

CHAPTER 38

INSURANCE

HOUSE BILL 13-1015

BY REPRESENTATIVE(S) Kraft-Tharp, Court, Duran, Exum, Fields, Fischer, Ginal, Hullinghorst, Kagan, Lee, Levy, McCann, McLachlan, Melton, Mitsch Bush, Pabon, Primavera, Rosenthal, Ryden, Schafer, Singer, Tyler, Williams, Young, Ferrandino; also SENATOR(S) Kefalas, Aguilar, Kerr, Nicholson, Tochtrop, Todd.

AN ACT**CONCERNING ELIMINATION OF THE PROHIBITION AGAINST DISCLOSURE OF MENTAL HEALTH CLAIMS INFORMATION BY SMALL GROUP HEALTH PLANS.**

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and determines that:

(a) With the passage of House Bill 10-1330, the general assembly authorized the creation of the all-payer health claims database to facilitate the reporting of health care and health quality data to enable transparency and public reporting of safety, quality, cost, and efficiency information at all levels of health care while also ensuring the privacy and security of personal health information as required by the federal "Health Insurance Portability and Accountability Act of 1996" and state law;

(b) The database includes data derived from private and public payers, including health insurance carriers, health plans, third-party administrators, pharmacy benefit managers, medicaid, and medicare;

(c) The database is administered by the center for improving value in health care and is the only comprehensive source of health care claims data from public and private payers in Colorado;

(d) Because the database is intended to be a comprehensive source of claims data, permitting small group carriers to disclose mental health history, diagnosis, or treatment services information received in an initial application for coverage or subsequent claims for benefits will allow the database to truly be comprehensive;

(e) Current law does not allow small group carriers to disclose mental health

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

claims information, and the practical impact of the prohibition against sharing mental health claims information is that small group carriers are not reporting any health claims data to the all-payer claims database, which in turn greatly diminishes the amount of health claims data available to policymakers, patients, and health care providers;

(f) Repeal of this prohibition against disclosure of mental health claims information will:

(I) Bring small group laws into alignment with those governing large group and individual insurance, whose similar provisions were repealed in 2009 as part of changes to conform state law with federal law; and

(II) Enable policymakers, health care providers, health care purchasers, and patients to better track and measure the cost and quality improvements associated with providing behavioral health and primary care in both separate and integrated settings in order to evaluate different models of care;

(g) It is therefore imperative that the state remove this unintended barrier to claims data reporting, while ensuring compliance with federal and state laws protecting the privacy and security of personal health information, to enable policymakers, providers, and ultimately, consumers, to make informed decisions about the delivery of health care in Colorado.

SECTION 2. In Colorado Revised Statutes, 10-16-104, **repeal** (5) (d) (I) as follows:

10-16-104. Mandatory coverage provisions - definitions. (5) (d) (I) ~~No person shall disclose mental health history, diagnosis, or treatment services information received in an initial application for coverage or subsequent claims for benefits to any person, group, organization, or governmental agency, without written consent of the insured, except for purposes of obtaining professional review and judgments of quality and appropriateness of treatment rendered; for purposes of litigation proceedings involving the insured and when ordered by a court; for purposes of reinsurance, when required; for purposes of applying overinsurance provisions; and for purposes of claiming benefits for services on behalf of the insured.~~

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, 2013