

**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. 20-0075.02 Kristen Forrestal x4217

HOUSE BILL 20-1349

HOUSE SPONSORSHIP

Roberts and Kennedy, McCluskie

SENATE SPONSORSHIP

Donovan, Fenberg, Gonzales

House Committees

Health & Insurance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE COLORADO OPTION PLAN TO BE IMPLEMENTED BY**
102 **EXECUTIVE AGENCIES IN ORDER TO CREATE MORE AFFORDABLE**
103 **HEALTH BENEFIT PLANS FOR HEALTH CARE CONSUMERS IN THIS**
104 **STATE.**

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>.)

Beginning January 1, 2022, the bill requires a health insurance carrier (carrier) that offers an individual health benefit plan in this state to offer a Colorado option plan in the Colorado counties where the carrier

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.

offers the individual health benefit plan. The commissioner of insurance (commissioner) is required to develop and implement a Colorado option plan that must:

- ! Be offered to Colorado residents who purchase health insurance in the individual market;
- ! Implement a standardized plan that:
 - ! Allows consumers to easily compare health benefit plans; and
 - ! Provides first-dollar, predeductible coverage for certain services;
- ! Include the essential health benefits package;
- ! Provide different, specific levels of coverage;
- ! Include a hospital reimbursement rate formula;
- ! Require hospital participation;
- ! Require a minimum medical loss ratio of 85%; and
- ! Require carriers and pharmacy benefit management firms to pass rebate savings through to consumers and document the savings and pass-through in a form and manner determined by the commissioner.

The Colorado option advisory board (board) is created to advise and make recommendations to the commissioner on all aspects of the Colorado option plan.

The bill authorizes the commissioner to promulgate rules to develop, implement, and operate the Colorado option plan, including:

- ! Expanding the Colorado option plan to the small group market;
- ! Establishing a hospital reimbursement rate formula; and
- ! Requiring carriers to offer the Colorado option plan in specific counties.

If a hospital refuses to participate in the Colorado option plan, the department of public health and environment may issue a warning, impose fines, or suspend, revoke, or impose conditions on the hospital's license.

The commissioner, in consultation with the board, is required to evaluate the Colorado option plan beginning July 1, 2024, and each year thereafter.

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

2

3 **SECTION 1.** In Colorado Revised Statutes, **add** part 12 to article

4 16 of title 10 as follows:

1 PART 12

2 COLORADO AFFORDABLE HEALTH CARE OPTION

3 **10-16-1201. Short title.** THE SHORT TITLE OF THIS PART 12 IS THE
4 "COLORADO AFFORDABLE HEALTH CARE OPTION ACT".

5 **10-16-1202. Legislative declaration.** (1) THE GENERAL
6 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7 (a) ENSURING THAT ALL PEOPLE HAVE ACCESS TO AFFORDABLE
8 HEALTH CARE IS A CHALLENGE THAT HAS VEXED PUBLIC OFFICIALS AND
9 POLICY EXPERTS FOR DECADES DESPITE SEEMINGLY CONSTANT EFFORTS TO
10 ADDRESS THE ISSUE;

11 (b) ALTHOUGH GREAT STRIDES HAVE BEEN MADE IN INCREASING
12 ACCESS TO HEALTH CARE COVERAGE THROUGH FEDERAL LEGISLATION,
13 NOT ENOUGH HAS BEEN ACCOMPLISHED TO ADDRESS THE AFFORDABILITY
14 OF HEALTH INSURANCE IN COLORADO, PARTICULARLY IN THE STATE'S
15 RURAL AREAS;

16 (c) TO ADDRESS THE ISSUE, IN 2019 THE GENERAL ASSEMBLY
17 PASSED LEGISLATION THAT DIRECTED THE DEPARTMENT OF HEALTH CARE
18 POLICY AND FINANCING AND THE DIVISION TO DESIGN A STATE OPTION FOR
19 HEALTH CARE COVERAGE THAT WOULD BE MORE AFFORDABLE THAN
20 CURRENT OPTIONS AVAILABLE IN THE INDIVIDUAL AND SMALL GROUP
21 MARKETS; AND

22 (d) IN THEIR FINAL REPORT FOR COLORADO'S PUBLIC OPTION,
23 ISSUED NOVEMBER 15, 2019, THE DEPARTMENT OF HEALTH CARE POLICY
24 AND FINANCING AND THE DIVISION RECOMMENDED THAT COLORADO
25 ESTABLISH A STATE OPTION FOR HEALTH CARE COVERAGE OFFERED BY
26 PRIVATE HEALTH INSURERS AND SOLD IN THE INDIVIDUAL MARKET, BOTH
27 ON AND OFF THE EXCHANGE.

1 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES ITS INTENT TO
2 ESTABLISH AN AFFORDABLE HEALTH CARE OPTION, TO BE KNOWN AS THE
3 "COLORADO OPTION PLAN", THROUGH A PARTNERSHIP AMONG STATE
4 GOVERNMENT, CARRIERS, AND HOSPITALS FOR THE PURPOSE OF:

5 (a) INCREASING THE AVAILABILITY OF AFFORDABLE HEALTH
6 INSURANCE STATEWIDE TO ANY RESIDENT SEEKING COVERAGE IN THE
7 INDIVIDUAL MARKET;

8 (b) INCREASING CONSUMER CHOICE BY HAVING AT LEAST TWO
9 CARRIERS OFFERING HEALTH BENEFIT PLANS IN EVERY COUNTY;

10 (c) RAISING THE MEDICAL LOSS RATIO FROM EIGHTY PERCENT TO
11 EIGHTY-FIVE PERCENT, NOT INCLUDING INSURANCE PRODUCERS'
12 COMMISSIONS, ONLY FOR INDIVIDUALS WHO PURCHASE THE COLORADO
13 OPTION PLAN;

14 (d) SETTING HOSPITAL REIMBURSEMENT RATES FOR ONLY THOSE
15 WHO PURCHASE THE COLORADO OPTION PLAN THROUGH A PUBLIC AND
16 TRANSPARENT FORMULA THAT SUPPORTS INDEPENDENT HOSPITALS,
17 PROMOTES SUSTAINABILITY, HELPS TO STABILIZE RURAL HOSPITALS, AND
18 ADDRESSES COLORADO'S HIGH-PROFIT OUTLIER HOSPITALS; AND

19 (e) REQUIRING THAT ALL COMPENSATION AND REBATES FROM
20 PRESCRIPTION DRUG MANUFACTURERS PAID TO CARRIERS OR PHARMACY
21 BENEFIT MANAGEMENT FIRMS BE PASSED THROUGH AS SAVINGS TO
22 POLICYHOLDERS.

23 (3) IN ESTABLISHING THE COLORADO OPTION PLAN, THE GENERAL
24 ASSEMBLY ALSO DECLARES ITS DESIRE TO HAVE A STRONG AND
25 INDEPENDENT ADVISORY BOARD THAT WILL MONITOR, ADVISE, AND
26 OVERRULE DECISIONS MADE IN INSTITUTING AND ADMINISTERING THE
27 COLORADO OPTION PLAN.

1 **10-16-1203. Definitions.** AS USED IN THIS PART 12, UNLESS THE
2 CONTEXT OTHERWISE REQUIRES:

3 (1) "BOARD" MEANS THE COLORADO OPTION ADVISORY BOARD
4 CREATED IN SECTION 10-16-1204.

5 (2) "COLORADO OPTION PLAN" MEANS THE COLORADO OPTION
6 PLAN DESCRIBED IN SECTION 10-16-1205.

7 (3) "CRITICAL ACCESS HOSPITAL" MEANS A HOSPITAL THAT IS
8 FEDERALLY CERTIFIED OR UNDERGOING FEDERAL CERTIFICATION AS A
9 CRITICAL ACCESS HOSPITAL PURSUANT TO 42 CFR 485, SUBPART F.

10 (4) "HEALTH SYSTEM" MEANS A CORPORATION OR OTHER
11 ORGANIZATION THAT OWNS, CONTAINS, OR OPERATES THREE OR MORE
12 HOSPITALS.

13 (5) "HOSPITAL" MEANS A HOSPITAL LICENSED OR CERTIFIED
14 PURSUANT TO SECTION 25-1.5-103 (1)(a); EXCEPT THAT "HOSPITAL" DOES
15 NOT INCLUDE PSYCHIATRIC HOSPITALS, GENERAL HOSPITALS THAT ARE
16 CERTIFIED AS LONG-TERM CARE HOSPITALS, AND INPATIENT
17 REHABILITATION FACILITIES.

18 (6) "INSURANCE PRODUCER" HAS THE MEANING SET FORTH IN
19 SECTION 10-2-103 (6).

20 (7) "MEDICARE" MEANS FEDERAL INSURANCE OR ASSISTANCE
21 PROVIDED BY THE "HEALTH INSURANCE FOR THE AGED ACT", TITLE XVIII
22 OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, 42 U.S.C. SEC.
23 1395 ET SEQ.

24 (8) "MEDICARE REIMBURSEMENT RATES" MEANS THE SCHEDULE
25 OF REIMBURSEMENT RATES FOR PARTICULAR HEALTH CARE SERVICES
26 PROVIDED UNDER MEDICARE. FOR A HOSPITAL THAT IS REIMBURSED
27 THROUGH THE MEDICARE PROSPECTIVE PAYMENT SYSTEM, THE MEDICARE

1 REIMBURSEMENT RATE IS BASED ON THE PROSPECTIVE PAYMENT SYSTEM
2 RATES. FOR A CRITICAL ACCESS HOSPITAL, THE MEDICARE
3 REIMBURSEMENT RATE IS BASED ON ALLOWABLE COSTS AS REPORTED IN
4 MEDICARE COST REPORTS AND THE HISTORICAL COST-TO-CHARGE RATIOS
5 FOR THE SPECIFIC HOSPITAL.

6 (9) "REBATE" MEANS A REBATE, DISCOUNT, MARKET-SHARE
7 ALLOWANCE, REMUNERATION, COMPENSATION, OR OTHER PAYMENT OR
8 PRICE CONCESSION PROVIDED BY A PRESCRIPTION DRUG MANUFACTURER
9 TO A PHARMACY BENEFIT MANAGEMENT FIRM OR CARRIER.

10 (10) "SMALL GROUP MARKET" MEANS THE MARKET FOR SMALL
11 GROUP SICKNESS AND ACCIDENT INSURANCE AS THE TERM IS DEFINED IN
12 SECTION 10-16-102 (63).

13 (11) "STANDARDIZED PLAN" MEANS A HEALTH BENEFIT PLAN THAT
14 HAS A DEFINED BENEFIT DESIGN AND COST-SHARING STRUCTURE FOR
15 COVERED HEALTH CARE SERVICES.

16 **10-16-1204. Colorado option advisory board - creation -**
17 **membership - terms - duties - commissioner rules.** (1) (a) (I) THERE
18 IS HEREBY CREATED THE COLORADO OPTION ADVISORY BOARD FOR THE
19 PURPOSE OF MAKING RECOMMENDATIONS TO DEVELOP, IMPLEMENT, AND
20 OPERATE THE COLORADO OPTION PLAN IN THE BEST INTERESTS OF ALL
21 COLORADANS. THE BOARD CONSISTS OF NINE VOTING MEMBERS. THE
22 EXECUTIVE DIRECTOR OF THE EXCHANGE OR THE EXECUTIVE DIRECTOR'S
23 DESIGNEE SHALL SERVE AS A VOTING MEMBER OF THE BOARD. ON OR
24 BEFORE JULY 15, 2020:

25 (A) THE GOVERNOR SHALL APPOINT FOUR VOTING
26 NONLEGISLATIVE MEMBERS TO THE BOARD, TWO OF WHOM ARE
27 REPRESENTATIVES OF CONSUMERS WHO HAVE THE HIGHEST BARRIERS TO

1 ACCESSING HEALTH CARE, ONE OF WHOM HAS EXPERTISE OR EXPERIENCE
2 IN THE PROVISION OF HEALTH CARE TO UNINSURED AND LOW-INCOME
3 POPULATIONS, AND ONE OF WHOM HAS EXPERIENCE OR EXPERTISE IN
4 HEALTH CARE FINANCE.

5 (B) THE PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE
6 SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE
7 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH
8 APPOINT ONE VOTING NONLEGISLATIVE MEMBER TO THE BOARD. THE
9 MEMBERS APPOINTED BY LEGISLATORS SHALL INCLUDE A MEMBER WITH
10 EXPERIENCE OR EXPERTISE IN VALUE-BASED PURCHASING AND PLAN
11 DESIGN, A MEMBER WITH EXPERIENCE OR EXPERTISE IN THE PROVISION OF
12 HEALTH CARE SERVICES IN RURAL AREAS, A MEMBER WITH EXPERIENCE OR
13 EXPERTISE IN HOSPITAL ADMINISTRATION, AND A MEMBER FROM AN
14 EMPLOYEE ORGANIZATION THAT REPRESENTS EMPLOYEES IN THE HEALTH
15 CARE INDUSTRY.

16 (II) NO MORE THAN FOUR VOTING MEMBERS OF THE BOARD MAY
17 BE FROM THE HEALTH CARE INDUSTRY, INCLUDING HOSPITALS, CARRIERS,
18 INSURANCE PRODUCERS, AND PROVIDERS. THE MEMBERS MUST PUBLICLY
19 DISCLOSE WHETHER THEY HAVE ANY FINANCIAL INTEREST IN THE
20 IMPLEMENTATION OF THE COLORADO OPTION PLAN.

21 (III) THE PERSONS MAKING THE APPOINTMENTS TO THE BOARD
22 SHALL COORDINATE APPOINTMENTS TO ENSURE THAT:

23 (A) THE MAJORITY OF THE MEMBERS DO NOT HAVE A FINANCIAL
24 INTEREST IN THE HEALTH CARE INDUSTRY;

25 (B) THE MEMBERS REFLECT THE GEOGRAPHIC, ETHNIC, RACIAL,
26 AND ECONOMIC DIVERSITY OF THE STATE;

27 (C) THE MEMBERS AS A WHOLE HAVE DEMONSTRATED EXPERIENCE

1 AND EXPERTISE IN MOST AREAS OUTLINED IN SUBSECTION (1)(a)(IV) OF
2 THIS SECTION; AND

3 (D) AT LEAST THREE VOTING MEMBERS OF THE BOARD ARE FROM
4 RURAL AREAS OF THE STATE.

5 (IV) THE MEMBERS OF THE BOARD MUST HAVE EXPERIENCE OR
6 EXPERTISE IN MOST OF THE FOLLOWING AREAS, AND EACH INDIVIDUAL
7 APPOINTED TO THE BOARD MUST HAVE DEMONSTRATED EXPERIENCE OR
8 EXPERTISE IN AT LEAST TWO OF THE FOLLOWING AREAS:

9 (A) INDIVIDUAL HEALTH INSURANCE COVERAGE;

10 (B) VALUE-BASED PURCHASING AND PLAN DESIGN;

11 (C) HEALTH CARE CONSUMER NAVIGATION AND ASSISTANCE IN
12 ACCESSING HEALTH CARE;

13 (D) HEALTH CARE FINANCE;

14 (E) THE PROVISION OF HEALTH CARE SERVICES IN RURAL AREAS;

15 (F) THE PROVISION OF HEALTH CARE SERVICES TO UNINSURED AND
16 LOW-INCOME POPULATIONS;

17 (G) HEALTH CARE ACTUARIAL ANALYSIS;

18 (H) AS A MEMBER OF AN EMPLOYEE ORGANIZATION THAT
19 REPRESENTS EMPLOYEES IN THE HEALTH CARE INDUSTRY;

20 (I) HEALTH CARE DELIVERY SYSTEMS;

21 (J) REPRESENTING CONSUMERS IN THE DEVELOPMENT OF HEALTH
22 CARE POLICY;

23 (K) HOSPITAL ADMINISTRATION; OR

24 (L) INSURANCE BROKERAGE.

25 (V)(A) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(V)(B) OF THIS
26 SECTION, THE TERMS OF OFFICE OF THE VOTING MEMBERS OF THE BOARD
27 ARE THREE YEARS, AND MEMBERS OF THE BOARD MAY SERVE A MAXIMUM

1 OF TWO CONSECUTIVE THREE-YEAR TERMS.

2 (B) IN ORDER TO ENSURE STAGGERED TERMS, THE INITIAL TERM OF
3 OFFICE OF TWO OF THE VOTING MEMBERS APPOINTED BY THE GOVERNOR
4 AND THE MEMBERS APPOINTED BY THE MINORITY LEADER OF THE SENATE
5 AND THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES IS TWO
6 YEARS. AFTER SERVING AN INITIAL TWO-YEAR TERM, THESE MEMBERS
7 MAY SERVE UP TO TWO ADDITIONAL, CONSECUTIVE THREE-YEAR TERMS.

8 (b) (I) THE GOVERNOR SHALL APPOINT A REPRESENTATIVE OF
9 EACH OF THE FOLLOWING TO SERVE AS NONVOTING, EX OFFICIO MEMBERS
10 OF THE BOARD:

11 (A) THE OFFICE OF THE GOVERNOR;

12 (B) A STATEWIDE ASSOCIATION OF PROFESSIONAL NURSES;

13 (C) A STATEWIDE ASSOCIATION REPRESENTING PHYSICIANS;

14 (D) A STATEWIDE ASSOCIATION OF HOSPITALS; AND

15 (E) A STATEWIDE ASSOCIATION OF CARRIERS.

16 (II) THE COMMISSIONER, THE EXECUTIVE DIRECTOR OF THE
17 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE
18 ADMINISTRATOR OF THE ALL-PAYER HEALTH CLAIMS DATABASE
19 ESTABLISHED PURSUANT TO SECTION 25.5-1-204, OR THEIR DESIGNEES,
20 SHALL ALSO SERVE AS NONVOTING, EX OFFICIO MEMBERS.

21 (c) MEMBERS OF THE BOARD MAY BE REMOVED BY THEIR
22 RESPECTIVE APPOINTING AUTHORITIES FOR CAUSE, INCLUDING
23 INCOMPETENCY, NEGLECT OF DUTY, OR MALFEASANCE IN OFFICE OR ANY
24 OTHER CAUSE, AND AS MAY BE DEFINED BY THE BYLAWS OF THE BOARD.

25 (d) IF A VACANCY OCCURS ON THE BOARD, THE APPOINTING
26 AUTHORITY FOR THE VACATED POSITION SHALL FILL THE VACANCY BY
27 APPOINTMENT FOR THE REMAINDER OF THE UNEXPIRED TERM. IF A

1 MEMBER IS APPOINTED TO FILL A VACANCY AND SERVES FOR MORE THAN
2 HALF OF THE UNEXPIRED TERM, THE MEMBER IS ELIGIBLE TO SERVE ONE
3 MORE TERM.

4 (2) THE COMMISSIONER SHALL CONVENE THE BOARD AND PROVIDE
5 TECHNICAL AND ADMINISTRATIVE SUPPORT TO ASSIST THE BOARD IN
6 CARRYING OUT ITS RESPONSIBILITIES PURSUANT TO THIS PART 12. THE
7 BOARD SHALL ELECT A CHAIR AND VICE-CHAIR FROM AMONG THE VOTING
8 MEMBERS OF THE BOARD. THE BOARD SHALL MEET AT LEAST QUARTERLY,
9 HOLD PUBLIC MEETINGS, AND ALLOW THE OPPORTUNITY FOR PUBLIC
10 TESTIMONY. THE BOARD SHALL ESTABLISH BYLAWS TO GUIDE ITS
11 OPERATION, INCLUDING THE AUTHORITY TO GO INTO EXECUTIVE SESSION
12 TO DISCUSS CONFIDENTIAL OR PROPRIETARY INFORMATION.

13 (3) BOARD MEMBERS MAY RECEIVE A PER DIEM AND
14 REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES WHILE
15 ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES OF THE BOARD.

16 (4) BOARD MEMBERS ARE SUBJECT TO PART 4 OF ARTICLE 6,
17 ARTICLE 18, AND PART 2 OF ARTICLE 72 OF TITLE 24.

18 (5) THE BOARD SHALL ADVISE THE COMMISSIONER ON THE
19 DEVELOPMENT, IMPLEMENTATION, AND OPERATION OF THE COLORADO
20 OPTION PLAN, INCLUDING:

- 21 (a) A STANDARDIZED PLAN AS THE COLORADO OPTION PLAN;
- 22 (b) HOW PASS-THROUGH FUNDS FROM ANY FEDERAL WAIVERS
23 RECEIVED PURSUANT TO SECTION 25.5-1-129 (7) SHOULD BE ALLOCATED;
- 24 (c) ANY FEDERAL WAIVER APPLICATION REQUIRED IN SECTION
25 25.5-1-129 (7);
- 26 (d) VALUE-BASED PAYMENTS AND PLAN DESIGN IN THE COLORADO
27 OPTION PLAN;

1 (e) ON OR BEFORE JANUARY 1, 2023, THE TIMING AND FEASIBILITY
2 OF OFFERING THE COLORADO OPTION PLAN IN THE SMALL GROUP MARKET;

3 (f) THE EVALUATION OF THE COLORADO OPTION PLAN, INCLUDING
4 DATA AND METRICS TO AID THE COMMISSIONER OR AN INDEPENDENT
5 THIRD-PARTY CONTRACTOR IF THE COMMISSIONER CONTRACTS WITH A
6 THIRD-PARTY PURSUANT TO SECTION 10-16-1208; AND

7 (g) OPPORTUNITIES TO LEVERAGE THE COLORADO OPTION PLAN TO
8 PROMOTE INNOVATION THAT IMPROVES THE QUALITY OF, ACCESS TO, AND
9 AFFORDABILITY OF HEALTH CARE.

10 (6) THE BOARD MAY OVERRIDE A DECISION OF THE COMMISSIONER
11 CONCERNING THE DEVELOPMENT, IMPLEMENTATION, AND OPERATION OF
12 THE COLORADO OPTION PLAN BY AN AFFIRMATIVE VOTE OF AT LEAST
13 SEVEN OF THE VOTING MEMBERS OF THE BOARD.

14 **10-16-1205. Colorado option plan - carriers required to offer**
15 **- required components - rules.** (1) (a) BEGINNING JANUARY 1, 2022, A
16 CARRIER THAT OFFERS AN INDIVIDUAL HEALTH BENEFIT PLAN IN
17 COLORADO SHALL OFFER THE COLORADO OPTION PLAN IN THE INDIVIDUAL
18 MARKET IN EACH COUNTY WHERE THE CARRIER OFFERS AN INDIVIDUAL
19 HEALTH BENEFIT PLAN.

20 (b) THE COMMISSIONER SHALL ENSURE THAT THERE ARE AT LEAST
21 TWO CARRIERS THAT OFFER THE COLORADO OPTION PLAN IN EACH COUNTY
22 IN THE STATE. IN ORDER TO ENSURE THAT THERE ARE AT LEAST TWO
23 CARRIERS OFFERING THE COLORADO OPTION PLAN IN EACH COUNTY IN THE
24 STATE, WITH AN AFFIRMATIVE VOTE OF THE MAJORITY OF THE VOTING
25 MEMBERS OF THE BOARD, THE COMMISSIONER MAY, BY RULE, REQUIRE
26 CARRIERS TO OFFER THE COLORADO OPTION PLAN IN SPECIFIC COUNTIES.
27 IN DETERMINING WHETHER CARRIERS ARE REQUIRED TO OFFER THE

1 COLORADO OPTION PLAN IN A SPECIFIC COUNTY, THE COMMISSIONER
2 SHALL CONSIDER:

3 (I) EACH CARRIER'S STRUCTURE, THE NUMBER OF COVERED LIVES
4 THE CARRIER HAS IN ALL LINES OF BUSINESS IN EACH COUNTY, AND THE
5 CARRIER'S EXISTING SERVICE AREAS; AND

6 (II) ALTERNATIVE HEALTH CARE COVERAGE AVAILABLE IN EACH
7 COUNTY, INCLUDING HEALTH CARE COVERAGE COOPERATIVES AS DEFINED
8 IN SECTION 10-16-1002 (2).

9 (c) FOR THE SOLE PURPOSE OF SATISFYING THE REQUIREMENT IN
10 SUBSECTION (1)(b) OF THIS SECTION, A LICENSED HEALTH CARE COVERAGE
11 COOPERATIVE AS DEFINED IN SECTION 10-16-1002 (2) THAT IS OPERATING
12 IN A COUNTY IS CONSIDERED ONE OF THE TWO REQUIRED CARRIERS FOR
13 THAT COUNTY. UPON RATE-FILING BY A LICENSED HEALTH CARE
14 COVERAGE COOPERATIVE AND A CARRIER, IN THE INDIVIDUAL, SMALL
15 GROUP, OR LARGE GROUP MARKET, THE COMMISSIONER SHALL EXEMPT
16 THE CARRIER FROM OFFERING THE COLORADO OPTION PLAN IN THAT
17 COUNTY.

18 (d) THE COMMISSIONS PAID TO INSURANCE PRODUCERS FOR THE
19 SALE OF THE COLORADO OPTION PLAN MUST BE COMPARABLE TO THE
20 AVERAGE COMMISSIONS PAID FOR THE SALE OF OTHER PLANS OFFERED IN
21 THE INDIVIDUAL MARKET.

22 (2) (a) THE COMMISSIONER SHALL ADOPT RULES TO DEVELOP,
23 IMPLEMENT, AND OPERATE THE COLORADO OPTION PLAN IN ACCORDANCE
24 WITH THIS SECTION. IN DEVELOPING THE COLORADO OPTION PLAN, THE
25 COMMISSIONER SHALL CONSIDER RECOMMENDATIONS FROM THE BOARD.
26 THE COLORADO OPTION PLAN MUST:

27 (I) BE OFFERED TO COLORADO RESIDENTS WHO PURCHASE HEALTH

1 INSURANCE IN THE INDIVIDUAL MARKET, INCLUDING THROUGH THE
2 EXCHANGE;

3 (II) IMPLEMENT A STANDARDIZED PLAN THAT:

4 (A) ALLOWS CONSUMERS TO EASILY COMPARE THE COLORADO
5 OPTION PLAN WITH OTHER HEALTH BENEFIT PLANS OFFERED IN THE
6 INDIVIDUAL MARKET; AND

7 (B) PROVIDES FIRST-DOLLAR, PREDEDUCTIBLE COVERAGE FOR
8 CERTAIN SERVICES SUCH AS PRIMARY HEALTH CARE AND BEHAVIORAL
9 HEALTH CARE, AS APPROPRIATE;

10 (III) INCLUDE THE ESSENTIAL HEALTH BENEFITS PACKAGE;

11 (IV) PROVIDE AT LEAST BRONZE AND SILVER LEVELS OF COVERAGE
12 AS DESCRIBED IN SECTION 1302 (d) OF THE FEDERAL ACT AND AS SPECIFIED
13 IN SECTION 10-16-103.4;

14 (V) REIMBURSE HOSPITALS FOR INPATIENT AND OUTPATIENT
15 SERVICES BASED ON THE FORMULA ESTABLISHED PURSUANT TO SECTION
16 10-16-1206;

17 (VI) REQUIRE THAT A MINIMUM OF EIGHTY-FIVE PERCENT OF THE
18 MONEY COLLECTED AS PREMIUMS BE SPENT ON PATIENT CARE, NOT
19 INCLUDING INSURANCE PRODUCERS' COMMISSIONS; AND

20 (VII) REQUIRE EACH CARRIER TO REDUCE COLORADO OPTION PLAN
21 PREMIUMS BY AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE
22 ESTIMATED REBATES THAT THE CARRIER OR A PHARMACY BENEFIT
23 MANAGEMENT FIRM ADMINISTERING OR MANAGING PRESCRIPTION DRUG
24 BENEFITS FOR THE CARRIER RECEIVED FOR PRESCRIPTION DRUGS COVERED
25 BY THE COLORADO OPTION PLAN IN THE PREVIOUS PLAN YEAR. THE
26 COMMISSIONER SHALL SPECIFY, BY RULE, THE FORM AND MANNER OF THE
27 PREMIUM REDUCTION.

1 (b) IN DEVELOPING THE COLORADO OPTION PLAN, THE
2 COMMISSIONER SHALL, IN CONSULTATION WITH THE BOARD, THE
3 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE
4 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, CONSIDER:

5 (I) LOWERING COSTS TO CONSUMERS, INCLUDING PREMIUM,
6 COINSURANCE, COPAYMENT, AND DEDUCTIBLE AMOUNTS;

7 (II) INCREASING ACCESS TO HEALTH CARE;

8 (III) INCREASING CONSUMER CHOICE;

9 (IV) REDUCING HEALTH DISPARITIES;

10 (V) MINIMIZING COST SHIFTING, IMPACTS ON OTHER MARKETS,
11 AND IMPACTS ON THE SUBSIDIZED POPULATION;

12 (VI) IMPROVING CARE COORDINATION; AND

13 (VII) INCORPORATING VALUE-BASED PURCHASING AND PLAN
14 DESIGN TO DRIVE MARKETPLACE EFFICIENCIES.

15 (3) THE COMMISSIONER SHALL ADOPT RULES:

16 (a) DESIGNED TO PREVENT ANY ADVERSE IMPACTS THE COLORADO
17 OPTION PLAN HAS ON THE PURCHASING POWER OF EXCHANGE CONSUMERS
18 WHOSE INCOME IS UP TO FOUR HUNDRED PERCENT OF THE FEDERAL
19 POVERTY LINE; AND

20 (b) CONCERNING THE PREMIUM AMOUNTS FOR SILVER PLANS
21 BASED ON THE ACTUARIAL VALUE OF SILVER PLANS.

22 **10-16-1206. Hospital reimbursement rates - plan expansion -**

23 **rules.** (1) (a) THE COMMISSIONER SHALL, BY RULE, IMPLEMENT A
24 FORMULA THAT SETS REASONABLE CARRIER REIMBURSEMENT RATES TO
25 HOSPITALS FOR INPATIENT AND OUTPATIENT HOSPITAL SERVICES UNDER
26 THE COLORADO OPTION PLAN. THE FORMULA MUST BE STRUCTURED TO
27 HELP LOWER PREMIUMS AND OUT-OF-POCKET COSTS FOR CONSUMERS AND

1 TO INCREASE ACCESS TO HEALTH CARE IN RURAL AREAS.

2 (b) FOR THE 2022 PLAN YEAR AND EACH SUBSEQUENT PLAN YEAR,
3 THE HOSPITAL REIMBURSEMENT RATE FORMULA MUST BE BASED ON A
4 PERCENTAGE OF THE MEDICARE REIMBURSEMENT RATES OR EQUIVALENT
5 RATES FOR THE PLAN YEAR IN WHICH THE FORMULA IS IMPLEMENTED.

6 (c) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, FOR
7 THE 2022 AND 2023 PLAN YEARS, THE BASE REIMBURSEMENT RATE FOR
8 HOSPITALS IS ONE HUNDRED FIFTY-FIVE PERCENT OF THE HOSPITAL'S
9 MEDICARE REIMBURSEMENT RATE OR EQUIVALENT RATE. THE BASE
10 REIMBURSEMENT RATE FOR A HOSPITAL SHALL BE ADJUSTED AS FOLLOWS:

11 (I) A HOSPITAL THAT IS A CRITICAL ACCESS HOSPITAL OR THAT IS
12 INDEPENDENT AND NOT PART OF A HEALTH SYSTEM MUST RECEIVE A
13 TWENTY-PERCENTAGE-POINT INCREASE IN THE BASE REIMBURSEMENT
14 RATE. A HOSPITAL THAT IS A CRITICAL ACCESS HOSPITAL AND IS NOT PART
15 OF A HEALTH SYSTEM MUST RECEIVE A FORTY-PERCENTAGE-POINT
16 INCREASE IN THE BASE REIMBURSEMENT RATE.

17 (II) A HOSPITAL WITH A COMBINED PERCENTAGE OF MEDICARE
18 AND MEDICAID PATIENTS THAT EXCEEDS THE STATEWIDE AVERAGE MUST
19 RECEIVE UP TO A THIRTY-PERCENTAGE-POINT INCREASE IN ITS BASE
20 REIMBURSEMENT RATE, WITH THE ACTUAL INCREASE TO BE DETERMINED
21 BASED ON THE HOSPITAL'S PERCENTAGE SHARE OF MEDICAID AND
22 MEDICARE PATIENTS.

23 (III) A HOSPITAL THAT IS EFFICIENT IN MANAGING THE
24 UNDERLYING COST OF CARE, TAKING INTO ACCOUNT THE HOSPITAL'S
25 TOTAL MARGINS, OPERATING COSTS, AND NET PATIENT REVENUE, MUST
26 RECEIVE UP TO A FORTY-PERCENTAGE-POINT INCREASE IN ITS BASE
27 REIMBURSEMENT RATE.

1 (2) FOR THE 2024 PLAN YEAR AND EACH SUBSEQUENT PLAN YEAR,
2 THE BOARD SHALL ADVISE THE COMMISSIONER ON ADJUSTMENTS TO THE
3 FORMULA DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION AND THE
4 PERCENTAGE ADJUSTMENTS TO THE BASE REIMBURSEMENT RATE
5 SPECIFIED IN SUBSECTION (1)(c) OF THIS SECTION AND OTHER FACTORS TO
6 CONSIDER IN THE HOSPITAL REIMBURSEMENT RATE FORMULA.

7 (3) THE HOSPITAL REIMBURSEMENT RATE FORMULA DEVELOPED
8 PURSUANT TO SUBSECTION (1) OF THIS SECTION APPLIES TO HOSPITAL
9 SERVICES PROVIDED ON OR AFTER JANUARY 1, 2022, TO COVERED PERSONS
10 ENROLLED IN THE COLORADO OPTION PLAN ON OR AFTER THAT DATE.

11 (4) WHEN IMPLEMENTING THE HOSPITAL REIMBURSEMENT RATE
12 FORMULA PURSUANT TO THIS SECTION, THE COMMISSIONER SHALL, IN
13 COLLABORATION WITH THE BOARD, CONSULT WITH EMPLOYEE
14 MEMBERSHIP ORGANIZATIONS REPRESENTING HEALTH SYSTEMS'
15 EMPLOYEES IN COLORADO AND WITH A STATEWIDE, MULTI-SPECIALTY
16 ASSOCIATION REPRESENTING PHYSICIANS AND, BASED ON THE
17 CONSULTATIONS, MAY MAKE CHANGES TO THE HOSPITAL REIMBURSEMENT
18 RATE FORMULA AS APPROPRIATE SO THAT REIMBURSEMENT RATES
19 REFLECT THE COST OF ADEQUATE WAGES, BENEFITS, STAFFING, AND
20 TRAINING FOR THESE EMPLOYEES TO PROVIDE QUALITY CARE.

21 (5) (a) THE COMMISSIONER MAY, IN CONSULTATION WITH THE
22 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND THE BOARD,
23 EXEMPT A HOSPITAL FROM OR CHANGE THE HOSPITAL REIMBURSEMENT
24 RATE FORMULA IF THE HOSPITAL:

25 (I) DEMONSTRATES THAT THE HOSPITAL REIMBURSEMENT RATE
26 FOR THAT HOSPITAL WILL REQUIRE THE HOSPITAL TO CEASE CURRENT
27 LEVELS OF SERVICE AS A DIRECT RESULT OF THE COLORADO OPTION PLAN;

1 OR

2 (II) IS NEGOTIATING A CONTRACT IN GOOD FAITH WITH A LICENSED
3 HEALTH CARE COVERAGE COOPERATIVE AS DEFINED IN SECTION
4 10-16-1002 (2) TO SET REIMBURSEMENT RATES.

5 (b) IF A HOSPITAL IS NOT EXEMPTED FROM PARTICIPATION IN THE
6 COLORADO OPTION PLAN OR THE REIMBURSEMENT RATE FORMULA AND
7 REFUSES TO PARTICIPATE IN THE COLORADO OPTION PLAN, THE
8 COMMISSIONER SHALL, AFTER CONSULTATION WITH THE DEPARTMENT OF
9 HEALTH CARE POLICY AND FINANCING AND THE BOARD, NOTIFY THE
10 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OF THE HOSPITAL'S
11 REFUSAL TO PARTICIPATE.

12 **10-16-1207. Colorado option plan - expansion into the small**
13 **group market - rules.** (1) ON OR AFTER JULY 1, 2024, WITH AN
14 AFFIRMATIVE VOTE OF THE MAJORITY OF THE BOARD AND IN
15 CONSULTATION WITH THE DEPARTMENT OF HEALTH CARE POLICY AND
16 FINANCING AND AFTER CONSIDERATION OF THE EVALUATION REQUIRED IN
17 SECTION 12-16-1208, THE COMMISSIONER MAY PROMULGATE RULES TO
18 EXPAND THE COLORADO OPTION PLAN TO THE SMALL GROUP MARKET.

19 (2) IN PROMULGATING RULES PURSUANT TO SUBSECTION (1) OF
20 THIS SECTION, THE COMMISSIONER SHALL:

21 (a) ENSURE THAT A COLORADO OPTION PLAN OFFERED IN THE
22 SMALL GROUP MARKET MEETS ALL OF THE CRITERIA REQUIRED IN SECTION
23 10-16-1205 FOR THE COLORADO OPTION PLAN OFFERED IN THE INDIVIDUAL
24 MARKET; AND

25 (b) CONSIDER WHETHER PARTICIPATION IN A LICENSED HEALTH
26 CARE COVERAGE COOPERATIVE, AS DEFINED IN SECTION 10-16-1002 (2),
27 WOULD MEET THE REQUIREMENTS TO OFFER THE COLORADO OPTION PLAN

1 IN THE SMALL GROUP MARKET.

2 **10-16-1208. Colorado option plan evaluation - hospital**
3 **sustainability - reports.** (1) NOTWITHSTANDING SECTION 24-1-136
4 (11)(a)(I), ON OR BEFORE JULY 1, 2024, AND ON OR BEFORE EACH JULY 1
5 THEREAFTER, THE COMMISSIONER, IN CONSULTATION WITH THE BOARD,
6 SHALLEVALUATE THE COLORADO OPTION PLAN AND REPORT ITS FINDINGS
7 AT A PUBLIC MEETING OF THE BOARD PURSUANT TO SECTION 10-16-1204
8 (2) AND TO THE HEALTH AND INSURANCE COMMITTEE AND THE PUBLIC
9 HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
10 REPRESENTATIVES AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF
11 THE SENATE, OR THEIR SUCCESSOR COMMITTEES. THE COMMISSIONER
12 SHALL ALSO ANNUALLY PRESENT THE REPORT AS PART OF THE
13 DEPARTMENT OF REGULATORY AGENCIES' PRESENTATION TO THE
14 COMMITTEE OF REFERENCE AT A HEARING HELD PURSUANT TO SECTION
15 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR ACCOUNTABLE,
16 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT". THE
17 COMMISSIONER MAY CONTRACT WITH AN INDEPENDENT THIRD-PARTY
18 ENTITY TO CONDUCT THE EVALUATION OF THE COLORADO OPTION PLAN.
19 THE REPORT SHALL INCLUDE AN EVALUATION OF:

20 (a) THE EFFECT OF THE COLORADO OPTION PLAN ON THE
21 INDIVIDUAL MARKET AND ANY COST SHIFTING AMONG MARKETS;

22 (b) THE EFFECT OF THE COLORADO OPTION PLAN FOR INDIVIDUALS
23 WHO QUALIFY FOR PREMIUM TAX CREDITS AND COST-SHARING
24 REDUCTIONS AUTHORIZED UNDER THE FEDERAL ACT;

25 (c) THE ADEQUACY OF THE NETWORK PROVIDERS IN THE
26 COLORADO OPTION PLAN; AND

27 (d) OTHER ASPECTS OF THE COLORADO OPTION PLAN AS

1 DETERMINED BY THE COMMISSIONER.

2 (2) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
3 BEFORE JULY 1, 2024, AND ON OR BEFORE EACH JULY 1 THEREAFTER, THE
4 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND
5 FINANCING SHALL, IN CONSULTATION WITH THE BOARD, EVALUATE THE
6 IMPACT OF THE COLORADO OPTION PLAN ON HOSPITAL SUSTAINABILITY,
7 THE HEALTH CARE WORKFORCE, AND HEALTH CARE WAGES AND REPORT
8 THE FINDINGS TO THE HEALTH AND INSURANCE COMMITTEE AND THE
9 PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
10 REPRESENTATIVES AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF
11 THE SENATE, OR THEIR SUCCESSOR COMMITTEES. THE EXECUTIVE
12 DIRECTOR SHALL ALSO ANNUALLY PRESENT THE REPORT AS PART OF THE
13 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING'S PRESENTATION
14 TO THE COMMITTEE OF REFERENCE AT A HEARING HELD PURSUANT TO
15 SECTION 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR
16 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
17 GOVERNMENT ACT".

18 **SECTION 2.** In Colorado Revised Statutes, **add** 25-3-124 as
19 follows:

20 **25-3-124. Hospitals - Colorado option plan - hospital**
21 **reimbursement rate formula.** (1) A HOSPITAL LICENSED OR CERTIFIED
22 BY THE DEPARTMENT PURSUANT TO SECTION 25-1.5-103 (1)(a), OTHER
23 THAN A PSYCHIATRIC HOSPITAL, A GENERAL HOSPITAL THAT IS CERTIFIED
24 AS A LONG-TERM CARE HOSPITAL PURSUANT TO 42 CFR 412.23 (e), OR AN
25 INPATIENT REHABILITATION FACILITY, SHALL PARTICIPATE IN THE
26 COLORADO OPTION PLAN DESCRIBED IN PART 12 OF ARTICLE 16 OF TITLE
27 10, INCLUDING THE HOSPITAL REIMBURSEMENT RATE FORMULA

1 DEVELOPED PURSUANT TO SECTION 10-16-1206.

2 (2) (a) IF THE DEPARTMENT RECEIVES NOTICE FROM THE
3 COMMISSIONER OF INSURANCE PURSUANT TO SECTION 10-16-1206 (5)(b)
4 THAT A HOSPITAL REFUSES TO PARTICIPATE IN THE COLORADO OPTION
5 PLAN IN THE RELEVANT NETWORK AREA AS REQUIRED BY SUBSECTION (1)
6 OF THIS SECTION, THE DEPARTMENT SHALL ISSUE A WARNING TO THE
7 HOSPITAL. IF THE HOSPITAL REFUSES TO PARTICIPATE IN THE COLORADO
8 OPTION PLAN AFTER RECEIPT OF THE WARNING, THE DEPARTMENT:

9 (I) MAY FINE THE HOSPITAL UP TO TEN THOUSAND DOLLARS PER
10 DAY FOR THE FIRST THIRTY DAYS THAT THE HOSPITAL REFUSES TO
11 PARTICIPATE AND UP TO FORTY THOUSAND DOLLARS PER DAY FOR EACH
12 DAY OVER THIRTY DAYS THAT THE HOSPITAL REFUSES TO PARTICIPATE;
13 AND

14 (II) MAY SUSPEND, REVOKE, OR IMPOSE CONDITIONS ON THE
15 HOSPITAL'S LICENSE.

16 (b) IN DETERMINING THE APPROPRIATE PENALTY, THE
17 DEPARTMENT SHALL CONSIDER ANY PENALTIES RECOMMENDED BY THE
18 COMMISSIONER OF INSURANCE, THE HOSPITAL'S FINANCIAL
19 CIRCUMSTANCES, AND OTHER CIRCUMSTANCES DEEMED RELEVANT BY THE
20 DEPARTMENT.

21 **SECTION 3.** In Colorado Revised Statutes, 25.5-1-129, **add**
22 (7)(a)(III) as follows:

23 **25.5-1-129. State department proposal - state option for health**
24 **care coverage - report to general assembly - waiver authorization -**
25 **legislative declaration.** (7) (a) (III) IN ANY WAIVER OR AMENDMENT TO
26 THE STATE PLAN UNDER THIS SUBSECTION (7), THE STATE DEPARTMENT
27 AND THE DIVISION SHALL RECOMMEND THAT AT LEAST EIGHTY PERCENT

1 OF PASS-THROUGH FUNDING RECEIVED AS A RESULT OF THE COLORADO
2 OPTION PLAN DESCRIBED IN PART 12 OF ARTICLE 16 OF TITLE 10 BE
3 DEDICATED TO INCREASING AFFORDABILITY FOR INDIVIDUALS AND
4 FAMILIES WITH INCOMES UP TO FOUR HUNDRED PERCENT OF THE FEDERAL
5 POVERTY LINE.

6 **SECTION 4. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety.