

CHAPTER 283

INSURANCE

SENATE BILL 17-249

BY SENATOR(S) Smallwood and Williams A., Aguilar, Crowder, Kerr, Martinez Humenik, Tate, Zenzinger;
also REPRESENTATIVE(S) Ginal, Arndt, Hansen, Kennedy, Kraft-Tharp, Michaelson Jenet, Young.

AN ACT

CONCERNING THE CONTINUATION OF THE DIVISION OF INSURANCE, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE 2016 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES.

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

SECTION 1. In Colorado Revised Statutes, 24-34-104, **amend** (23)(a) introductory portion; **repeal** (12)(a)(IX); and **add** (23)(a)(X) and (31) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal.
(12) (a) The following agencies, functions, or both, will repeal on July 1, 2017:

~~(IX) The functions of the division of insurance in the department of regulatory agencies specified in article 1 of title 10, C.R.S., other than the functions of the division related to the licensing of bail bonding agents.~~

(23) (a) The following agencies, functions, or both, ~~will~~ ARE SCHEDULED FOR repeal on September 1, 2022:

~~(X) THE REGULATION OF PRENEED FUNERAL CONTRACTS IN ACCORDANCE WITH ARTICLE 15 OF TITLE 10.~~

(31) (a) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, ARE SCHEDULED FOR REPEAL ON SEPTEMBER 1, 2030:

~~(I) THE FUNCTIONS OF THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES SPECIFIED IN ARTICLE 1 OF TITLE 10, OTHER THAN THE FUNCTIONS OF THE DIVISION RELATED TO THE LICENSING OF BAIL BONDING AGENTS~~

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

AND THE REGULATION OF PRENEED FUNERAL CONTRACTS.

(b) THIS SUBSECTION (31) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2032.

SECTION 2. In Colorado Revised Statutes, 10-1-103, **amend** (6)(b)(I)(D) as follows:

10-1-103. Division of insurance - subject to repeal - repeal of functions. (6) (b) (I) (D) EXCEPT AS OTHERWISE PROVIDED IN SECTION 24-34-104 (31)(a)(I), the functions of the division of insurance are repealed, effective ~~July 1, 2017~~ SEPTEMBER 1, 2030, pursuant to this section and section 24-34-104. ~~C.R.S.~~

SECTION 3. In Colorado Revised Statutes, 10-1-215, **amend** (1) as follows:

10-1-215. Fines and penalties. (1) Fines and penalties levied as a result of a market conduct action or other action enforcing this part 2 shall be consistent, reasonable, and justified. EVERY FINE OR PENALTY MUST RELATE TO THE GENERAL BUSINESS PRACTICES AND COMPLIANCE ACTIVITIES OF INSURERS AND NOT TO CLEARLY INFREQUENT OR UNINTENTIONAL RANDOM ERRORS THAT DO NOT CAUSE SIGNIFICANT CONSUMER HARM.

SECTION 4. In Colorado Revised Statutes, 10-1-310, **amend as added by House Bill 17-1231** (2) as follows:

10-1-310. Fines and penalties. (2) The commissioner shall ensure that fines and penalties levied as a result of market conduct surveillance or other action enforcing this part 3 are consistent, reasonable, and justified. EVERY FINE OR PENALTY MUST RELATE TO THE GENERAL BUSINESS PRACTICES AND COMPLIANCE ACTIVITIES OF INSURERS AND NOT TO CLEARLY INFREQUENT OR UNINTENTIONAL RANDOM ERRORS THAT DO NOT CAUSE SIGNIFICANT CONSUMER HARM.

SECTION 5. In Colorado Revised Statutes, **add** 10-15-122 as follows:

10-15-122. Study of contract sellers - report - repeal. (1) THE DIVISION SHALL STUDY WHETHER ALL CONTRACT SELLERS IN COLORADO ARE IN COMPLIANCE WITH THIS ARTICLE 15 AND, IF APPLICABLE, DETERMINE STRATEGIES TO GAIN COMPLIANCE FROM CONTRACT SELLERS WHO ARE NOT CURRENTLY IN COMPLIANCE. NO LATER THAN SEPTEMBER 1, 2017, THE DIVISION SHALL REPORT THE FINDINGS OF THE STUDY TO THE HOUSE OF REPRESENTATIVES BUSINESS AFFAIRS AND LABOR COMMITTEE AND THE SENATE BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE, OR ANY SUCCESSOR COMMITTEES.

(2) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2018.

SECTION 6. In Colorado Revised Statutes, **add** 10-15-123 as follows:

10-15-123. Repeal of article. THIS ARTICLE 15 IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022. BEFORE ITS REPEAL, THE DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE REGULATION OF PRENEED FUNERAL CONTRACTS IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 7. In Colorado Revised Statutes, 10-16-402, **amend** (1)(b) introductory portion, (1)(b)(II), (1)(b)(III), (2) introductory portion, (2)(b), and (2)(g); and **repeal** (1)(a) and (1)(c) as follows:

10-16-402. Issuance of certificate of authority - denial. (1) (a) ~~Upon receipt of an application for issuance of a certificate of authority, the commissioner shall forthwith transmit copies of such application and accompanying documents to the executive director.~~

(b) ~~The executive director~~ COMMISSIONER shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

(II) Has arrangements, established in accordance with regulations promulgated by the ~~executive director~~ COMMISSIONER, for an ongoing quality of health care assurance program concerning health care processes and outcomes; and

(III) Has a procedure, established in accordance with regulations of the ~~executive director~~ COMMISSIONER, to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and such other matters as may be reasonably required by the ~~executive director~~ COMMISSIONER.

(c) ~~Within thirty days of receipt of the application for issuance of a certificate of authority, the executive director shall certify to the commissioner whether the proposed health maintenance organization meets the requirements of paragraph (b) of this subsection (1). If the executive director certifies that the health maintenance organization does not meet such requirements, the executive director shall specify in what respects it is deficient.~~

(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:~~

(b) ~~The executive director certifies~~ COMMISSIONER DETERMINES in accordance with subsection (1) of this section that the health maintenance organization's proposed plan of operation meets the requirements of ~~paragraph (b) of subsection (1)~~ SUBSECTION (1)(b) of this section;

(g) Any deficiencies certified by the ~~executive director~~ COMMISSIONER have been corrected.

SECTION 8. In Colorado Revised Statutes, 10-16-409, **amend** (1)(a), (1)(b) introductory portion, and (3) as follows:

10-16-409. Complaint system. (1) (a) Every health maintenance organization shall establish and maintain a complaint system ~~which~~ THAT has been approved by the commissioner ~~after consultation with the executive director~~, to provide reasonable procedures for the resolution of written complaints initiated by enrollees concerning health care services.

(b) Each health maintenance organization shall maintain WRITTEN RECORDS RELATING TO ITS COMPLAINT SYSTEM in a form prescribed by the commissioner, ~~after consultation with the executive director, for examination by the commissioner, or the executive director, which shall include~~ FORM MUST INCLUDE:

(3) The commissioner ~~or the executive director~~ may examine ~~such~~ THE complaint system REQUIRED BY SUBSECTION (1) OF THIS SECTION, subject to the limitations concerning medical records of individuals set forth in section 10-16-416 (3).

SECTION 9. In Colorado Revised Statutes, 10-16-416, **amend** (3), (4), and (5); and **repeal** (2) as follows:

10-16-416. Examination. (2) ~~The executive director may make an examination concerning the quality of health care services of any health maintenance organization and providers with whom such organization has contracts, agreements, or other arrangements pursuant to its health care plan as often as the executive director deems it necessary for the protection of the interests of the people of this state but not less frequently than once every three years.~~

(3) Every health maintenance organization and provider shall submit its books and records relating to the health care plan to ~~such examinations~~ THE EXAMINATION REQUIRED BY SUBSECTION (1) OF THIS SECTION and SHALL in every way facilitate ~~them~~ THE EXAMINATION. Medical records of individuals and records of physicians providing service under a contract to the health maintenance organization ~~shall not be~~ ARE NOT subject to ~~such~~ THE examination, although they may be subject to subpoena upon a showing of good cause. For the purpose of ~~examinations~~ THE EXAMINATION, the commissioner ~~and the executive director~~ may administer oaths to, and examine, the officers and agents of the health maintenance organization and the principals of ~~such~~ ITS providers concerning their business.

(4) The expenses of examinations under this section shall be assessed against the organization being examined and remitted to the commissioner. ~~or the executive director for whom the examination is being conducted.~~

(5) In lieu of ~~such~~ AN examination, the commissioner ~~or the executive director~~ may accept the report of an examination made by the commissioner or the head of the health department of another state.

SECTION 10. In Colorado Revised Statutes, 10-16-417, **amend** (1) introductory portion and (1)(d) as follows:

10-16-417. Suspension or revocation of certificate of authority. (1) The commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to part 1 of this ~~article~~ ARTICLE 16 and this part 4 if the commissioner finds that any of the following conditions exist:

(d) ~~The executive director certifies to the~~ commissioner DETERMINES that:

(I) The health maintenance organization does not meet the requirements of section 10-16-402 (1)(b); or

(II) The health maintenance organization is unable to fulfill its obligations to furnish health care services as required under its health care plan;

SECTION 11. In Colorado Revised Statutes, 10-16-419, **amend** (1) and (2) as follows:

10-16-419. Administrative procedures. (1) When the commissioner has cause to believe that grounds for the denial of an application for a certificate of authority exist, or that grounds for the suspension or revocation of a certificate of authority exist, the commissioner shall notify the health maintenance organization ~~and the executive director~~ in writing specifically stating the grounds for denial, suspension, or revocation and fixing a time of at least twenty days but, in the case of a denial, not more than sixty days thereafter for a hearing on the matter.

(2) ~~The executive director or such executive director's designated representative shall be in attendance at the hearing and shall participate in the proceedings. The recommendations and findings of the executive director with respect to matters relating to the quality of health care services provided in connection with any decision regarding denial, suspension, or revocation of a certificate of authority shall be conclusive and binding upon the commissioner. After such a hearing HELD PURSUANT TO SUBSECTION (1) OF THIS SECTION or upon the failure of the health maintenance organization to appear at such THE hearing, the commissioner shall take action as is deemed advisable on written findings, which shall be mailed to the health maintenance organization. with a copy thereof to the executive director.~~

SECTION 12. In Colorado Revised Statutes, 10-16-111, **amend** (2)(a), (2)(b) introductory portion, and (2)(b)(IV) as follows:

10-16-111. Annual statements and reports - rules. (2) Health maintenance organizations. (a) Every health maintenance organization shall annually, on or before March 1, file a report verified by at least two principal officers with the commissioner ~~with a copy to the executive director~~ covering the preceding calendar year.

(b) ~~Such~~ THE report ~~shall~~ MUST be on forms prescribed by the commissioner and shall include:

(IV) A summary of information compiled pursuant to section 10-16-402 (1)(b)(III) in such form as required by the ~~executive director~~ COMMISSIONER;

SECTION 13. In Colorado Revised Statutes, 10-16-420, **amend** (2) as follows:

10-16-420. Penalties and enforcement. (2) (a) If the commissioner, ~~or the executive director~~, for any reason, has cause to believe that any violation of part 1 of this ~~article~~ ARTICLE 16 or OF this part 4 has occurred or is threatened prior to levy of a penalty or suspension or revocation of a certificate of authority, the commissioner ~~or the executive director~~ shall give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in such suspected violation, to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation, and, ~~in the event~~ IF it appears that any violation

has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violations.

(b) Proceedings under this subsection (2) ~~shall~~ ARE not ~~be~~ governed by any formal procedural requirements, and may be conducted in such manner as the commissioner ~~or the executive director may deem~~ DEEMS appropriate under the circumstances.

SECTION 14. In Colorado Revised Statutes, **amend** 10-16-424 as follows:

10-16-424. Commissioner's authority to contract. The ~~executive director~~ COMMISSIONER, in carrying out his OR HER obligations pursuant to sections 10-16-402 (1)(b) ~~10-16-416 (2)~~; and 10-16-417 (1), may contract with qualified persons ~~to make recommendations concerning the determinations required to be made by such executive director. Such recommendations may be accepted in full or in part by the executive director~~ THE COMMISSIONER.

SECTION 15. In Colorado Revised Statutes, **add** 10-3.5-111 as follows:

10-3.5-111. Repeal of article. THIS ARTICLE 3.5 IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 16. In Colorado Revised Statutes, 10-4-608, **amend** (1) introductory portion; and **repeal** (1)(b) as follows:

10-4-608. Exemptions. (1) This part 6 ~~shall~~ DOES not apply to any policy:

(b) ~~Insuring more than four automobiles;~~

SECTION 17. In Colorado Revised Statutes, **repeal** 10-4-631 as follows:

10-4-631. Insurers to file rate schedule. ~~Any insurer authorized to transact or transacting business in this state shall file a schedule of insurance rates for the minimum coverages required under this part 6 no later than July 1, 2003. The commissioner shall make the information required by this section open to public inspection no later than July 1, 2003.~~

SECTION 18. In Colorado Revised Statutes, 10-16-102, **amend** the introductory portion, (20), and (46) as follows:

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

(20) "Enrollee" means:

(a) An individual who is or has been enrolled in a health maintenance organization; ~~or~~

(b) An individual who is or has been enrolled in an individual or group prepaid dental care plan as a principal subscriber and includes the individual's dependents who are entitled to prepaid dental care services under the plan solely because of

their status as dependents of the principal subscriber; OR

(c) AN INDIVIDUAL WHO IS OR HAS BEEN ENROLLED IN A HEALTH COVERAGE PLAN.

(46) "Participating provider" means a provider, EITHER WITHIN OR OUTSIDE OF COLORADO, that, under a contract with a carrier or with its contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly, from the carrier.

SECTION 19. In Colorado Revised Statutes, 10-16-105.6, **repeal** (3) as follows:

10-16-105.6. Rate usage. (3) ~~(a) On and after January 1, 2014, a carrier may impose on a small employer a premium surcharge of up to thirty-five percent above the modified community rate for up to twelve months if the small employer has, at any time during the past twelve months, purchased health benefit coverage as a small employer that is either self-funded or insured through a health benefit plan that is not a small group plan, except for health benefit plans sponsored by an employee leasing company, as defined in section 8-70-114 (2) (a) (V), C.R.S., pursuant to subparagraphs (II) to (IV) of paragraph (b) of this subsection (3).~~

~~(b) Paragraph (a) of this subsection (3) does not apply to:~~

~~(I) A small employer that has not previously sponsored a health benefit plan for its employees;~~

~~(II) A small employer that had previously participated in a health benefit plan through an employee leasing company, as defined in section 8-70-114 (2) (a) (V), C.R.S., if the small employer's coverage through the employee leasing company was subject to the small group laws;~~

~~(III) A small employer that had previously participated in a health benefit plan sponsored by an employee leasing company, as defined in section 8-70-114 (2) (a) (V), C.R.S., and that is no longer a party to an employee leasing company; or~~

~~(IV) A small employer that is currently using the services of an employee leasing company, as defined in section 8-70-114 (2) (a) (V), C.R.S., that does not offer a health benefit plan as part of its employee leasing services or, because of an action by a carrier, has ceased offering a health benefit plan to employees assigned to client locations pursuant to an employee leasing contract.~~

~~(c) For purposes of determining whether a carrier may impose a premium surcharge pursuant to this subsection (3) on the small employer, the carrier may require that the small employer submit evidence of the small employer's most recent health benefit coverage.~~

~~(d) A carrier shall use the premium surcharge allowed pursuant to this subsection (3) only for calculating premium amounts and shall not use the premium surcharge as a basis for accepting or rejecting a small employer's application for health benefit coverage. The carrier shall not apply the premium surcharge to a group of more than~~

~~fifty employees that subsequently becomes subject to small group coverage if the group has not had a lapse of coverage greater than ninety days.~~

SECTION 20. In Colorado Revised Statutes, 10-19-113.6, **amend** (1)(a) as follows:

10-19-113.6. Producer training requirements. (1) (a) An individual may not sell, solicit, or negotiate long-term care insurance unless the individual is licensed as an insurance producer for accident and health or sickness or life insurance and has completed a one-time training course ~~on or before January 1, 2009~~, and ongoing training every twenty-four months. ~~thereafter~~. The training ~~shall~~ **MUST** meet the requirements set forth in subsection (2) of this section.

SECTION 21. In Colorado Revised Statutes, 10-16-704, **amend** (1.5)(a)(II) as follows:

10-16-704. Network adequacy - rules - legislative declaration. (1.5) (a) (II) For purposes of the rules, "essential community providers" includes providers that serve predominately low-income, medically underserved individuals, such as health care providers defined in the federal law and under part 4 of article 4 5 of title 25.5; ~~C.R.S.~~; except that nothing in this subsection (1.5) requires any carrier to provide coverage for any specific medical procedure.

SECTION 22. In Colorado Revised Statutes, 12-58.5-105, **amend** (1) introductory portion and (1)(k) as follows:

12-58.5-105. Exemptions. (1) This ~~article~~ ARTICLE 58.5 does not apply to:

(k) A person attempting to recover a fugitive when that person ~~is a bail bonding agent or cash-bonding agent qualified to write bail bonds pursuant to article 23 of title 10, C.R.S.~~; FURNISHED BAIL AND IS LICENSED UNDER ARTICLE 2 OR 23 OF TITLE 10 or is acting pursuant to a contract with or at the request of a PERSON WHO FURNISHED bail; ~~bonding agent or cash-bonding agent who is so qualified;~~

SECTION 23. Effective date. (1) Except as otherwise provided in this section, this act takes effect upon passage.

(2) (a) Section 3 of this act takes effect September 1, 2017.

(b) Section 10-1-215 (1), Colorado Revised Statutes, as amended in said section 3 of this act, takes effect only if House Bill 17-1231 does not become law.

(3) (a) Section 4 of this act takes effect September 1, 2017.

(b) Section 10-1-310 (2), Colorado Revised Statutes, as amended in said section 4 of this act, takes effect only if House Bill 17-1231 becomes law.

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: June 1, 2017