

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

February 12, 2020

Committee on Health & Insurance.

After consideration on the merits, the Committee recommends the following:

HB20-1160 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

- 1 Amend printed bill, page 5, line 18, strike "NONPROFIT ORGANIZATION
- 2 THAT".
- 3 Page 5, strike line 19.
- 4 Page 5, line 20, strike "SECTION 10-16-1208,".
- 5 Page 19, strike lines 18 through 27.
- 6 Page 20, strike lines 1 through 24.
- 7 Renumber succeeding C.R.S. sections accordingly.
- 8 Page 20, lines 26 and 27, strike "EXCEPT AS PROVIDED IN SUBSECTION
- 9 (1)(b) OF THIS SECTION, THE" and substitute "THE".
- 10 Page 21, after line 5 insert:
- 11 "(III) THE FOLLOWING INFORMATION, TO THE EXTENT THE
- 12 INFORMATION IS IN THE PUBLIC DOMAIN OR PUBLICLY AVAILABLE:".
- 13 Page 21, line 6, strike "(III)" and substitute "(A)".
- 14 Page 21, strike lines 7 through 9 and substitute "TO SECTION 10-16-1206;
- 15 AND".

1 Page 21, line 10, strike "(IV)" and substitute "(B)".

2 Page 21, strike lines 12 through 27 and substitute "10-16-1207".

3 Page 22, strike lines 1 through 6 and substitute:

4 "(b) EXCEPT AS PROVIDED IN SUBSECTION (1)(a) OF THIS SECTION,
5 THE INFORMATION THE COMMISSIONER RECEIVES IN ACCORDANCE WITH
6 SECTIONS 10-16-1206 AND 10-16-1207 IS NOT A PUBLIC RECORD
7 PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24, AND THE COMMISSIONER
8 SHALL NOT PUBLISH THE INFORMATION REPORTED PURSUANT TO THOSE
9 SECTIONS. HOWEVER, THE COMMISSIONER MAY:

10 (I) SHARE THE INFORMATION PUBLICLY IF THE INFORMATION IS
11 DE-IDENTIFIED AND AGGREGATED IN A MANNER TO PREVENT
12 IDENTIFICATION OF THE MANUFACTURER, HEALTH INSURER, OR PHARMACY
13 BENEFIT MANAGEMENT FIRM THAT PROVIDED THE INFORMATION; AND

14 (II) SHARE THE INFORMATION RECEIVED PURSUANT TO SECTIONS
15 10-16-1206 AND 10-16-1207 WITH A DISINTERESTED THIRD PARTY WITH
16 WHOM THE COMMISSIONER CONTRACTS TO PERFORM THE ANALYSIS
17 REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION AND WITH
18 OTHER STATE AGENCIES THAT ARE PURCHASERS UNDER SECTION
19 10-16-1203 (13)(a); EXCEPT THAT THE DISINTERESTED THIRD PARTY OR A
20 STATE AGENCY PURCHASER THAT RECEIVES INFORMATION FROM THE
21 COMMISSIONER PURSUANT TO THIS SUBSECTION (1)(b) SHALL NOT PUBLISH
22 OR OTHERWISE MAKE THE INFORMATION AVAILABLE TO THE PUBLIC
23 EXCEPT IN ACCORDANCE WITH SUBSECTION (1)(b)(I) OF THIS SECTION.

24 (c) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, IF A
25 HEALTH INSURER, MANUFACTURER, OR PHARMACY BENEFIT MANAGEMENT
26 FIRM CLAIMS THAT INFORMATION CONTAINED IN A REPORT SUBMITTED TO
27 THE COMMISSIONER IS A TRADE SECRET, PRIVILEGED INFORMATION, OR
28 CONFIDENTIAL COMMERCIAL OR FINANCIAL DATA IN ACCORDANCE WITH
29 SECTION 24-72-204 (3)(a)(IV), THE COMMISSIONER SHALL NOT POST THE
30 INFORMATION ON THE DIVISION'S WEBSITE OR OTHERWISE MAKE THE
31 INFORMATION AVAILABLE TO THE PUBLIC; EXCEPT THAT THE
32 COMMISSIONER MAY SHARE THE INFORMATION WITH A DISINTERESTED
33 THIRD PARTY WITH WHOM THE COMMISSIONER CONTRACTS TO PERFORM
34 THE ANALYSIS PURSUANT TO SUBSECTION (2) OF THIS SECTION OR WITH
35 OTHER STATE AGENCIES THAT ARE PURCHASERS, AS DEFINED IN SECTION
36 10-16-1203 (13)(a), BUT THE DISINTERESTED THIRD PARTY OR A STATE
37 AGENCY PURCHASER THAT RECEIVES THE INFORMATION SHALL NOT

1 DISCLOSE THE INFORMATION TO THE PUBLIC. A PERSON DENIED ACCESS TO
2 THE INFORMATION MAY SEEK REVIEW IN ACCORDANCE WITH SECTION
3 24-72-204 (5)."

4 Page 22, strike lines 12 and 13 and substitute "PURSUANT TO SECTION
5 10-16-1207, THE HEALTH INSURER".

6 Page 23, strike lines 7 through 25 and substitute:

7 "(III) THE COMMISSIONER OR A DISINTERESTED THIRD PARTY WITH
8 WHOM THE COMMISSIONER CONTRACTS TO CONDUCT THE ANALYSIS SHALL
9 NOT INCLUDE ANY INFORMATION IN THE REPORT THAT A HEALTH INSURER,
10 MANUFACTURER, OR PHARMACY BENEFIT MANAGEMENT FIRM CLAIMED,
11 PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION, TO BE A TRADE SECRET,
12 PRIVILEGED INFORMATION, OR CONFIDENTIAL COMMERCIAL OR FINANCIAL
13 DATA IN ACCORDANCE WITH SECTION 24-72-204 (3)(a)(IV).

14 (IV) FOR PURPOSES OF INFORMATION REPORTED TO THE
15 COMMISSIONER PURSUANT TO SECTIONS 10-16-1206 AND 10-16-1207, THE
16 COMMISSIONER, OR A DISINTERESTED THIRD PARTY WITH WHOM THE
17 COMMISSIONER CONTRACTS, SHALL ONLY INCLUDE IN THE REPORT
18 INFORMATION THAT HAS BEEN DE-IDENTIFIED AND AGGREGATED IN A
19 MANNER TO PREVENT IDENTIFICATION OF THE MANUFACTURER, HEALTH
20 INSURER, OR PHARMACY BENEFIT MANAGEMENT FIRM OR THAT IS IN THE
21 PUBLIC DOMAIN OR PUBLICLY AVAILABLE."

22 Page 25, line 15, after "MANUFACTURERS," insert "AND".

23 Page 25, lines 15 and 16, and strike "FIRMS, AND NONPROFIT
24 ORGANIZATIONS" and substitute "FIRMS".

25 Page 25, line 17, strike "10-16-1206, 10-16-1207, AND 10-16-1208;" and
26 substitute "10-16-1206, AND 10-16-1207;".

27 Page 25, line 27, strike "10-16-1209" and substitute "10-16-1208".

28 Strike "10-16-1210" and substitute "10-16-1209" on: **Page 26**, line 13;
29 and **Page 27**, line 24.

30 Page 1, line 105, after "MANUFACTURERS," insert "AND".

31 Page 1, line 106, strike "FIRMS, AND NONPROFIT ORGANIZATIONS" and

1 substitute "FIRMS".

** ** ** ** **