

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2646
OFFERED BY M. _____**

Insert at the appropriate place the following:

**1 SEC. ____ . STRENGTHENING PARITY IN MENTAL HEALTH
2 AND SUBSTANCE USE DISORDER BENEFITS.**

3 (a) PUBLIC HEALTH SERVICE ACT.—Section
4 2726(a) of the Public Health Service Act (42 U.S.C.
5 300gg–26(a)) is amended by adding at the end the fol-
6 lowing new paragraphs:

**7 “(6) DISCLOSURE AND ENFORCEMENT RE-
8 QUIREMENTS.—**

9 “(A) DISCLOSURE REQUIREMENTS.—

10 “(i) REGULATIONS.—Not later than
11 December 31, 2016, the Secretary, in co-
12 operation with the Secretaries of Labor
13 and Treasury, as appropriate, shall issue
14 additional regulations for carrying out this
15 section, including an explanation of docu-
16 ments that must be disclosed by plans and
17 issuers, the process governing such disclo-
18 sures by plans and issuers, and analyses
19 that must be conducted by plans and

1 issuers by a group health plan or health in-
2 surance issuer offering health insurance
3 coverage in the group or individual market
4 in order for such plan or issuer to dem-
5 onstrate compliance with the provisions of
6 this section.

7 “(ii) DISCLOSURE REQUIREMENTS.—
8 Documents required to be disclosed by a
9 group health plan or health insurance
10 issuer offering health insurance coverage in
11 the group or individual market under
12 clause (i) shall include an annual report
13 that details the specific analyses performed
14 to ensure compliance of such plan or cov-
15 erage with the law and regulations. At a
16 minimum, with respect to the application
17 of non-quantitative treatment limitations
18 (in this paragraph referred to as NQTLs)
19 to benefits under the plan or coverage,
20 such report shall—

21 “(I) identify the specific factors
22 the plan or coverage used in per-
23 forming its NQTL analysis;

1 “(II) identify and define the spe-
2 cific evidentiary standards relied on to
3 evaluate the factors;

4 “(III) describe how the evi-
5 dentiary standards are applied to each
6 service category for mental health,
7 substance use disorders, medical bene-
8 fits, and surgical benefits;

9 “(IV) disclose the results of the
10 analyses of the specific evidentiary
11 standards in each service category;
12 and

13 “(V) disclose the specific findings
14 of the plan or coverage in each service
15 category and the conclusions reached
16 with respect to whether the processes,
17 strategies, evidentiary standards, or
18 other factors used in applying the
19 NQTL to mental health or substance
20 use disorder benefits are comparable
21 to, and applied no more stringently
22 than, the processes, strategies, evi-
23 dentiary standards, or other factors
24 used in applying the limitation with

1 respect to medical and surgical bene-
2 fits in the same classification

3 “(iii) GUIDANCE.—The Secretary, in
4 cooperation with the Secretaries of Labor
5 and Treasury, as appropriate, shall issue
6 guidance to group health plans and health
7 insurance issuers offering health insurance
8 coverage in the group or individual mar-
9 kets on how to satisfy the requirements of
10 this section with respect to making infor-
11 mation available to current and potential
12 participants and beneficiaries. Such infor-
13 mation shall include certificate of coverage
14 documents and instruments under which
15 the plan or coverage involved is adminis-
16 tered and operated that specify, include, or
17 refer to procedures, formulas, and meth-
18 odologies applied to determine a partici-
19 pant or beneficiary’s benefit under the plan
20 or coverage, regardless of whether such in-
21 formation is contained in a document des-
22 ignated as the ‘plan document’. Such guid-
23 ance shall include a disclosure of how the
24 plan or coverage involved has provided that
25 processes, strategies, evidentiary stand-

ards, and other factors used in applying the NQTL to mental health or substance use disorder benefits are comparable to, and applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation with respect to medical and surgical benefits in the same classification.

“(iv) DEFINITIONS.—In this paragraph and paragraph (7), the terms ‘non-quantitative treatment limitations’, ‘comparable to’, and ‘applied no more stringently than’ have the meanings given such terms in sections 146 and 147 of title 45, Code of Federal Regulations (or any successor regulation).

“(B) ENFORCEMENT.—

“(i) PROCESS FOR COMPLAINTS.—The Secretary, in cooperation with the Secretaries of Labor and Treasury, as appropriate, shall, with respect to group health plans and health insurance issuers offering health insurance coverage in the group or individual market, issue guidance to clarify the process and timeline for current and

1 potential participants and beneficiaries
2 (and authorized representatives and health
3 care providers of such participants and
4 beneficiaries) with respect to such plans
5 and coverage to file formal complaints of
6 such plans or issuers being in violation of
7 this section, including guidance, by plan
8 type, on the relevant State, regional, and
9 national offices with which such complaints
10 should be filed.

11 “(ii) AUTHORITY FOR PUBLIC EN-
12 FORCEMENT.—The Secretary, in consulta-
13 tion with the Secretaries of Labor and
14 Treasury, shall make available to the pub-
15 lic on the Consumer Parity Portal website
16 established under paragraph (7) de-identi-
17 fied information on audits and investiga-
18 tions of group health plans and health in-
19 surance issuers conducted under this sec-
20 tion.

21 “(iii) AUDITS.—

22 “(I) RANDOMIZED AUDITS.—The
23 Secretary in cooperation with the Sec-
24 retaries of Labor and Treasury, is au-
25 thorized to conduct randomized audits

1 of group health plans and health in-
2 surance issuers offering health insur-
3 ance coverage in the group or indi-
4 vidual market to determine compli-
5 ance with this section. Such audits
6 shall be conducted on no fewer than
7 twelve plans and issuers per plan
8 year. Information from such audits
9 shall be made plainly available on the
10 Consumer Parity Portal website es-
11 tablished under paragraph (7).

12 “(II) ADDITIONAL AUDITS.—In
13 the case of a group health plan or
14 health insurance issuer offering health
15 insurance coverage in the group or in-
16 dividual market with respect to which
17 any claim has been filed during a plan
18 year, the Secretary may audit the
19 books and records of such plan or
20 issuer to determine compliance with
21 this section. Information detailing the
22 results of the audit shall be made
23 available on the Consumer Parity Por-
24 tal website established under para-
25 graph (7).

1 “(iv) DENIAL RATES.—The Secretary
2 shall collect information on the rates of
3 and reasons for denial by group health
4 plans and health insurance issuers offering
5 health insurance coverage in the group or
6 individual market of claims for outpatient
7 and inpatient mental health and substance
8 use disorder services compared to the rates
9 of and reasons for denial of claims for
10 medical and surgical services. For the first
11 plan year beginning at least two years
12 after the date of the enactment of this
13 paragraph and each subsequent plan year,
14 the Secretary shall submit to the Energy
15 and Commerce Committee of the House of
16 Representatives and the Committee on
17 Health, Education, Labor, and Pensions of
18 the Senate, and make plainly available on
19 the Consumer Parity Portal website under
20 paragraph (7), the information collected
21 under the previous sentence with respect to
22 the previous plan year.

23 “(7) CONSUMER PARITY PORTAL WEBSITE.—
24 The Secretary, in consultation with the Secretaries

1 of Labor and Treasury, shall establish a one-stop
2 Internet website portal for—

3 “(A) submitting complaints and violations
4 relating to this section, section 712 of the Em-
5 ployee Retirement Income Security Act of 1974,
6 and section 9812 of the Internal Revenue Code
7 of 1986; and

8 “(B) for each of such Secretaries to submit
9 information in order to provide such informa-
10 tion to health care consumers pursuant to para-
11 graph (6), section 712(a)(6) of the Employee
12 Retirement Income Security Act of 1974, and
13 section 9812(a)(6) of the Internal Revenue
14 Code of 1986.

15 Such portal shall have the ability to take basic infor-
16 mation related to the complaint, including name,
17 contact information, and brief narrative, and trans-
18 mit such information in a timely fashion to the ap-
19 propriate State or Federal enforcement agency. Once
20 the consumer information is submitted, such portal
21 shall provide the consumer with contact information
22 for the appropriate enforcement agency to follow-up
23 on the complaint.”.

24 (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT
25 OF 1974.—Section 712(a) of the Employee Retirement In-

1 come Security Act of 1974 (29 U.S.C. 1185a(a)) is
2 amended by adding at the end the following new para-
3 graph:

4 “(6) DISCLOSURE AND ENFORCEMENT RE-
5 QUIREMENTS.—

6 “(A) DISCLOSURE REQUIREMENTS.—

7 “(i) REGULATIONS.—Not later than
8 December 31, 2016, the Secretary, in co-
9 operation with the Secretaries of Health
10 and Human Services and Treasury, as ap-
11 propriate, shall issue additional regulations
12 for carrying out this section, including an
13 explanation of documents that must be dis-
14 closed by plans and issuers, the process
15 governing such disclosures by plans and
16 issuers, and analyses that must be con-
17 ducted by plans and issuers by a group
18 health plan (or health insurance coverage
19 offered in connection with such a plan) in
20 order for such plan or issuer to dem-
21 onstrate compliance with the provisions of
22 this section.

23 “(ii) DISCLOSURE REQUIREMENTS.—
24 Documents required to be disclosed by a
25 group health plan (or health insurance cov-

1 erage offered in connection with such a
2 plan) under clause (i) shall include an an-
3 nual report that details the specific anal-
4 yses performed to ensure compliance of
5 such plan or coverage with the law or regu-
6 lations. At a minimum, with respect to the
7 application of non-quantitative treatment
8 limitations (in this paragraph referred to
9 as NQTLs) to benefits under the plan or
10 coverage, such report shall—

11 “(I) identify the specific factors
12 the plan or coverage used in per-
13 forming its NQTL analysis;

14 “(II) identify and define the spe-
15 cific evidentiary standards relied on to
16 evaluate the factors;

17 “(III) describe how the evi-
18 dentiary standards are applied to each
19 service category for mental health,
20 substance use disorders, medical bene-
21 fits, and surgical benefits;

22 “(IV) disclose the results of the
23 analyses of the specific evidentiary
24 standards in each service category;
25 and

1 “(V) disclose the specific findings
2 of the plan or coverage in each service
3 category and the conclusions reached
4 with respect to whether the processes,
5 strategies, evidentiary standards, or
6 other factors used in applying the
7 NQTL to mental health or substance
8 use disorder benefits are comparable
9 to, and applied no more stringently
10 than, the processes, strategies, evi-
11 dentiary standards, or other factors
12 used in applying the limitation with
13 respect to medical and surgical bene-
14 fits in the same classification

15 “(iii) GUIDANCE.—The Secretary, in
16 cooperation with the Secretaries of Health
17 and Human Services and Treasury, as ap-
18 propriate, shall issue guidance to group
19 health plans (and health insurance cov-
20 erage offered in connection with such a
21 plan) on how to satisfy the requirements of
22 this section with respect to making infor-
23 mation available to current and potential
24 participants and beneficiaries. Such infor-
25 mation shall include certificate of coverage

1 documents and instruments under which
2 the plan or coverage involved is adminis-
3 tered and operated that specify, include, or
4 refer to procedures, formulas, and meth-
5 odologies applied to determine a partici-
6 pant or beneficiary's benefit under the plan
7 or coverage, regardless of whether such in-
8 formation is contained in a document des-
9 ignated as the 'plan document'. Such guid-
10 ance shall include a disclosure of how the
11 plan or coverage involved has provided that
12 processes, strategies, evidentiary stand-
13 ards, and other factors used in applying
14 the NQTL to mental health or substance
15 use disorder benefits are comparable to,
16 and applied no more stringently than, the
17 processes, strategies, evidentiary stand-
18 ards, or other factors used in applying the
19 limitation with respect to medical and sur-
20 gical benefits in the same classification.

21 “(iv) DEFINITIONS.—In this para-
22 graph, the terms ‘non-quantitative treat-
23 ment limitations’, ‘comparable to’, and ‘ap-
24 plied no more stringently than’ have the
25 meanings given such terms in sections 146

1 and 147 of title 45, Code of Federal Regu-
2 lations (or any successor regulation).

3 “(B) ENFORCEMENT.—

4 “(i) PROCESS FOR COMPLAINTS.—The
5 Secretary, in cooperation with the Secre-
6 taries of Health and Human Services and
7 Treasury, as appropriate, shall, with re-
8 spect to group health plans (and health in-
9 surance coverage offered in connection
10 with such a plan), issue guidance to clarify
11 the process and timeline for current and
12 potential participants and beneficiaries
13 (and authorized representatives and health
14 care providers of such participants and
15 beneficiaries) with respect to such plans
16 (and coverage) to file formal complaints of
17 such plans (or coverage) being in violation
18 of this section, including guidance, by plan
19 type, on the relevant State, regional, and
20 national offices with which such complaints
21 should be filed.

22 “(ii) AUTHORITY FOR PUBLIC EN-
23 FORCEMENT.—The Secretary, in consulta-
24 tion with the Secretaries of Labor and
25 Treasury, shall make available to the pub-

1 lic on the Consumer Parity Portal website
2 established under section 2726(a)(7) of the
3 Public Health Service Act de-identified in-
4 formation on audits and investigations of
5 group health plans (and health insurance
6 coverage offered in connection with such a
7 plan) conducted under this section.

8 “(iii) AUDITS.—

9 “(I) RANDOMIZED AUDITS.—The
10 Secretary in cooperation with the Sec-
11 retaries of Health and Human Serv-
12 ices and Treasury, is authorized to
13 conduct randomized audits of group
14 health plans (and health insurance
15 coverage offered in connection with
16 such a plan) to determine compliance
17 with this section. Such audits shall be
18 conducted on no fewer than twelve
19 plans and coverage per plan year. In-
20 formation from such audits shall be
21 made plainly available on the Con-
22 sumer Parity Portal website estab-
23 lished under section 2726(a)(7) of the
24 Public Health Service Act.

1 “(II) ADDITIONAL AUDITS.—In
2 the case of a group health plan (or
3 health insurance coverage offered in
4 connection with such a plan) with re-
5 spect to which any claim has been
6 filed during a plan year, the Secretary
7 may audit the books and records of
8 such plan (or coverage) to determine
9 compliance with this section. Informa-
10 tion detailing the results of the audit
11 shall be made available on the Con-
12 sumer Parity Portal website estab-
13 lished under section 2726(a)(7) of the
14 Public Health Service Act.

15 “(iv) DENIAL RATES.—The Secretary
16 shall collect information on the rates of
17 and reasons for denial by group health
18 plans (and health insurance coverage of-
19 fered in connection with such a plan) of
20 claims for outpatient and inpatient mental
21 health and substance use disorder services
22 compared to the rates of and reasons for
23 denial of claims for medical and surgical
24 services. For the first plan year beginning
25 at least two years after the date of the en-

1 actment of this paragraph and each subse-
2 quent plan year, the Secretary shall submit
3 to the Energy and Commerce Committee
4 of the House of Representatives and the
5 Committee on Health, Education, Labor,
6 and Pensions of the Senate, and make
7 plainly available on the Consumer Parity
8 Portal website under section 2726(a)(7) of
9 the Public Health Service Act, the infor-
10 mation collected under the previous sen-
11 tence with respect to the previous plan
12 year.”.

13 (c) INTERNAL REVENUE CODE OF 1986.—Section
14 9812(a) of the Internal Revenue Code of 1986 is amended
15 by adding at the end the following new paragraph:

16 “(6) DISCLOSURE AND ENFORCEMENT RE-
17 QUIREMENTS.—

18 “(A) DISCLOSURE REQUIREMENTS.—

19 “(i) REGULATIONS.—Not later than
20 December 31, 2016, the Secretary, in co-
21 operation with the Secretaries of Health
22 and Human Services and Labor, as appro-
23 priate, shall issue additional regulations for
24 carrying out this section, including an ex-
25 planation of documents that must be dis-

1 closed by plans and issuers, the process
2 governing such disclosures by plans and
3 issuers, and analyses that must be con-
4 ducted by plans and issuers by a group
5 health plan in order for such plan to dem-
6 onstrate compliance with the provisions of
7 this section.

8 “(ii) DISCLOSURE REQUIREMENTS.—
9 Documents required to be disclosed by a
10 group health plan under clause (i) shall in-
11 clude an annual report that details the spe-
12 cific analyses performed to ensure compli-
13 ance of such plan with the law and regula-
14 tions. At a minimum, with respect to the
15 application of non-quantitative treatment
16 limitations (in this paragraph referred to
17 as NQTLs) to benefits under the plan or
18 coverage, such report shall—

19 “(I) identify the specific factors
20 the plan or coverage used in per-
21 forming its NQTL analysis;

22 “(II) identify and define the spe-
23 cific evidentiary standards relied on to
24 evaluate the factors;

1 “(III) describe how the evi-
2 dentiary standards are applied to each
3 service category for mental health,
4 substance use disorders, medical bene-
5 fits, and surgical benefits;

6 “(IV) disclose the results of the
7 analyses of the specific evidentiary
8 standards in each service category;
9 and

10 “(V) disclose the specific findings
11 of the plan in each service category
12 and the conclusions reached with re-
13 spect to whether the processes, strate-
14 gies, evidentiary standards, or other
15 factors used in applying the NQTL to
16 mental health or substance use dis-
17 order benefits are comparable to, and
18 applied no more stringently than, the
19 processes, strategies, evidentiary
20 standards, or other factors used in ap-
21 plying the limitation with respect to
22 medical and surgical benefits in the
23 same classification

24 “(iii) GUIDANCE.—The Secretary, in
25 cooperation with the Secretaries of Health

1 and Human Services and Labor, as appro-
2 priate, shall issue guidance to group health
3 plans on how to satisfy the requirements of
4 this section with respect to making infor-
5 mation available to current and potential
6 participants and beneficiaries. Such infor-
7 mation shall include certificate of coverage
8 documents and instruments under which
9 the plan involved is administered and oper-
10 ated that specify, include, or refer to pro-
11 cedures, formulas, and methodologies ap-
12 plied to determine a participant or bene-
13 ficiary's benefit under the plan, regardless
14 of whether such information is contained
15 in a document designated as the 'plan doc-
16 ument'. Such guidance shall include a dis-
17 closure of how the plan involved has pro-
18 vided that processes, strategies, evidentiary
19 standards, and other factors used in apply-
20 ing the NQTL to mental health or sub-
21 stance use disorder benefits are com-
22 parable to, and applied no more stringently
23 than, the processes, strategies, evidentiary
24 standards, or other factors used in apply-
25 ing the limitation with respect to medical

1 and surgical benefits in the same classi-
2 fication.

3 “(iv) DEFINITIONS.—In this para-
4 graph, the terms ‘non-quantitative treat-
5 ment limitations’, ‘comparable to’, and ‘ap-
6 plied no more stringently than’ have the
7 meanings given such terms in sections 146
8 and 147 of title 45, Code of Federal Regu-
9 lations (or any successor regulation).

10 “(B) ENFORCEMENT.—

11 “(i) PROCESS FOR COMPLAINTS.—The
12 Secretary, in cooperation with the Secre-
13 taries of Health and Human Services and
14 Labor, as appropriate, shall, with respect
15 to group health plans, issue guidance to
16 clarify the process and timeline for current
17 and potential participants and beneficiaries
18 (and authorized representatives and health
19 care providers of such participants and
20 beneficiaries) with respect to such plans
21 (and coverage) to file formal complaints of
22 such plans being in violation of this sec-
23 tion, including guidance, by plan type, on
24 the relevant State, regional, and national

1 offices with which such complaints should
2 be filed.

3 “(ii) AUTHORITY FOR PUBLIC EN-
4 FORCEMENT.—The Secretary, in consulta-
5 tion with the Secretaries of Labor and
6 Treasury, shall make available to the pub-
7 lic on the Consumer Parity Portal website
8 established under section 2726(a)(7) of the
9 Public Health Service Act de-identified in-
10 formation on audits and investigations of
11 group health plans conducted under this
12 section.

13 “(iii) AUDITS.—

14 “(I) RANDOMIZED AUDITS.—The
15 Secretary in cooperation with the Sec-
16 retaries of Health and Human Serv-
17 ices and Labor, is authorized to con-
18 duct randomized audits of group
19 health plans to determine compliance
20 with this section. Such audits shall be
21 conducted on no fewer than twelve
22 plans per plan year. Information from
23 such audits shall be made plainly
24 available on the Consumer Parity Por-
25 tal website established under section

1 2726(a)(7) of the Public Health Serv-
2 ice Act.

3 “(II) ADDITIONAL AUDITS.—In
4 the case of a group health plan with
5 respect to which any claim has been
6 filed during a plan year, the Secretary
7 may audit the books and records of
8 such plan to determine compliance
9 with this section. Information detail-
10 ing the results of the audit shall be
11 made available on the Consumer Par-
12 ity Portal website established under
13 section 2726(a)(7) of the Public
14 Health Service Act.

15 “(iv) DENIAL RATES.—The Secretary
16 shall collect information on the rates of
17 and reasons for denial by group health
18 plans of claims for outpatient and inpa-
19 tient mental health and substance use dis-
20 order services compared to the rates of and
21 reasons for denial of claims for medical
22 and surgical services. For the first plan
23 year beginning at least two years after the
24 date of the enactment of this paragraph
25 and each subsequent plan year, the Sec-

1 retary shall submit to the Energy and
2 Commerce Committee of the House of
3 Representatives and the Committee on
4 Health, Education, Labor, and Pensions of
5 the Senate, and make plainly available on
6 the Consumer Parity Portal website under
7 section 2726(a)(7) of the Public Health
8 Service Act, the information collected
9 under the previous sentence with respect to
10 the previous plan year.”.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated \$2,000,000 for each of fis-
13 cal years 2016 through 2020 to carry out this section, in-
14 cluding the amendments made by this section.

