

House Bill 184

By: Representatives Lim of the 98th, Oliver of the 82nd, Au of the 50th, and Jones of the 25th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 include a specific federal regulation under mental health parity requirements; to provide for
3 related matters; to provide for an effective date; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
8 revising subsections (b) and (c) of Code Section 33-1-27, relating to insurance coverage for
9 mental health and substance abuse disorders, compliance with mental health parity
10 requirements, complaints and violations, and appointment of mental health parity officer, as
11 follows:

12 "(b) Every health insurer that provides coverage for mental health or substance use
13 disorders as part of a health care plan shall provide coverage for the treatment of mental
14 health or substance use disorders in any such health care plan it offers in accordance with
15 the Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. Section 300gg-26,

16 and its implementing and related regulations ~~in any such health care plan it offers,~~
17 including, but not limited to, 45 C.F.R. 146.121, in effect as of January 1, 2023, and shall:

- 18 (1) Provide such coverage for children, adolescents, and adults;
- 19 (2) In addition to the requirements of Chapter 46 of this title, apply the definitions of
20 'generally accepted standards of mental health or substance use disorder care,' 'medically
21 necessary,' and 'mental health or substance use disorder' contained in subsection (a) of
22 this Code section in making any medical necessity, prior authorization, or utilization
23 review determinations under such coverage;
- 24 (3) Ensure that any subcontractor or affiliate responsible for management of mental
25 health and substance use disorder care on behalf of the health insurer complies with the
26 requirements of this Code section; and
- 27 (4) No later than January 1, 2023, and annually thereafter, submit a report to the
28 Commissioner that contains the designated comparative analyses and other information
29 designated by the Commissioner for that reporting year for insurers under the Mental
30 Health Parity and Addiction Equity Act of 2008, 42 U.S.C. Section 300gg-26(a)(8)(A)
31 and which delineates the comparative analysis and written processes and strategies used
32 to apply benefits for children, adolescents, and adults. No later than January 1, 2024, and
33 annually thereafter, the Commissioner shall publish on the department's website in a
34 prominent location the reports submitted to the Commissioner pursuant to this paragraph
35 and a list of the designated NQTLs, comparative analyses, and other information required
36 by the Commissioner to be reported in the upcoming reporting year.

37 (c) The Commissioner shall:

- 38 (1)(A) Conduct an annual data call no later than May 15, 2023, and every May 15
39 thereafter, of health insurers to ensure compliance with mental health parity
40 requirements, including, but not limited to, compliance with the Mental Health Parity
41 and Addiction Equity Act of 2008, 42 U.S.C. Section 300gg-26 and with 45 C.F.R.
42 146.121, in effect as of January 1, 2023, as it applies to mental health factors. Such

43 data calls shall include a focus on the use of nonquantitative treatment limitations. In
44 the event that information collected from a data call indicates or suggests a potential
45 violation of any mental health parity requirement by a health insurer, the department
46 shall initiate a market conduct examination of such health insurer to determine whether
47 such health insurer is in compliance with mental health parity requirements. All health
48 insurers shall timely respond to and provide to the department any and all sufficient
49 data requested by the department; and

50 (B) Submit an annual report to the Governor, Lieutenant Governor, and Speaker of the
51 House of Representatives no later than August 15, 2023, and every August 15
52 thereafter, regarding the data call conducted pursuant to this paragraph, including
53 details regarding any market conduct examinations initiated by the department pursuant
54 to any such data call; and

55 (2) Include mental health parity compliance by health insurers in the examination
56 conducted pursuant to Code Section 33-2-11 by the Commissioner."

57 **SECTION 2.**

58 Said title is further amended by revising subsections (b) and (c) of Code Section 33-21A-13,
59 relating to coverage for mental health and substance abuse disorders, role of commissioner
60 of community health, and parity violations, as follows:

61 "(b) Every state health care entity shall provide coverage for the treatment of mental health
62 or substance use disorders in accordance with the Mental Health Parity and Addiction
63 Equity Act of 2008, 42 U.S.C. Section 300gg-26, and its implementing and related
64 regulations, including, but not limited to, 45 C.F.R. 146.121, in effect as of January 1,
65 2023, which shall be at least as extensive and provide at least the same degree of coverage
66 as that provided by the entity for the treatment of other types of physical illnesses. Such
67 coverage shall also cover the spouse and the dependents of the insured if such insured's
68 spouse and dependents are covered under such benefit plan, policy, or contract. Such

69 coverage shall not contain any exclusions, reductions, or other limitations as to coverages,
70 deductibles, or coinsurance provisions which apply to the treatment of mental health or
71 substance use disorders unless such provisions apply generally to other similar benefits
72 provided or paid for under the state health plan. Every such entity shall:

- 73 (1) Provide such coverage for children, adolescents, and adults;
- 74 (2) Apply the definitions of 'generally accepted standards of mental health or substance
75 use disorder care,' 'medically necessary,' and 'mental health or substance use disorder'
76 contained in subsection (a) of this Code section in making any medical necessity, prior
77 authorization, or utilization review determinations under such coverage;
- 78 (3) Ensure that any subcontractor or affiliate responsible for management of mental
79 health and substance use disorder care on behalf of the state health care entity complies
80 with the requirements of this Code section;
- 81 (4) Process hospital claims for emergency health care services for mental health or
82 substance use disorders in accordance with this Code section regardless of whether a
83 member is treated in an emergency department; and
- 84 (5) No later than January 1, 2023, and annually thereafter, submit a report to the
85 commissioner of community health that contains the comparative analysis and other
86 information required of insurers under the Mental Health Parity and Addiction Equity Act
87 of 2008, 42 U.S.C. Section 300gg-26(a)(8)(A) and which delineates the comparative
88 analysis and written processes and strategies used to apply benefits for children,
89 adolescents, and adults. No later than January 1, 2024, and annually thereafter, the
90 commissioner of community health shall publish on the Department of Community
91 Health's website in a prominent location the reports submitted to the commissioner of
92 community health pursuant to this paragraph.

93 (c) The commissioner of community health shall annually:

- 94 (1) Perform parity compliance reviews of all state health care entities to ensure
95 compliance with mental health parity requirements, including, but not limited to,

96 compliance with the Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.
97 Section 300gg-26 and with 45 C.F.R. 146.121, in effect as of January 1, 2023, as it
98 applies to mental health factors. Such parity compliance reviews shall include a focus
99 on the use of nonquantitative treatment limitations; and
100 (2) Publish on the Department of Community Health's website in a prominent location
101 a status report of the parity compliance reviews performed pursuant to this subsection,
102 including the results of the reviews and any corrective actions taken."

103 **SECTION 3.**

104 This Act shall become effective upon its approval by the Governor or upon its becoming law
105 without such approval.

106 **SECTION 4.**

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