compliance with MHPAEA.

(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 superintendent of insurance finds appropriate, posting the report on the Internet website of the department of insurance.

**Sec. 3923.284.** (A) Each insurer that issues, delivers, or renews any individual or group accident and sickness policy that provides coverage for medications for the treatment of alcohol and drug abuse or addiction shall not impose any prior authorization requirements on any prescription medication approved by the federal Food and Drug Administration (FDA) for the treatment of alcohol and drug abuse or addiction.

(B) Each insurer that issues, delivers, or renews any individual or group accident and sickness policy that provides coverage for medications for the treatment of alcohol and drug abuse or addiction 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 alcohol and drug abuse or addiction.

(C) Each insurer that issues, delivers, or renews any individual or group accident and sickness policy that provides coverage for medications for the treatment of alcohol and drug abuse or addiction shall place all prescription medications approved by the FDA for the treatment of alcohol and drug abuse or addiction on the lowest tier of the drug formulary developed and maintained by the insurer.

(D) Each insurer that issues, delivers, or renews any individual or group accident and sickness policy that provides coverage for medications for the treatment of alcohol and drug abuse or addiction shall not exclude coverage for any prescription medication approved by the FDA for the treatment of alcohol and drug abuse or addiction and any associated counseling or wraparound services on the grounds that such medications and services were court ordered.