

CHAPTER 17

GOVERNMENT - STATE

HOUSE BILL 12-1015

BY REPRESENTATIVE(S) Holbert, Beezley, Labuda, Loofer, Priola, Ramirez, Scott, Sonnenberg, Wilson;
also SENATOR(S) Neville.

AN ACT**CONCERNING THE PROCEDURE FOR THE REVIEW OF A PROPOSAL TO REGULATE AN UNREGULATED
PROFESSION OR OCCUPATION.**

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

SECTION 1. In Colorado Revised Statutes, 24-34-104.1, **amend** (2), (3), and (6) (b) as follows:

24-34-104.1. General assembly sunrise review of new regulation of occupations and professions. (2) (a) FOR PROPOSALS SUBMITTED ON OR AFTER JULY 1, 2012, any professional or occupational group or organization, any individual, or any other interested party that proposes the regulation of any unregulated professional or occupational group shall submit the following information to the department of regulatory agencies ~~A proposal to regulate a professional or occupational group shall be reviewed only when the party requesting such review files with the department a statement of support for the proposed regulation that has been signed by at least ten members of the professional or occupational group for which regulation is being sought or at least ten individuals who are not members of such professional or occupational group, along with the following information~~ NO LATER THAN DECEMBER 1 OF ANY YEAR FOR ANALYSIS AND EVALUATION DURING THE FOLLOWING YEAR:

~~(a)~~ (I) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, and an estimate of the number of practitioners in each group;

~~(b)~~ (II) A definition of the problem OR PROBLEMS TO BE SOLVED BY REGULATION and the reasons why regulation is ~~deemed~~ necessary;

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

(III) A STATEMENT OF SUPPORT FOR THE PROPOSED REGULATION AS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2);

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

~~(d)~~ (V) The benefit to the public that would result from the proposed regulation; and

~~(e)~~ (VI) The cost of the proposed regulation.

(b) THE DEPARTMENT SHALL REVIEW A PROPOSAL TO REGULATE A PROFESSIONAL OR OCCUPATIONAL GROUP ONLY WHEN THE PARTY REQUESTING THE REVIEW FILES A STATEMENT OF SUPPORT FOR THE PROPOSED REGULATION THAT HAS BEEN SIGNED BY AT LEAST TEN MEMBERS OF THE PROFESSIONAL OR OCCUPATIONAL GROUP FOR WHICH REGULATION IS BEING SOUGHT OR AT LEAST TEN INDIVIDUALS WHO ARE NOT MEMBERS OF THE PROFESSIONAL OR OCCUPATIONAL GROUP.

(3) (a) Except as provided in paragraph (b) OR (c) of this subsection (3), the department of regulatory agencies shall conduct an analysis and evaluation of ~~the~~ ANY proposed regulation SUBMITTED ON OR AFTER JULY 1, 2012. The analysis and evaluation ~~shall~~ MUST be based upon the criteria listed in paragraph (b) of subsection (4) of this section. The department of regulatory agencies shall submit a report to the proponents of ~~such~~ THE regulation and to the general assembly no later than ~~one hundred twenty days after the date~~ OCTOBER 15 OF THE YEAR FOLLOWING THE YEAR IN WHICH the proposed regulation was submitted.

(b) (I) After review of a proposal to regulate a professional or occupational group THAT WAS SUBMITTED ON OR AFTER JULY 1, 2012, the department of regulatory agencies may decline to conduct an analysis and evaluation of the proposed regulation ONLY if it: ~~finds that:~~

(A) ~~The proposed regulatory scheme appears to regulate fewer than two hundred fifty individuals~~ PREVIOUSLY CONDUCTED AN ANALYSIS AND EVALUATION OF THE PROPOSED REGULATION OF THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP;

(B) ~~The department previously conducted an analysis and evaluation of the proposed regulation of the same professional or occupational group~~ ISSUED A REPORT NOT MORE THAN THIRTY-SIX MONTHS PRIOR TO THE SUBMISSION OF THE CURRENT PROPOSAL TO REGULATE THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP; and

(C) FINDS THAT no new information has been submitted that would cause the department to alter or modify the recommendations made in its earlier report on the proposed regulation of the professional or occupational group. ~~or~~

~~(C) A majority of states license, certify, or require registration of members of the same professional or occupational group.~~

(II) If the department of regulatory agencies declines to conduct an analysis and evaluation pursuant to this paragraph (b), the department shall ~~promptly notify~~

REISSUE ITS EARLIER REPORT ON THE PROPOSED REGULATION TO the proponents of the regulation and the general assembly ~~in writing of its decision, and the proponents shall be deemed to have complied with the requirements of this section~~ NO LATER THAN OCTOBER 15 OF THE YEAR FOLLOWING THE YEAR IN WHICH THE PROPOSED REGULATION WAS SUBMITTED.

(c) If the department receives a proposal to regulate a professional or occupational group indicating, based on documentation verified by the department, that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, the department shall promptly notify the proponents of the proposed regulation and the LEGISLATIVE COUNCIL OF THE general assembly of the imminent threat ~~and shall recommend that the professional or occupational group be regulated by the state~~ AND SHALL SUBMIT TO THE LEGISLATIVE COUNCIL THE DOCUMENTATION ON WHICH IT BASES ITS FINDING OF IMMINENT THREAT. WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE AND DOCUMENTATION FROM THE DEPARTMENT, THE LEGISLATIVE COUNCIL SHALL CONDUCT A HEARING TO EXAMINE THE DOCUMENTATION AND DETERMINE WHETHER IT CONCURS WITH THE DEPARTMENT'S FINDING THAT AN IMMINENT THREAT EXISTS. IN CONDUCTING ITS EXAMINATION, THE LEGISLATIVE COUNCIL SHALL CONSIDER WHETHER REGULATION OF THE PROFESSIONAL OR OCCUPATIONAL GROUP WITHOUT FIRST OBTAINING AN ANALYSIS AND EVALUATION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3) WILL SUBSTANTIALLY ALTER THE IMPACT ON PUBLIC HEALTH, SAFETY, OR WELFARE. THE DEPARTMENT MAY FOREGO THE ANALYSIS AND EVALUATION ONLY IF THE LEGISLATIVE COUNCIL NOTIFIES THE DEPARTMENT THAT THE LEGISLATIVE COUNCIL CONCURS WITH THE DEPARTMENT'S FINDING OF IMMINENT THREAT TO PUBLIC HEALTH, SAFETY, AND WELFARE.

(6) (b) If, pursuant to paragraph (b) or (c) of subsection (3) of this section, the department of regulatory agencies declines to conduct an analysis and evaluation of the proposed regulation of a professional or occupational group AND REISSUES A PRIOR REPORT ON THE PROPOSED REGULATION OF THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP or finds that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, AS CONFIRMED BY THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY, the supporters of the regulation of the professional or occupational group may request that members of the general assembly present appropriate legislation to the general assembly during each of the NEXT two regular sessions ~~immediately following~~ THAT BEGIN AFTER the date ~~of the notice issued by the department declining to review~~ REISSUES ITS ORIGINAL REPORT ON the proposed regulation ~~In addition, if the notice is issued while the general assembly is convened in a regular session, the supporters of the regulation may request that members of the general assembly present appropriate legislation to the general assembly during that regular session~~ OR THE DATE ON WHICH THE LEGISLATIVE COUNCIL NOTIFIES THE DEPARTMENT THAT IT CONCURS IN A FINDING OF IMMINENT THREAT PURSUANT TO PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION, WHICHEVER IS APPLICABLE.

SECTION 2. Applicability. This act applies to proposals to regulate a professional or occupational group submitted to the department of regulatory agencies on or after July 1, 2012.

SECTION 3. 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: March 15, 2012