

CHAPTER 163

HEALTH CARE POLICY AND FINANCING

SENATE BILL 15-137

BY SENATOR(S) Balmer, Todd;
 also REPRESENTATIVE(S) DelGrosso and Ginal, Kraft-Tharp, Brown, Conti, Pabon, Roupe, Salazar, Hullinghorst.

AN ACT

CONCERNING BUSINESS ENTITIES PERMITTED TO PROVIDE THE PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY.

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

SECTION 1. In Colorado Revised Statutes, 25.5-5-412, **amend** (1) (a), (2) (b), and (8); and **add** (14) as follows:

25.5-5-412. Program of all-inclusive care for the elderly - legislative declaration - services - eligibility - rules. (1) (a) The general assembly hereby finds and declares that it is the intent of this section to replicate the ON LOK program in San Francisco, California, that has proven to be cost-effective at both the state and federal levels. The PACE program is part of a national replication project authorized in section 9412(b)(2) of the federal "Omnibus Budget Reconciliation Act of 1986", as amended. ~~which instructs the secretary of the federal department of health and human services to grant medicare and medicaid waivers to permit not more than ten public or nonprofit private community-based organizations in the country to provide comprehensive health care services on a capitated basis to frail elderly who are at risk of institutionalization.~~ The general assembly finds that, by coordinating an extensive array of medical and nonmedical services, the needs of the participants will be met primarily in an outpatient environment in an adult day health center, in their homes, or in an institutional setting. The general assembly finds that such a service delivery system will enhance the quality of life for the participant and offers the potential to reduce and cap the costs to Colorado of the medical needs of the participants, including hospital and nursing home admissions.

(2) The general assembly has determined on the recommendation of the state department that the PACE program is cost-effective. As a result of such determination and after consultation with the joint budget committee of the general

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

assembly, application has been made to and waivers have been obtained from the federal health care financing administration to implement the PACE program as provided in this section. The general assembly, therefore, authorizes the state department to implement the PACE program in accordance with this section. In connection with the implementation of the program, the state department shall:

(b) Develop and implement a contract with any ~~nonprofit organization~~ PUBLIC, PRIVATE, NONPROFIT, OR FOR-PROFIT ENTITY providing the PACE program, AS PERMITTED BY FEDERAL LAW, that sets forth contractual obligations for the PACE program AS REQUIRED BY THE STATE DEPARTMENT, including but not limited to reporting and monitoring of utilization of services and of the costs of the program, ~~as required by the state department~~ QUALITY OF CARE, AND A COMPREHENSIVE ASSESSMENT OF THE PROVIDER'S FISCAL SOUNDNESS;

(8) Using a risk-based financing model, any ~~nonprofit organization~~ PUBLIC, PRIVATE, NONPROFIT, OR FOR-PROFIT ENTITY providing the PACE program, AS PERMITTED BY FEDERAL LAW, shall assume responsibility for all costs generated by PACE program participants, and shall create and maintain a risk reserve fund that will cover any cost overages for any participant. The PACE program is responsible for the entire range of services in the consolidated service model, including hospital and nursing home care, according to participant need as determined by the multidisciplinary team. Any ~~nonprofit organization~~ PUBLIC, PRIVATE, NONPROFIT, OR FOR-PROFIT ENTITY providing the PACE program, AS PERMITTED BY FEDERAL LAW, is responsible for the full financial risk at the conclusion of the demonstration period and when permanent waivers from the federal health care financing administration are granted. Specific arrangements of the risk-based financing model shall be adopted and negotiated by the federal health care financing administration, any ~~nonprofit organization~~ PUBLIC, PRIVATE, NONPROFIT, OR FOR-PROFIT ENTITY providing the PACE program, AS PERMITTED BY FEDERAL LAW, and the state department.

(14) (a) NO LATER THAN SIXTY DAYS PRIOR TO THE CLOSING OR EFFECTIVE DATE OF A CONVERSION OF A NONPROFIT PACE PROVIDER TO A FOR-PROFIT PACE PROVIDER, THE NONPROFIT PACE PROVIDER SHALL:

(I) TRANSMIT A CONVERSION PLAN AND WRITTEN NOTICE OF THE CONVERSION TO THE ATTORNEY GENERAL, WHICH CONVERSION PLAN MUST INCLUDE, AT A MINIMUM:

(A) A COPY OF THE RESULTS OF AN INDEPENDENT VALUATION OF THE FAIR MARKET VALUE OF THE BUSINESS THAT PROPOSES TO CONVERT;

(B) A DETAILED EXPLANATION OF THE PLANS FOR DISTRIBUTION OF THE PROCEEDS OF THE CONVERSION, INCLUDING WHETHER THE PROCEEDS WILL BE DISTRIBUTED TO A NEW NONPROFIT ENTITY OR TO AN EXISTING ORGANIZATION AND, IF TO AN EXISTING NONPROFIT ORGANIZATION, WHICH ORGANIZATION AND THE REASONS FOR SELECTING THAT ORGANIZATION, OR, IF TO A NEW NONPROFIT ORGANIZATION, HOW THE INITIAL BOARD OF DIRECTORS WILL BE SELECTED;

(C) INFORMATION ABOUT ANY COMPENSATION, BONUS, OR INDUCEMENT TO ANY OFFICERS OR DIRECTORS OF THE CONVERTING ENTITY RESULTING FROM THE CONVERSION; AND

(D) THE PACE ORGANIZATION'S AUDITED FINANCIAL STATEMENTS FOR ITS THREE MOST RECENT FISCAL YEARS FOR COLORADO, AND SEPARATELY, FOR THOSE OPERATIONS OUTSIDE OF COLORADO, FOR ANY SUCH OPERATIONS THAT MAY BE RELATED TO THE CONVERSION; AND

(II) BEAR ALL COSTS ASSOCIATED WITH PUBLIC OVERSIGHT AND REVIEW BY THE ATTORNEY GENERAL OF THE CONVERSION, INCLUDING THE RETENTION OF OUTSIDE EXPERTS, IF ANY.

(b) WITHIN TEN DAYS AFTER THE RECEIPT OF THE CONVERSION PLAN, THE ATTORNEY GENERAL SHALL POST THE COMPLETE CONVERSION PLAN ON ITS WEB SITE AND RECEIVE PUBLIC COMMENTS ABOUT THE PLAN, WHICH SHALL ALSO BE POSTED AS SOON AS PRACTICABLE TO THE ATTORNEY GENERAL'S WEB SITE. PUBLIC COMMENT SHALL BE RECEIVED FOR A MINIMUM OF THIRTY DAYS AND AVAILABLE ON THE WEB SITE FOR AT LEAST THE DURATION OF THE COMMENT PERIOD.

(c) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT THE COMMON LAW AUTHORITY OF THE ATTORNEY GENERAL.

SECTION 2. In Colorado Revised Statutes, **repeal** 25.5-5-412 (1) (b).

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 8, 2015