AMENDMENT NO._____ Calendar No._____

Purpose: To enhance mental health and substance use disorder parity requirements and for other purposes.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

(no.) _____

(title) _____

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. ALEXANDER (for himself, Mrs. MURRAY, Mr. CASSIDY, and Mr. MURPHY)

Viz:

In title VI, insert after section 604 the following:

SEC. 605. ENHANCED COMPLIANCE WITH MENTAL HEALTH AND SUBSTANCE USE DISORDER COVERAGE REQUIREMENTS.

(a) COMPLIANCE PROGRAM GUIDANCE DOCUMENT.—Section 2726(a) of the Public Health Service Act (42 U.S.C. 300gg–26(a)) is amended by adding at the end the following:

''(6) COMPLIANCE PROGRAM GUIDANCE DOCUMENT.—

''(A) IN GENERAL.—Not later than 6 months after the date of enactment of the Men-

tal Health Reform Act of 2016, the Inspector General of the Department of Health and Human Services, in coordination with the Secretary, the Secretary of Labor, or the Secretary of the Treasury, shall issue a compliance program guidance document to help improve compliance with this section.

''(B) EXAMPLES ILLUSTRATING COMPLIANCE AND NONCOMPLIANCE.—

''(i) IN GENERAL.—The compliance program guidance document required under this paragraph shall provide illustrative, de-identified examples (that do not disclose any protected health information or individually identifiable information) of previous findings of compliance and noncompliance with this section, section 712 of the Employee Retirement Income Security Act of 1974, or section 9812 of the Internal Revenue Code of 1986 based on investigations of violations of such sections, including—

''(I) examples illustrating requirements for information disclosures

and non-quantitative treatment limitations; and

"(II) descriptions of the violations uncovered during the course of such investigations.

"(ii) NON-QUANTITATIVE TREATMENT LIMITATIONS.—To the extent that any example described in clause (i) involves a finding of compliance or non-compliance with regard to any requirement for non-quantitative treatment limitations, the example shall provide sufficient detail to fully explain such finding, including a full description of the criteria involved for medical and surgical benefits and the criteria involved for mental health and substance use disorder benefits.

"(iii) ACCESS TO ADDITIONAL INFORMATION REGARDING COMPLIANCE.—In developing and issuing the compliance program guidance document required under this paragraph, the Inspector General of the Department of Health and Human Services may—

"(I) enter into inter-agency agreements with the Inspector General of the Department of Labor and the Inspector General of the Department of the Treasury to share findings of compliance and noncompliance with this section, section 712 of the Employee Retirement Income Security Act of 1974, or section 9812 of the Internal Revenue Code of 1986; and

"(II) enter into an agreement with a State to share information on findings of compliance and noncompliance with this section, section 712 of the Employee Retirement Income Security Act of 1974, or section 9812 of the Internal Revenue Code of 1986.

"(C) RECOMMENDATIONS.—The compliance program guidance document shall include recommendations to avoid violations of this section and encourage the development and use of internal controls to monitor adherence to applicable statutes, regulations, and program requirements. Such internal controls may include a compliance checklist with illustrative examples

of non-quantitative treatment limitations on mental health and substance use disorder benefits, which may fail to comply with this section in relation to non-quantitative treatment limitations on medical and surgical benefits.

''(D) UPDATING THE COMPLIANCE PROGRAM GUIDANCE DOCUMENT.—The compliance program guidance document shall be updated every 2 years to include illustrative, de-identified examples (that do not disclose any protected health information or individually identifiable information) of previous findings of compliance and noncompliance with this section, section 712 of the Employee Retirement Income Security Act of 1974, or section 9812 of the Internal Revenue Code of 1986.''.

(b) ADDITIONAL GUIDANCE.—Section 2726(a) of the Public Health Service Act (42 U.S.C. 300gg–26(a)) is amended by adding at the end the following:

''(7) ADDITIONAL GUIDANCE.—

''(A) IN GENERAL.—Not later than 6 months after the date of enactment of the Mental Health Reform Act of 2016, the Secretary, in coordination with the Secretary of Labor and the Secretary of the Treasury, shall issue guid-

ance to group health plans and health insurance issuers offering group or individual health insurance coverage to assist such plans and issuers in satisfying the requirements of this section.

"(B) DISCLOSURE.—

"(i) GUIDANCE FOR PLANS AND ISSUERS.—The guidance issued under this paragraph shall include clarifying information and illustrative examples of methods that group health plans and health insurance issuers offering group or individual health insurance coverage may use for disclosing information to ensure compliance with the requirements under this section (and any regulations promulgated pursuant to this section).

"(ii) DOCUMENTS FOR PARTICIPANTS, BENEFICIARIES, CONTRACTING PROVIDERS, OR AUTHORIZED REPRESENTATIVES.—The guidance issued under this paragraph may include clarifying information and illustrative examples of methods that group health plans and health insurance issuers offering group or individual health insur-

ance coverage may use to provide any participant, beneficiary, contracting provider, or authorized representative, as applicable, with documents containing information that the health plans or issuers are required to disclose to participants, beneficiaries, contracting providers, or authorized representatives to ensure compliance with this section, any regulation issued pursuant to this section, or any other applicable law or regulation, including information that is comparative in nature with respect to—

"(I) non-quantitative treatment limitations for both medical and surgical benefits and mental health and substance use disorder benefits;

"(II) the processes, strategies, evidentiary standards, and other factors used to apply the limitations described in subclause (I);

"(III) the application of the limitations described in subclause (I) to ensure that such limitations are applied in parity with respect to both

medical and surgical benefits and mental health and substance use disorder benefits.

''(C) NON-QUANTITATIVE TREATMENT LIMITATIONS.—The guidance issued under this paragraph shall include clarifying information and illustrative examples of methods, processes, strategies, evidentiary standards, and other factors that group health plans and health insurance issuers offering group or individual health insurance coverage may use regarding the development and application of non-quantitative treatment limitations to ensure compliance with this section (and any regulations promulgated pursuant to this section), including—

''(i) examples of methods of determining appropriate types of non-quantitative treatment limitations with respect to both medical and surgical benefits and mental health and substance use disorder benefits, including non-quantitative treatment limitations pertaining to—

''(I) medical management standards based on medical necessity or ap-

propriateness, or whether a treatment is experimental or investigative;

''(II) limitations with respect to prescription drug formulary design; and

''(III) use of fail-first or step therapy protocols;

''(ii) examples of methods of determining—

''(I) network admission standards (such as credentialing); and

''(II) factors used in provider reimbursement methodologies (such as service type, geographic market, demand for services, and provider supply, practice size, training, experience, and licensure) as such factors apply to network adequacy;

''(iii) examples of sources of information that may serve as evidentiary standards for the purposes of making determinations regarding the development and application of non-quantitative treatment limitations;

''(iv) examples of specific factors, and the evidentiary standards used to evaluate such factors, used by such plans or issuers in performing a non-quantitative treatment limitation analysis;

''(v) examples of how specific evidentiary standards may be used to determine whether treatments are considered experimental or investigative;

''(vi) examples of how specific evidentiary standards may be applied to each service category or classification of benefits;

''(vii) examples of methods of reaching appropriate coverage determinations for new mental health or substance use disorder treatments, such as evidence-based early intervention programs for individuals with a serious mental illness and types of medical management techniques;

''(viii) examples of methods of reaching appropriate coverage determinations for which there is an indirect relationship between the covered mental health or substance use disorder benefit and a tradi-

tional covered medical and surgical benefit, such as residential treatment or hospitalizations involving voluntary or involuntary commitment; and

''(ix) additional illustrative examples of methods, processes, strategies, evidentiary standards, and other factors for which the Secretary determines that additional guidance is necessary to improve compliance with this section.

''(D) PUBLIC COMMENT.—Prior to issuing any final guidance under this paragraph, the Secretary shall provide a public comment period of not less than 60 days during which any member of the public may provide comments on a draft of the guidance.''.

(c) IMPROVING COMPLIANCE.—

(1) IN GENERAL.—In the case that the Secretary of Health and Human Services, the Secretary of Labor, or the Secretary of the Treasury determines that a group health plan or health insurance issuer offering group or individual health insurance coverage has violated, at least 5 times, section 2726 of the Public Health Service Act (42 U.S.C. 300gg–26), section 712 of the Employee Retirement Income

Security Act of 1974 (29 U.S.C. 1185a), or section 9812 of the Internal Revenue Code, the appropriate Secretary shall audit plan documents for such health plan or issuer in the plan year following the Secretary's determination in order to help improve compliance with such section.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority, as in effect on the day before the date of enactment of this Act, of the Secretary of Health and Human Services, the Secretary of Labor, or the Secretary of the Treasury to audit documents of health plans or health insurance issuers.

SEC. 606. ACTION PLAN FOR ENHANCED ENFORCEMENT OF MENTAL HEALTH AND SUBSTANCE USE DISORDER COVERAGE.

(a) PUBLIC MEETING.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall convene a public meeting of stakeholders described in paragraph (2) to produce an action plan for improved Federal and State coordination related to the enforcement of mental health parity and addiction equity requirements.

(2) STAKEHOLDERS.—The stakeholders described in this paragraph shall include each of the following:

(A) The Federal Government, including representatives from—

(i) the Department of Health and Human Services;

(ii) the Department of the Treasury;

(iii) the Department of Labor; and

(iv) the Department of Justice.

(B) State governments, including—

(i) State health insurance commissioners;

(ii) appropriate State agencies, including agencies on public health or mental health; and

(iii) State attorneys general or other representatives of State entities involved in the enforcement of mental health parity laws.

(C) Representatives from key stakeholder groups, including—

(i) the National Association of Insurance Commissioners;

(ii) health insurance providers;

(iii) providers of mental health and substance use disorder treatment;

(iv) employers; and

(v) patients or their advocates.

(b) ACTION PLAN.—Not later than 6 months after the public meeting under subsection (a), the Secretary of Health and Human Services shall finalize the action plan described in such subsection and make it plainly available on the Internet website of the Department of Health and Human Services.

(c) CONTENT.—The action plan under this section shall—

(1) reflect the input of the stakeholders invited to the public meeting under subsection (a);

(2) identify specific strategic objectives regarding how the various Federal and State agencies charged with enforcement of mental health parity and addiction equity requirements will collaborate to improve enforcement of such requirements;

(3) provide a timeline for implementing the action plan; and

(4) provide specific examples of how such objectives may be met, which may include—

(A) providing common educational information and documents to patients about their

rights under Federal or State mental health parity and addiction equity requirements;

(B) facilitating the centralized collection of, monitoring of, and response to patient complaints or inquiries relating to Federal or State mental health parity and addiction equity requirements, which may be through the development and administration of a single, toll-free telephone number and an Internet website portal;

(C) Federal and State law enforcement agencies entering into memoranda of understanding to better coordinate enforcement responsibilities and information sharing, including whether such agencies should make the results of enforcement actions related to mental health parity and addiction equity requirements publicly available; and

(D) recommendations to the Secretary and Congress regarding the need for additional legal authority to improve enforcement of mental health parity and addiction equity requirements, including the need for additional legal authority to ensure that non-quantitative treatment limitations are applied, and the extent and fre-

quency of the applications of such limitations, both to medical and surgical benefits and to mental health and substance use disorder benefits in a comparable manner.

SEC. 607. REPORT ON INVESTIGATIONS REGARDING PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for the subsequent 5 years, the Administrator of the Centers for Medicare & Medicaid Services, in collaboration with the Assistant Secretary of Labor of the Employee Benefits Security Administration and the Secretary of the Treasury, shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate a report summarizing the results of all closed Federal investigations completed during the preceding 12-month period with findings of any serious violation regarding compliance with mental health and substance use disorder coverage requirements under section 2726 of the Public Health Service Act (42 U.S.C. 300gg–26), section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a), and section 9812 of the Internal Revenue Code of 1986.

(b) CONTENTS.—Subject to subsection (c), a report under subsection (a) shall, with respect to investigations described in such subsection, include each of the following:

(1) The number of open or closed Federal investigations conducted during the covered reporting period.

(2) Each benefit classification examined by any such investigation conducted during the covered reporting period.

(3) Each subject matter, including compliance with requirements for quantitative and non-quantitative treatment limitations, of any such investigation conducted during the covered reporting period.

(4) A summary of the basis of the final decision rendered for each closed investigation conducted during the covered reporting period that resulted in a finding of a serious violation.

(c) LIMITATION.—Any individually identifiable information shall be excluded from reports under subsection (a) consistent with protections under the health privacy and security rules promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

SEC. 608. GAO STUDY ON PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.

Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury, shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate a report detailing the extent to which group health plans or health insurance issuers offering group or individual health insurance coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits, medicaid managed care organizations with a contract under section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)), and health plans provided under the State Children's Health Insurance Program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) comply with section 2726 of the Public Health Service Act (42 U.S.C. 300gg–26), section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a), and section 9812 of the Internal Revenue Code of 1986, including—

(1) how non-quantitative treatment limitations, including medical necessity criteria, of such plans or issuers comply with such sections;

(2) how the responsible Federal departments and agencies ensure that such plans or issuers comply with such sections, including an assessment of how the Secretary of Health and Human Services has used its authority to conduct audits of such plans to ensure compliance;

(3) a review of how the various Federal and State agencies responsible for enforcing mental health parity requirements have improved enforcement of such requirements in accordance with the objectives and timeline described in the action plan under section 605; and

(4) recommendations for how additional enforcement, education, and coordination activities by responsible Federal and State departments and agencies could better ensure compliance with such sections, including recommendations regarding the need for additional legal authority.

On page 86, between lines 11 and 12, insert the following:

(c) REMOVING PRACTITIONER CONTACT INFORMATION.—In the event that the Internet website described in subsection (b)(2) contains information on any qualified practitioner that is certified to prescribe medication for

opioid dependency under section 303(g)(2)(B) of the Controlled Substances Act (21 U.S.C. 823(g)(2)(B)), the Administrator—

(1) shall provide an opportunity to such practitioner to have the contact information of the practitioner removed from the website at the request of the practitioner; and

(2) may evaluate other methods to periodically update the information displayed on such website.

On page 86, line 17, strike ''**REAUTHORIZING**''.

On page 109, between lines 9 and 10, insert the following:

SEC. 414. MINORITY FELLOWSHIP PROGRAM.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

''PART K—MINORITY FELLOWSHIP PROGRAM

''SEC. 597. FELLOWSHIPS.

''(a) IN GENERAL.—The Secretary shall maintain a program, to be known as the Minority Fellowship Program, under which the Secretary awards fellowships, which may include stipends, for the purposes of—

''(1) increasing mental and substance use disorder practitioners' knowledge of issues related to prevention, treatment, and recovery support for mental and substance use disorders among racial and ethnic minority populations;

''(2) improving the quality of mental and substance use disorder prevention and treatment delivered to ethnic minorities; and

''(3) increasing the number of culturally competent mental and substance use disorder professionals who teach, administer, conduct services research, and provide direct mental or substance use disorder services to underserved minority populations.

''(b) TRAINING COVERED.—The fellowships under subsection (a) shall be for postbaccalaureate training (including for master's and doctoral degrees) for mental health professionals, including in the fields of psychiatry, nursing, social work, psychology, marriage and family therapy, and substance use and addiction counseling.

''(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2017 through 2021.''.

Beginning on page 111, strike line 3 and all that follows through page 114, line 23, and insert the following:

SEC. 502. TELEHEALTH CHILD PSYCHIATRY ACCESS GRANTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), acting through the Administrator of the Health Resources and Services Administration and in coordination with other relevant Federal agencies, may award grants through existing health programs that promote mental or child health, including programs under section 330I, 330K, or 330L of the Public Health Service Act (42 U.S.C. 254c-14, 254c-16, 254c-18), to States, political subdivisions of States, and Indian tribes and tribal organizations (for purposes of this section, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) to promote behavioral health integration in pediatric primary care by—

(1) supporting the development of statewide or regional child psychiatry access programs; and

(2) supporting the improvement of existing statewide or regional child psychiatry access programs.

(b) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—To be eligible for funding under subsection (a), a child psychiatry access program shall—

(A) be a statewide or regional network of pediatric mental health teams that provide support to pediatric primary care sites as an integrated team;

(B) support and further develop organized State or regional networks of child and adolescent psychiatrists to provide consultative support to pediatric primary care sites;

(C) conduct an assessment of critical behavioral consultation needs among pediatric providers and such providers' preferred mechanisms for receiving consultation and training and technical assistance;

(D) develop an online database and communication mechanisms, including telehealth, to facilitate consultation support to pediatric practices;

(E) provide rapid statewide or regional clinical telephone consultations when requested between the pediatric mental health teams and pediatric primary care providers;

(F) conduct training and provide technical assistance to pediatric primary care providers to support the early identification, diagnosis, treatment, and referral of children with behavioral health conditions and co-occurring intellectual and other developmental disabilities;

(G) inform and assist pediatric providers in accessing child psychiatry consultations and in scheduling and conducting technical assistance;

(H) assist with referrals to specialty care and community and behavioral health resources; and

(I) establish mechanisms for measuring and monitoring increased access to child and adolescent psychiatric services by pediatric primary care providers and expanded capacity of pediatric primary care providers to identify, treat, and refer children with mental health problems.

(2) PEDIATRIC MENTAL HEALTH TEAMS.—In this subsection, the term ''pediatric mental health team'' means a team of case coordinators, child and adolescent psychiatrists, and a licensed clinical mental health professional, such as a psychologist, social

worker, or mental health counselor. Such a team may be regionally based.

(c) APPLICATIONS.—A State, political subdivision of a State, Indian tribe, or tribal organization that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a plan for the comprehensive evaluation and the performance and outcome evaluation described in subsection (d).

(d) EVALUATION.—A State, political subdivision of a State, Indian tribe, or tribal organization that receives a grant under this section shall prepare and submit an evaluation to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, including a comprehensive evaluation of activities carried out with funds received through such grant and a performance and outcome evaluation of such activities.

(e) ACCESS TO BROADBAND.—In administering grants under this section, the Secretary may coordinate with other agencies to ensure that funding opportunities are available to support access to reliable, high-speed Internet for providers.

(f) MATCHING REQUIREMENT.—The Secretary may not award a grant under this section unless the State, political subdivision of a State, Indian tribe, or tribal organization involved agrees, with respect to the costs to be incurred by the State, political subdivision of a State, Indian tribe, or tribal organization in carrying out the purpose described in this section, to make available non-Federal contributions (in cash or in kind) toward such costs in an amount that is not less than 20 percent of Federal funds provided in the grant.

On page 163, line 13, insert ''and guidelines'' after ''practices''.