AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2646 OFFERED BY M__. ___________

Insert at the appropriate place the following:

SEC. ___. STRENGTHENING PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.

(a) PUBLIC HEALTH SERVICE ACT.—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 new paragraphs:

"(6) DISCLOSURE AND ENFORCEMENT REQUIREMENTS.—

"(A) DISCLOSURE REQUIREMENTS.—

"(i) REGULATIONS.—Not later than December 31, 2016, the Secretary, in cooperation with the Secretaries of Labor and Treasury, as appropriate, shall issue additional regulations for carrying out this section, including an explanation of documents that must be disclosed by plans and issuers, the process governing such disclosures by plans and issuers, and analyses that must be conducted by plans and issuers by a group health plan or health insurance issuer offering health insurance coverage in the group or individual market in order for such plan or issuer to demonstrate compliance with the provisions of this section.

"(ii) DISCLOSURE REQUIREMENTS.—Documents required to be disclosed by a group health plan or health insurance issuer offering health insurance coverage in the group or individual market under clause (i) shall include an annual report that details the specific analyses performed to ensure compliance of such plan or coverage with the law and regulations. At a minimum, with respect to the application of non-quantitative treatment limitations (in this paragraph referred to as NQTLs) to benefits under the plan or coverage, such report shall—

"(I) identify the specific factors the plan or coverage used in performing its NQTL analysis;

"(II) identify and define the specific evidentiary standards relied on to evaluate the factors;

"(III) describe how the evidentiary standards are applied to each service category for mental health, substance use disorders, medical benefits, and surgical benefits;

"(IV) disclose the results of the analyses of the specific evidentiary standards in each service category; and

"(V) disclose the specific findings of the plan or coverage in each service category and the conclusions reached with respect to whether the processes, strategies, evidentiary standards, or 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

"(iii) GUIDANCE.—The Secretary, in cooperation with the Secretaries of Labor and Treasury, as appropriate, shall issue guidance to group health plans and health insurance issuers offering health insurance coverage in the group or individual markets on how to satisfy the requirements of this section with respect to making information available to current and potential participants and beneficiaries. Such information shall include certificate of coverage documents and instruments under which the plan or coverage involved is administered and operated that specify, include, or refer to procedures, formulas, and methodologies applied to determine a participant or beneficiary's benefit under the plan or coverage, regardless of whether such information is contained in a document designated as the 'plan document'. Such guidance shall include a disclosure of how the plan or coverage involved has provided that processes, strategies, evidentiary standards, 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 'nonquantitative 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 potential participants and beneficiaries (and authorized representatives and health care providers of such participants and beneficiaries) with respect to such plans and coverage to file formal complaints of such plans or issuers being in violation of this section, including guidance, by plan type, on the relevant State, regional, and national offices with which such complaints should be filed.

"(ii) AUTHORITY FOR PUBLIC ENFORCEMENT.—The Secretary, in consultation with the Secretaries of Labor and Treasury, shall make available to the public on the Consumer Parity Portal website established under paragraph (7) de-identified information on audits and investigations of group health plans and health insurance issuers conducted under this section.

"(iii) AUDITS.—

"(I) RANDOMIZED AUDITS.—The Secretary in cooperation with the Secretaries of Labor and Treasury, is authorized to conduct randomized audits of group health plans and health insurance issuers offering health insurance coverage in the group or individual market to determine compliance with this section. Such audits shall be conducted on no fewer than twelve plans and issuers per plan year. Information from such audits shall be made plainly available on the Consumer Parity Portal website established under paragraph (7).

"(II) ADDITIONAL AUDITS.—In the case of a group health plan or health insurance issuer offering health insurance coverage in the group or individual market with respect to which any claim has been filed during a plan year, the Secretary may audit the books and records of such plan or issuer to determine compliance with this section. Information detailing the results of the audit shall be made available on the Consumer Parity Portal website established under paragraph (7).

"(iv) DENIAL RATES.—The Secretary shall collect information on the rates of and reasons for denial by group health plans and health insurance issuers offering health insurance coverage in the group or individual market of claims for outpatient and inpatient mental health and substance use disorder services compared to the rates of and reasons for denial of claims for medical and surgical services. For the first plan year beginning at least two years after the date of the enactment of this paragraph and each subsequent plan year, the Secretary shall submit to the Energy and Commerce Committee of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and make plainly available on the Consumer Parity Portal website under paragraph (7), the information collected under the previous sentence with respect to the previous plan year.

"(7) CONSUMER PARITY PORTAL WEBSITE.—The Secretary, in consultation with the Secretaries of Labor and Treasury, shall establish a one-stop Internet website portal for—

"(A) submitting complaints and violations relating to this section, section 712 of the Employee Retirement Income Security Act of 1974, and section 9812 of the Internal Revenue Code of 1986; and

"(B) for each of such Secretaries to submit information in order to provide such information to health care consumers pursuant to paragraph (6), section 712(a)(6) of the Employee Retirement Income Security Act of 1974, and section 9812(a)(6) of the Internal Revenue Code of 1986.

Such portal shall have the ability to take basic information related to the complaint, including name, contact information, and brief narrative, and transmit such information in a timely fashion to the appropriate State or Federal enforcement agency. Once the consumer information is submitted, such portal shall provide the consumer with contact information for the appropriate enforcement agency to follow-up on the complaint.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 712(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(a)) is amended by adding at the end the following new paragraph:

"(6) DISCLOSURE AND ENFORCEMENT REQUIREMENTS.—

"(A) DISCLOSURE REQUIREMENTS.—

"(i) REGULATIONS.—Not later than December 31, 2016, the Secretary, in cooperation with the Secretaries of Health and Human Services and Treasury, as appropriate, shall issue additional regulations for carrying out this section, including an explanation of documents that must be disclosed by plans and issuers, the process governing such disclosures by plans and issuers, and analyses that must be conducted by plans and issuers by a group health plan (or health insurance coverage offered in connection with such a plan) in order for such plan or issuer to demonstrate compliance with the provisions of this section.

"(ii) DISCLOSURE REQUIREMENTS.—Documents required to be disclosed by a group health plan (or health insurance coverage offered in connection with such a plan) under clause (i) shall include an annual report that details the specific analyses performed to ensure compliance of such plan or coverage with the law or regulations. At a minimum, with respect to the application of non-quantitative treatment limitations (in this paragraph referred to as NQTLs) to benefits under the plan or coverage, such report shall—

"(I) identify the specific factors the plan or coverage used in performing its NQTL analysis;

"(II) identify and define the specific evidentiary standards relied on to evaluate the factors;

"(III) describe how the evidentiary standards are applied to each service category for mental health, substance use disorders, medical benefits, and surgical benefits;

"(IV) disclose the results of the analyses of the specific evidentiary standards in each service category; and

"(V) disclose the specific findings of the plan or coverage in each service category and the conclusions reached with respect to whether the processes, strategies, evidentiary standards, or 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

"(iii) GUIDANCE.—The Secretary, in cooperation with the Secretaries of Health and Human Services and Treasury, as appropriate, shall issue guidance to group health plans (and health insurance coverage offered in connection with such a plan) on how to satisfy the requirements of this section with respect to making information available to current and potential participants and beneficiaries. Such information shall include certificate of coverage documents and instruments under which the plan or coverage involved is administered and operated that specify, include, or refer to procedures, formulas, and methodologies applied to determine a participant or beneficiary's benefit under the plan or coverage, regardless of whether such information is contained in a document designated as the 'plan document'. Such guidance shall include a disclosure of how the plan or coverage involved has provided that processes, strategies, evidentiary standards, 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, 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 Health and Human Services and Treasury, as appropriate, shall, with respect to group health plans (and health insurance coverage offered in connection with such a plan), issue guidance to clarify the process and timeline for current and potential participants and beneficiaries (and authorized representatives and health care providers of such participants and beneficiaries) with respect to such plans (and coverage) to file formal complaints of such plans (or coverage) being in violation of this section, including guidance, by plan type, on the relevant State, regional, and national offices with which such complaints should be filed.

"(ii) AUTHORITY FOR PUBLIC ENFORCEMENT.—The Secretary, in consultation with the Secretaries of Labor and Treasury, shall make available to the public on the Consumer Parity Portal website established under section 2726(a)(7) of the Public Health Service Act de-identified information on audits and investigations of group health plans (and health insurance coverage offered in connection with such a plan) conducted under this section.

''(iii) AUDITS.—

''(I) RANDOMIZED AUDITS.—The Secretary in cooperation with the Secretaries of Health and Human Services and Treasury, is authorized to conduct randomized audits of group health plans (and health insurance coverage offered in connection with such a plan) to determine compliance with this section. Such audits shall be conducted on no fewer than twelve plans and coverage per plan year. Information from such audits shall be made plainly available on the Consumer Parity Portal website established under section 2726(a)(7) of the Public Health Service Act.

"(II) ADDITIONAL AUDITS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) with respect to which any claim has been filed during a plan year, the Secretary may audit the books and records of such plan (or coverage) to determine compliance with this section. Information detailing the results of the audit shall be made available on the Consumer Parity Portal website established under section 2726(a)(7) of the Public Health Service Act.

"(iv) DENIAL RATES.—The Secretary shall collect information on the rates of and reasons for denial by group health plans (and health insurance coverage offered in connection with such a plan) of claims for outpatient and inpatient mental health and substance use disorder services compared to the rates of and reasons for denial of claims for medical and surgical services. For the first plan year beginning at least two years after the date of the enactment of this paragraph and each subsequent plan year, the Secretary shall submit to the Energy and Commerce Committee of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and make plainly available on the Consumer Parity Portal website under section 2726(a)(7) of the Public Health Service Act, the information collected under the previous sentence with respect to the previous plan year.''.

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

``(6) DISCLOSURE AND ENFORCEMENT REQUIREMENTS.—

``(A) DISCLOSURE REQUIREMENTS.—

``(i) REGULATIONS.—Not later than December 31, 2016, the Secretary, in cooperation with the Secretaries of Health and Human Services and Labor, as appropriate, shall issue additional regulations for carrying out this section, including an explanation of documents that must be disclosed by plans and issuers, the process governing such disclosures by plans and issuers, and analyses that must be conducted by plans and issuers by a group health plan in order for such plan to demonstrate compliance with the provisions of this section.

"(ii) DISCLOSURE REQUIREMENTS.—Documents required to be disclosed by a group health plan under clause (i) shall include an annual report that details the specific analyses performed to ensure compliance of such plan with the law and regulations. At a minimum, with respect to the application of non-quantitative treatment limitations (in this paragraph referred to as NQTLs) to benefits under the plan or coverage, such report shall—

"(I) identify the specific factors the plan or coverage used in performing its NQTL analysis;

"(II) identify and define the specific evidentiary standards relied on to evaluate the factors;

"(III) describe how the evidentiary standards are applied to each service category for mental health, substance use disorders, medical benefits, and surgical benefits;

"(IV) disclose the results of the analyses of the specific evidentiary standards in each service category; and

"(V) disclose the specific findings of the plan in each service category and the conclusions reached with respect to whether the processes, strategies, evidentiary standards, or 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

"(iii) GUIDANCE.—The Secretary, in cooperation with the Secretaries of Health and Human Services and Labor, as appropriate, shall issue guidance to group health plans on how to satisfy the requirements of this section with respect to making information available to current and potential participants and beneficiaries. Such information shall include certificate of coverage documents and instruments under which the plan involved is administered and operated that specify, include, or refer to procedures, formulas, and methodologies applied to determine a participant or beneficiary's benefit under the plan, regardless of whether such information is contained in a document designated as the 'plan document'. Such guidance shall include a disclosure of how the plan involved has provided that processes, strategies, evidentiary standards, 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, 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 Health and Human Services and Labor, as appropriate, shall, with respect to group health plans, issue guidance to clarify the process and timeline for current and potential participants and beneficiaries (and authorized representatives and health care providers of such participants and beneficiaries) with respect to such plans (and coverage) to file formal complaints of such plans being in violation of this section, including guidance, by plan type, on the relevant State, regional, and national offices with which such complaints should be filed.

"(ii) AUTHORITY FOR PUBLIC ENFORCEMENT.—The Secretary, in consultation with the Secretaries of Labor and Treasury, shall make available to the public on the Consumer Parity Portal website established under section 2726(a)(7) of the Public Health Service Act de-identified information on audits and investigations of group health plans conducted under this section.

"(iii) AUDITS.—

"(I) RANDOMIZED AUDITS.—The Secretary in cooperation with the Secretaries of Health and Human Services and Labor, is authorized to conduct randomized audits of group health plans to determine compliance with this section. Such audits shall be conducted on no fewer than twelve plans per plan year. Information from such audits shall be made plainly available on the Consumer Parity Portal website established under section

2726(a)(7) of the Public Health Service Act.

"(II) ADDITIONAL AUDITS.—In the case of a group health plan with respect to which any claim has been filed during a plan year, the Secretary may audit the books and records of such plan to determine compliance with this section. Information detailing the results of the audit shall be made available on the Consumer Parity Portal website established under section 2726(a)(7) of the Public Health Service Act.

"(iv) DENIAL RATES.—The Secretary shall collect information on the rates of and reasons for denial by group health plans of claims for outpatient and inpatient mental health and substance use disorder services compared to the rates of and reasons for denial of claims for medical and surgical services. For the first plan year beginning at least two years after the date of the enactment of this paragraph and each subsequent plan year, the Secretary shall submit to the Energy and Commerce Committee of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and make plainly available on the Consumer Parity Portal website under section 2726(a)(7) of the Public Health Service Act, the information collected under the previous sentence with respect to the previous plan year.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for each of fiscal years 2016 through 2020 to carry out this section, including the amendments made by this section.