

The House Committee on Rules offers the following substitute to SB 131:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 2 of Title 37 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding the administration of mental health, developmental
3 disabilities, addictive diseases, and other disability services, so as to add a member to the
4 Behavioral Health Coordinating Council; to establish a parity compliance review panel; to
5 provide for its composition and duties; to require health care providers to report parity
6 concerns to the panel; to provide for evaluation of parity concerns reported; to provide for
7 recommendations for punitive actions; to provide for definitions; to provide for related
8 matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 1 of Chapter 2 of Title 37 of the Official Code of Georgia Annotated, relating to
12 general provisions regarding the administration of mental health, developmental disabilities,
13 addictive diseases, and other disability services, is amended in Code Section 37-2-4, relating
14 to the Behavioral Health Coordinating Council and its membership, meetings, and
15 obligations, by revising subsections (a) and (c.1) and by adding a new subsection to read as
16 follows:

17 "(a) There is created the Behavioral Health Coordinating Council. The council shall
18 consist of the commissioner of behavioral health and developmental disabilities; the
19 commissioner of early care and learning; the commissioner of community health; the
20 commissioner of public health; the commissioner of human services; the commissioner of
21 juvenile justice; the commissioner of corrections; the commissioner of veterans service; the
22 commissioner of community supervision; the commissioner of community affairs; the
23 commissioner of the Technical College System of Georgia; the Commissioner of Labor;
24 the State School Superintendent; the Insurance Commissioner; the chairperson of the State
25 Board of Pardons and Paroles; a behavioral health expert employed by the University
26 System of Georgia, designated by the chancellor of the university system; two members,
27 appointed by the Governor; the ombudsman appointed pursuant to Code Section 37-2-32;
28 the Child Advocate for the Protection of Children; an expert on early childhood mental
29 health, appointed by the Governor; an expert on child and adolescent health, appointed by
30 the Governor; a pediatrician, appointed by the Governor; an adult consumer of public
31 behavioral health services, appointed by the Governor; a family member of a consumer of
32 public behavioral health services, appointed by the Governor; a parent of a child receiving
33 public behavioral health services, appointed by the Governor; a member of the House of
34 Representatives, appointed by the Speaker of the House of Representatives; and a member
35 of the Senate, appointed by the President of the Senate."

36 "(c.1) The commissioner of behavioral health and developmental disabilities, the
37 commissioner of early care and learning, the commissioner of community health, the
38 commissioner of public health, the commissioner of human services, the commissioner of
39 juvenile justice, the commissioner of corrections, the commissioner of veterans service, the
40 commissioner of community supervision, the commissioner of community affairs, the
41 commissioner of the Technical College System of Georgia, the Commissioner of Labor,
42 the State School Superintendent, the Insurance Commissioner, and the chairperson of the
43 State Board of Pardons and Paroles shall each be authorized to be represented by a delegate

44 or agent at any meeting of the council or subcommittee meeting. Any such delegate or
45 agent shall be counted toward a quorum, shall have all voting privileges as the member's
46 delegate or agent, and shall not be considered an absence of the member."

47 "(j) The council shall serve in an advisory role for the parity compliance review panel
48 established pursuant to Code Section 37-2-12."

49 **SECTION 2.**

50 Said article is further amended by adding a new Code section to read as follows:

51 "37-2-12.

52 (a) As used in this Code section, the term:

53 (1) 'Health care provider' means any health care professional licensed under Title 43 or
54 any hospital or other health care facility licensed or regulated under Chapter 7 of Title 31
55 or under this title.

56 (2) 'Health insurer' has the same meaning as provided for in subsection (a) of Code
57 Section 33-1-27.

58 (3) 'Panel' means the parity compliance review panel established pursuant to this Code
59 section.

60 (4) 'Parity concerns' means actual or potential violations by health insurers and state
61 health care entities of the requirements contained in:

62 (A) Code Sections 33-1-27 and 33-21A-13, including, without limitation, the failure
63 to use the statutory definitions of 'medically necessary' or 'generally accepted standards
64 of mental health and substance use disorder care'; and

65 (B) Code Section 33-24-59.10 and 42 U.S.C. Section 1905(r).

66 (5) 'State health care entity' has the same meaning as provided for in subsection (a) of
67 Code Section 33-21A-13.

68 (b) There is established a parity compliance review panel within the council to be
69 composed of:

- 70 (1) The following members of the council:
- 71 (A) The commissioner of community health, or his or her designee;
- 72 (B) The commissioner of behavioral health and developmental disabilities, or his or her
- 73 designee;
- 74 (C) The commissioner of human services, or his or her designee; and
- 75 (D) The Insurance Commissioner, or his or her designee; and
- 76 (2) The following appointed members:
- 77 (A) Two mental health clinicians, appointed by the Governor;
- 78 (B) Two senior executives of facilities or systems providing mental health care,
- 79 appointed by the Governor;
- 80 (C) One mental health advocate, appointed by the President of the Senate; and
- 81 (D) One mental health advocate, appointed by the Speaker of the House of
- 82 Representatives.
- 83 (c)(1) Health care providers shall be required to report parity concerns in the manner and
- 84 pursuant to the forms and periodicity, if any, adopted by the panel.
- 85 (2) Any such reports shall:
- 86 (A) Enable the submission of information by health care providers of actions or
- 87 practices of concern that are not specifically listed in a form; and
- 88 (B) Recognize the need to distinguish reporting content relevant for health care
- 89 providers in general hospitals, inpatient or residential psychiatric treatment facilities,
- 90 and emergency department or outpatient settings.
- 91 (3) The panel shall encourage feedback from health care providers during the
- 92 development of any reporting form, including, without limitation, feedback provided to
- 93 the two senior executives of facilities or systems providing mental health care appointed
- 94 to the panel by the Governor.
- 95 (4) The panel shall have no authority to impose financial penalties on a health care
- 96 provider for failing to report a parity concern.

97 (d) The panel shall establish a simple and intuitive process to receive parity concerns
98 reported by health care providers pursuant to subsection (c) of this Code section. The panel
99 shall evaluate submitted parity concerns to determine whether a health insurer or state
100 health care entity is in violation of mental health parity laws. Based on such evaluation,
101 the panel shall make recommendations as to appropriate punitive actions, if any, that may
102 be warranted for a health insurer to the Commissioner of Insurance for violations of Code
103 Section 33-1-27 and for a state health care entity to the commissioner of community health
104 for violations of Code Section 33-21A-13.

105 (e) The panel shall be authorized to:

106 (1) Receive and analyze required reports from insurance companies and health care
107 providers;

108 (2) Request additional information from health insurers or state health care entities
109 regarding potential mental health parity violations, including determinations of medical
110 necessity;

111 (3) Create and review educational materials for consumers and health care providers
112 relating to compliance with mental health parity laws. Such educational materials shall
113 include information on the concept of mental health parity, individuals' rights, and the
114 complaint processes established pursuant to subsection (e) of Code Section 33-1-27,
115 subsection (e) of Code Section 33-21A-13, and subsection (d) of this Code section. All
116 such educational materials shall be culturally and linguistically sensitive, to the extent
117 practicable; available in multiple languages; widely distributed; and offered in various
118 formats, such as on a public website, in a brochure, and in written documentation; and

119 (4) Consult and coordinate with the Governor's office, the Department of Community
120 Health, and the office of the Commissioner of Insurance to establish criteria and
121 procedures for the panel in formulating recommendations relating to punitive action for
122 insurance companies that are not compliant with mental health parity laws.

123 (f) Subject to available funds, the panel shall establish a team to support the work of the
124 panel, including, but not limited to, research, report preparation, and creation of educational
125 materials."

126 **SECTION 3.**
127 All laws and parts of laws in conflict with this Act are repealed.