

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0429.01 Yelana Love x2295

HOUSE BILL 22-1291

HOUSE SPONSORSHIP

Weissman,

SENATE SPONSORSHIP

Ginal,

House Committees

State, Civic, Military, & Veterans Affairs

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE SUNRISE REVIEW OF A PROPOSED REGULATION OF
102 AN UNREGULATED PROFESSIONAL OR OCCUPATIONAL GROUP.

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>.)

The bill amends the timeline for the department of regulatory agencies (department) to conduct sunrise reviews of proposals to regulate an unregulated professional or occupational group submitted on or after July 1, 2022, as follows:

- For proposals submitted between July 1 and December 31, the department must complete the review by June 30 of the

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.

- following year; and
- For proposals submitted between January 1 and June 30, the department must complete the review by December 31 of that year.

Current law allows the department to decline to conduct a review if the department conducted a review within the previous 36 months and finds that no new information has been submitted that would affect the department's previous determination. The bill allows the department to also decline to conduct a review if:

- The proposed regulatory scheme appears to regulate fewer than 250 individuals; or
- At least 33 other states license, certify, or require registration of members of the same professional or occupational group.

In determining whether a proposed regulation of a professional or occupational group is necessary, the bill:

- Removes the requirement to consider whether, if the professional or occupational group remains unregulated, the potential for harm is easily recognizable and not remote or dependent upon tenuous argument; and
- Adds the requirement to consider whether the practitioners of the profession or occupation exercise independent judgment, and whether the public can reasonably be expected to benefit from the direct regulation of the profession or occupation if a practitioner's judgment or practice is limited or subject to the judgment or supervision of others.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104.1, **amend**
 3 (2)(a) introductory portion, (3)(a), (3)(b), (4)(b) introductory portion, and
 4 (4)(b)(I); **repeal** (2)(a)(III), (2)(a)(IV), and (2)(b); and **add** (4)(b)(I.5) and
 5 (8) as follows:

6 **24-34-104.1. General assembly sunrise review of new**
 7 **regulation of occupations and professions - definition - repeal.**

8 (2) (a) For proposals submitted on or after ~~July 1, 2012~~ JULY 1, 2022, any
 9 professional or occupational group or organization, any individual, or any
 10 other interested party that proposes the regulation of any unregulated

1 professional or occupational group shall submit the following information
2 to the department: ~~of regulatory agencies no later than December 1 of any~~
3 ~~year for analysis and evaluation during the following year:~~

4 (III) ~~A statement of support for the proposed regulation as~~
5 ~~described in paragraph (b) of this subsection (2);~~

6 (IV) ~~The reasons why certification, registration, licensure, or other~~
7 ~~type of regulation is being proposed and why that regulatory alternative~~
8 ~~was chosen;~~

9 (b) ~~The department shall review a proposal to regulate a~~
10 ~~professional or occupational group only when the party requesting the~~
11 ~~review files a statement of support for the proposed regulation that has~~
12 ~~been signed by at least ten members of the professional or occupational~~
13 ~~group for which regulation is being sought or at least ten individuals who~~
14 ~~are not members of the professional or occupational group.~~

15 (3) (a) (I) ~~Except as provided in paragraph (b) or (c) of this~~
16 ~~subsection (3) SUBSECTION (3)(b) OR (3)(c) OF THIS SECTION, the~~
17 ~~department of regulatory agencies shall conduct an analysis and~~
18 ~~evaluation of any proposed regulation. submitted on or after July 1, 2012.~~
19 ~~The analysis and evaluation must be based upon the criteria listed in~~
20 ~~paragraph (b) of subsection (4) SUBSECTION (4)(b) of this section.~~

21 (II) (A) FOR A PROPOSED REGULATION SUBMITTED AFTER
22 DECEMBER 1, 2021, AND BEFORE JULY 1, 2022, THE DEPARTMENT SHALL
23 SUBMIT A REPORT TO THE PROPONENTS OF THE REGULATION AND TO THE
24 GENERAL ASSEMBLY NO LATER THAN JUNE 30, 2023.

25 (B) THIS SUBSECTION (3)(a)(II) IS REPEALED, EFFECTIVE
26 DECEMBER 31, 2023.

27 (III) FOR A PROPOSED REGULATION SUBMITTED ON OR AFTER JULY

1 1, 2022, the department of regulatory agencies shall submit a report to the
2 proponents of the regulation and to the general assembly no later than:

3 (A) ~~October 15~~ JUNE 30 of the year following the year in which
4 the proposed regulation was submitted, FOR A PROPOSED REGULATION
5 SUBMITTED ON OR AFTER JULY 1 AND ON OR BEFORE DECEMBER 31; AND

6 (B) DECEMBER 31 OF THE SAME YEAR IN WHICH THE PROPOSED
7 REGULATION WAS SUBMITTED, FOR A PROPOSED REGULATION SUBMITTED
8 ON OR AFTER JANUARY 1 AND ON OR BEFORE JUNE 30.

9 (b) (I) After review of a proposal to regulate a professional or
10 occupational group that was submitted on or after ~~July 1, 2012~~ JULY 1,
11 2022, the department of regulatory agencies may decline to conduct an
12 analysis and evaluation of the proposed regulation only if: it:

13 (A) THE DEPARTMENT previously conducted an analysis and
14 evaluation of the proposed regulation of the same professional or
15 occupational group, ISSUED A REPORT NOT MORE THAN THIRTY-SIX
16 MONTHS PRIOR TO THE SUBMISSION OF THE CURRENT PROPOSAL TO
17 REGULATE THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP, AND FINDS
18 THAT NO NEW INFORMATION HAS BEEN SUBMITTED THAT WOULD CAUSE
19 THE DEPARTMENT TO ALTER OR MODIFY THE RECOMMENDATIONS MADE IN
20 ITS EARLIER REPORT ON THE PROPOSED REGULATION OF THE PROFESSIONAL
21 OR OCCUPATIONAL GROUP;

22 (B) ~~Issued a report not more than thirty-six months prior to the~~
23 ~~submission of the current proposal to regulate the same professional or~~
24 ~~occupational group;~~ and THE PROPOSED REGULATION APPEARS TO
25 REGULATE FEWER THAN TWO HUNDRED FIFTY INDIVIDUALS; OR

26 (C) ~~Finds that no new information has been submitted that would~~
27 ~~cause the department to alter or modify the recommendations made in its~~

1 ~~earlier report on the proposed regulation of the professional or~~
2 ~~occupational group~~ THE DEPARTMENT DETERMINES THAT AT LEAST
3 THIRTY-THREE OTHER STATES LICENSE, CERTIFY, OR REQUIRE
4 REGISTRATION OF MEMBERS OF THE SAME PROFESSIONAL OR
5 OCCUPATIONAL GROUP.

6 (II) (A) If the department ~~of regulatory agencies~~ declines to
7 conduct an analysis and evaluation pursuant to ~~this paragraph (b)~~
8 SUBSECTION (3)(b)(I)(A) OF THIS SECTION, the department shall reissue its
9 earlier report on the proposed regulation to the proponents of the
10 regulation and the general assembly.

11 (B) IF THE DEPARTMENT DECLINES TO CONDUCT THE ANALYSIS
12 ANDEVALUATION PURSUANT TO SUBSECTION (3)(b)(I)(B) OR (3)(b)(I)(C)
13 OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE PROPONENTS OF
14 THE REGULATION AND THE GENERAL ASSEMBLY THAT IT IS DECLINING TO
15 CONDUCT THE ANALYSIS AND EVALUATION AND THE REASON FOR SO
16 DECLINING.

17 (III) (A) FOR A PROPOSED REGULATION SUBMITTED AFTER
18 DECEMBER 1, 2021, AND BEFORE JULY 1, 2022, IF THE DEPARTMENT
19 DECLINES TO CONDUCT AN ANALYSIS AND EVALUATION PURSUANT TO
20 SUBSECTION (3)(b)(I), OF THIS SECTION, AS IT EXISTED BEFORE JULY 1,
21 2022, THE DEPARTMENT SHALL REISSUE ITS EARLIER REPORT NO LATER
22 THAN JUNE 30, 2023.

23 (B) THIS SUBSECTION (3)(b)(III) IS REPEALED, EFFECTIVE
24 DECEMBER 31, 2023.

25 (IV) FOR A PROPOSED REGULATION SUBMITTED ON OR AFTER JULY
26 1, 2022, THE DEPARTMENT SHALL REISSUE ITS EARLIER REPORT OR ISSUE
27 THE NOTICE no later than: ~~October 15 of the year following the year in~~

1 ~~which the proposed regulation was submitted.~~

2 (A) JUNE 30 OF THE YEAR FOLLOWING THE YEAR IN WHICH THE
3 PROPOSED REGULATION WAS SUBMITTED, FOR A PROPOSED REGULATION
4 SUBMITTED ON OR AFTER JULY 1 AND ON OR BEFORE DECEMBER 31; OR

5 (B) DECEMBER 31 OF THE SAME YEAR IN WHICH THE PROPOSED
6 REGULATION WAS SUBMITTED, FOR A PROPOSED REGULATION SUBMITTED
7 ON OR AFTER JANUARY 1 AND BEFORE JUNE 30.

8 (4) (b) ~~In such hearings,~~ The determination as to whether such
9 regulation of an occupation or a profession is needed shall be based upon
10 the following considerations:

11 (I) Whether the unregulated practice of the occupation or
12 profession clearly harms or endangers the health, safety, or welfare of the
13 public; ~~and whether the potential for the harm is easily recognizable and~~
14 ~~not remote or dependent upon tenuous argument;~~

15 (I.5) WHETHER THE PRACTITIONERS OF THE PROFESSION OR
16 OCCUPATION EXERCISE INDEPENDENT JUDGMENT, AND WHETHER THE
17 PUBLIC CAN REASONABLY BE EXPECTED TO BENEFIT FROM THE DIRECT
18 REGULATION OF THE PROFESSION OR OCCUPATION IF A PRACTITIONER'S
19 JUDGMENT OR PRACTICE IS LIMITED OR SUBJECT TO THE JUDGMENT OR
20 SUPERVISION OF OTHERS.

21 (8) AS USED IN THIS SECTION, "DEPARTMENT" MEANS THE
22 DEPARTMENT OF REGULATORY AGENCIES.

23 **SECTION 2. Effective date.** This act takes effect July 1, 2022;
24 except that section 24-34-104.1 (4)(b), Colorado Revised Statutes, as
25 amended in section 1 of this act, takes effect October 16, 2022.

26 **SECTION 3. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.