CHAPTER 270

# INSURANCE

**HOUSE BILL 03-1164**

BY REPRESENTATIVE(S) Spradley, Butcher, Brophy, Clapp, Cloer, Crane, Fairbank, Hall, Harvey, Hefley, Hoppe, Johnson R., King, Lee, Lundberg, May M., Miller, Mitchell, Paccione, Schultheis, Sinclair, Spence, Stafford, Stengel, Weddig, White, Wiens, Williams T., and Young;
also SENATOR(S) Hillman, Andrews, Arnold, Cairns, Chlouber, Evans, Johnson S., Kester, Lamborn, Owen, and Teck.

## AN ACT

**CONCERNING THE EXPANSION OF ACCESS TO HEALTH INSURANCE, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** 10-8-502, Colorado Revised Statutes, is amended to read:

**10-8-502. Legislative declaration.** (1) The general assembly hereby declares that the purpose of this part 5 is to provide access to health insurance for those Colorado residents who are now termed "high risk" because they are unable to obtain health insurance or unable to obtain health insurance except at prohibitive rates or with restrictive exclusions, including those who are federally eligible individuals under the federal "Health Insurance Portability and Accountability Act of 1996", P.L. 104-191.

(2) FURTHER, THE GENERAL ASSEMBLY RECOGNIZES THAT THE CREATION OF AN ASSESSMENT MECHANISM IN 2001 PROVIDED FOR MORE FINANCIAL STABILITY FOR COVERCOLORADO, BUT IT SHOULD NOT BE CONSIDERED THE EXCLUSIVE REMEDY FOR THE GROWING FINANCIAL NEEDS OF THE PROGRAM. ADDITIONAL FUNDING SOURCES SHOULD BE EXPLORED SO THAT THE GROWING FINANCIAL DEMANDS OF COVERCOLORADO ARE NOT PASSED ON TO INSURED LIVES IN THIS STATE.

**SECTION 2.** 10-8-512 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**10-8-512. Premiums - standard risk rate.** (3) (c) ON OR AFTER JULY 1, 2003, THE BOARD SHALL INCREASE THE PREMIUM RATES TO AN AVERAGE OF ONE HUNDRED

———

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

FIFTY PERCENT OF THE STANDARD RISK RATE ESTABLISHED PURSUANT TO SUBSECTION (2) OF THIS SECTION AND CONSIDER A REDUCTION IN BENEFITS PROVIDED TO ENROLLEES IN THE PROGRAM BEFORE THE BOARD ESTABLISHES ANY ASSESSMENT PURSUANT TO SECTION 10-8-530 (1.5).

**SECTION 3.** 10-8-530 (1.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**10-8-530. Funding of program - repeal.** (1.5) (g.5) (I) THE BOARD MAY INCLUDE IN THE SPECIAL FEES ASSESSED AGAINST INSURERS PURSUANT TO THIS SUBSECTION (1.5) A ONE-TIME EXPENSE FOR THE ACTUARIAL STUDY REQUIRED PURSUANT TO SECTION 10-8-533.

(II) THIS PARAGRAPH (g.5) IS REPEALED, EFFECTIVE MARCH 1, 2004.

**SECTION 4.** Part 5 of article 8 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-8-533. Evaluation of ceding risk to CoverColorado - repeal.** (1) THE BOARD, IN CONSULTATION WITH THE COMMISSIONER, SHALL CONDUCT AN ACTUARIAL STUDY TO DETERMINE THE IMPACTS OF SMALL EMPLOYER CARRIERS CEDING A BUSINESS GROUP OF ONE THAT IS PRESUMPTIVELY ELIGIBLE TO THE PROGRAM AND THE PROGRAM ACTING AS A REINSURANCE MECHANISM FOR SUCH CEDED RISK. THE EVALUATION SHALL INCLUDE THE ADMINISTRATIVE COSTS TO THE PROGRAM AND SMALL EMPLOYER CARRIERS, THE EFFECT OF CEDING THIS RISK ON THE SMALL EMPLOYER HEALTH INSURANCE MARKET, AND THE IMPACT ON THE ASSESSMENT PAID BY INSURERS AS A RESULT OF CEDING SUCH RISK. THE BOARD SHALL REPORT TO THE BUSINESS AFFAIRS AND LABOR COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE CONCERNING THIS EVALUATION NO LATER THAN FEBRUARY 1, 2004.

(2) THIS SECTION IS REPEALED, EFFECTIVE MARCH 1, 2004.

**SECTION 5.** 10-8-601.5 (1) (a) (IV), Colorado Revised Statutes, is amended to read:

**10-8-601.5. Applicability and scope.** (1) (a) Except as provided in paragraphs (b), (c), and (c.5) of this subsection (1), this article and article 16 of this title shall apply to any health benefit plan that provides coverage to the employees of a small employer in this state if any of the following conditions are met:

(IV) The plan is marketed to individual employees through an employer or at a place of business, except as otherwise allowed by rule. The division of insurance shall promulgate a rule ~~by December 31, 1995,~~ to allow, WITH THE PERMISSION OF OR AT THE REQUEST OF THE EMPLOYER:

(A) Agents to market health benefit plans through an employer or at an employer's place of business ~~with the permission of or at the request of the employer,~~ to such employer's ineligible employees;

(B) SMALL EMPLOYER CARRIERS TO MARKET INDIVIDUAL HEALTH BENEFIT PLANS THROUGH AN EMPLOYER OR AT AN EMPLOYER'S PLACE OF BUSINESS WHEN THE

CARRIER HAS GROUP COVERAGE IN PLACE WITH THE EMPLOYER TO SUCH EMPLOYER'S INELIGIBLE EMPLOYEES AND TO DEPENDENTS OF ELIGIBLE EMPLOYEES.

**SECTION 6.** 10-16-102 (15), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

(15) (c) NOTHING IN THIS SUBSECTION (15) IS INTENDED TO LIMIT THE EMPLOYER'S TRADITIONAL ABILITY TO SET VALID AND ACCEPTABLE STANDARDS FOR EMPLOYEE ELIGIBILITY BASED ON THE TERMS AND CONDITIONS OF EMPLOYMENT, INCLUDING A MINIMUM WEEKLY WORK REQUIREMENT IN EXCESS OF TWENTY-FOUR HOURS AND ELIGIBILITY BASED UPON SALARIED VERSUS HOURLY WORKERS AND MANAGEMENT VERSUS NONMANAGEMENT EMPLOYEES.

**SECTION 7.** 10-16-102 (10) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBPARAGRAPHS to read:

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

(10) (b) "Case characteristics" are limited to the following demographic characteristics:

(IV) SMOKING STATUS;

(V) CLAIMS EXPERIENCE;

(VI) STANDARD INDUSTRIAL CLASSIFICATION; AND

(VII) HEALTH STATUS.

**SECTION 8.** 10-16-102 (10) (c), Colorado Revised Statutes, is amended to read:

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

(10) (c) Effective ~~January 1, 1995~~ SEPTEMBER 1, 2003, "case characteristics" does not include ~~claim experience, health status, and~~ duration of coverage or any other characteristic not specifically described in paragraph (b) of this subsection (10).

**SECTION 9.** 10-16-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**10-16-104. Mandatory coverage provisions.** (15) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, A SMALL EMPLOYER MAY PURCHASE HEALTH BENEFIT COVERAGE THAT DOES NOT INCLUDE THE COVERAGE FOR BENEFITS PURSUANT TO SUBSECTIONS (4), (5), (8), (9), (10), AND (12) OF THIS SECTION THROUGH A BASIC HEALTH BENEFIT PLAN PURSUANT TO SECTION 10-16-105 (7.2) (b) (I).

**SECTION 10.** 10-16-105 (7.2) and (7.5) (a), Colorado Revised Statutes, are amended, and the said 10-16-105 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**10-16-105. Small group sickness and accident insurance - guaranteed issue - mandated provisions for basic and standard health benefit plans.** (7.2) The commissioner shall promulgate rules to implement a basic health benefit plan and a standard health benefit plan to be offered by each small employer carrier as a condition of transacting business in this state. THE COMMISSIONER SHALL SURVEY SMALL GROUP CARRIERS TO DETERMINE THE RANGE OF HEALTH BENEFIT PLANS AVAILABLE ANNUALLY. THE COMMISSIONER SHALL IMPLEMENT A BASIC PLAN THAT APPROXIMATES THE LOWEST LEVEL OF COVERAGE OFFERED IN SMALL GROUP HEALTH BENEFIT PLANS AND SHALL IMPLEMENT A STANDARD PLAN THAT APPROXIMATES THE AVERAGE LEVEL OF COVERAGE OFFERED IN SMALL GROUP HEALTH BENEFIT PLANS. IN DETERMINING SUCH LEVELS OF COVERAGE, THE COMMISSIONER SHALL CONSIDER SUCH FACTORS AS COINSURANCE, COPAYMENTS, DEDUCTIBLES, OUT-OF-POCKET MAXIMUMS AND COVERED BENEFITS. THE COMMISSIONER SHALL AMEND THE RULES TO IMPLEMENT THE BASIC AND STANDARD PLANS NO MORE FREQUENTLY THAN ONCE EVERY TWO YEARS. Such rules shall be in conformity with the provisions of article 4 of title 24, C.R.S., and shall incorporate the following:

(a) The standard health benefit plan shall reflect the benefit design of common plan offerings in the small group market AND MAY REFLECT A PLAN DESIGN THAT HAS A DEDUCTIBLE AMOUNT OF TWO THOUSAND FIVE HUNDRED DOLLARS FOR WHICH THE COVERED PERSON IS RESPONSIBLE AFTER THE FIRST ONE THOUSAND DOLLARS OF COVERAGE HAS BEEN PROVIDED BY AN EMPLOYER IN A MANNER SIMILAR TO A PERSONAL CARE ACCOUNT; and

(b) (I) The basic health benefit plan shall reflect ~~one of the following benefit designs:~~ A BASIC HEALTH BENEFIT PLAN THAT DOES NOT INCLUDE COVERAGE PURSUANT TO THE MANDATORY COVERAGE PROVISIONS OF SECTION 10-16-104 (4), (5), (8), (9), (10), AND (12).

(II) IN ADDITION TO THE BASIC PLAN PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), A BASIC HEALTH BENEFIT PLAN MAY REFLECT ONE OF THE FOLLOWING OPTIONS IN ADDITION TO THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b):

~~(I)~~ (A) Coverage that meets the requirements for a high deductible health plan for the purposes of qualifying for a federal medical savings account; except that health maintenance organization basic health benefit plans shall reflect a sharing of higher consumer costs through higher copayments instead of deductible amounts. Such health insurance shall be offered in conjunction with a medical savings account, as defined in section 39-22-504.7, C.R.S., or an account or other mechanism as defined in federal law that is comparable to a medical savings account, which account or mechanism shall reflect an employer contribution of not less than one hundred percent of the amount of the premium paid by the employer for each individual employee up to seventy-five percent of the amount of the deductible; except that a business group of one may not contribute more than the business group of one's net income to a medical savings account or more than sixty-five percent of the deductible amount of the plan. A medical savings account may be accessed through a debit card system.

~~(II)~~ (B) Coverage that meets the requirements for a high deductible health plan for the purposes of qualifying for a federal medical savings account; except that a health maintenance organization may reflect a sharing of higher consumer costs through higher copayments instead of deductible amounts. Such high deductible health plan shall include all of the mandated benefits required pursuant to section 10-16-104 and may be offered in conjunction with a medical savings account or other mechanism as defined in federal law that is comparable to a medical savings account.

~~(III) A health benefit plan that has a deductible amount of two thousand five hundred dollars in which the covered person is responsible after the first one thousand dollars of coverage has been provided by an employer in a manner similar to a personal care account; or~~

~~(IV) A basic health benefit plan as determined by rule by the commissioner.~~

(7.5) (a) Effective January 1, ~~1995~~ 2004, if a small employer carrier offers coverage to a small employer, such small employer carrier shall offer the ~~same~~ GROUP coverage to all of the eligible employees of the small employer and their dependents. A small employer carrier shall not offer coverage to only certain eligible individuals in a small employer group or to only part of the group, except in the case of late enrollees as provided in section 10-16-118 (1) (c).

(8.5) (a) FOR SMALL GROUP HEALTH BENEFIT PLANS ISSUED TO OR RENEWED FOR A SMALL EMPLOYER ON OR AFTER SEPTEMBER 1, 2003:

(I) (A) AN ADJUSTMENT IN RATES FOR CLAIMS EXPERIENCE, HEALTH STATUS, AND STANDARD INDUSTRIAL CLASSIFICATION MAY BE MADE BUT SHALL NOT BE CHARGED TO THE INDIVIDUALS UNDER THE PLAN;

(B) A CARRIER MAY ADJUST RATES UNIFORMLY FOR ALL INDIVIDUALS UNDER A SMALL EMPLOYER POLICY BASED ON TOBACCO USE. A SMALL EMPLOYER CARRIER MAY APPLY AN INCREASE OR DECREASE OF UP TO FIFTEEN PERCENT RATING ADJUSTMENT TO PARTICULAR INDIVIDUALS RELATED TO TOBACCO USE. ANY INDIVIDUAL WHO DOES NOT QUALIFY FOR A LOWER RATE MAY BE OFFERED THE OPTION OF PARTICIPATING IN A BONA FIDE WELLNESS PROGRAM AS DEFINED UNDER THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", AS AMENDED. ANY INDIVIDUAL WHO PARTICIPATES IN A BONA FIDE WELLNESS PROGRAM MAY BE ALLOWED THE LOWER RATE. THE AVAILABILITY OF A TOBACCO RATING ADJUSTMENT AND ANY BONA FIDE WELLNESS PROGRAM SHALL BE DISCLOSED TO EACH POTENTIAL INSURED. THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B) SHALL ONLY BE APPLICABLE IF ALLOWED UNDER FEDERAL LAW.

(II) FOR A SMALL EMPLOYER'S POLICY, ADJUSTMENTS MADE PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) MAY BE MADE BUT SHALL NOT RESULT IN A RATE FOR THE SMALL EMPLOYER THAT DEVIATES FROM THE CARRIER'S FILED RATE BY MORE THAN THE AMOUNTS SET FORTH IN THE FOLLOWING SCHEDULE:

(A) ON AND AFTER SEPTEMBER 1, 2003, UNTIL SEPTEMBER 29, 2004, DECREASES MORE THAN FIFTEEN PERCENT FROM THE CARRIER'S FILED RATE;

(B) ON AND AFTER SEPTEMBER 30, 2004, INCREASES MORE THAN TEN PERCENT FROM OR DECREASES MORE THAN TWENTY-FIVE PERCENT FROM THE CARRIER'S FILED RATE;

(III) ANY ADJUSTMENTS PURSUANT TO SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE APPLIED UNIFORMLY TO THE RATES CHARGED FOR ALL INDIVIDUALS UNDER THE SMALL EMPLOYER POLICY, AND ANY ADJUSTMENTS PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) MAY BE APPLIED TO INDIVIDUALS WITHIN THE SMALL GROUP;

(IV) A SMALL EMPLOYER CARRIER SHALL NOT INCREASE OR DECREASE RATES BASED ON THE SIZE OF A SMALL EMPLOYER GROUP; AND

(V) ON AND AFTER SEPTEMBER 1, 2004, A SMALL EMPLOYER CARRIER MAY MAKE AN UPWARD ADJUSTMENT TO A SMALL BUSINESS GROUP'S RENEWAL PREMIUM, NOT TO EXCEED FIFTEEN PERCENT ANNUALLY, DUE TO THE CLAIMS EXPERIENCE, HEALTH STATUS, STANDARD INDUSTRIAL CLASSIFICATION, OR TOBACCO USE FOR ALL INDIVIDUALS UNDER THE SMALL EMPLOYER POLICY PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

(b) A SMALL EMPLOYER CARRIER OFFERING A HEALTH BENEFIT PLAN TO A SMALL EMPLOYER PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (8.5) SHALL BE REQUIRED TO DEMONSTRATE TO THE COMMISSIONER IN RATE FILINGS THAT PREMIUM RATES ARE NOT EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

(c) THE SMALL EMPLOYER CARRIER SHALL NOT USE CASE CHARACTERISTICS OTHER THAN AGE, GEOGRAPHIC AREA, FAMILY COMPOSITION, SMOKING STATUS, HEALTH STATUS, STANDARD INDUSTRIAL CLASSIFICATION, AND CLAIMS EXPERIENCE, NOR SHALL IT USE ANY OTHER RATING FACTORS OTHER THAN ACTUAL CLAIMS EXPERIENCE ON THAT SMALL EMPLOYER CARRIER'S HEALTH BENEFIT PLAN, INDUSTRY, CLASS OF BUSINESS, AND PLAN DESIGN, WITHOUT PRIOR APPROVAL OF THE COMMISSIONER UNLESS OTHERWISE PROVIDED IN THIS SUBSECTION (8.5).

(8.7) (a) THE COMMISSIONER SHALL EVALUATE HOW SUBSECTION (8.5) OF THIS SECTION AFFECTS THE SMALL GROUP MARKET. SPECIFICALLY, THE COMMISSIONER SHALL EVALUATE THE IMPACT OF THE FOLLOWING:

(I) RATING FLEXIBILITY BASED ON CLAIMS EXPERIENCE AND APPLICATION OF RATING FLEXIBILITY ON SMALL BUSINESS GROUPS OF ONE TO SMALL EMPLOYERS WITH NO MORE THAN FIFTEEN EMPLOYEES, AS COMPARED TO THE IMPACT ON SMALL EMPLOYERS WITH SIXTEEN OR MORE EMPLOYEES;

(II) RATING FLEXIBILITY ON THE SIZE AND STABILITY OF THE SMALL GROUP MARKET;

(III) RATING FLEXIBILITY ON THE AGGREGATE HEALTH STATUS OF THE SMALL GROUP MARKET, INCLUDING, BUT NOT LIMITED TO, WHETHER THE RISK PROFILE OF THE SMALL GROUP MARKET IMPROVED BECAUSE OF THE IMPLEMENTATION OF SUBSECTION (8.5) OF THIS SECTION; AND

(IV) THE NUMBER OF SMALL EMPLOYER GROUPS WHOSE PREMIUMS ARE AT OR

BELOW THE INDEX RATE AND THE NUMBER OF SMALL EMPLOYER GROUPS WHOSE PREMIUMS ARE ABOVE THE INDEX RATE.

(b) THE COMMISSIONER SHALL SUBMIT A REPORT OF THE EVALUATION PURSUANT TO THIS SUBSECTION (8.7) TO THE BUSINESS AFFAIRS AND LABOR COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE NO LATER THAN JANUARY 15, 2007.

**SECTION 11.** 10-16-105 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**10-16-105. Small group sickness and accident insurance - guaranteed issue - mandated provisions for basic and standard health benefit plans.** (5) Each small group sickness and accident insurer or other entity shall make reasonable disclosure in solicitation and sales materials provided to small employers the following information in a form and manner prescribed by the commissioner and upon request of any such small employer shall provide such information in detail:

(g) (I) THAT THE SMALL EMPLOYER PURCHASING ANY HEALTH BENEFIT PLAN OTHER THAN A BASIC PLAN PURSUANT TO PARAGRAPH (b) OF SUBSECTION (7.2) OF THIS SECTION, MUST PAY FOR ALL OF THE MANDATED BENEFITS PURSUANT TO SECTION 10-16-104 AND THAT THESE MANDATES INCLUDE MANDATORY, NONWAIVABLE COVERAGES FOR NEWBORN, MATERNITY, PREGNANCY, CHILDBIRTH, COMPLICATIONS FROM PREGNANCY AND CHILDBIRTH, THERAPIES FOR CONGENITAL DEFECTS AND BIRTH ABNORMALITIES, LOW-DOSE MAMMOGRAPHY, MENTAL ILLNESS, BIOLOGICALLY-BASED MENTAL ILLNESS, THE AVAILABILITY OF ALCOHOLISM TREATMENT, THE AVAILABILITY OF HOSPICE CARE, PROSTATE CANCER SCREENING, CHILD HEALTH SUPERVISION, HOSPITALIZATION AND GENERAL ANESTHESIA FOR DENTAL PROCEDURES FOR DEPENDENT CHILDREN, DIABETES, AND PROSTHETIC DEVICES.

(II) THAT A SMALL EMPLOYER PURCHASING A BASIC HEALTH BENEFIT PLAN IS WAIVING COVERAGE FOR LOW-DOSE MAMMOGRAPHY SCREENING, MENTAL ILLNESS, PROSTATE SCREENING, HOSPITALIZATION AND GENERAL ANESTHESIA FOR DENTAL PROCEDURES FOR CHILDREN, THE AVAILABILITY OF TREATMENT FOR ALCOHOLISM, AND THE AVAILABILITY OF HOSPICE CARE.

**SECTION 12.** Part 1 of article 16 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-16-105.3. Health benefit plans - not prohibited.** (1) A CARRIER SHALL NOT BE PROHIBITED FROM OFFERING TO A SMALL EMPLOYER ADDITIONAL OPTIONS OF HEALTH BENEFIT PLANS THAT:

(a) PROVIDE FOR DIFFERENT BENEFITS FOR INSUREDS AND DEPENDENTS OF SUCH INSUREDS COVERED BY THE SAME POLICY; AND

(b) ENCOURAGE APPROPRIATE HEALTH CARE CONDITION MANAGEMENT BASED ON CLINICAL GUIDELINES BY PROVIDING CASE MANAGEMENT BENEFITS TO COVERED PERSONS.

**SECTION 13.** 10-16-402 (2) (c), Colorado Revised Statutes, is amended to read:

**10-16-402. Issuance of certificate of authority - denial.** (2) The commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to section 10-16-401 within thirty days of receipt of the certification from the executive director. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 10-16-110 (2) if the commissioner is satisfied that the following conditions are met:

(c) (I) The health maintenance organization will effectively provide or arrange for the provision of basic health care services on a prepaid basis, through insurance or otherwise, except to the extent of reasonable requirements for copayments, deductibles, and payments for out-of-network services received pursuant to section 10-16-704 (2);

(II) NOTHING IN THIS PARAGRAPH (c) SHALL PROHIBIT A CARRIER FROM OFFERING TO A SMALL EMPLOYER ADDITIONAL OPTIONS OF A HEALTH BENEFIT PLAN THAT:

(A) PROVIDES FOR DIFFERENT BENEFITS FOR INSUREDS AND DEPENDENTS OF INSUREDS COVERED BY THE SAME POLICY; AND

(B) ENCOURAGES APPROPRIATE HEALTH CARE CONDITION MANAGEMENT BASED ON CLINICAL GUIDELINES BY PROVIDING CASE MANAGEMENT BENEFITS TO COVERED PERSONS.

**SECTION 14.** Article 16 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 9
MULTIPLE EMPLOYER WELFARE ARRANGEMENT
PILOT PROGRAM

**10-16-901. Definitions.** AS USED IN THIS PART 9, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BONA FIDE ASSOCIATION" MEANS A BONA FIDE ASSOCIATION AS DEFINED IN SECTION 10-16-102 (5.5) THAT HAS A PROFESSIONAL OR TRADE AFFILIATION, INCLUDING, BUT NOT LIMITED TO, A CHAMBER OF COMMERCE AND AN ASSOCIATION OF NONPROFIT ENTITIES.

(2) "FULLY INSURED BY A LICENSED INSURER" MEANS THAT, FOR ALL OF THE HEALTH CARE BENEFITS OR COVERAGE PROVIDED OR OFFERED BY OR THROUGH AN ARRANGEMENT:

(a) (I) A LICENSED INSURER IS DIRECTLY OBLIGATED BY CONTRACT TO PROVIDE ALL OF THE COVERAGE TO OR UNDER THE ARRANGEMENT; OR

(II) THE LICENSED INSURER ASSUMES ALL OF THE RISK FOR PAYMENT OF ALL COVERED SERVICES OR BENEFITS; AND

(b) THE LIABILITY OF THE LICENSED INSURER FOR PAYMENT OF THE COVERED SERVICES OR BENEFITS IS DIRECTLY OBLIGATED TO THE INDIVIDUAL EMPLOYEE, MEMBER, OR DEPENDENT RECEIVING THE HEALTH CARE SERVICES.

(3) "MEWA" OR "MULTIPLE EMPLOYER WELFARE ARRANGEMENT" SHALL HAVE THE SAME DEFINITION AS IN THE FEDERAL "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974", 29 U.S.C. SEC. 1002 (40) (a). "MEWA" ALSO MEANS A MEWA THAT PROVIDES HEALTH BENEFITS OR COVERAGE TO AT LEAST ONE HUNDRED EMPLOYEES AND DEPENDENTS OF SUCH EMPLOYEES OF TWO OR MORE EMPLOYERS WHO ARE MEMBERS OF A BONA FIDE ASSOCIATION. A MEWA DOES NOT INCLUDE:

(a) A LICENSED INSURER;

(b) A COLLECTIVE BARGAINING ARRANGEMENT PURSUANT TO THE "TAFT-HARTLEY ACT", 29 U.S.C. SEC. 141 ET SEQ.

(c) AN EMPLOYEE LEASING PLAN ISSUED PURSUANT TO SECTION 10-16-214 (5); OR

(d) A MEWA OR MULTIPLE EMPLOYER TRUST PURSUANT TO SECTION 10-3-903.5 (7).

(4) "SMALL EMPLOYER GROUP" SHALL HAVE THE SAME MEANING AS "SMALL EMPLOYER" AS DEFINED IN SECTION 10-16-102 (40).

**10-16-902. Authority to self-fund - pilot program - rules - fees - cash fund.** (1) (a) THE COMMISSIONER SHALL PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS PART 9. SUCH RULES SHALL INCLUDE, WITHOUT LIMITATION, A DETERMINATION OF THE CRITERIA FOR THE CREATION AND OPERATION OF MEWAS TO BE IMPLEMENTED BY THIS PART 9.

(b) THE COMMISSIONER SHALL DETERMINE A DESCRIPTION OF THE NECESSARY CONTRIBUTION AND RESERVE AMOUNTS FOR A MEWA AUTHORIZED BY THIS PART 9. THE COMMISSIONER SHALL PROMULGATE RULES TO ENSURE THE SOLVENCY AND OPERATION OF ALL SELF-FUNDED PLANS SUBJECT TO THIS PART 9. THE COMMISSIONER MAY EXAMINE THE SELF-FUNDED PLANS PURSUANT TO ARTICLE 3 OF THIS TITLE. THE COMMISSIONER MAY NOT ISSUE A CERTIFICATE OF AUTHORITY TO A SELF-FUNDED MEWA UNLESS THE ARRANGEMENT ESTABLISHES TO THE REASONABLE SATISFACTION OF THE COMMISSIONER THAT THE FOLLOWING REQUIREMENTS HAVE BEEN MET:

(I) THE EMPLOYERS PARTICIPATING IN THE SELF-FUNDED MEWA SHALL BE MEMBERS OF A BONA FIDE ASSOCIATION THAT HAS DEPOSITED TWO HUNDRED THOUSAND DOLLARS WITH THE COMMISSIONER TO BE USED FOR THE PAYMENT OF CLAIMS IN THE EVENT THAT THE SELF-FUNDED MEWA BECOMES INSOLVENT;

(II) THE SELF-FUNDED MEWA SHALL SUBMIT TO THE COMMISSIONER A WRITTEN PLAN OF OPERATION THAT, IN THE REASONABLE DISCRETION OF THE COMMISSIONER, ENSURES THE FINANCIAL INTEGRITY OF THE ARRANGEMENT AND DEMONSTRATES ITS FINANCIAL SOLVENCY; AND

(III) THE SELF-FUNDED MEWA SHALL ESTABLISH BY THE END OF THE FIRST YEAR OF ITS OPERATION AND SHALL MAINTAIN AT ALL TIMES RESERVES EQUAL TO AT LEAST THIRTY PERCENT OF THE ANNUAL EXPECTED CLAIMS LIABILITY OF THE MEWA.

(c) A MEWA SHALL OFFER STANDARD AND BASIC HEALTH BENEFIT PLANS DEFINED IN SECTION 10-16-105 (7.2).

(2) THE COMMISSIONER SHALL AUTHORIZE NOT MORE THAN EIGHTEEN MEWAS THAT ARE SELF-FUNDED OR FULLY-INSURED ARRANGEMENTS TO OFFER HEALTH BENEFIT COVERAGE TO EMPLOYEES AND DEPENDENTS OF SUCH EMPLOYEES FOR EMPLOYERS THAT PARTICIPATE WITHIN AN APPROVED MEWA PILOT PROGRAM. SUCH PILOT PROGRAM SHALL BE REVIEWED BY THE DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION 10-16-910. MEWAS IN THE PILOT PROGRAM MAY BE FULLY INSURED.

(3) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ANY MEWA ESTABLISHED PURSUANT TO THIS PART 9 SHALL BE EXEMPT FROM THE SMALL EMPLOYER PREMIUM RATING PROVISIONS IN SECTION 10-16-105 (8).

(b) A MEWA SHALL GUARANTEE ISSUE HEALTH BENEFIT COVERAGE TO ALL EMPLOYEES AND DEPENDENTS OF AN EMPLOYEE OF AN EMPLOYER THAT IS A MEMBER OF A BONA FIDE ASSOCIATION WITHIN THE SAME ARRANGEMENT PURSUANT TO SECTION 10-16-105 (7.3).

(c) THE PREMIUM CHARGED BY THE MEWA SHALL AGGREGATE THE HEALTH STATUS OF ALL INDIVIDUALS WITHIN THE MEWA AS A SINGLE LARGE GROUP AND SHALL BE THE SAME FOR ANY EMPLOYEE OR DEPENDENT OF THE EMPLOYEE.

(4) ANY SELF-FUNDED MEWA AUTHORIZED PURSUANT TO THIS PART 9 SHALL NOTIFY ALL EMPLOYERS PARTICIPATING IN SUCH MEWA THAT THE MEWA DOES NOT PARTICIPATE IN THE GUARANTY ASSOCIATION, PURSUANT TO PART 5 OF ARTICLE 4 OF THIS TITLE, OR THE LIFE AND HEALTH INSURANCE PROTECTION ASSOCIATION CREATED IN ARTICLE 20 OF THIS TITLE.

(5) (a) THE COMMISSIONER MAY REQUIRE AN APPLICATION FEE FOR A MEWA TO INVESTIGATE AND PROCESS AN INITIAL APPLICATION FOR AUTHORIZATION AS A MEWA TO DO BUSINESS IN THIS STATE. THE FEE SHALL BE A NONREFUNDABLE FEE OF FIVE HUNDRED DOLLARS AND SHALL ACCOMPANY EACH APPLICATION FOR AUTHORIZATION.

(b) IN ADDITION TO ANY FEE REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5), A MEWA SHALL BE SUBJECT TO AN ANNUAL NONREFUNDABLE PAYMENT ON OR BEFORE MARCH 1 OF EACH YEAR BASED ON THE FOLLOWING SCHEDULE AT THE TIME OF AUTHORIZATION AND EACH SUBSEQUENT RENEWAL YEAR:

(I) FOR A MEWA THAT HAS PRIOR YEAR'S DIRECT WRITTEN PREMIUMS, GROSS CONTRACT FUNDS, OR CHARGES RECEIVED IN COLORADO NOT EXCEEDING ONE MILLION DOLLARS, A FEE OF SIX HUNDRED SEVENTY DOLLARS;

(II) FOR A MEWA THAT HAS PRIOR YEAR'S DIRECT WRITTEN PREMIUMS, GROSS CONTRACT FUNDS, OR CHARGES RECEIVED IN COLORADO IN EXCESS OF ONE MILLION DOLLARS BUT NOT EXCEEDING TEN MILLION DOLLARS, A FEE OF TWO THOUSAND TEN DOLLARS;

(III) FOR A MEWA THAT HAS PRIOR YEAR'S DIRECT WRITTEN PREMIUMS, GROSS CONTRACT FUNDS, OR CHARGES RECEIVED IN COLORADO IN EXCESS OF TEN MILLION DOLLARS, A FEE OF THREE THOUSAND THREE HUNDRED FORTY-FIVE DOLLARS.

(6) SELF-FUNDED MEWAS AND FULLY INSURED MEWAS PURSUANT TO THIS PART 9 SHALL PAY FEES PURSUANT TO THIS SECTION. THE REVENUE COLLECTED BY THE COMMISSIONER PURSUANT TO THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT CASH FUND, WHICH IS HEREBY CREATED. ALL INTEREST DERIVED FROM THIS CASH FUND SHALL BE CREDITED TO THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEYS FROM THE FUND TO THE COMMISSIONER FOR THE ADMINISTRATIVE EXPENSES RELATED TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS AUTHORIZED PURSUANT TO THIS PART 9.

**10-16-903. Required provisions.** A SELF-FUNDED PLAN SHALL INCLUDE AGGREGATE EXCESS LOSS COVERAGE, SPECIFIC EXCESS LOSS COVERAGE, AND INSOLVENCY COVERAGE PROVIDED BY AN INSURANCE COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE. AGGREGATE EXCESS LOSS COVERAGE SHALL INCLUDE PROVISIONS TO COVER INCURRED, UNPAID CLAIM LIABILITY IN THE EVENT OF PLAN TERMINATION. IN ADDITION, THE PLAN SHALL REQUIRE PARTICIPATING EMPLOYERS TO PAY AN AMOUNT AT LEAST EQUAL TO THE POINT AT WHICH THE EXCESS LOSS INSURER HAS CONTRACTED TO ASSUME ONE HUNDRED PERCENT OF ADDITIONAL LIABILITY. A SELF-FUNDED PLAN SHALL SUBMIT ITS PROPOSED EXCESS LOSS INSURANCE CONTRACT TO THE COMMISSIONER AT LEAST THIRTY DAYS PRIOR TO THE PROPOSED PLAN'S EFFECTIVE DATE AND NO MORE THAN THIRTY DAYS SUBSEQUENT TO ANY RENEWAL DATE. THE COMMISSIONER SHALL REVIEW THE CONTRACT TO DETERMINE IF IT MEETS THE STANDARDS ESTABLISHED BY THIS PART 9 AND RESPOND WITHIN A THIRTY-DAY PERIOD AFTER RECEIPT OF THE PLAN. ANY EXCESS LOSS INSURANCE PLAN SHALL CONTAIN A PROVISION THAT THE EXCESS LOSS INSURER WILL GIVE THE PLAN AND THE COMMISSIONER A MINIMUM OF ONE HUNDRED EIGHTY DAYS NOTICE OF TERMINATION OR NONRENEWAL. IF THE PLAN FAILS TO SECURE REPLACEMENT COVERAGE WITHIN SIXTY DAYS AFTER RECEIPT OF THE NOTICE OF CANCELLATION OR NONRENEWAL, THE COMMISSIONER SHALL ISSUE AN ORDER PROVIDING FOR THE ORDERLY TERMINATION OF THE PLAN.

**10-16-904. Compliance with other laws.** EXCEPT AS PROVIDED IN THIS PART 9, A SELF-FUNDED MEWA IS SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND ARTICLE 3 OF THIS TITLE, AS WELL AS THE PROVISIONS OF RULES ESTABLISHED BY THE COMMISSIONER FOR ALL INSURERS WITHIN THIS STATE, INCLUDING BUT NOT LIMITED TO, NETWORK ADEQUACY, PROMPT PAYMENT OF CLAIMS, APPEALS FOR THE DENIAL OF BENEFITS, COMPLAINTS AGAINST AN INSURER, AND PRIVACY OF INFORMATION.

**10-16-905. Management of moneys.** (1) MONEYS COLLECTED FROM THE PARTICIPATING EMPLOYERS UNDER SELF-FUNDED MEWAS SHALL BE DEPOSITED IN A FUND AND HELD IN TRUST SUBJECT TO THE FOLLOWING REQUIREMENTS:

(a) A BOARD OF TRUSTEES ELECTED BY PARTICIPATING EMPLOYERS SHALL SERVE AS FUND MANAGERS ON BEHALF OF PARTICIPANTS. TRUSTEES SHALL BE PLAN PARTICIPANTS. NO PARTICIPATING EMPLOYER MAY BE REPRESENTED BY MORE THAN ONE TRUSTEE. A MINIMUM OF TWO AND A MAXIMUM OF SEVEN TRUSTEES MAY BE ELECTED. TRUSTEES SHALL RECEIVE NO REMUNERATION, BUT MAY BE REIMBURSED FOR ACTUAL AND REASONABLE EXPENSES INCURRED IN CONNECTION WITH THEIR DUTIES AS TRUSTEES.

(b) EACH TRUSTEE SHALL BE BONDED IN AN AMOUNT NOT LESS THAN ONE HUNDRED THOUSAND DOLLARS NOR AN AMOUNT GREATER THAN FIVE HUNDRED THOUSAND DOLLARS FROM A LICENSED BONDING COMPANY.

(c) INVESTMENT OF MEWA PLAN MONEYS SHALL BE LIMITED TO INVESTMENTS IN SECURITIES OR OTHER INVESTMENTS PERMITTED BY STATE LAW FOR THE INVESTMENT OF ASSETS CONSTITUTING THE LEGAL RESERVES OF A LIFE INSURANCE COMPANY, PURSUANT TO SECTION 10-3-215.

(d) TRUSTEES, ON BEHALF OF THE FUND, SHALL FILE ANNUAL REPORTS WITH THE COMMISSIONER WITHIN THIRTY DAYS IMMEDIATELY FOLLOWING THE END OF EACH CALENDAR YEAR. THE REPORTS SHALL SUMMARIZE THE FINANCIAL CONDITION OF THE FUND, ITEMIZE COLLECTION FROM PARTICIPATING EMPLOYERS, AND DETAIL ALL FUND EXPENDITURES.

**10-16-906. Exemption.** ANY MULTIPLE EMPLOYER WELFARE ARRANGEMENT OR MULTIPLE EMPLOYER HEALTH TRUST THAT MEETS THE CRITERIA OF SECTION 10-3-903.5 (7) (a) SHALL BE EXEMPT FROM THE PROVISIONS OF THIS PART 9.

**10-16-907. Prohibited acts - producers - insurers - lack of knowledge no defense.** (1) NO PRODUCER MAY, DIRECTLY OR INDIRECTLY, SOLICIT, ADVERTISE, OR MARKET IN THIS STATE HEALTH BENEFITS OR COVERAGE FROM, OR ACCEPT AN APPLICATION FOR, OR PLACE COVERAGE FOR A PERSON WHO RESIDES IN THIS STATE WITH, A MEWA UNLESS THE MEWA IS AUTHORIZED TO CONDUCT BUSINESS PURSUANT TO THIS PART 9.

(2) NO INSURER MAY SOLICIT OR EFFECT COVERAGE OF, UNDERWRITE FOR, COLLECT CHARGES OR PREMIUMS FOR, ADJUST OR SETTLE CLAIMS OF A RESIDENT OF THIS STATE FOR, OR ENTER INTO ANY AGREEMENT TO PERFORM ANY OF THOSE FUNCTIONS FOR, A MEWA THAT IS NOT AUTHORIZED TO CONDUCT BUSINESS PURSUANT TO THIS PART 9.

(3) AN INSURER THAT ISSUES OR HAS ISSUED ANY INSURANCE COVERAGE TO A MEWA THAT COVERS RESIDENTS OF THIS STATE, INCLUDING, BUT NOT LIMITED TO, SPECIFIC OR EXCESS LOSS COVERAGE, SHALL FILE WITH THE COMMISSIONER THE INFORMATION REQUIRED UNDER SECTION 10-16-908 WITHIN THIRTY DAYS AFTER THE COVERAGE IS ISSUED OR WITHIN THIRTY DAYS AFTER THE DATE THE MEWA FIRST PROVIDES COVERAGE TO A RESIDENT OF THIS STATE, WHICHEVER IS LATER.

(4) LACK OF KNOWLEDGE OR INTENT TO DECEIVE WITH RESPECT TO THE ORGANIZATION OR STATUS OF INSURANCE COVERAGE OF A MEWA IS NOT A DEFENSE TO A VIOLATION OF THIS PART 9.

(5) IF AN ARRANGEMENT HOLDS ITSELF OUT AS A SELF-FUNDED MEWA PURSUANT TO THIS PART 9, IS NOT AUTHORIZED AS SUCH, AND FAILS TO PAY A CLAIM OR LOSS IN THIS STATE WITHIN THE PROVISIONS OF ITS CONTRACT, THE PRODUCER OR INSURER IS LIABLE TO THE INSURED FOR THE FULL AMOUNT OF THE CLAIM OR LOSS.

**10-16-908. Information required to be filed and kept current.** (1) A MEWA SHALL FILE WITH THE COMMISSIONER ALL OF THE FOLLOWING INFORMATION ON A FORM PRESCRIBED BY THE COMMISSIONER:

(a) A COPY OF THE ORGANIZATIONAL DOCUMENTS OF THE MEWA, INCLUDING THE ARTICLES OF INCORPORATION AND BYLAWS, PARTNERSHIP AGREEMENT, OR TRUST INSTRUMENT;

(b) A COPY OF EACH INSURANCE OR REINSURANCE CONTRACT THAT PURPORTS TO INSURE OR GUARANTEE ALL OR ANY PORTION OF BENEFITS OR COVERAGE OFFERED BY THE MEWA TO A PERSON WHO RESIDES IN THIS STATE;

(c) A COPY OF THE BENEFIT PLAN DESCRIPTION AND OTHER MATERIALS INTENDED TO BE DISTRIBUTED TO POTENTIAL PURCHASERS; AND

(d) THE NAMES AND ADDRESSES OF ALL PERSONS PERFORMING OR EXPECTED TO PERFORM THE FUNCTIONS OF RISK MANAGEMENT, CLAIMS HANDLING, OR ANY OTHER ADMINISTRATIVE FUNCTION OF A MEWA.

(2) A MEWA THAT HAS FILED INFORMATION PURSUANT TO THIS SECTION SHALL AMEND THE FILING WITHIN THIRTY DAYS AFTER THE DATE THE PERSON BECOMES AWARE, OR EXERCISING DUE DILIGENCE SHOULD HAVE BECOME AWARE, OF ANY MATERIAL CHANGE TO THE INFORMATION REQUIRED TO BE FILED. THE AMENDED FILING SHALL ACCURATELY REFLECT THE MATERIAL CHANGE TO THE INFORMATION ORIGINALLY FILED.

**10-16-909. Employer participation.** AN EMPLOYER PARTICIPATING IN A MEWA SHALL CONTINUE HEALTH BENEFIT COVERAGE THROUGH THE TERM OF THE CONTRACT AND SHALL NOT TERMINATE THE CONTRACT EARLY EXCEPT FOR FAILURE OF THE ARRANGEMENT TO PROVIDE HEALTH BENEFIT COVERAGE.

**10-16-910. Repeal.** (1) THIS PART 9 IS REPEALED, EFFECTIVE JULY 1, 2008.

(2) PRIOR TO SUCH REPEAL AND NO LATER THAN OCTOBER 15, 2007, THE DEPARTMENT OF REGULATORY AGENCIES SHALL EVALUATE AND REPORT TO THE GENERAL ASSEMBLY CONCERNING THE FOLLOWING:

(a) THE NUMBER OF PERSONS WHO ARE INSURED THROUGH A MEWA;

(b) THE EFFECT OF ALLOWING MEWAS TO OFFER HEALTH BENEFIT COVERAGE TO EMPLOYERS IN THE INSURANCE MARKET IN COLORADO;

(c) THE COST OF PREMIUMS FOR A MEWA COMPARED TO OTHER GROUP INSURANCE; AND

(d) ANY OTHER FACTORS DEEMED NECESSARY BY THE DIVISION.

**SECTION 15.** 10-3-903 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**10-3-903. Definition of transacting insurance business.** (2) The provisions of this section do not apply to:

(k) PARTICIPATION IN A DIRECT PROVIDER CONTRACTING PILOT PROGRAM PURSUANT TO SECTION 26-4-127, C.R.S.

**SECTION 16.** Part 1 of article 16 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-16-126. Coinsurance and deductibles.** A CARRIER SUBJECT TO THE PROVISIONS OF PARTS 2, 3, AND 4 OF THIS ARTICLE MAY OFFER ONE OR MORE HEALTH COVERAGE PLANS THAT CONTAIN DEDUCTIBLES OR COINSURANCE WITHOUT ANY LIMITATION OR RESTRICTION ON THE MAXIMUM OUT-OF-POCKET PAYABLE BY THE INSURED.

**SECTION 17. Repeal.** Part 8 of article 16 of title 10, Colorado Revised Statutes, is repealed.

**SECTION 18.** 10-16-423, Colorado Revised Statutes, is amended to read:

**10-16-423. Confidentiality of health information.** Any data or information pertaining to the diagnosis, treatment, or health of any enrollee or applicant obtained from such person or from any provider by any health maintenance organization shall be held in confidence and shall not be disclosed to any person except to the extent that it may be necessary to carry out the purposes of part 1 of this article or this part 4; or upon the express consent of the enrollee or applicant; or pursuant to statute or court order for the production of evidence or the discovery thereof; or in the event of claim or litigation between such person and the health maintenance organization wherein such data or information is pertinent; OR AS OTHERWISE REQUIRED OR PERMITTED BY STATE OR FEDERAL LAW. A health maintenance organization shall be entitled to claim any statutory privileges against such disclosure ~~which~~ THAT the provider, who furnished such information to the health maintenance organization, is entitled to claim.

**SECTION 19.** 26-4-127 (1), Colorado Revised Statutes, is amended, and the said 26-4-127 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**26-4-127. Direct contracting with providers - legislative declaration.** (1) The general assembly hereby finds, determines, and declares that costs associated with providing medical assistance to recipients have increased substantially due in part to increased costs of health care services and higher utilization rates. These cost pressures have been most dramatically demonstrated in the southern area of the state. Therefore, the general assembly finds, determines, and declares that ~~a~~ pilot ~~program~~ PROGRAMS should be created to evaluate whether a provider may contract directly with the state department for the provision of services to recipients.

(2.5) THE STATE DEPARTMENT IS AUTHORIZED TO CONTRACT DIRECTLY WITH ANY PROVIDER WHO IS ABLE TO PROVIDE A COST-EFFECTIVE AND QUALITY HEALTH CARE SYSTEM THROUGH A CAPITATED PARTIAL RISK PROGRAM ON A PER MEMBER PER MONTH BASIS OR THROUGH ANY OTHER FINANCIAL ARRANGEMENT WITH THE DEPARTMENT WHERE THE PROVIDER MANAGES THE HEALTH CARE AVAILABLE TO THE RECIPIENTS AND SHARES WITH THE STATE DEPARTMENT THE SAVINGS ASSOCIATED WITH MANAGEMENT OF SUCH HEALTH CARE.

**SECTION 20.** 18-4-412, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**18-4-412. Theft of medical records or medical information - penalty.** (5) THIS SECTION SHALL NOT APPLY TO COVERED ENTITIES SUBJECT TO THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996" AND IMPLEMENTING REGULATIONS.

**SECTION 21.** 24-34-104 (39) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (39) (b) The following agencies, functions, or both, shall terminate on July 1, 2008:

(XVI) REVIEW OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PURSUANT TO SECTION 10-16-910, C.R.S., BY THE DEPARTMENT OF REGULATORY AGENCIES.

**SECTION 22. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the multiple employer welfare arrangement cash fund not otherwise appropriated, to the department of regulatory agencies, for distribution to the division of insurance, for the fiscal year beginning July 1, 2003, the sum of twenty-seven thousand one hundred seventeen dollars ($27,117) and 0.4 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 23. Effective dates - applicability.** (1) Sections 5, 12, 13, and 16 of this act shall take effect January 1, 2004, and shall apply to health benefit plans issued or renewed to small employers on or after said date.

(2) The remaining sections of this bill shall take effect July 1, 2003, and section 14 shall apply to multiple employer welfare arrangements approved pursuant to part 9 of article 16 of title 10, Colorado Revised Statutes, on or after said date.

**SECTION 24. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 20, 2003