

**Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0010.01 Christy Chase x2008

**HOUSE BILL 20-1160**

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**HOUSE SPONSORSHIP**

**Jackson and Roberts**, Buckner, Caraveo, Coleman, Cutter, Froelich, Hooton, Kennedy, McCluskie, Melton, Mullica, Singer, Titone;

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**Ginal and Donovan**,

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**House Committees**

Health & Insurance  
Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101       **CONCERNING MEASURES TO REDUCE HEALTH CARE COSTS RELATED TO**  
102               **PRESCRIPTION DRUG PRICES, AND, IN CONNECTION THEREWITH,**  
103               **CREATING THE "COLORADO PRESCRIPTION DRUG PRICE**  
104               **TRANSPARENCY ACT OF 2020" TO REQUIRE HEALTH INSURERS,**  
105               **PRESCRIPTION DRUG MANUFACTURERS, AND PHARMACY**  
106               **BENEFIT MANAGEMENT FIRMS TO REPORT SPECIFIED**  
107               **INFORMATION ABOUT THE COSTS OF PRESCRIPTION DRUGS TO**  
108               **THE COMMISSIONER OF INSURANCE AND TO DIRECT THE**  
109               **COMMISSIONER TO ANALYZE THE INFORMATION AND SUBMIT A**  
110               **REPORT REGARDING THE EFFECTS OF PRESCRIPTION DRUG**  
111               **COSTS ON HEALTH INSURANCE PREMIUMS; AND REQUIRING**  
112               **HEALTH INSURERS TO REDUCE INSURANCE PREMIUMS TO ADJUST**  
113               **FOR REBATES THE INSURERS RECEIVE FOR PRESCRIPTION**

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

### Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

**Section 1** of the bill enacts the "Colorado Prescription Drug Price Transparency Act of 2020", which requires:

- ! Health insurers, starting in 2021, to submit to the commissioner of insurance (commissioner) information regarding prescription drugs covered under their health insurance plans that the health insurers paid for in the preceding calendar year, including information about rebates received from prescription drug manufacturers, a certification regarding how rebates were accounted for in insurance premiums, and a list of all pharmacy benefit management firms (PBMs) with whom they contract;
- ! Prescription drug manufacturers to notify the commissioner, state purchasers, health insurers, PBMs, pharmacies, and hospitals when the manufacturer, on or after January 1, 2021, increases the price of certain prescription drugs by more than specified amounts or introduces a new specialty drug in the commercial market;
- ! Prescription drug manufacturers, within 15 days after the end of each calendar quarter that starts on or after January 1, 2021, to provide specified information to the commissioner regarding the drugs about which the manufacturer notified purchasers;
- ! Health insurers or, if applicable, PBMs to annually report specified information to the commissioner regarding rebates and administrative fees received from manufacturers for prescription drugs they paid for in the prior calendar year and the average wholesale price paid for prescription drugs by individuals, small employers, and large employers enrolled in health plans issued by the health insurer or that contain prescription drug benefits managed or administered by the PBM; and
- ! Certain nonprofit organizations to compile and submit to the commissioner an annual report indicating the amount of each payment, donation, subsidy, or thing of value received by the nonprofit organization or its officers, employees, or

board members from a prescription drug manufacturer, PBM, health insurer, or trade association and the percentage of the nonprofit organization's total gross income that is attributable to those payments, donations, subsidies, or things of value.

The commissioner is required to post the information received from health insurers, prescription drug manufacturers, PBMs, and nonprofit organizations on the division of insurance's website, excluding any information that the commissioner determines is proprietary. Additionally, the commissioner, or a disinterested third-party contractor, is to analyze the data reported by health insurers, prescription drug manufacturers, PBMs, and nonprofit organizations and other relevant information to determine the effect of prescription drug costs on health insurance premiums. The commissioner is to publish a report each year, submit the report to the governor and specified legislative committees, and present the report during annual "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearings. The commissioner is authorized to adopt rules as necessary to implement the requirements of the bill.

Health insurers that fail to report the required data are subject to a fine of up to \$10,000 per day per report. Nonprofit organizations are subject to a fine of up to \$10,000 for failure to comply with reporting requirements.

**Section 2** specifies that failing to ensure that a PBM that a health insurer uses to manage or administer its prescription drug benefits is complying with reporting requirements constitutes an unfair method of competition and an unfair or deceptive act or practice in the business of insurance.

**Section 3** specifies that a PBM is an entity that manages or administers prescription drug benefits for a health insurer, either pursuant to a contract or as an entity associated with the health insurer.

Under **sections 4 and 5**, a prescription drug manufacturer that fails to notify purchasers or fails to report required data to the commissioner is subject to discipline by the state board of pharmacy, including a penalty of up to \$10,000 per day for each day the manufacturer fails to comply with the notice or reporting requirements. The commissioner is to report manufacturer violations to the state board of pharmacy.

**Section 6** requires a health insurer to reduce premiums for the health plans it issues or renews on or after January 1, 2022, to adjust for the rebates the health insurer received from prescription drug manufacturers in the previous plan year.

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1 *Be it enacted by the General Assembly of the State of Colorado:*



1 FEDERAL LAW.

2 **10-16-1203. Definitions.** AS USED IN THIS PART 12, UNLESS THE  
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "AVERAGE WHOLESAL PRICE" MEANS THE AVERAGE  
5 WHOLESAL PRICE OF A PRESCRIPTION DRUG AS DETERMINED AND  
6 PUBLISHED BY A NATIONALLY RECOGNIZED DRUG COMPENDIUM.

7 (2) "COURSE OF THERAPY" MEANS EITHER:

8 (a) THE RECOMMENDED DAILY DOSAGE UNITS OF A PRESCRIPTION  
9 DRUG FOR A THIRTY-DAY TREATMENT PURSUANT TO THE PACKAGE INSERT  
10 FOR THE PRESCRIPTION DRUG AS APPROVED BY THE FDA; OR

11 (b) THE RECOMMENDED DAILY DOSAGE UNITS OF A PRESCRIPTION  
12 DRUG FOR A NORMAL COURSE OF TREATMENT THAT IS LESS THAN THIRTY  
13 DAYS PURSUANT TO THE PACKAGE INSERT FOR THE PRESCRIPTION DRUG AS  
14 APPROVED BY THE FDA.

15 (3) "DISINTERESTED THIRD PARTY" MEANS AN ENTITY THAT HAS  
16 NO FINANCIAL INTEREST IN, IS NOT EMPLOYED OR FUNDED BY, AND IS NOT  
17 OTHERWISE CONNECTED WITH ANY MANUFACTURER, HEALTH INSURER,  
18 PHARMACY BENEFIT MANAGEMENT FIRM, ■■■ OR OTHER PERSON  
19 THAT HAS A FINANCIAL INTEREST IN THE OUTCOME OF THE ANALYSES OR  
20 REPORTS REQUIRED BY THIS PART 12.

21 (4) "FDA" MEANS THE FEDERAL FOOD AND DRUG  
22 ADMINISTRATION.

23 (5) "HEALTH INSURER" MEANS:

24 (a) A CARRIER AS DEFINED IN SECTION 10-16-102 (8); AND

25 (b) A CARRIER, AS DEFINED IN SECTION 24-50-603 (2), THAT  
26 PROVIDES OR ADMINISTERS A GROUP BENEFIT PLAN FOR STATE EMPLOYEES  
27 PURSUANT TO PART 6 OF ARTICLE 50 OF TITLE 24.

1 (6) "LINE EXTENSION" MEANS, WITH RESPECT TO A PRESCRIPTION  
2 DRUG, A NEW OR AN ADDITIONAL FORMULATION OF THE PRESCRIPTION  
3 DRUG, SUCH AS AN EXTENDED RELEASE FORMULATION.

4 (7) "MANUFACTURE" HAS THE SAME MEANING AS SPECIFIED IN  
5 SECTION 12-280-103 (26).

6 (8) "MANUFACTURER" MEANS:

7 (a) A PERSON THAT MANUFACTURES A PRESCRIPTION DRUG THAT  
8 IS MADE AVAILABLE IN COLORADO; AND

9 (b) A HOLDING COMPANY, PARENT COMPANY, OR OTHER AFFILIATE  
10 OF A PERSON DESCRIBED IN SUBSECTION (8)(a) OF THIS SECTION.

11 (9) "MEDICARE PART D PROGRAM" MEANS THE "MEDICARE  
12 PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF  
13 2003", PUB.L. 108-173, AS AMENDED, CODIFIED IN PART D OF TITLE XVIII  
14 OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1395w-101 ET SEQ.

15 (10) "PHARMACY" MEANS ANY FACILITY, OUTLET, OR OTHER  
16 SETTING WHERE PRESCRIPTION DRUGS ARE DISPENSED TO PATIENTS AND  
17 THAT IS REQUIRED PURSUANT TO ARTICLE 280 OF TITLE 12 TO BE  
18 REGISTERED BY THE STATE BOARD OF PHARMACY. "PHARMACY" INCLUDES  
19 AN IN-STATE OR NONRESIDENT PRESCRIPTION DRUG OUTLET, AS DEFINED  
20 IN SECTION 12-280-103 (43); AN OTHER OUTLET, AS DEFINED IN SECTION  
21 12-280-103 (32); A HOSPITAL SATELLITE PHARMACY, AS DEFINED IN  
22 SECTION 12-280-103 (20); OR OTHER SETTING, INCLUDING A  
23 PRACTITIONER'S OFFICE OR CLINIC, WHERE A PRACTITIONER, AS DEFINED  
24 IN SECTION 12-280-103 (40), DISPENSES PRESCRIPTION DRUGS TO PATIENTS  
25 AS AUTHORIZED BY SECTION 12-280-120 (6).

26 (11) "PRESCRIPTION DRUG" HAS THE SAME MEANING AS SPECIFIED  
27 IN SECTION 12-280-103 (42).

1 (12) "PRICE" MEANS THE WHOLESALE ACQUISITION COST AS  
2 DEFINED IN 42 U.S.C. SEC. 1395w-3a (c)(6)(B).

3 (13) "PURCHASER" MEANS:

4 (a) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING,  
5 THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF HUMAN  
6 SERVICES, AND ANY OTHER STATE DEPARTMENT THAT PURCHASES  
7 PRESCRIPTION DRUGS ON BEHALF OF THE STATE OR AN ENTITY ACTING ON  
8 BEHALF OF A STATE DEPARTMENT, INCLUDING A PHARMACY BENEFIT  
9 MANAGEMENT FIRM;

10 (b) A HEALTH INSURER;

11 (c) A PHARMACY BENEFIT MANAGEMENT FIRM;

12 (d) A PHARMACY; OR

13 (e) A HOSPITAL.

14 (14) "REBATE" MEANS A REBATE, DISCOUNT, MARKET SHARE  
15 ALLOWANCE, REMUNERATION, COMPENSATION, OR OTHER PAYMENT OR  
16 PRICE CONCESSION PROVIDED BY A MANUFACTURER TO A PHARMACY  
17 BENEFIT MANAGEMENT FIRM OR HEALTH INSURER.

18 (15) "SPECIALTY DRUG" MEANS A PRESCRIPTION DRUG THAT  
19 MEETS THE THRESHOLD FOR A SPECIALTY DRUG UNDER THE MEDICARE  
20 PART D PROGRAM.

21 **10-16-1204. Health insurer annual reports to commissioner -**  
22 **prescription drug costs - rules - penalty.** (1) STARTING IN 2021, A  
23 HEALTH INSURER DESCRIBED IN SECTION 10-16-1203 (5)(a) SHALL REPORT  
24 TO THE COMMISSIONER, CONTEMPORANEOUS WITH ITS RATE FILING  
25 PURSUANT TO SECTION 10-16-107 AND IN THE FORM AND MANNER  
26 SPECIFIED BY THE COMMISSIONER THAT ENSURES THE INFORMATION IS  
27 SEPARATED FROM THE RATE FILING INFORMATION, THE INFORMATION

1 SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND THE CERTIFICATION  
2 REQUIRED BY SUBSECTION (3) OF THIS SECTION. A HEALTH INSURER  
3 DESCRIBED IN SECTION 10-16-1203 (5)(b) SHALL FILE THE INFORMATION  
4 SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND THE CERTIFICATION  
5 REQUIRED BY SUBSECTION (3) OF THIS SECTION WITH THE COMMISSIONER  
6 BY A DATE SPECIFIED BY THE COMMISSIONER THAT COINCIDES WITH RATE  
7 FILINGS FOR HEALTH INSURERS DESCRIBED IN SECTION 10-16-1203 (5)(a).

8 (2) (a) FOR ALL COVERED PRESCRIPTION DRUGS DISPENSED AT A  
9 PHARMACY AND PAID FOR BY A HEALTH INSURER IN THIS STATE DURING  
10 THE IMMEDIATELY PRECEDING CALENDAR YEAR, INCLUDING GENERIC  
11 PRESCRIPTION DRUGS, BRAND-NAME PRESCRIPTION DRUGS, AND SPECIALTY  
12 DRUGS, THE HEALTH INSURER SHALL REPORT THE FOLLOWING  
13 INFORMATION IN A FORM AND MANNER AND WITH SPECIFIED DETAILS  
14 PRESCRIBED BY THE COMMISSIONER BY RULE:

15 (I) THE TOP FIFTY PRESCRIPTION DRUGS, BY VOLUME, CALCULATED  
16 BY UNIT, FOR WHICH THE HEALTH INSURER PAID;

17 (II) THE FIFTY MOST COSTLY PRESCRIPTION DRUGS, BY TOTAL  
18 ANNUAL PLAN SPENDING, FOR WHICH THE HEALTH INSURER PAID;

19 (III) THE FIFTY PRESCRIPTION DRUGS PAID FOR BY THE HEALTH  
20 INSURER THAT ACCOUNTED FOR THE HIGHEST INCREASE IN TOTAL ANNUAL  
21 PLAN SPENDING WHEN COMPARED WITH THE TOTAL ANNUAL PLAN  
22 SPENDING FOR THE SAME PRESCRIPTION DRUGS IN THE YEAR IMMEDIATELY  
23 PRECEDING THE YEAR FOR WHICH THE INFORMATION IS REPORTED;

24 (IV) THE FIFTY PRESCRIPTION DRUGS THAT CAUSED THE GREATEST  
25 INCREASE IN THE HEALTH INSURER'S PREMIUMS;

26 (V) THE FIFTY PRESCRIPTION DRUGS THAT THE HEALTH INSURER  
27 PAID FOR THE MOST FREQUENTLY AND FOR WHICH THE HEALTH INSURER



1 RECEIVED A REBATE FROM MANUFACTURERS;

2 (VI) THE FIFTY PRESCRIPTION DRUGS FOR WHICH THE HEALTH  
3 INSURER RECEIVED THE HIGHEST REBATE, AS A PERCENTAGE OF THE PRICE  
4 OF THE PRESCRIPTION DRUG; AND

5 (VII) THE FIFTY PRESCRIPTION DRUGS FOR WHICH THE HEALTH  
6 INSURER RECEIVED THE HIGHEST REBATES.

7 (b) THE COMMISSIONER, BY RULE, MAY CHANGE THE NUMBER OF  
8 PRESCRIPTION DRUGS ABOUT WHICH HEALTH INSURERS ARE REQUIRED TO  
9 REPORT PURSUANT TO THIS SUBSECTION (2); EXCEPT THAT THE  
10 COMMISSIONER SHALL NOT REDUCE THE NUMBER TO FEWER THAN  
11 TWENTY-FIVE PRESCRIPTION DRUGS.

12 (3) EACH HEALTH INSURER SHALL SUBMIT TO THE COMMISSIONER,  
13 IN A FORM AND MANNER PRESCRIBED BY THE COMMISSIONER AND IN  
14 ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION:

15 (a) A WRITTEN CERTIFICATION, INCLUDING SUPPORTING  
16 DOCUMENTATION, FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR  
17 CERTIFYING THAT THE HEALTH INSURER ACCOUNTED FOR ALL REBATES IN  
18 CALCULATING THE PREMIUM FOR HEALTH BENEFIT PLANS THAT THE  
19 HEALTH INSURER ISSUED OR RENEWED DURING THAT CALENDAR YEAR AND  
20 SPECIFYING THE MANNER BY WHICH THE HEALTH INSURER ACCOUNTED  
21 FOR THE REBATES IN HEALTH BENEFIT PLAN PREMIUMS; AND

22 (b) A LIST OF ALL PHARMACY BENEFIT MANAGEMENT FIRMS THE  
23 HEALTH INSURER USES. A HEALTH INSURER SHALL PROVIDE THE  
24 COMMISSIONER, WITHIN TEN BUSINESS DAYS AFTER A CHANGE, WITH  
25 UPDATED INFORMATION ABOUT ANY CHANGE IN THE PHARMACY BENEFIT  
26 MANAGEMENT FIRMS THE HEALTH INSURER USES, INCLUDING A CHANGE IN  
27 THE NAME OR CONTACT INFORMATION OF THE PHARMACY BENEFIT

1 MANAGEMENT FIRM.

2 (4) A HEALTH INSURER THAT FAILS TO COMPLY WITH THE  
3 REQUIREMENTS OF THIS SECTION IS SUBJECT TO A FINE OF UP TO TEN  
4 THOUSAND DOLLARS PER REPORT PER DAY FOR EACH DAY THE HEALTH  
5 INSURER FAILS TO COMPLY WITH THIS SECTION. THE COMMISSIONER SHALL  
6 TRANSMIT ANY MONEY COLLECTED UNDER THIS SUBSECTION (4) TO THE  
7 STATE TREASURER FOR DEPOSIT IN THE GENERAL FUND.

8 (5) AN EMPLOYER OR THIRD-PARTY ADMINISTRATOR OF A  
9 SELF-INSURED EMPLOYER PLAN THAT IS NOT OTHERWISE SUBJECT TO THE  
10 JURISDICTION OF THE COMMISSIONER IS ENCOURAGED BUT NOT REQUIRED  
11 TO SUBMIT THE INFORMATION SPECIFIED IN SUBSECTION (1) OF THIS  
12 SECTION TO THE COMMISSIONER.

13 **10-16-1205. Drug manufacturers - notice to purchasers and**  
14 **commissioner - drug price increases - new drugs in the market -**  
15 **rules.** (1) THIS SECTION APPLIES TO A MANUFACTURER OF A PRESCRIPTION  
16 DRUG THAT IS PURCHASED OR REIMBURSED BY A PURCHASER.

17 (2) (a) (I) THE MANUFACTURER OF A PRESCRIPTION DRUG WITH A  
18 PRICE OF MORE THAN FIFTY DOLLARS FOR A COURSE OF THERAPY SHALL  
19 NOTIFY THE COMMISSIONER, IN A FORM AND MANNER SPECIFIED BY THE  
20 COMMISSIONER, AND EACH PURCHASER THAT HAS REGISTERED WITH THE  
21 DIVISION PURSUANT TO SUBSECTION (4) OF THIS SECTION OF AN INCREASE  
22 IN THE PRICE OF THE PRESCRIPTION DRUG THAT WILL BE IMPLEMENTED ON  
23 OR AFTER JANUARY 1, 2021, IF THE INCREASE IN THE PRICE IS:

24 (A) TEN PERCENT OR MORE OVER THE PREVIOUS TWELVE-MONTH  
25 PERIOD;

26 (B) SIXTEEN PERCENT OR MORE OVER THE PREVIOUS  
27 TWENTY-FOUR-MONTH PERIOD; OR

1 (C) TWENTY PERCENT OR MORE OVER THE PREVIOUS  
2 THIRTY-SIX-MONTH PERIOD.

3 (II) FOR THE 2022 CALENDAR YEAR AND EACH CALENDAR YEAR  
4 THEREAFTER, THE COMMISSIONER, BY RULE, SHALL ADJUST THE  
5 THRESHOLD PRICE OF PRESCRIPTION DRUGS SPECIFIED IN THIS SUBSECTION  
6 (2)(a) BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED  
7 STATES DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS  
8 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL  
9 ITEMS PAID BY ALL URBAN CONSUMERS, OR ITS APPLICABLE PREDECESSOR  
10 OR SUCCESSOR INDEX.

11 (b) THE MANUFACTURER SHALL PROVIDE THE NOTICE REQUIRED BY  
12 THIS SUBSECTION (2) IN WRITING TO THE COMMISSIONER AND EACH  
13 PURCHASER THAT HAS REGISTERED WITH THE DIVISION PURSUANT TO  
14 SUBSECTION (4) OF THIS SECTION AT LEAST ONE DAY BEFORE THE PLANNED  
15 EFFECTIVE DATE OF THE INCREASE IN THE PRICE.

16 (c) THE MANUFACTURER SHALL INCLUDE IN THE NOTICE REQUIRED  
17 BY THIS SUBSECTION (2):

18 (I) THE DATE OF THE INCREASE, THE CURRENT PRICE OF THE  
19 PRESCRIPTION DRUG, AND THE DOLLAR AMOUNT OF THE FUTURE INCREASE  
20 IN THE PRICE OF THE PRESCRIPTION DRUG; AND

21 (II) A STATEMENT REGARDING WHETHER A CHANGE OR  
22 IMPROVEMENT IN THE PRESCRIPTION DRUG NECESSITATES THE PRICE  
23 INCREASE AND, IF SO, A DESCRIPTION OF THE CHANGE OR IMPROVEMENT.

24 (3) ON OR AFTER JANUARY 1, 2021, A MANUFACTURER THAT  
25 INTRODUCES A NEW SPECIALTY DRUG TO THE COMMERCIAL MARKET SHALL  
26 NOTIFY THE COMMISSIONER, IN A FORM AND MANNER SPECIFIED BY THE  
27 COMMISSIONER, AND EACH PURCHASER THAT HAS REGISTERED WITH THE

1 DIVISION PURSUANT TO SUBSECTION (4) OF THIS SECTION, IN WRITING,  
2 WITHIN THREE DAYS AFTER THE RELEASE OF THE SPECIALTY DRUG IN THE  
3 COMMERCIAL MARKET. A MANUFACTURER MAY MAKE THIS NOTIFICATION  
4 PENDING FDA APPROVAL IF COMMERCIAL AVAILABILITY OF THE  
5 SPECIALTY DRUG IS EXPECTED WITHIN THREE DAYS AFTER FDA  
6 APPROVAL.

7 (4) (a) TO RECEIVE THE NOTICES REQUIRED BY THIS SECTION, A  
8 PURCHASER MUST REGISTER WITH THE DIVISION IN THE FORM AND MANNER  
9 SPECIFIED BY THE COMMISSIONER. BEFORE REGISTERING A PURCHASER,  
10 THE DIVISION MUST VERIFY THAT THE PURCHASER QUALIFIES AS A  
11 PURCHASER PURSUANT TO SECTION 10-16-1203 (13). THE DIVISION SHALL  
12 MAINTAIN A LIST OF REGISTERED PURCHASERS AND MAKE THE LIST  
13 AVAILABLE TO MANUFACTURERS FOR THE PURPOSE OF PROVIDING THE  
14 NOTICES REQUIRED BY THIS SECTION.

15 (b) THE DIVISION MAY IMPOSE A FEE AGAINST PURCHASERS  
16 DESCRIBED IN SECTION 10-16-1203 (13)(b) TO (13)(e) FOR REGISTERING  
17 WITH THE DIVISION TO OFFSET THE DIVISION'S COSTS IN REGISTERING AND  
18 MAINTAINING A LIST OF PURCHASERS.

19 **10-16-1206. Drug manufacturer reports to commissioner -**  
20 **drug price increases - new specialty drugs - rules.** (1) (a) WITHIN  
21 FIFTEEN DAYS AFTER THE END OF EACH CALENDAR QUARTER THAT STARTS  
22 ON OR AFTER JANUARY 1, 2021, A MANUFACTURER SHALL REPORT TO THE  
23 COMMISSIONER, IN A FORM AND MANNER AND WITH SPECIFIED DETAILS  
24 PRESCRIBED BY THE COMMISSIONER BY RULE, THE FOLLOWING  
25 INFORMATION FOR EACH PRESCRIPTION DRUG FOR WHICH THE  
26 MANUFACTURER WAS REQUIRED TO NOTIFY PURCHASERS OF AN INCREASE  
27 IN THE PRICE PURSUANT TO SECTION 10-16-1205 (2) IN THE PRIOR

1 QUARTER:

2 (I) THE NAME AND PRICE OF THE PRESCRIPTION DRUG AND THE  
3 INCREASE, EXPRESSED AS A PERCENTAGE, IN THE PRICE OF THE  
4 PRESCRIPTION DRUG OVER THE COURSE OF THE IMMEDIATELY PRECEDING  
5 CALENDAR YEAR;

6 (II) THE LENGTH OF TIME THE PRESCRIPTION DRUG HAS BEEN ON  
7 THE MARKET;

8 (III) A DESCRIPTION OF THE SPECIFIC FINANCIAL FACTORS AND  
9 NONFINANCIAL FACTORS, SUCH AS OFF-LABEL USE, CHANGES IN FDA  
10 POLICY THAT AFFECT REQUIREMENTS, THE COST OF CURRENT  
11 TREATMENTS, AND OTHER NONFINANCIAL FACTORS, USED TO MAKE THE  
12 DECISION TO INCREASE THE PRICE OF THE PRESCRIPTION DRUG AND THE  
13 AMOUNT OF THE INCREASE, INCLUDING AN EXPLANATION OF HOW THE  
14 FACTORS DRIVE THE INCREASE IN THE PRICE OF THE PRESCRIPTION DRUG;

15 (IV) THE INTRODUCTORY PRICE OF THE PRESCRIPTION DRUG WHEN  
16 IT WAS APPROVED FOR MARKETING BY THE FDA AND THE NET YEARLY  
17 INCREASE, LISTED BY CALENDAR YEAR, IN THE PRICE OF THE PRESCRIPTION  
18 DRUG DURING THE FIVE IMMEDIATELY PRECEDING CALENDAR YEARS;

19 (V) IF THE PRESCRIPTION DRUG WAS ACQUIRED BY THE  
20 MANUFACTURER WITHIN THE PREVIOUS FIVE YEARS, THE FOLLOWING  
21 INFORMATION:

22 (A) THE PRICE OF THE PRESCRIPTION DRUG AT THE TIME OF  
23 ACQUISITION AND IN THE CALENDAR YEAR IMMEDIATELY PRECEDING THE  
24 ACQUISITION;

25 (B) THE NAME OF THE COMPANY FROM WHOM THE PRESCRIPTION  
26 DRUG WAS ACQUIRED, THE DATE ACQUIRED, AND THE PURCHASE PRICE;

27 AND

1 (C) THE YEAR THE PRESCRIPTION DRUG WAS INTRODUCED TO THE  
2 MARKET AND THE PRICE OF THE PRESCRIPTION DRUG WHEN IT WAS  
3 INTRODUCED TO THE MARKET;

4 (VI) THE PATENT EXPIRATION DATE OF THE PRESCRIPTION DRUG,  
5 IF IT IS UNDER PATENT;

6 (VII) WHETHER THE PRESCRIPTION DRUG IS AN INNOVATOR  
7 MULTIPLE SOURCE DRUG, A NONINNOVATOR MULTIPLE SOURCE DRUG, OR  
8 A SINGLE SOURCE DRUG, AS DEFINED IN 42 U.S.C. SEC. 1396r-8 (k)(7), OR  
9 HAS A LINE EXTENSION;

10 (VIII) A DESCRIPTION OF THE CHANGE OR IMPROVEMENT IN THE  
11 PRESCRIPTION DRUG, IF ANY, THAT NECESSITATES THE PRICE INCREASE;

12 (IX) THE TOTAL GROSS REVENUES FROM SALES OF THE  
13 PRESCRIPTION DRUG IN COLORADO FOR THE IMMEDIATELY PRECEDING  
14 CALENDAR YEAR;

15 (X) THE NAME OF ANY GENERIC VERSION OF THE PRESCRIPTION  
16 DRUG THAT IS AVAILABLE ON THE MARKET;

17 (XI) THE TEN HIGHEST PRICES AND THE TEN LOWEST PRICES PAID  
18 FOR THE PRESCRIPTION DRUG DURING THE IMMEDIATELY PRECEDING  
19 CALENDAR YEAR IN ANY COUNTRY OTHER THAN THE UNITED STATES;

20 (XII) ANY OTHER INFORMATION THAT THE MANUFACTURER DEEMS  
21 RELEVANT TO THE PRICE INCREASE; AND

22 (XIII) THE DOCUMENTATION NECESSARY TO SUPPORT THE  
23 INFORMATION REPORTED PURSUANT TO THIS SUBSECTION (1)(a).

24 (b) THE COMMISSIONER MAY REQUEST AND USE ANY PRESCRIPTION  
25 DRUG PRICE INFORMATION THE COMMISSIONER DEEMS APPROPRIATE TO  
26 VERIFY THAT MANUFACTURERS HAVE PROPERLY REPORTED PRICE  
27 INCREASES AS REQUIRED BY THIS SUBSECTION (1).

1           (2) WITHIN FIFTEEN DAYS AFTER THE END OF EACH CALENDAR  
2 QUARTER THAT STARTS ON OR AFTER JANUARY 1, 2021, A MANUFACTURER  
3 SHALL REPORT TO THE COMMISSIONER, IN A FORM AND MANNER AND WITH  
4 SPECIFIED DETAILS PRESCRIBED BY THE COMMISSIONER BY RULE, THE  
5 FOLLOWING INFORMATION FOR EACH NEW SPECIALTY DRUG INTRODUCED  
6 TO THE MARKET IN THE PRIOR QUARTER:

7           (a) A DESCRIPTION OF THE MARKETING AND PRICING PLANS USED  
8 IN THE LAUNCH OF THE SPECIALTY DRUG IN COLORADO AND ALL COSTS  
9 ASSOCIATED WITH THE MARKETING AND PRICING PLANS;

10           (b) THE ESTIMATED NUMBER OF PATIENTS IN COLORADO THAT  
11 MIGHT BE PRESCRIBED THE SPECIALTY DRUG FOR THE USE APPROVED BY  
12 THE FDA;

13           (c) WHETHER THE SPECIALTY DRUG WAS GRANTED  
14 BREAKTHROUGH THERAPY DESIGNATION OR PRIORITY REVIEW BY THE  
15 FDA PRIOR TO FINAL APPROVAL; AND

16           (d) THE DATE AND PRICE OF ACQUISITION IF THE SPECIALTY DRUG  
17 WAS NOT DEVELOPED BY THE MANUFACTURER.

18           (3) AFTER RECEIVING A REPORT OF INFORMATION DESCRIBED IN  
19 SUBSECTION (1) OR (2) OF THIS SECTION, THE COMMISSIONER MAY  
20 REQUEST, IN WRITING, THAT A MANUFACTURER PROVIDE SUPPORTING  
21 DOCUMENTATION OR ADDITIONAL INFORMATION CONCERNING THE  
22 REPORTED INFORMATION. THE COMMISSIONER SHALL PRESCRIBE BY RULE  
23 THE TIME PERIODS FOR REQUESTING ADDITIONAL DOCUMENTATION OR  
24 INFORMATION AND FOR MANUFACTURERS TO RESPOND TO THE REQUEST,  
25 INCLUDING EXTENSIONS FOR MANUFACTURERS TO RESPOND.

26           **10-16-1207. Health insurer and pharmacy benefit**  
27 **management firms - required reports - rules.** (1) (a) STARTING IN

1 2021, EXCEPT AS SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION, A  
2 HEALTH INSURER SHALL REPORT TO THE COMMISSIONER,  
3 CONTEMPORANEOUS WITH ITS RATE FILING PURSUANT TO SECTION  
4 10-16-107 AND IN THE FORM AND MANNER SPECIFIED BY THE  
5 COMMISSIONER THAT ENSURES THE INFORMATION IS SEPARATED FROM THE  
6 RATE FILING INFORMATION, THE INFORMATION SPECIFIED IN SUBSECTIONS  
7 (2) AND (3) OF THIS SECTION. IF A HEALTH INSURER USES A PHARMACY  
8 BENEFIT MANAGEMENT FIRM, THE PHARMACY BENEFIT MANAGEMENT FIRM  
9 SHALL REPORT THE INFORMATION SPECIFIED IN SUBSECTIONS (2) AND (3)  
10 OF THIS SECTION BY A DATE SPECIFIED BY THE COMMISSIONER THAT  
11 COINCIDES WITH HEALTH INSURER RATE FILINGS PURSUANT TO SECTION  
12 10-16-107.

13 (b) FOR PURPOSES OF THE REPORT OF INFORMATION SPECIFIED IN  
14 SUBSECTION (2) OF THIS SECTION THAT IS REQUIRED TO BE SUBMITTED IN  
15 THE 2021 CALENDAR YEAR, THE HEALTH INSURER OR PHARMACY BENEFIT  
16 MANAGEMENT FIRM SHALL REPORT INFORMATION ON ANY PRESCRIPTION  
17 DRUG FOR WHICH THE HEALTH INSURER OR PHARMACY BENEFIT  
18 MANAGEMENT FIRM RECEIVED A NOTICE FROM A MANUFACTURER  
19 PURSUANT TO SECTION 10-16-1205 DURING THE FIRST QUARTER OF THE  
20 CALENDAR YEAR. FOR THE 2022 CALENDAR YEAR AND EACH CALENDAR  
21 YEAR THEREAFTER, THE REPORT OF INFORMATION SPECIFIED IN  
22 SUBSECTION (2) OF THIS SECTION MUST CONTAIN INFORMATION ON ALL  
23 PRESCRIPTION DRUGS FOR WHICH A NOTICE WAS RECEIVED FROM A  
24 MANUFACTURER DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

25 (2) FOR EACH PRESCRIPTION DRUG INCLUDED IN A  
26 MANUFACTURER'S NOTICE TO A HEALTH INSURER OR PHARMACY BENEFIT  
27 MANAGEMENT FIRM PURSUANT TO SECTION 10-16-1205 IN THE PRIOR



1 CALENDAR YEAR, THE HEALTH INSURER OR PHARMACY BENEFIT  
2 MANAGEMENT FIRM SHALL REPORT:

3 (a) THE TOTAL AMOUNT OF ALL REBATES THAT THE HEALTH  
4 INSURER OR PHARMACY BENEFIT MANAGEMENT FIRM RECEIVED FROM THE  
5 MANUFACTURERS OF THE PRESCRIPTION DRUG DURING THE IMMEDIATELY  
6 PRECEDING CALENDAR YEAR;

7 (b) THE TOTAL AMOUNT OF ALL REBATES DESCRIBED IN  
8 SUBSECTION (2)(a) OF THIS SECTION RETAINED BY THE HEALTH INSURER  
9 OR PHARMACY BENEFIT MANAGEMENT FIRM;

10 (c) THE TOTAL AMOUNT OF ADMINISTRATIVE FEES THE PHARMACY  
11 BENEFIT MANAGEMENT FIRM RECEIVED FROM MANUFACTURERS AND  
12 HEALTH INSURERS FOR THE PRESCRIPTION DRUG;

13 (d) THE TOTAL ANNUAL PAYMENTS, INCLUDING REIMBURSEMENTS  
14 AND FEES, PAID TO COLORADO PHARMACIES FOR DISPENSING THE  
15 PRESCRIPTION DRUG, SEPARATELY IDENTIFYING:

16 (I) THE AMOUNT ATTRIBUTABLE TO DISPENSING FEES; AND

17 (II) THE AMOUNT ATTRIBUTABLE TO SERVICE OR ADMINISTRATIVE  
18 FEES, INCLUDING THE ADMINISTRATIVE FEES ATTRIBUTABLE TO  
19 COST-MANAGEMENT PROGRAMS AND OTHER ADMINISTRATION AS DEFINED  
20 BY RULE OF THE COMMISSIONER; AND

21 (e) AN EXPLANATION OF ALL OTHER SERVICES OFFERED BY THE  
22 HEALTH INSURER OR PHARMACY BENEFIT MANAGEMENT FIRM, EXCLUDING  
23 PROPRIETARY AND CLIENT-SPECIFIC INFORMATION.

24 (3) (a) A HEALTH INSURER OR PHARMACY BENEFIT MANAGEMENT  
25 FIRM SHALL REPORT THE AVERAGE WHOLESALE PRICE PAID FOR THE  
26 FOLLOWING CATEGORIES OF PRESCRIPTION DRUGS:

27 (I) BRAND NAME PRESCRIPTION DRUGS PURCHASED AT A RETAIL

1 PHARMACY;

2 (II) GENERIC PRESCRIPTION DRUGS PURCHASED AT A RETAIL

3 PHARMACY;

4 (III) BRAND NAME PRESCRIPTION DRUGS PURCHASED FROM A

5 MAIL-ORDER PHARMACY;

6 (IV) GENERIC PRESCRIPTION DRUGS PURCHASED FROM A

7 MAIL-ORDER PHARMACY;

8 (V) PRESCRIPTION DRUGS DISPENSED BY A PRACTITIONER IN

9 ACCORDANCE WITH SECTION 12-280-120 (6);

10 (VI) SPECIALTY DRUGS ADMINISTERED IN AN INPATIENT HOSPITAL

11 SETTING; AND

12 (VII) SPECIALTY DRUGS ADMINISTERED IN AN OUTPATIENT

13 HOSPITAL SETTING.

14 (b) THE HEALTH INSURER OR PHARMACY BENEFIT MANAGEMENT

15 FIRM SHALL REPORT THE AVERAGE WHOLESALE PRICE FOR THE

16 PRESCRIPTION DRUGS SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION

17 PAID BY EACH OF THE FOLLOWING MARKET SECTORS ENROLLED IN A

18 HEALTH COVERAGE PLAN THAT THE HEALTH INSURER ISSUED OR THAT

19 INCLUDES PRESCRIPTION DRUG BENEFITS MANAGED OR ADMINISTERED BY

20 THE PHARMACY BENEFIT MANAGEMENT FIRM:

21 (I) INDIVIDUALS;

22 (II) SMALL EMPLOYERS;

23 (III) LARGE EMPLOYERS WITH AT LEAST ONE HUNDRED ONE BUT

24 NOT MORE THAN FIVE HUNDRED ELIGIBLE EMPLOYEES ON BUSINESS DAYS

25 DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR;

26 (IV) LARGE EMPLOYERS WITH AT LEAST FIVE HUNDRED ONE BUT

27 NOT MORE THAN FIVE THOUSAND ELIGIBLE EMPLOYEES ON BUSINESS DAYS

1 DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR; AND

2 (V) LARGE EMPLOYERS WITH MORE THAN FIVE THOUSAND  
3 ELIGIBLE EMPLOYEES ON BUSINESS DAYS DURING THE IMMEDIATELY  
4 PRECEDING CALENDAR YEAR.

5 (4) (a) EACH HEALTH INSURER THAT USES A PHARMACY BENEFIT  
6 MANAGEMENT FIRM SHALL REQUIRE THAT THE PHARMACY BENEFIT  
7 MANAGEMENT FIRM COMPLY WITH THIS SECTION. THE HEALTH INSURER  
8 SHALL PERIODICALLY AUDIT THE PHARMACY BENEFIT MANAGEMENT FIRM  
9 TO MONITOR AND ENSURE COMPLIANCE WITH THIS SECTION.

10 (b) FAILURE OF A HEALTH INSURER TO COMPLY WITH THIS  
11 SUBSECTION (4) OR TO ENSURE THAT A PHARMACY BENEFIT MANAGEMENT  
12 FIRM THAT THE HEALTH INSURER USES IS COMPLYING WITH THIS SECTION  
13 IS AN UNFAIR METHOD OF COMPETITION AND AN UNFAIR OR DECEPTIVE ACT  
14 OR PRACTICE IN THE BUSINESS OF INSURANCE PURSUANT TO SECTION  
15 10-3-1104 (1)(tt).

16

17

18 **10-16-1208. Commissioner to publish information - reporting**  
19 **requirements.** (1) (a) THE COMMISSIONER SHALL POST ON THE DIVISION'S  
20 WEBSITE:

21 (I) THE INFORMATION REPORTED BY HEALTH INSURERS PURSUANT  
22 TO SECTION 10-16-1204;

23 (II) THE INFORMATION IN THE NOTICES PROVIDED BY  
24 MANUFACTURERS PURSUANT TO SECTION 10-16-1205;

25 (III) THE FOLLOWING INFORMATION, TO THE EXTENT THE  
26 INFORMATION IS IN THE PUBLIC DOMAIN OR PUBLICLY AVAILABLE:

27 (A) THE INFORMATION REPORTED BY MANUFACTURERS PURSUANT

1 TO SECTION 10-16-1206; AND

2 (B) THE INFORMATION REPORTED BY ALL HEALTH INSURERS AND  
3 PHARMACY BENEFIT MANAGEMENT FIRMS PURSUANT TO SECTION  
4 10-16-1207.

5 (b) EXCEPT AS PROVIDED IN SUBSECTION (1)(a) OF THIS SECTION,  
6 THE INFORMATION THE COMMISSIONER RECEIVES IN ACCORDANCE WITH  
7 SECTIONS 10-16-1206 AND 10-16-1207 IS NOT A PUBLIC RECORD  
8 PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24, AND THE COMMISSIONER  
9 SHALL NOT PUBLISH THE INFORMATION REPORTED PURSUANT TO THOSE  
10 SECTIONS. HOWEVER, THE COMMISSIONER MAY:

11 (I) SHARE THE INFORMATION PUBLICLY IF THE INFORMATION IS  
12 DE-IDENTIFIED AND AGGREGATED IN A MANNER TO PREVENT  
13 IDENTIFICATION OF THE MANUFACTURER, HEALTH INSURER, OR PHARMACY  
14 BENEFIT MANAGEMENT FIRM THAT PROVIDED THE INFORMATION; AND

15 (II) SHARE THE INFORMATION RECEIVED PURSUANT TO SECTIONS  
16 10-16-1206 AND 10-16-1207 WITH A DISINTERESTED THIRD PARTY WITH  
17 WHOM THE COMMISSIONER CONTRACTS TO PERFORM THE ANALYSIS  
18 REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION AND WITH  
19 OTHER STATE AGENCIES THAT ARE PURCHASERS UNDER SECTION  
20 10-16-1203 (13)(a); EXCEPT THAT THE DISINTERESTED THIRD PARTY OR A  
21 STATE AGENCY PURCHASER THAT RECEIVES INFORMATION FROM THE  
22 COMMISSIONER PURSUANT TO THIS SUBSECTION (1)(b) SHALL NOT PUBLISH  
23 OR OTHERWISE MAKE THE INFORMATION AVAILABLE TO THE PUBLIC  
24 EXCEPT IN ACCORDANCE WITH SUBSECTION (1)(b)(I) OF THIS SECTION.

25 (c) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, IF A  
26 HEALTH INSURER, MANUFACTURER, OR PHARMACY BENEFIT MANAGEMENT  
27 FIRM CLAIMS THAT INFORMATION CONTAINED IN A REPORT SUBMITTED TO

1 THE COMMISSIONER IS A TRADE SECRET, PRIVILEGED INFORMATION, OR  
2 CONFIDENTIAL COMMERCIAL OR FINANCIAL DATA IN ACCORDANCE WITH  
3 SECTION 24-72-204 (3)(a)(IV), THE COMMISSIONER SHALL NOT POST THE  
4 INFORMATION ON THE DIVISION'S WEBSITE OR OTHERWISE MAKE THE  
5 INFORMATION AVAILABLE TO THE PUBLIC; EXCEPT THAT THE  
6 COMMISSIONER MAY SHARE THE INFORMATION WITH A DISINTERESTED  
7 THIRD PARTY WITH WHOM THE COMMISSIONER CONTRACTS TO PERFORM  
8 THE ANALYSIS PURSUANT TO SUBSECTION (2) OF THIS SECTION OR WITH  
9 OTHER STATE AGENCIES THAT ARE PURCHASERS, AS DEFINED IN SECTION  
10 10-16-1203 (13)(a), BUT THE DISINTERESTED THIRD PARTY OR A STATE  
11 AGENCY PURCHASER THAT RECEIVES THE INFORMATION SHALL NOT  
12 DISCLOSE THE INFORMATION TO THE PUBLIC. A PERSON DENIED ACCESS TO  
13 THE INFORMATION MAY SEEK REVIEW IN ACCORDANCE WITH SECTION  
14 24-72-204 (5).

15 (2) (a) (I) THE COMMISSIONER, OR A DISINTERESTED THIRD PARTY  
16 WITH WHOM THE COMMISSIONER CONTRACTS, SHALL ANALYZE THE DATA  
17 REPORTED BY HEALTH INSURERS PURSUANT TO SECTION 10-16-1204, THE  
18 DATA REPORTED BY MANUFACTURERS PURSUANT TO SECTION 10-16-1206,  
19 THE DATA REPORTED BY PHARMACY BENEFIT MANAGEMENT FIRMS  
20 PURSUANT TO SECTION 10-16-1207, THE HEALTH INSURER RATE  
21 INFORMATION FILED PURSUANT TO SECTION 10-16-107, AND ANY OTHER  
22 RELEVANT DATA THE COMMISSIONER POSSESSES IN ORDER TO DETERMINE  
23 THE OVERALL EFFECT OF PRESCRIPTION DRUG COSTS ON PREMIUMS. THE  
24 COMMISSIONER SHALL ISSUE A REPORT, AS PART OF THE REPORT PREPARED  
25 PURSUANT TO SECTION 10-16-111 (4)(c), ANALYZING THE PRESCRIPTION  
26 DRUG COST DATA AND THE EFFECT OF PRESCRIPTION DRUG COSTS ON  
27 PREMIUMS.

1 (II) THE COMMISSIONER SHALL INCLUDE IN THE REPORT REQUIRED  
2 BY THIS SUBSECTION (2)(a), BASED ON INFORMATION REPORTED BY  
3 HEALTH INSURERS PURSUANT TO SECTION 10-16-1204 (2) AND THE  
4 HEALTH INSURERS' CERTIFICATIONS SUBMITTED PURSUANT TO SECTION  
5 10-16-1204 (3), A DESCRIPTION OF THE REBATE PRACTICES OF HEALTH  
6 INSURERS, INCLUDING:

7 (A) AN EXPLANATION OF THE MANNER IN WHICH HEALTH  
8 INSURERS ACCOUNTED FOR REBATES IN CALCULATING PREMIUMS FOR  
9 HEALTH BENEFIT PLANS ISSUED OR RENEWED DURING THE YEAR;

10 (B) ANY OTHER MANNER IN WHICH HEALTH INSURERS APPLIED  
11 REBATES DURING THE YEAR; AND

12 (C) OTHER INFORMATION THE COMMISSIONER DEEMS RELEVANT  
13 FOR PURPOSES OF THE REPORT REQUIRED BY THIS SUBSECTION (2).

14 (III) THE COMMISSIONER OR A DISINTERESTED THIRD PARTY WITH  
15 WHOM THE COMMISSIONER CONTRACTS TO CONDUCT THE ANALYSIS SHALL  
16 NOT INCLUDE ANY INFORMATION IN THE REPORT THAT A HEALTH INSURER,  
17 MANUFACTURER, OR PHARMACY BENEFIT MANAGEMENT FIRM CLAIMED,  
18 PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION, TO BE A TRADE SECRET,  
19 PRIVILEGED INFORMATION, OR CONFIDENTIAL COMMERCIAL OR FINANCIAL  
20 DATA IN ACCORDANCE WITH SECTION 24-72-204 (3)(a)(IV).

21 (IV) FOR PURPOSES OF INFORMATION REPORTED TO THE  
22 COMMISSIONER PURSUANT TO SECTIONS 10-16-1206 AND 10-16-1207, THE  
23 COMMISSIONER, OR A DISINTERESTED THIRD PARTY WITH WHOM THE  
24 COMMISSIONER CONTRACTS, SHALL ONLY INCLUDE IN THE REPORT  
25 INFORMATION THAT HAS BEEN DE-IDENTIFIED AND AGGREGATED IN A  
26 MANNER TO PREVENT IDENTIFICATION OF THE MANUFACTURER, HEALTH  
27 INSURER, OR PHARMACY BENEFIT MANAGEMENT FIRM OR THAT IS IN THE

1 PUBLIC DOMAIN OR PUBLICLY AVAILABLE.

2 (b) BY DECEMBER 1, 2021, AND BY EACH DECEMBER 1  
3 THEREAFTER, THE COMMISSIONER SHALL PUBLISH THE REPORT REQUIRED  
4 BY THIS SUBSECTION (2) ON THE DIVISION'S WEBSITE, WHICH REPORT MUST  
5 ANALYZE THE DATA SPECIFIED IN SUBSECTION (2)(a) OF THIS SECTION  
6 THAT THE COMMISSIONER RECEIVED THROUGH JULY OF THE CALENDAR  
7 YEAR IN WHICH THE REPORT IS PUBLISHED.

8 (c) BY DECEMBER 1, 2021, AND BY EACH DECEMBER 1  
9 THEREAFTER, THE COMMISSIONER SHALL SUBMIT THE REPORT TO THE  
10 GOVERNOR, THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES,  
11 AND THE HOUSE OF REPRESENTATIVES COMMITTEES ON HEALTH AND  
12 INSURANCE AND PUBLIC HEALTH CARE AND HUMAN SERVICES, OR THEIR  
13 SUCCESSOR COMMITTEES. ADDITIONALLY, THE COMMISSIONER SHALL  
14 PRESENT THE REPORT TO THE LEGISLATIVE COMMITTEES DURING THE  
15 COMMITTEES' HEARINGS HELD PRIOR TO THE 2022 LEGISLATIVE SESSION  
16 AND PRIOR TO EACH LEGISLATIVE SESSION THEREAFTER UNDER THE  
17 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND  
18 TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF  
19 TITLE 2.

20 (d) THE COMMISSIONER, IN CONSULTATION WITH THE DEPARTMENT  
21 OF HEALTH CARE POLICY AND FINANCING, THE DEPARTMENT OF  
22 CORRECTIONS, THE DEPARTMENT OF HUMAN SERVICES, AND ANY OTHER  
23 STATE DEPARTMENT THAT PURCHASES OR REIMBURSES THE COST OF  
24 PRESCRIPTION DRUGS ON BEHALF OF THE STATE OR AN ENTITY ACTING ON  
25 BEHALF OF A STATE DEPARTMENT, SHALL INCLUDE IN THE REPORT  
26 REQUIRED BY THIS SUBSECTION (2) ANY RECOMMENDATIONS FOR  
27 LEGISLATIVE CHANGES TO CONTAIN THE COSTS OF PRESCRIPTION DRUGS

1 AND REDUCE THE EFFECTS OF PRICE INCREASES ON:

2 (I) CONSUMERS;

3 (II) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING,  
4 THE DEPARTMENT OF CORRECTIONS, THE DEPARTMENT OF HUMAN  
5 SERVICES, AND ANY OTHER STATE DEPARTMENT THAT PURCHASES OR  
6 REIMBURSES THE COST OF PRESCRIPTION DRUGS ON BEHALF OF THE STATE  
7 OR AN ENTITY ACTING ON BEHALF OF A STATE DEPARTMENT;

8 (III) HEALTH INSURANCE PREMIUMS IN THE COMMERCIAL MARKET;

9 AND

10 (IV) HEALTH INSURANCE PREMIUMS FOR STATE GROUP BENEFIT  
11 PLANS.

12 (e) THE REPORTING REQUIREMENT IN THIS SUBSECTION (2) IS NOT  
13 SUBJECT TO EXPIRATION UNDER SECTION 24-1-136 (11)(a)(I).

14 **10-16-1209. Rules - coordination with other state entities.**

15 (1) THE COMMISSIONER MAY ADOPT RULES AS NECESSARY TO IMPLEMENT  
16 THIS PART 12, INCLUDING RULES:

17 (a) SPECIFYING THE FORM AND MANNER IN WHICH HEALTH  
18 INSURERS, MANUFACTURERS, AND PHARMACY BENEFIT MANAGEMENT  
19 FIRMS ARE TO REPORT INFORMATION REQUIRED BY SECTIONS 10-16-1204,  
20 10-16-1206, AND 10-16-1207; AND

21 (b) ESTABLISHING FILING FEES TO BE PAID BY HEALTH INSURERS,  
22 MANUFACTURERS, AND PHARMACY BENEFIT MANAGEMENT FIRMS, WHICH  
23 FEES MUST BE USED SOLELY TO PAY THE OPERATIONAL COSTS OF THE  
24 DIVISION IN IMPLEMENTING AND ADMINISTERING THIS PART 12.

25 (2) THE COMMISSIONER MAY CONSULT WITH THE STATE BOARD OF  
26 PHARMACY, THE SECRETARY OF STATE, THE ATTORNEY GENERAL, AND THE  
27 STATE DEPARTMENTS THAT ARE PURCHASERS, AS SPECIFIED IN SECTION



1 10-16-1203 (13), IN ADOPTING NECESSARY RULES PURSUANT TO  
2 SUBSECTION (1) OF THIS SECTION, IN POSTING INFORMATION ON THE  
3 DIVISION'S WEBSITE PURSUANT TO SECTION 10-16-1208 (1), AND IN  
4 TAKING ANY OTHER ACTION FOR THE PURPOSE OF IMPLEMENTING THIS  
5 PART 12.

6 **10-16-1210. Violations - enforcement.** (1) A MANUFACTURER  
7 ENGAGES IN UNPROFESSIONAL CONDUCT UNDER SECTION 12-280-126 (1)(t)  
8 AND IS SUBJECT TO DISCIPLINE UNDER SECTION 12-280-127, INCLUDING  
9 PENALTIES UNDER SECTION 12-280-127 (5)(d), IF THE MANUFACTURER:

10 (a) FAILS TO NOTIFY PURCHASERS OF A PRESCRIPTION DRUG PRICE  
11 INCREASE OR A NEW SPECIALTY DRUG INTRODUCED TO THE MARKET AS  
12 REQUIRED BY SECTION 10-16-1205;

13 (b) FAILS TO REPORT TO THE COMMISSIONER THE INFORMATION  
14 REQUIRED BY SECTION 10-16-1206; OR

15 (c) FAILS TO PAY FILING FEES AS REQUIRED PURSUANT TO SECTION  
16 10-16-1209 (1)(b).

17 (2) THE COMMISSIONER SHALL REPORT MANUFACTURER  
18 VIOLATIONS OF THIS PART 12 TO THE STATE BOARD OF PHARMACY.

19 **SECTION 2.** In Colorado Revised Statutes, 10-3-1104, **add**  
20 (1)(tt) as follows:

21 **10-3-1104. Unfair methods of competition - unfair or deceptive**  
22 **acts or practices.** (1) The following are defined as unfair methods of  
23 competition and unfair or deceptive acts or practices in the business of  
24 insurance:

25 (tt) FAILING TO COMPLY WITH SECTION 10-16-1207 (4) AND TO  
26 ENSURE THAT A PHARMACY BENEFIT MANAGEMENT FIRM THAT A HEALTH  
27 INSURER, AS DEFINED IN SECTION 10-16-1203 (5), USES TO MANAGE OR

1 ADMINISTER PRESCRIPTION DRUG BENEFITS FOR THE HEALTH INSURER IS  
2 COMPLYING WITH SECTION 10-16-1207.

3 **SECTION 3.** In Colorado Revised Statutes, 10-16-102, **amend**  
4 (49) as follows:

5 **10-16-102. Definitions.** As used in this article 16, unless the  
6 context otherwise requires:

7 (49) "Pharmacy benefit management firm" means any entity doing  
8 business in this state that ~~contracts to administer or manage~~ ADMINISTERS  
9 OR MANAGES prescription drug benefits on behalf of any carrier that  
10 provides prescription drug benefits to residents of this state, EITHER  
11 PURSUANT TO A CONTRACT WITH THE CARRIER OR AS AN ENTITY THAT IS  
12 RELATED TO, ASSOCIATED BY COMMON OR OTHER OWNERSHIP WITH, OR  
13 OTHERWISE ASSOCIATED WITH THE CARRIER.

14 **SECTION 4.** In Colorado Revised Statutes, 12-280-126, **add**  
15 (1)(t) as follows:

16 **12-280-126. Unprofessional conduct - grounds for discipline.**

17 (1) The board may take disciplinary or other action as authorized in  
18 section 12-20-404, after a hearing held in accordance with the provisions  
19 of sections 12-20-403 and 12-280-127, upon proof that the licensee,  
20 certificant, or registrant:

21 (t) (I) HAS FAILED TO NOTIFY PURCHASERS OF PRESCRIPTION DRUG  
22 PRICE INCREASES OR OF NEW SPECIALTY DRUGS INTRODUCED TO THE  
23 MARKET AS REQUIRED BY SECTION 10-16-1205;

24 (II) HAS FAILED TO REPORT THE INFORMATION REQUIRED BY  
25 SECTION 10-16-1206 TO THE COMMISSIONER OF INSURANCE; OR

26 (III) HAS FAILED TO PAY FILING FEES AS REQUIRED PURSUANT TO  
27 SECTION 10-16-1209 (1)(b).

1           **SECTION 5.** In Colorado Revised Statutes, 12-280-127, **amend**  
2 (5)(a); and **add** (5)(d) as follows:

3           **12-280-127. Disciplinary actions.** (5) (a) Except as provided in  
4 ~~subsections~~ SUBSECTION (5)(b), ~~and~~ (5)(c), OR (5)(d) of this section, in  
5 addition to any other penalty the board may impose pursuant to this  
6 section, the board may fine any registrant violating this article 280 or any  
7 rules promulgated pursuant to this article 280 not less than five hundred  
8 dollars and not more than five thousand dollars for each violation.

9           (d) IN ADDITION TO ANY OTHER PENALTY THE BOARD MAY IMPOSE  
10 PURSUANT TO THIS SECTION, THE BOARD MAY IMPOSE AN ADMINISTRATIVE  
11 FINE ON A REGISTRANT FOR FAILING TO NOTIFY PURCHASERS OR REPORT  
12 INFORMATION TO THE COMMISSIONER OF INSURANCE AS SPECIFIED IN  
13 SECTION 12-280-126 (1)(t) UP TO TEN THOUSAND DOLLARS PER DAY FOR  
14 EACH DAY THE REGISTRANT FAILS TO COMPLY WITH THE NOTICE OR  
15 REPORTING REQUIREMENTS.

16           **SECTION 6.** In Colorado Revised Statutes, **add** 10-16-152 as  
17 follows:

18           **10-16-152. Cost-sharing for prescription drugs - required**  
19 **rebate reductions - definitions - rules - legislative declaration.**

20 (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

21           (a) WITH APPROXIMATELY ONE HUNDRED FIFTY BILLION DOLLARS  
22 IN PRESCRIPTION DRUG REBATES IN THE HEALTH CARE SYSTEM EACH YEAR,  
23 IT IS UNCLEAR IF THESE REBATES ARE BEING USED TO BENEFIT CONSUMERS  
24 BY PROVIDING THEM MAXIMIZED COST SAVINGS;

25           (b) MOST COLORADANS EXPERIENCE INCREASES IN PRESCRIPTION  
26 DRUG COSTS AND DO NOT BENEFIT FROM INCREASING REBATES WITH  
27 CORRESPONDING OFFSETS IN THEIR COSTS; AND

1 (c) REQUIRING HEALTH INSURERS TO PASS REBATE SAVINGS ON TO  
2 CONSUMERS BY LOWERING PREMIUMS BASED ON THE REBATES THEY  
3 RECEIVED FROM MANUFACTURERS FOR PRESCRIPTION DRUGS COVERED  
4 UNDER THEIR HEALTH COVERAGE PLANS WILL PROVIDE IMMEDIATE  
5 FINANCIAL RELIEF FOR COLORADANS AND ENABLE THEM TO OFFSET THEIR  
6 RISING PRESCRIPTION DRUG COSTS.

7 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
8 REQUIRES:

9 (a) "HEALTH INSURER" MEANS:

10 (I) A CARRIER AS DEFINED IN SECTION 10-16-102 (8); AND

11 (II) A CARRIER, AS DEFINED IN SECTION 24-50-603 (2), THAT  
12 PROVIDES OR ADMINISTERS A GROUP BENEFIT PLAN FOR STATE EMPLOYEES  
13 PURSUANT TO PART 6 OF ARTICLE 50 OF TITLE 24.

14 (b) "MANUFACTURE" HAS THE SAME MEANING AS SPECIFIED IN  
15 SECTION 12-280-103 (26).

16 (c) "MANUFACTURER" MEANS:

17 (I) A PERSON THAT MANUFACTURES A PRESCRIPTION DRUG THAT  
18 IS MADE AVAILABLE IN COLORADO; AND

19 (II) A HOLDING COMPANY OR OTHER AFFILIATE OF A PERSON  
20 DESCRIBED IN SUBSECTION (2)(c)(I) OF THIS SECTION.

21 (d) "PRESCRIPTION DRUG" HAS THE MEANING AS SPECIFIED IN  
22 SECTION 12-280-103 (42).

23 (e) "REBATE" MEANS A REBATE, DISCOUNT, MARKET SHARE  
24 ALLOWANCE, REMUNERATION, COMPENSATION, OR OTHER PAYMENT OR  
25 PRICE CONCESSION PROVIDED BY A MANUFACTURER TO A PHARMACY  
26 BENEFIT MANAGEMENT FIRM OR HEALTH INSURER.

27 (3) FOR EACH HEALTH COVERAGE PLAN, INCLUDING A GROUP

1 BENEFIT PLAN, ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2022, A  
2 HEALTH INSURER SHALL REDUCE PREMIUMS FOR THE PLAN BY AN AMOUNT  
3 EQUAL TO ONE HUNDRED PERCENT OF THE ESTIMATED REBATES FOR  
4 PRESCRIPTION DRUGS THAT THE HEALTH INSURER RECEIVED FOR THAT  
5 PLAN IN THE PREVIOUS PLAN YEAR.

6 (4) THE COMMISSIONER SHALL ADOPT RULES AS NECESSARY TO  
7 IMPLEMENT THIS SECTION IN A MANNER THAT MAXIMIZES THE REDUCTION  
8 IN PREMIUMS.

9 (5) THE COMMISSIONER MAY USE ANY OF THE COMMISSIONER'S  
10 ENFORCEMENT POWERS UNDER THIS TITLE 10 TO OBTAIN A HEALTH  
11 INSURER'S COMPLIANCE WITH THIS SECTION.

12 **SECTION 7. Effective date.** This act takes effect July 1, 2020.

13 **SECTION 8. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, or safety.