

CHAPTER 40

INSURANCE

SENATE BILL 03-059

BY SENATOR(S) Taylor, Anderson, Entz, and Jones;
also REPRESENTATIVE(S) White, Williams T., Frangas, Ragsdale, Rippey, Spradley, Stafford, and Weddig.

AN ACT

CONCERNING THE RECREATION OF THE DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AGENCIES, AND, IN CONNECTION THEREWITH, REINSTATING THE REGULATORY FUNCTIONS OF THE DIVISION OF INSURANCE AS THEY EXISTED AS OF JULY 1, 2002, STAGGERING THE TIME FRAME UNDER WHICH THE DIVISION OF INSURANCE UNDERGOES SUNSET REVIEW, AND MAKING CONFORMING AMENDMENTS.

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

SECTION 1. Article 1 of title 10, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

**PART 1
GENERAL PROVISIONS**

10-1-101. Legislative declaration. THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THIS TITLE IS TO PROMOTE THE PUBLIC WELFARE BY REGULATING INSURANCE TO THE END THAT INSURANCE RATES SHALL NOT BE EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY, TO GIVE CONSUMERS THEREOF THE GREATEST CHOICE OF POLICIES AT THE MOST REASONABLE COST POSSIBLE, TO PERMIT AND ENCOURAGE OPEN COMPETITION BETWEEN INSURERS ON A SOUND FINANCIAL BASIS, AND TO AVOID REGULATION OF INSURANCE RATES EXCEPT UNDER CIRCUMSTANCES SPECIFICALLY AUTHORIZED UNDER THE PROVISIONS OF THIS TITLE. SUCH POLICY REQUIRES THAT ALL PERSONS HAVING TO DO WITH INSURANCE SERVICES TO THE PUBLIC BE AT ALL TIMES ACTUATED BY GOOD FAITH IN EVERYTHING PERTAINING THERETO, ABSTAIN FROM DECEPTIVE OR MISLEADING PRACTICES, AND KEEP, OBSERVE, AND PRACTICE THE PRINCIPLES OF LAW AND EQUITY IN ALL MATTERS PERTAINING TO SUCH BUSINESS.

10-1-102. Definitions. AS USED IN THIS TITLE, UNLESS THE CONTEXT OTHERWISE

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

REQUIRES:

(1) "ACTUARY" MEANS A PERSON DESIGNATED BY THE COMMISSIONER AS A QUALIFIED ACTUARY BASED ON REQUIREMENTS SET FORTH IN RULES PROMULGATED BY THE COMMISSIONER.

(2) "ADMITTED ASSETS" INCLUDES THE INVESTMENTS THAT ARE ADMITTED ASSETS OF A DOMESTIC COMPANY UNDER PARTS 1 AND 2 OF ARTICLE 3 AND PART 4 OF ARTICLE 7 OF THIS TITLE AND, IN ADDITION THERETO, INCLUDES:

(a) THOSE ASSETS DEFINED AS ADMITTED BY NATIONALLY RECOGNIZED INSURANCE STATUTORY ACCOUNTING PRINCIPLES; AND

(b) OTHER ASSETS DEEMED BY THE COMMISSIONER TO BE AVAILABLE FOR THE PAYMENT OF LOSSES AND CLAIMS, AT VALUES TO BE DETERMINED BY THE COMMISSIONER.

(3) "ADMITTED COMPANY" OR "AUTHORIZED COMPANY" DESIGNATES COMPANIES DULY QUALIFIED AND LICENSED TO TRANSACT BUSINESS IN THIS STATE, UNDER THE PROVISIONS OF THIS TITLE. "NONADMITTED COMPANIES" OR "UNAUTHORIZED COMPANIES" DESIGNATES COMPANIES NOT LICENSED TO TRANSACT BUSINESS IN THIS STATE, UNDER THE PROVISIONS OF THIS TITLE (EXCEPT PART 7 OF ARTICLE 4 AND ARTICLE 15), ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24, C.R.S.

(4) "CHARITABLE GIFT ANNUITY" MEANS AN ANNUITY THAT:

(a) MEETS THE DEFINITION AND STANDARDS CONTAINED IN SECTION 501 (m) (5) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;

(b) CONTAINS ON ITS FACE THE FOLLOWING STATEMENT: "THIS ANNUITY IS NOT ISSUED BY AN INSURANCE COMPANY NOR REGULATED BY THE COLORADO DIVISION OF INSURANCE AND IS NOT PROTECTED BY ANY STATE GUARANTY FUND OR PROTECTIVE ASSOCIATION."

(c) IS ISSUED OR GUARANTEED BY AN ORGANIZATION THAT AT ALL TIMES DURING THE THREE YEARS PRECEDING THE DATE OF THE ISSUANCE OF SUCH ANNUITY:

(I) WAS QUALIFIED TO RECEIVE CONTRIBUTIONS DESCRIBED IN SECTION 170 (c) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED; AND

(II) IF REQUIRED AS A CONDITION OF SUCH QUALIFICATION BY PROVISIONS OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, WAS IN RECEIPT OF NOTIFICATION FROM THE FEDERAL INTERNAL REVENUE SERVICE THAT SUCH ORGANIZATION WAS SO QUALIFIED.

(5) "COMMISSIONER" OR "INSURANCE COMMISSIONER" MEANS THE COMMISSIONER OF INSURANCE.

(6) (a) "COMPANY", "CORPORATION", "INSURANCE COMPANY", OR "INSURANCE CORPORATION" INCLUDES ALL CORPORATIONS, ASSOCIATIONS, PARTNERSHIPS, OR INDIVIDUALS ENGAGED AS INSURERS IN THE BUSINESS OF INSURANCE, INCLUDING THE

ATTORNEY-IN-FACT AUTHORIZED BY AND ACTING FOR THE SUBSCRIBERS OF A RECIPROCAL INSURER OR INTERINSURANCE EXCHANGE, OR SURETYSHIP EXCEPT FRATERNAL OR BENEVOLENT ORDERS AND SOCIETIES.

(b) "COMPANY", "CORPORATION", "INSURANCE COMPANY", OR "INSURANCE CORPORATION" DOES NOT INCLUDE HEALTH MAINTENANCE ORGANIZATIONS UNLESS THE SPECIFIC PROVISION OF LAW BY ITS TERMS APPLIES TO HEALTH MAINTENANCE ORGANIZATIONS.

(c) FOR THE PURPOSES OF A "COMPANY", "CORPORATION", OR "INSURANCE COMPANY", A RECIPROCAL INSURER SHALL BE CONSIDERED A SINGLE ECONOMIC ENTITY.

(7) "DIVISION" MEANS THE DIVISION OF INSURANCE.

(8) "DOMESTIC" DESIGNATES THOSE COMPANIES INCORPORATED OR FORMED IN THIS STATE.

(9) "FOREIGN", WHEN USED WITHOUT LIMITATION, INCLUDES ALL THOSE COMPANIES FORMED BY AUTHORITY OF ANY OTHER STATE OR GOVERNMENT.

(10) "INSTITUTION" MEANS ANY ENTITY INCLUDING, BUT NOT LIMITED TO, A CORPORATION, A JOINT-STOCK COMPANY, A LIMITED LIABILITY COMPANY, AN ASSOCIATION, A BANK, A TRUST, A PARTNERSHIP, A JOINT VENTURE, A SPECIAL DISTRICT, A GOVERNMENT, OR A QUASI-GOVERNMENTAL AGENCY.

(11) "INSURABLE INTEREST IN PROPERTY" MEANS EVERY INTEREST IN PROPERTY OR ANY RELATION THERETO, OR LIABILITY IN RESPECT THEREOF, OF SUCH A NATURE THAT A CONTEMPLATED PERIL MIGHT DIRECTLY DAMNIFY THE INSURED.

(12) "INSURANCE" MEANS A CONTRACT WHEREBY ONE, FOR CONSIDERATION, UNDERTAKES TO INDEMNIFY ANOTHER OR TO PAY A SPECIFIED OR ASCERTAINABLE AMOUNT OR BENEFIT UPON DETERMINABLE RISK CONTINGENCIES, AND INCLUDES ANNUITIES.

(13) "INSURER" MEANS EVERY PERSON ENGAGED AS PRINCIPAL, INDEMNITOR, SURETY, OR CONTRACTOR IN THE BUSINESS OF MAKING CONTRACTS OF INSURANCE.

(14) "MOTOR VEHICLE RENTAL AGREEMENT" MEANS AN AGREEMENT FOR THE RENTAL OF A MOTOR VEHICLE FOR TRANSPORTATION PURPOSES, FOR A PERIOD OF NO MORE THAN NINETY DAYS, IN RETURN FOR A FEE THAT IS CALCULATED ON A DAILY, WEEKLY, OR MONTHLY BASIS.

(15) "MOTOR VEHICLE RENTAL COMPANY" MEANS AN ENTITY THAT IS IN THE BUSINESS OF RENTING, PURSUANT TO MOTOR VEHICLE RENTAL AGREEMENTS, MOTOR VEHICLES THAT DO NOT COME WITHIN THE DEFINITION OF A COMMERCIAL MOTOR VEHICLE AS SET FORTH IN SECTION 42-2-402 (4), C.R.S.

(16) "NONADMITTED ASSETS" INCLUDES, BUT IS NOT LIMITED TO, THOSE ASSETS DEFINED AS NONADMITTED BY NATIONALLY RECOGNIZED INSURANCE STATUTORY ACCOUNTING PRINCIPLES. NONADMITTED ASSETS SHALL NOT BE TAKEN INTO

ACCOUNT IN DETERMINING THE FINANCIAL CONDITION OF A COMPANY.

(17) (a) "QUALIFIED UNITED STATES FINANCIAL INSTITUTION" MEANS AN INSTITUTION THAT IS:

(I) ORGANIZED OR, IN THE CASE OF A UNITED STATES OFFICE OF A FOREIGN BANKING ORGANIZATION, LICENSED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE THEREOF; AND

(II) REGULATED, SUPERVISED, AND EXAMINED BY UNITED STATES FEDERAL OR STATE AUTHORITIES HAVING REGULATORY AUTHORITY OVER BANKS, TRUST COMPANIES, OR SAVINGS AND LOAN ASSOCIATIONS.

(b) IF ANY QUALIFIED UNITED STATES FINANCIAL INSTITUTION ISSUES LETTERS OF CREDIT, SUCH INSTITUTION SHALL HAVE BEEN DETERMINED BY EITHER THE COMMISSIONER OR THE SECURITIES VALUATION OFFICE OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS TO MEET SUCH STANDARDS OF FINANCIAL CONDITION AND STANDING AS ARE CONSIDERED NECESSARY AND APPROPRIATE TO REGULATE THE QUALITY OF FINANCIAL INSTITUTIONS WHOSE LETTERS OF CREDIT WILL BE ACCEPTABLE TO THE COMMISSIONER.

(c) IF ANY QUALIFIED UNITED STATES FINANCIAL INSTITUTION OPERATES A TRUST, SUCH INSTITUTION SHALL BE ELIGIBLE TO OPERATE AS A FIDUCIARY OF A TRUST AND SHALL HAVE BEEN GRANTED AUTHORITY TO OPERATE WITH FIDUCIARY POWERS.

(18) "REAL ESTATE" AND "REAL PROPERTY" INCLUDE FEE SIMPLE AND LEASEHOLD ESTATES THEREIN.

(19) "TRANSACT" AS APPLIED TO INSURANCE MEANS AND INCLUDES ANY OF THE FOLLOWING:

(a) SOLICITATION AND INDUCEMENT;

(b) NEGOTIATIONS PRELIMINARY TO EFFECTUATION OF A CONTRACT OF INSURANCE;

(c) EXECUTION OF A CONTRACT OF INSURANCE;

(d) TRANSACTION OF MATTERS SUBSEQUENT TO EFFECTUATION OF A CONTRACT OF INSURANCE AND ARISING OUT OF THE CONTRACT OBLIGATIONS.

10-1-103. Division of insurance - subject to termination - repeal of functions.

(1) THERE IS ESTABLISHED A DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AGENCIES. THIS DIVISION IS CHARGED WITH THE EXECUTION OF THE LAWS RELATING TO INSURANCE, AND HAS A SUPERVISING AUTHORITY OVER THE BUSINESS OF INSURANCE IN THIS STATE. OFFICES OF THE DIVISION OF INSURANCE SHALL BE PROVIDED IN THE CAPITOL BUILDINGS GROUP AT DENVER, COLORADO. WHENEVER ANY LAW OF THIS STATE REFERS TO THE INSURANCE DEPARTMENT OF THE STATE OF COLORADO, SAID LAW SHALL BE CONSTRUED AS REFERRING TO THE DIVISION OF INSURANCE.

(2) THE COMMISSIONER OF INSURANCE, BEFORE INCURRING ANY EXPENSE FOR HIS

OR HER OFFICE AND THE MAINTENANCE THEREOF, EXCLUSIVE OF SALARIES AND WAGES, SHALL MAKE REQUISITION THEREFOR UPON AND RECEIVE THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL AS REQUIRED BY LAW.

(3) ALL DIRECT AND INDIRECT EXPENDITURES OF THE DIVISION SHALL BE PAID FROM THE DIVISION OF INSURANCE CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. ALL FEES COLLECTED PURSUANT TO SECTIONS 8-44-204 (7), C.R.S., 8-44-205 (6), C.R.S., 10-2-413, 10-3-108, 10-3-207, 10-3.5-104, 10-3.5-107, 10-12-106, 10-15-103, 10-16-110 (1) AND (2), 10-16-111 (1), 24-10-115.5 (5), C.R.S., AND 29-13-102 (5), C.R.S., AND ALL TAXES COLLECTED PURSUANT TO SECTION 10-3-209 (4) DESIGNATED FOR THE DIVISION OF INSURANCE, SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE DIVISION OF INSURANCE CASH FUND. ALL MONEYS CREDITED TO THE DIVISION OF INSURANCE CASH FUND SHALL BE USED AS PROVIDED IN THIS SECTION AND IN SECTION 24-48.5-106, C.R.S., SHALL NOT BE DEPOSITED IN OR TRANSFERRED TO THE GENERAL FUND OF THIS STATE OR TO ANY OTHER FUND, AND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE PURPOSES AUTHORIZED IN THIS TITLE AND AS OTHERWISE AUTHORIZED BY LAW. IN ACCORDANCE WITH SECTION 24-36-114, C.R.S., ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE GENERAL FUND.

(4) THE DIVISION OF INSURANCE SHALL ADOPT A SEAL WITH THE WORDS "COMMISSIONER OF INSURANCE OF THE STATE OF COLORADO" AND SUCH OTHER DESIGN AS THE COMMISSIONER MAY PRESCRIBE ENGRAVED THEREON, BY WHICH IT SHALL AUTHENTICATE ITS PROCEEDINGS, AND OF WHICH THE COURTS OF THIS STATE SHALL TAKE JUDICIAL NOTICE. ALL COPIES OF PAPERS, CERTIFIED BY THE COMMISSIONER AND SEALED WITH THE SEAL OF THE DIVISION, SHALL HAVE THE SAME FORCE AND VALIDITY AS THE ORIGINALS THEREOF IN ANY SUIT OR PROCEEDING IN ANY COURT IN THIS STATE.

(5) THE OFFICE OF THE DIVISION OF INSURANCE IS A PUBLIC OFFICE, AND THE RECORDS, BOOKS, AND PAPERS THEREOF OR ON FILE THEREIN ARE PUBLIC RECORDS OF THIS STATE, AND INFORMATION SHALL BE FURNISHED TO ANYONE ON APPLICATION THEREFOR; EXCEPT THAT RECORDS, BOOKS, AND PAPERS RECEIVED FROM OTHER STATES, EITHER DIRECTLY OR THROUGH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, SHALL BE GIVEN CONFIDENTIAL TREATMENT IF SUCH RECORDS, BOOKS, AND PAPERS ARE TREATED AS CONFIDENTIAL IN SUCH OTHER STATES. NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (5) TO THE CONTRARY, THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY SHARE OTHERWISE CONFIDENTIAL RECORDS, BOOKS, AND PAPERS WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS OR WITH THE INSURANCE DEPARTMENT OF ANOTHER STATE IF SAID ASSOCIATION OR OTHER STATE AGREES TO MAINTAIN THE SAME LEVEL OF CONFIDENTIALITY AS APPLIES TO SUCH RECORDS, BOOKS, AND PAPERS UNDER COLORADO LAW.

(6) (a) THE PROVISIONS OF SECTION 24-34-104, C.R.S., CONCERNING THE TERMINATION SCHEDULE FOR REGULATORY BODIES OF THIS STATE UNLESS EXTENDED AS PROVIDED IN THAT SECTION, ARE APPLICABLE TO THE DIVISION OF INSURANCE CREATED BY THIS SECTION.

(b) (I) (A) THE FUNCTIONS OF THE DIVISION OF INSURANCE RELATED TO THE

LICENSING OF BAIL AGENTS ARE REPEALED, EFFECTIVE JULY 1, 2004.

(B) THE FUNCTIONS OF THE DIVISION OF INSURANCE RELATED TO THE ISSUANCE OF CERTIFICATES OF AUTHORITY FOR HEALTH AND LIFE INSURERS ARE REPEALED, EFFECTIVE JULY 1, 2006.

(C) THE FUNCTIONS OF THE DIVISION OF INSURANCE RELATED TO THE LICENSING OF INSURANCE PRODUCERS ARE REPEALED, EFFECTIVE JULY 1, 2008.

(D) THE FUNCTIONS OF THE DIVISION OF INSURANCE RELATED TO THE ISSUANCE OF CERTIFICATES OF AUTHORITY FOR PROPERTY AND CASUALTY, AUTOMOBILE, AND ANY OTHER ENTITY OR FUNCTION THAT DOES NOT OFFER HEALTH, LIFE, PROPERTY, CASUALTY, OR AUTOMOBILE INSURANCE BY THE DIVISION ARE REPEALED, EFFECTIVE JULY 1, 2010.

(II) PRIOR TO SUCH REPEALS, THE DIVISION OF INSURANCE SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 24-34-104, C.R.S.

10-1-104. Commissioner of insurance - other employees. (1) THE COMMISSIONER OF INSURANCE IS THE HEAD OF THE DIVISION OF INSURANCE. THE COMMISSIONER SHALL BE APPOINTED BY, AND SERVE AT THE PLEASURE OF, THE GOVERNOR, SUBJECT TO CONFIRMATION OF THE APPOINTMENT BY THE SENATE PURSUANT TO SECTION 23 OF ARTICLE IV OF THE STATE CONSTITUTION. THE COMMISSIONER SHALL BE A PERSON WELL VERSED IN INSURANCE, AND AN ELECTOR OF THE STATE OF COLORADO, AND SHALL HAVE NO PECUNIARY INTEREST IN ANY INSURANCE COMPANY OR AGENCY DIRECTLY OR INDIRECTLY OTHER THAN AS A POLICYHOLDER.

(2) THE COMMISSIONER SHALL HAVE SUCH EMPLOYEES AS MAY BE REQUIRED FOR THE TRANSACTION OF THE BUSINESS OF THE OFFICE OF THE COMMISSIONER. ONE OR MORE SHALL BE DEPUTY COMMISSIONERS OF INSURANCE WHO ARE AUTHORIZED IN ALL MATTERS TO ACT AS AND FOR THE COMMISSIONER OF INSURANCE IN THE ABSENCE OF THE COMMISSIONER. EXAMINERS SHALL BE CLASSIFIED AS SENIOR AND JUNIOR. A SENIOR EXAMINER SHALL HAVE HAD THREE FULL YEARS' EXPERIENCE IN THE EXAMINATION OF INSURANCE COMPANIES AS AN EMPLOYEE OF A STATE INSURANCE DEPARTMENT. THE SALARY AND TERM OF OFFICE OF THE COMMISSIONER AND THE EMPLOYEES OF THE DIVISION SHALL BE FIXED PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION.

10-1-105. Actuary. THE COMMISSIONER MAY MAINTAIN IN THE DIVISION AN ACTUARY WHO IS EXPERIENCED, SKILLED, AND FULLY COMPETENT TO PERFORM THE ACTUARIAL DUTIES OF THE DIVISION AND TO ASSIST IN OR TAKE CHARGE OF EXAMINATIONS OF INSURANCE COMPANIES UNDER THE GENERAL DIRECTION OF THE COMMISSIONER.

10-1-106. Oath required of insurance commissioner and actuary. THE COMMISSIONER AND THE ACTUARY, BEFORE ENTERING UPON THEIR DUTIES, SHALL TAKE AND SUBSCRIBE TO THE OATH REQUIRED BY THE CONSTITUTION OF COLORADO, WHICH OATH SHALL BE FILED IN THE OFFICE OF THE SECRETARY OF STATE.

10-1-107. Personal fees prohibited. NEITHER THE COMMISSIONER NOR ANY OF

THE COMMISSIONER'S EMPLOYEES SHALL BE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY INSURANCE COMPANY, ASSOCIATION, OR SOCIETY, IN ANY CAPACITY, OR BE DIRECTLY OR INDIRECTLY INTERESTED IN ANY SUCH INSURANCE CORPORATION, EXCEPT AS A POLICYHOLDER; NOR SHALL THEY OR ANY OF THEM CHARGE ANY SUCH INSURANCE CORPORATION OR OFFICIAL ANY FEE OR TAKE ANY VALUABLE THING IN PAYMENT FOR ANY SERVICE OR OTHERWISE, UNLESS PAYMENT FOR SUCH SERVICE IS SPECIFICALLY AUTHORIZED BY LAW. THE PENALTY FOR VIOLATION OF THIS SECTION SHALL BE REMOVAL FROM OFFICE.

10-1-108. Duties of commissioner - reports - publications - fees - disposition of funds - adoption of rules. (1) IT IS THE DUTY OF THE COMMISSIONER TO:

(a) FILE IN OFFICES OF THE DIVISION, AND SAFELY KEEP, ALL BOOKS AND PAPERS REQUIRED BY LAW TO BE FILED THEREIN AND TO KEEP AND PRESERVE IN PERMANENT FORM A FULL RECORD OF THE COMMISSIONER'S PROCEEDINGS, INCLUDING A CONCISE STATEMENT OF THE CONDITION OF SUCH INSURANCE COMPANIES REPORTED TO OR EXAMINED BY THE COMMISSIONER;

(b) ISSUE CERTIFICATES OF AUTHORITY TO TRANSACT INSURANCE BUSINESS TO ANY INSURANCE COMPANIES THAT FULLY COMPLY WITH THE LAWS OF THIS STATE;

(c) ISSUE SUCH OTHER CERTIFICATES AS REQUIRED BY LAW IN THE ORGANIZATION OF INSURANCE COMPANIES AND THE TRANSACTION OF THE BUSINESS OF INSURANCE; AND

(d) GENERALLY, DO AND PERFORM WITH JUSTICE AND IMPARTIALITY ALL SUCH DUTIES AS ARE OR MAY BE IMPOSED ON THE COMMISSIONER BY THE LAWS IN RELATION TO THE BUSINESS OF INSURANCE IN THIS STATE.

(2) THE COMMISSIONER SHALL REQUIRE EVERY DOMESTIC INSURANCE COMPANY TO KEEP ITS BOOKS, RECORDS, ACCOUNTS, AND VOUCHERS IN SUCH A MANNER THAT THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED REPRESENTATIVES MAY READILY VERIFY ITS ANNUAL STATEMENTS AND ASCERTAIN WHETHER THE COMPANY IS SOLVENT AND HAS COMPLIED WITH THE PROVISIONS OF LAW. THE COMMISSIONER SHALL ANNUALLY MAKE A TABULAR STATEMENT AND SYNOPSIS OF THE SEVERAL STATEMENTS AS ACCEPTED BY THE COMMISSIONER.

(3) THE COMMISSIONER SHALL FURNISH TO ALL INSURANCE COMPANIES DOING BUSINESS IN THIS STATE BLANKS FOR THE FILING OF STATEMENTS AS REQUIRED BY LAW. THE COMMISSIONER, ON RETIRING FROM OFFICE, SHALL DELIVER TO HIS OR HER QUALIFIED SUCCESSOR ALL FURNITURE, PAPERS, AND PROPERTY PERTAINING TO THE COMMISSIONER'S OFFICE.

(4) IT IS THE DUTY OF THE COMMISSIONER TO EXAMINE ALL REQUESTS AND APPLICATIONS FOR LICENSES TO BE ISSUED UNDER THE AUTHORITY OF PART 4 OF ARTICLE 2 OF THIS TITLE, AND THE COMMISSIONER IS AUTHORIZED TO REFUSE TO ISSUE ANY SUCH LICENSES UNTIL THE COMMISSIONER IS SATISFIED OF THE QUALIFICATIONS AND GENERAL FITNESS OF THE APPLICANT IN ACCORDANCE WITH THE REQUIREMENTS OF THE INSURANCE LAWS.

(5) IT IS THE DUTY OF THE COMMISSIONER TO MAKE SUCH INVESTIGATIONS AND

EXAMINATIONS AS ARE AUTHORIZED BY THIS TITLE (EXCEPT PART 7 OF ARTICLE 4 AND ARTICLE 15), ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24, C.R.S., AND TO INVESTIGATE SUCH INFORMATION AS IS PRESENTED TO THE COMMISSIONER BY AUTHORITY THAT THE COMMISSIONER BELIEVES TO BE RELIABLE PERTAINING TO VIOLATION OF THE INSURANCE LAWS OF COLORADO, AND IT IS THE COMMISSIONER'S DUTY TO PRESENT THE RESULT OF SUCH INVESTIGATIONS AND EXAMINATIONS FOR FURTHER INVESTIGATION AND PROSECUTION TO EITHER THE DISTRICT ATTORNEY OF THE PROPER JUDICIAL DISTRICT OR THE ATTORNEY GENERAL WHEN, IN THE COMMISSIONER'S OPINION, SUCH VIOLATIONS JUSTIFY SUCH ACTION.

(6) ANY PUBLICATION CIRCULATED IN QUANTITY OUTSIDE THE EXECUTIVE BRANCH SHALL BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24-1-136, C.R.S.

(7) IT IS THE DUTY AND RESPONSIBILITY OF THE COMMISSIONER TO SUPERVISE THE BUSINESS OF INSURANCE IN THIS STATE TO ASSURE THAT IT IS CONDUCTED IN ACCORDANCE WITH THE LAWS OF THIS STATE AND IN SUCH A MANNER AS TO PROTECT POLICYHOLDERS AND THE GENERAL PUBLIC.

(8) IT IS THE DUTY OF THE COMMISSIONER TO EXAMINE ALL REQUESTS AND APPLICATIONS FROM INSURERS FOR CERTIFICATES OF AUTHORITY TO BE ISSUED PURSUANT TO SECTION 10-3-105. THE COMMISSIONER IS AUTHORIZED TO REFUSE TO ISSUE ANY SUCH CERTIFICATES OF AUTHORITY UNTIL THE COMMISSIONER IS REASONABLY SATISFIED AS TO THE QUALIFICATIONS AND GENERAL FITNESS OF THE INSURER TO COMPLY WITH THE REQUIREMENTS OF THE PROVISIONS OF THIS TITLE (EXCEPT PART 7 OF ARTICLE 4 AND ARTICLE 15), ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24, C.R.S.

(9) IT IS THE DUTY OF THE COMMISSIONER TO TRANSMIT ALL SURCHARGES, COSTS, TAXES, PENALTIES, AND FINES COLLECTED BY THE DIVISION OF INSURANCE UNDER ANY PROVISION OF THIS TITLE (EXCEPT PART 7 OF ARTICLE 4 AND ARTICLE 15), ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24, C.R.S., TO THE DEPARTMENT OF THE TREASURY. ALL FUNDS SO TRANSMITTED SHALL BE CREDITED TO THE GENERAL FUND; EXCEPT THAT ANY FUNDS COLLECTED BY THE COMMISSIONER AS REIMBURSEMENT FOR OUT-OF-STATE TRAVEL COSTS IN CONJUNCTION WITH THE EXAMINATION OF AN INSURANCE COMPANY OR WITH AN ACTIVITY TO IMPROVE REGULATION OF INSURANCE COMPANIES ARE HEREBY CONTINUOUSLY APPROPRIATED TO THE DIVISION OF INSURANCE IN ADDITION TO ANY OTHER FUNDS APPROPRIATED FOR ITS NORMAL OPERATION.

(10) IT IS THE DUTY OF THE COMMISSIONER TO ENCOURAGE THE DISSEMINATION TO THE PUBLIC OF GENERAL INFORMATION CONCERNING INSURANCE BY THOSE ENGAGED IN THE BUSINESS OF INSURANCE, SO AS TO WORK TOWARD INFORMED CHOICES OF INSURANCE NEEDS AND OPTIONS.

(11) IT IS THE DUTY OF THE COMMISSIONER TO EVALUATE INSURANCE POLICIES FOR LONG-TERM CARE TO DETERMINE THEIR COMPLIANCE WITH THE PROVISIONS OF ARTICLE 19 OF THIS TITLE AND TO PROVIDE INSURANCE COMPANIES WITH A WRITTEN STATEMENT INDICATING THE RESULTS OF SUCH DETERMINATION.

(12) IT IS THE DUTY OF THE COMMISSIONER TO OVERSEE THE OPERATION OF ELECTRONIC DATA INTERCHANGE PROJECTS FOR PURPOSES OF UNIFORM BILLING AND

ELECTRONIC DATA EXCHANGE FOR HEALTH BENEFIT COVERAGES IN COLORADO. IN CARRYING OUT SUCH DUTIES, THE COMMISSIONER SHALL COORDINATE WITH THE DEPARTMENTS OF LABOR AND EMPLOYMENT, PUBLIC HEALTH AND ENVIRONMENT, AND HEALTH CARE POLICY AND FINANCING, AS APPROPRIATE.

(13) (a) IF DETERMINED APPROPRIATE FOR PURPOSES OF LICENSURE OF PROVIDER NETWORKS AND INDIVIDUAL PROVIDERS AS PROVIDED IN SECTION 6-18-302 (1) (b), C.R.S., THE COMMISSIONER MAY ADOPT RULES AFTER CONSULTATION WITH PROVIDERS AND OTHER APPROPRIATE PERSONS THAT SET FORTH STANDARDS OR REQUIREMENTS SPECIFIC TO LICENSED PROVIDER NETWORKS OR LICENSED INDIVIDUAL PROVIDERS CONCERNING SOLVENCY AND OPERATIONAL CAPACITY OR THE PERFORMANCE OF SERVICES CONSISTENT WITH THE EXTENT OF RISK BEING ACCEPTED BY THE LICENSED PROVIDER NETWORK OR LICENSED INDIVIDUAL PROVIDER.

(b) IN DETERMINING THE NEED FOR AND THE CONTENT OF SUCH RULES, THE COMMISSIONER SHALL TAKE INTO CONSIDERATION:

(I) THE DIFFERENCES BETWEEN LICENSED PROVIDER NETWORKS OR LICENSED INDIVIDUAL PROVIDERS AND THE TYPE, AMOUNT, AND EXTENT OF RISK THEY ACCEPT AND SERVICES THEY PROVIDE AS COMPARED WITH THAT ACCEPTED BY TRADITIONAL SICKNESS AND ACCIDENT INSURERS, NONPROFIT HOSPITAL, MEDICAL-SURGICAL, AND HEALTH SERVICE CORPORATIONS, AND HEALTH MAINTENANCE ORGANIZATIONS;

(II) THE TYPES OF INFORMATION THE COMMISSIONER WOULD NEED TO ASSESS A PROVIDER NETWORK OR INDIVIDUAL PROVIDER'S ABILITY TO ACCEPT AND MANAGE RISK AND MONITOR MATERIAL CHANGES IN THE FINANCIAL SOLVENCY OR OPERATIONAL CAPABILITIES OF A PROVIDER NETWORK OR INDIVIDUAL PROVIDER;

(III) THE NEED TO PROTECT CONSUMERS, MONITOR THE FINANCIAL SOLVENCY OF LICENSED PROVIDER NETWORKS AND LICENSED INDIVIDUAL PROVIDERS, AND ASSURE THE PROVISION OF SERVICES TO CONSUMERS, INCLUDING REASONABLE ACCESS TO COVERAGE, ACCORDING TO CONTRACTUAL OBLIGATIONS; AND

(IV) WHETHER SUCH RULES WOULD GIVE A LICENSED PROVIDER NETWORK OR LICENSED INDIVIDUAL PROVIDER AN UNREASONABLE COMPETITIVE ADVANTAGE OR DISADVANTAGE AS COMPARED TO TRADITIONAL INSURERS, NONPROFIT HOSPITAL, MEDICAL-SURGICAL, AND HEALTH SERVICE CORPORATIONS, AND HEALTH MAINTENANCE ORGANIZATIONS OFFERING SIMILAR PRODUCTS UNDER SIMILAR CIRCUMSTANCES.

(c) THE COMMISSIONER MAY ALSO CONSIDER WHETHER RATES ARE EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

(d) THE COMMISSIONER MAY ESTABLISH A FEE TO COVER THE DIRECT AND INDIRECT COSTS OF THE REGULATION OF PROVIDER NETWORKS PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (13) AND PART 3 OF ARTICLE 18 OF TITLE 6, C.R.S.

10-1-109. Rules of commissioner. (1) THE COMMISSIONER MAY ESTABLISH, AND FROM TIME TO TIME AMEND, SUCH REASONABLE RULES AS ARE NECESSARY TO ENABLE THE COMMISSIONER TO CARRY OUT THE COMMISSIONER'S DUTIES UNDER THE LAWS OF THE STATE OF COLORADO.

(2) THE COMMISSIONER SHALL ADOPT RULES TO ENSURE THAT PAYMENTS TO THE SUBSEQUENT INJURY FUND CREATED IN SECTION 8-46-101, C.R.S., THE WORKERS' COMPENSATION CASH FUND, CREATED IN SECTION 8-44-112 (7), C.R.S., THE COST CONTAINMENT FUND CREATED IN SECTION 8-14.5-108, C.R.S., AND THE MAJOR MEDICAL INSURANCE FUND CREATED IN SECTION 8-46-202, C.R.S., FROM SURCHARGES ON PREMIUMS PAID FOR POLICIES OF WORKERS' COMPENSATION INSURANCE THAT FEATURE DEDUCTIBLES IN EXCESS OF THE LIMIT SET FORTH IN SECTION 8-44-111 (1), C.R.S., REFLECT THE VALUE OF ANY REDUCTION IN PREMIUM ACHIEVED THROUGH THE USE OF SUCH DEDUCTIBLES. SUCH RULES SHALL APPLY ONLY TO CLAIMS MADE ON POLICIES ISSUED OR RENEWED AFTER THE EFFECTIVE DATE OF THE RULES. IN ADOPTING SUCH RULES, THE COMMISSIONER SHALL DETERMINE THE MOST EFFECTIVE METHOD OF ESTABLISHING THE VALUE OF DEDUCTIBLES IN EXCESS OF SUCH LIMITS AND ENSURING THAT PAYMENTS REFLECT SUCH VALUE.

10-1-110. Grounds and procedure for suspension or revocation of certificate or license of entities. (1) THE CERTIFICATE OF AUTHORITY OF AN INSURANCE COMPANY TO DO BUSINESS IN THIS STATE MAY BE REVOKED OR SUSPENDED BY THE COMMISSIONER FOR ANY REASON SPECIFIED IN THIS TITLE, ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24, C.R.S. SPECIFICALLY, THE CERTIFICATE MAY BE SUSPENDED OR REVOKED BY THE COMMISSIONER FOR REASONS THAT INCLUDE, BUT ARE NOT LIMITED TO:

- (a) INSOLVENCY OR IMPAIRMENT, AS DEFINED IN SECTION 10-3-212;
- (b) FAILURE TO MEET THE REQUIREMENTS OF SECTION 10-3-201;
- (c) REFUSAL OR FAILURE TO SUBMIT AN ANNUAL REPORT, AS REQUIRED BY SECTION 10-3-109, OR ANY OTHER REPORT REQUIRED BY LAW OR BY LAWFUL ORDER OF THE COMMISSIONER;
- (d) DOING AN UNAUTHORIZED INSURANCE BUSINESS IN ANOTHER STATE, AS SET FORTH IN SECTION 10-1-117;
- (e) FAILURE TO COMPLY WITH THE PROVISIONS OF ITS OWN CHARTER OR BYLAWS, IF SUCH FAILURE RENDERS ITS OPERATION HAZARDOUS TO THE PUBLIC OR TO ITS POLICYHOLDERS;
- (f) FAILURE TO SUBMIT TO EXAMINATION OR ANY LEGAL OBLIGATION RELATIVE THERETO;
- (g) REFUSAL TO PAY THE COST OF EXAMINATION, AS AUTHORIZED BY LAW;
- (h) USE OF METHODS THAT, ALTHOUGH NOT OTHERWISE SPECIFICALLY PROSCRIBED BY LAW, NEVERTHELESS RENDER ITS OPERATION HAZARDOUS, OR ITS CONDITION UNSOUND, TO THE PUBLIC OR TO ITS POLICYHOLDERS;
- (i) FAILURE TO OTHERWISE COMPLY WITH THE LAW OF THIS STATE, IF SUCH FAILURE RENDERS ITS OPERATION HAZARDOUS TO THE PUBLIC OR TO ITS POLICYHOLDERS;
- (j) USE OF PRACTICES OR EXISTENCE OF CONDITIONS THAT RENDER ITS FINANCIAL POSITION UNSOUND TO THE PUBLIC OR ITS POLICYHOLDERS.

(2) IF THE COMMISSIONER FINDS UPON EXAMINATION, HEARING, OR OTHER EVIDENCE THAT ANY FOREIGN OR DOMESTIC INSURANCE COMPANY HAS COMMITTED ANY OF THE ACTS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, OR ANY OTHER ACT SPECIFIED IN THIS TITLE, ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24, C.R.S., FOR WHICH THE PENALTY IS SUSPENSION OR REVOCATION OF THE CERTIFICATE OF AUTHORITY, THE COMMISSIONER MAY SUSPEND OR REVOKE SUCH CERTIFICATE OF AUTHORITY, IF HE OR SHE DEEMS IT IN THE BEST INTEREST OF THE PUBLIC AND THE POLICYHOLDERS OF THE COMPANY, NOTWITHSTANDING ANY OTHER PROVISION OF SAID REFERENCES. NOTICE OF ANY REVOCATION SHALL BE PUBLISHED IN ONE OR MORE DAILY NEWSPAPERS IN DENVER THAT HAVE A GENERAL STATE CIRCULATION. BEFORE SUSPENDING OR REVOKING ANY CERTIFICATE OF AUTHORITY OF AN INSURANCE COMPANY, THE COMMISSIONER SHALL GRANT THE COMPANY FIFTEEN DAYS IN WHICH TO SHOW CAUSE WHY SUCH ACTION SHOULD NOT BE TAKEN. ANY FINAL DECISION OF THE COMMISSIONER TO SUSPEND OR REVOKE A CERTIFICATE OF AUTHORITY OR LICENSE OF ANY PERSON OR ENTITY REGULATED BY THE DIVISION OF INSURANCE SHALL BE SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S.

(3) IF THE COMMISSIONER SUSPENDS THE LICENSE OR CERTIFICATE OF AUTHORITY OF ANY ENTITY REGULATED BY THE DIVISION OF INSURANCE, SUCH LICENSE OR CERTIFICATE MAY BE REVOKED ONE YEAR AFTER THE DATE OF SUSPENSION IF THE REASON FOR SUCH SUSPENSION IS NOT CORRECTED BY THE ENTITY. THE SUSPENSION OR REVOCATION OF A LICENSE OR CERTIFICATE OF AUTHORITY OF ANY ENTITY REGULATED BY THE DIVISION OF INSURANCE SHALL AUTOMATICALLY RESULT IN THE SUSPENSION OR REVOCATION, AS APPROPRIATE, OF ANY LICENSE OF ANY INSURANCE AGENT OF ANY SUCH ENTITY.

(4) IF THE COMMISSIONER FINDS UPON EXAMINATION OR OTHER EVIDENCE THAT ANY FOREIGN OR DOMESTIC INSURANCE COMPANY HAS COMMITTED ANY ACT SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE COMMISSIONER AFTER NOTICE AND HEARING MAY ISSUE AN ORDER REQUIRING THAT THE INSURANCE COMPANY CEASE AND DESIST COMMITTING SUCH ACT. IF THE COMMISSIONER BELIEVES AN EMERGENCY EXISTS, THE COMMISSIONER MAY ENTER A CEASE AND DESIST ORDER AT ONCE, AND A HEARING SHALL BE HELD AS SOON AS PRACTICABLE. PENDING SUCH HEARING AND DECISION THEREON, THE EMERGENCY ORDER SHALL REMAIN IN EFFECT SUBJECT TO THE POWER OF THE COMMISSIONER ON THE COMMISSIONER'S OWN MOTION OR ON PETITION TO VACATE SUCH ORDER.

10-1-111. Invoking aid of courts. THE COMMISSIONER THROUGH THE ATTORNEY GENERAL MAY INVOKE THE AID OF THE COURTS THROUGH INJUNCTION OR OTHER PROPER PROCESS, MANDATORY OR OTHERWISE, TO ENFORCE ANY PROPER ORDER MADE BY THE COMMISSIONER OR ACTION TAKEN BY THE COMMISSIONER; BUT NOTHING IN THIS TITLE (EXCEPT PART 7 OF ARTICLE 4 AND ARTICLE 15), ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24, C.R.S., SHALL BE CONSTRUED TO PREVENT THE COMPANY OR PERSON AFFECTED BY ANY ORDER, RULING, PROCEEDING, ACT, OR ACTION OF THE COMMISSIONER, OR ANY PERSON ACTING ON BEHALF AND AT INSTANCE OF THE COMMISSIONER, FROM TESTING THE VALIDITY OF THE SAME IN ANY COURT OF COMPETENT JURISDICTION, THROUGH INJUNCTION, APPEAL, OR OTHER PROPER PROCESS OR PROCEEDING, MANDATORY OR OTHERWISE.

10-1-112. Policy conditions required by other states. THE POLICIES OF A

DOMESTIC INSURANCE COMPANY, WHEN ISSUED OR DELIVERED IN ANY OTHER STATE, TERRITORY, DISTRICT, OR COUNTRY, MAY CONTAIN ANY PROVISION REQUIRED BY THE LAWS OF THE STATE, TERRITORY, DISTRICT, OR COUNTRY IN WHICH THE SAME ARE ISSUED, ANYTHING IN THIS TITLE (EXCEPT PART 7 OF ARTICLE 4 AND ARTICLE 15), ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24, C.R.S., TO THE CONTRARY NOTWITHSTANDING.

10-1-113. No seal required on policies. ALL POLICIES OR CONTRACTS MADE OR ENTERED INTO BY ANY DOMESTIC COMPANY MAY BE MADE WITH OR WITHOUT THE SEAL THEREOF. THE POLICIES OR CONTRACTS SHALL BE SUBSCRIBED BY THE PRESIDENT OR SUCH OTHER OFFICERS AS MAY BE DESIGNATED BY THE BYLAWS FOR THAT PURPOSE, AND SHALL BE ATTESTED BY THE SECRETARY, AND, BEING SO SUBSCRIBED, SHALL BE OBLIGATORY UPON SUCH COMPANY.

10-1-114. Sale of premium notes prohibited. IT IS UNLAWFUL FOR ANY INSURANCE COMPANY OR ANY AGENT THEREOF WHO HAS ACCEPTED A PREMIUM NOTE IN PAYMENT FOR A POLICY OF INSURANCE TO HYPOTHECATE, SELL, ASSIGN, DISPOSE OF, OR ATTEMPT TO COLLECT SAID NOTE PRIOR TO THE DELIVERY OF SAID INSURANCE POLICY TO THE APPLICANT.

10-1-115. Penalty. IF ANY INSURANCE COMPANY OR ANY AGENT OF ANY SUCH COMPANY VIOLATES ANY OF THE PROVISIONS OF SECTION 10-1-114, THE COMMISSIONER HAS THE POWER AND IS AUTHORIZED TO REVOKE THE CERTIFICATE OF AUTHORITY OF ANY COMPANY SO OFFENDING OR TO CANCEL THE LICENSE OF ANY SUCH AGENT WHO VIOLATES ANY PROVISIONS OF SECTION 10-1-114.

10-1-116. Defamation of other companies. IT IS UNLAWFUL FOR ANY INSURANCE COMPANY DOING BUSINESS IN THIS STATE, OR ANY OFFICER, DIRECTOR, CLERK, EMPLOYEE, OR AGENT THEREOF, TO MAKE, VERBALLY OR OTHERWISE, PUBLISH, PRINT, DISTRIBUTE, OR CIRCULATE, OR CAUSE THE SAME TO BE DONE, OR IN ANY WAY TO AID, ABET, OR ENCOURAGE THE MAKING, PRINTING, PUBLISHING, DISTRIBUTING, OR CIRCULATING OF ANY PAMPHLET, CIRCULAR, ARTICLE, LITERATURE, OR STATEMENT OF ANY KIND THAT IS DEFAMATORY OF ANY OTHER INSURANCE COMPANY DOING BUSINESS IN THIS STATE, OR LICENSED TO SELL ITS CAPITAL STOCK WITHIN THIS STATE, THAT CONTAINS ANY FALSE AND MALICIOUS CRITICISM OR FALSE AND MALICIOUS STATEMENT CALCULATED TO INJURE SUCH COMPANY IN ITS REPUTATION OR BUSINESS. ANY OFFICER, DIRECTOR, CLERK, EMPLOYEE, OR AGENT OF ANY INSURANCE COMPANY VIOLATING THE PROVISIONS OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR A TERM OF NOT MORE THAN TWELVE MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

10-1-117. Company unauthorized in other states. IF, UPON INVESTIGATION, THE COMMISSIONER FINDS THAT ANY INSURANCE COMPANY INCORPORATED UNDER THE LAWS OF COLORADO IS DOING BUSINESS IN ANOTHER STATE OR TERRITORY WITHOUT HAVING FIRST PROCURED A LICENSE OR AUTHORITY FROM SUCH STATE OR TERRITORY, IF ANY IS REQUIRED, AUTHORIZING IT TO DO BUSINESS THEREIN, THE COMMISSIONER MAY REVOKE THE AUTHORITY OF SUCH COMPANY TO DO BUSINESS IN THIS STATE.

10-1-118. Foreign companies - unsatisfied judgments - suspension. (1) IF A

JUDGMENT AGAINST A FOREIGN INSURANCE COMPANY IS UNSATISFIED, AND EXECUTION HAS ISSUED ON SAID JUDGMENT, AND THE RETURN OF THE SHERIFF DISCLOSES THAT THE SHERIFF CANNOT FULLY SATISFY SUCH JUDGMENT, THE JUDGMENT CREDITOR OR JUDGMENT CREDITOR'S ATTORNEY MAY FILE WITH THE COMMISSIONER, IN TRIPLICATE, A COMPLAINT SETTING FORTH SUCH FACTS. THE COMMISSIONER SHALL MAIL A COPY OF SUCH COMPLAINT TO THE HOME OFFICE OF SUCH INSURANCE COMPANY, AT THE ADDRESS SHOWN IN THE RECORDS OF DIVISION OF INSURANCE, AND A COPY TO THE COLORADO OFFICE OR THE COLORADO GENERAL AGENT OF SUCH INSURANCE COMPANY.

(2) IF SAID INSURANCE COMPANY DOES NOT, WITHIN THIRTY DAYS AFTER SUCH MAILING, PAY AND DISCHARGE SAID JUDGMENT OR SHOW GOOD CAUSE TO THE COMMISSIONER FOR THE FAILURE TO PAY SUCH JUDGMENT, THE COMMISSIONER, UPON SATISFACTORY PROOF OF THE ALLEGATIONS OF THE COMPLAINT, SHALL FORTHWITH SUSPEND THE LICENSE OR RIGHT OF SUCH INSURANCE COMPANY TO DO BUSINESS IN THIS STATE. IF GOOD CAUSE, PREVIOUSLY SHOWN, CEASES TO EXIST AND THE JUDGMENT REMAINS UNPAID, THE COMMISSIONER SHALL SUSPEND SUCH LICENSE OR RIGHT.

(3) THE COMMISSIONER SHALL REINSTATE THE LICENSE OR RIGHT TO DO BUSINESS IN THIS STATE WHEN THE INSURANCE COMPANY HAS FULLY PAID SUCH JUDGMENT.

10-1-119. Insurance vending machines prohibited. NO POLICY OR CONTRACT OF INSURANCE OF ANY KIND SHALL BE SOLD OR DISPENSED THROUGH ANY MECHANICAL DEVICE OR VENDING MACHINE, BUT THIS SECTION SHALL NOT BE CONSTRUED AS TO PREVENT THE USE OF OFFICE MACHINES OF ANY TYPE BY AN INSURANCE COMPANY. INSURANCE SHALL BE SOLD ONLY BY AN INSURANCE PRODUCER, AS DEFINED IN SECTION 10-2-103 (6).

10-1-120. Reporting of medical malpractice claims. (1) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND ENGAGED IN THE WRITING OF MEDICAL MALPRACTICE INSURANCE FOR LICENSED PRACTITIONERS SHALL SEND TO THE COLORADO STATE BOARD OF MEDICAL EXAMINERS, IN THE FORM PRESCRIBED BY THE COMMISSIONER OF INSURANCE, INFORMATION RELATING TO EACH MEDICAL MALPRACTICE CLAIM AGAINST A LICENSED PRACTITIONER THAT IS SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST THE INSURED.

(2) THE INSURANCE COMPANY SHALL PROVIDE SUCH INFORMATION AS IS DEEMED NECESSARY BY THE COLORADO STATE BOARD OF MEDICAL EXAMINERS TO CONDUCT A FURTHER INVESTIGATION AND HEARING.

10-1-121. Reporting of malpractice claims against physical therapists. (1) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE FOR PHYSICAL THERAPISTS LICENSED UNDER ARTICLE 41 OF TITLE 12, C.R.S., SHALL SEND TO THE DIRECTOR OF THE DIVISION OF REGISTRATIONS, IN THE DEPARTMENT OF REGULATORY AGENCIES, IN THE FORM PRESCRIBED BY THE COMMISSIONER OF INSURANCE, INFORMATION RELATING TO EACH CLAIM INVOLVING PHYSICAL THERAPY MALPRACTICE OR AGAINST ANY SUCH PHYSICAL THERAPIST THAT IS SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST THE INSURED.

(2) EVERY INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE THAT MAKES PAYMENT UNDER A POLICY OF INSURANCE IN SETTLEMENT OF A CLAIM OF PHYSICAL THERAPY MALPRACTICE, OR IN SATISFACTION OF A JUDGMENT FOR SUCH MALPRACTICE, SHALL REPORT TO THE SECRETARY OF HEALTH AND HUMAN SERVICES, IN ACCORDANCE WITH 42 U.S.C. SECS. 11131 AND 11134, THE FOLLOWING INFORMATION:

(a) THE NAME OF ANY PHYSICAL THERAPIST FOR WHOSE BENEFIT THE PAYMENT IS MADE;

(b) THE AMOUNT OF THE PAYMENT;

(c) THE NAME, IF KNOWN, OF ANY HOSPITAL WITH WHICH THE PHYSICAL THERAPIST IS AFFILIATED OR ASSOCIATED;

(d) A DESCRIPTION OF THE ACTS OR OMISSIONS AND INJURIES OR ILLNESSES UPON WHICH THE ACTION OR CLAIM WAS BASED; AND

(e) SUCH OTHER INFORMATION AS THE SECRETARY OF HEALTH AND HUMAN SERVICES DETERMINES IS REQUIRED FOR APPROPRIATE INTERPRETATION OF THE INFORMATION SO REPORTED.

10-1-122. Reporting of malpractice claims against architects. EACH INSURANCE COMPANY DOING BUSINESS IN THIS STATE AND ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE FOR ARCHITECTS SHALL SEND TO THE COLORADO STATE BOARD OF EXAMINERS OF ARCHITECTS, IN THE FORM PRESCRIBED BY THE COMMISSIONER, INFORMATION RELATING TO EACH MALPRACTICE CLAIM AGAINST A LICENSED ARCHITECT OR A CORPORATION, PARTNERSHIP, OR GROUP OF PERSONS PRACTICING ARCHITECTURE THAT IS SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST THE INSURED WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF SUCH SETTLEMENT OR JUDGMENT.

10-1-123. Reporting of claims against plumbers. EACH INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND ENGAGED IN THE WRITING OF INSURANCE FOR PLUMBERS SHALL SEND WITHIN NINETY DAYS TO THE EXAMINING BOARD OF PLUMBERS, IN THE FORM PRESCRIBED BY THE COMMISSIONER, INFORMATION RELATING TO EACH MALPRACTICE CLAIM AGAINST A LICENSED PLUMBER THAT IS SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST THE INSURED.

10-1-124. Reporting of podiatric malpractice claims. (1) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE FOR LICENSED PODIATRISTS SHALL SEND TO THE COLORADO PODIATRY BOARD, IN THE FORM PRESCRIBED BY THE COMMISSIONER, INFORMATION RELATING TO EACH MALPRACTICE CLAIM AGAINST A LICENSED PODIATRIST THAT IS SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST THE INSURED.

(2) SUCH INFORMATION SHALL INCLUDE ANY INFORMATION DEEMED NECESSARY BY THE COLORADO PODIATRY BOARD TO CONDUCT A FURTHER INVESTIGATION AND HEARING.

10-1-125. Reporting of malpractice claims against optometrists. (1) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE FOR OPTOMETRISTS SHALL SEND TO THE COLORADO STATE BOARD OF OPTOMETRIC EXAMINERS, IN THE FORM PRESCRIBED BY THE COMMISSIONER, INFORMATION RELATING TO EACH MALPRACTICE CLAIM AGAINST A LICENSED OPTOMETRIST THAT IS SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST THE INSURED.

(2) SUCH INFORMATION SHALL INCLUDE ANY INFORMATION DEEMED NECESSARY BY THE COLORADO STATE BOARD OF OPTOMETRIC EXAMINERS TO CONDUCT A FURTHER INVESTIGATION AND HEARING.

10-1-126. Training program for persons working with the aging. THE DIVISION OF INSURANCE SHALL DEVELOP A TRAINING PROGRAM FOR PERSONS WORKING WITH THE AGING ON THE LOCAL LEVEL THAT WILL ENABLE THEM TO ASSIST THE ELDERLY IN DEALING WITH THEIR MEDICARE SUPPLEMENTAL INSURANCE PROBLEMS.

10-1-127. Discretionary use of administrative law judges. WHENEVER THE COMMISSIONER OR THE DIVISION OF INSURANCE PURSUANT TO THIS TITLE OR ANY OTHER PROVISION OF LAW IS OBLIGATED OR AUTHORIZED TO HOLD A HEARING, THE COMMISSIONER, AT HIS OR HER DISCRETION, MAY DESIGNATE AN EMPLOYEE OF THE DIVISION OF INSURANCE WHO HAS ADMINISTRATIVE RESPONSIBILITIES TO ACT AS A HEARING OFFICER OR MAY USE THE SERVICES OF AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT THE HEARING ACCORDING TO THE "STATE ADMINISTRATIVE PROCEDURE ACT". ANY DECISION BY SUCH A DESIGNATED HEARING OFFICER OR APPOINTED ADMINISTRATIVE LAW JUDGE SHALL BE AN INITIAL DECISION AND, IN THE ABSENCE OF AN APPEAL TO THE DIVISION OF INSURANCE OR A REVIEW UPON MOTION OF THE COMMISSIONER AS PROVIDED IN SECTION 24-4-105, C.R.S., SHALL THEREUPON BECOME THE DECISION OF THE DIVISION OF INSURANCE. ANY FINAL DECISION OF THE COMMISSIONER OR THE DIVISION OF INSURANCE SHALL BE SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS PURSUANT TO SECTION 24-4-106 (11), C.R.S.

10-1-128. Fraudulent insurance acts - immunity for furnishing information relating to suspected insurance fraud - legislative declaration. (1) FOR PURPOSES OF THIS TITLE, ARTICLES 40 TO 47 OF TITLE 8, AND ARTICLES 6, 7, 29.5, 32, 33, 35, 36, 38, 40, 41, 41.5, AND 43 OF TITLE 12, C.R.S., A FRAUDULENT INSURANCE ACT IS COMMITTED IF A PERSON KNOWINGLY AND WITH INTENT TO DEFRAUD PRESENTS, CAUSES TO BE PRESENTED, OR PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO OR BY AN INSURER, A PURPORTED INSURER, OR ANY PRODUCER THEREOF ANY WRITTEN STATEMENT AS PART OR IN SUPPORT OF AN APPLICATION FOR THE ISSUANCE OR THE RATING OF AN INSURANCE POLICY OR A CLAIM FOR PAYMENT OR OTHER BENEFIT PURSUANT TO AN INSURANCE POLICY THAT HE OR SHE KNOWS TO CONTAIN FALSE INFORMATION CONCERNING ANY FACT MATERIAL THERETO OR IF HE OR SHE KNOWINGLY AND WITH INTENT TO DEFRAUD OR MISLEAD CONCEALS INFORMATION CONCERNING ANY FACT MATERIAL THERETO. FOR PURPOSES OF THIS SECTION, "WRITTEN STATEMENT" INCLUDES A PATIENT MEDICAL RECORD AS SUCH TERM IS DEFINED IN SECTION 18-4-412 (2) (a), C.R.S., AND ANY BILL FOR MEDICAL SERVICES.

(2) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT INSURANCE FRAUD IS EXPENSIVE; THAT IT INCREASES PREMIUMS AND PLACES BUSINESSES AT RISK; AND THAT IT REDUCES CONSUMERS' ABILITY TO RAISE THEIR STANDARDS OF LIVING AND DECREASES THE ECONOMIC VITALITY OF THIS STATE. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE STATE OF COLORADO MUST AGGRESSIVELY CONFRONT THE PROBLEM OF INSURANCE FRAUD BY FACILITATING THE DETECTION OF AND REDUCING THE OCCURRENCE OF FRAUD THROUGH STRICTER ENFORCEMENT AND DETERRENCE AND BY ENCOURAGING GREATER COOPERATION AMONG CONSUMERS, THE INSURANCE INDUSTRY, AND THE STATE IN COORDINATING EFFORTS TO COMBAT INSURANCE FRAUD.

(b) COLORADO HAS ADDRESSED INSURANCE FRAUD IN VARIOUS STATUTES, INCLUDING BUT NOT LIMITED TO THE CIVIL AND ADMINISTRATIVE PROVISIONS FOUND IN THIS SECTION, SECTION 10-4-708.6, PART 4 OF ARTICLE 2 OF THIS TITLE, PARTS 1, 2, 9, AND 11 OF ARTICLE 3 OF THIS TITLE, AND NUMEROUS OTHER PROVISIONS OF THIS TITLE. IT HAS ALSO BEEN ADDRESSED IN CRIMINAL PROVISIONS FOUND IN PARTS 1, 2, AND 3 OF ARTICLE 2 OF TITLE 18, PART 1 OF ARTICLE 4 OF TITLE 18, PART 1 OF ARTICLE 5 OF TITLE 18, AND SECTION 18-5-205, C.R.S. THESE STATUTORY PROVISIONS IMPOSE REGULATORY OVERSIGHT AND SEVERE CIVIL AND CRIMINAL PENALTIES ON AUTHORIZED AND UNAUTHORIZED INSURANCE COMPANIES AND OTHER PERSONS WHO COMMIT INSURANCE FRAUD. THE PURPOSE OF THIS SECTION IS TO FURTHER IMPROVE REGULATORY OVERSIGHT OF LICENSED PERSONS WHO COMMIT INSURANCE FRAUD AND PROVIDE ADDITIONAL REMEDIES TO AGGRIEVED PERSONS.

(3) AN ALLEGATION OF A FRAUDULENT INSURANCE ACT SHALL NOT EXCUSE AN INSURANCE COMPANY FROM ITS DUTY TO PROMPTLY INVESTIGATE A CLAIM.

(4) (a) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE THAT, IN A LAWSUIT INVOLVING A FRAUDULENT INSURANCE ACT, OBTAINS A JUDGMENT OR SETTLEMENT AGAINST A PERSON WHO IS LICENSED BY THE STATE OF COLORADO AND WHOSE SERVICES ARE COMPENSATED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY INSURANCE CLAIM PROCEEDS SHALL SEND NOTICE OF SUCH SETTLEMENT OR JUDGMENT TO THE APPROPRIATE COLORADO STATE LICENSING BOARD, IN THE FORM PRESCRIBED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES. NO CAUSE OF ACTION SHALL ARISE AGAINST ANY INSURANCE COMPANY OR INDIVIDUAL FOR PROVIDING INFORMATION AS PROVIDED IN THIS SUBSECTION (4).

(b) EVERY PERSON WHO, IN A LAWSUIT INVOLVING A FRAUDULENT INSURANCE ACT, OBTAINS A JUDGMENT OR SETTLEMENT AGAINST A PERSON WHO IS LICENSED BY THE STATE OF COLORADO AND WHOSE SERVICES ARE COMPENSATED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY INSURANCE CLAIM PROCEEDS, MAY SEND TO THE APPROPRIATE COLORADO STATE LICENSING BOARD NOTICE OF SUCH SETTLEMENT OR JUDGMENT. NO CAUSE OF ACTION SHALL ARISE AGAINST ANY PERSON FOR PROVIDING INFORMATION AS PROVIDED IN THIS SUBSECTION (4).

(c) EVERY PERSON WHO OBTAINS A JUDGMENT OR SETTLEMENT INVOLVING A FRAUDULENT INSURANCE ACT BY AN INSURANCE COMPANY OR AN AGENT OF AN INSURANCE COMPANY MAY SEND TO THE COLORADO DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AGENCIES NOTICE OF SUCH JUDGMENT OR SETTLEMENT, INCLUDING ANY EVIDENCE OF A FRAUDULENT INSURANCE ACT. NO

CAUSE OF ACTION SHALL ARISE AGAINST ANY PERSON FOR PROVIDING INFORMATION AS PROVIDED IN THIS SUBSECTION (4).

(5) (a) EVERY LICENSED INSURANCE COMPANY DOING BUSINESS IN COLORADO SHALL PREPARE, IMPLEMENT, AND MAINTAIN AN INSURANCE ANTI-FRAUD PLAN; EXCEPT THAT THIS SUBSECTION (5) SHALL NOT APPLY TO ENTITIES WHOSE PRINCIPAL BUSINESS IS THE ASSUMPTION OF REINSURANCE, REINSURANCE AGREEMENTS, OR REINSURANCE CLAIMS TRANSACTIONS. INSURANCE COMPANIES APPROVED BY THE COMMISSIONER UNDER ARTICLE 5 OF THIS TITLE MAY BE REQUIRED, AS A CONDITION OF SUCH APPROVAL, TO MAINTAIN AN INSURANCE ANTI-FRAUD PLAN. EACH ANTI-FRAUD PLAN SHALL OUTLINE SPECIFIC PROCEDURES, APPROPRIATE TO THE TYPE OF INSURANCE PROVIDED BY THE INSURANCE COMPANY IN COLORADO, TO:

(I) PREVENT, DETECT, AND INVESTIGATE ALL FORMS OF INSURANCE FRAUD, INCLUDING FRAUD BY THE INSURANCE COMPANY'S EMPLOYEES AND AGENTS, FRAUD RESULTING FROM FALSE REPRESENTATIONS OR OMISSIONS OF MATERIAL FACT IN THE APPLICATION FOR INSURANCE, RENEWAL DOCUMENTS, OR RATING OF INSURANCE POLICIES, CLAIMS FRAUD, AND SECURITY OF THE INSURANCE COMPANY'S DATA PROCESSING SYSTEMS;

(II) EDUCATE APPROPRIATE EMPLOYEES ABOUT FRAUD DETECTION AND THE COMPANY'S ANTI-FRAUD PLAN;

(III) PROVIDE FOR THE HIRING OF OR CONTRACTING FOR ONE OR MORE FRAUD INVESTIGATORS;

(IV) REPORT SUSPECTED OR ACTUAL INSURANCE FRAUD TO THE APPROPRIATE LAW ENFORCEMENT AND REGULATORY ENTITIES IN THE INVESTIGATION AND PROSECUTION OF INSURANCE FRAUD.

(b) THE COMMISSIONER OF INSURANCE MAY REVIEW A LICENSED INSURANCE COMPANY'S ANTI-FRAUD PLAN IN CONNECTION WITH A MARKET CONDUCT EXAMINATION TO DETERMINE WHETHER SUCH PLAN COMPLIES WITH THE REQUIREMENTS OF PARAGRAPH (a) OF THIS SUBSECTION (5).

(c) EVERY LICENSED INSURANCE COMPANY DOING BUSINESS IN THIS STATE SHALL INCLUDE, AS PART OF ITS ANNUAL REPORT AS REQUIRED IN SECTION 10-3-109, A SUMMARY OF ITS ANTI-FRAUD EFFORTS AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (5).

(d) THE ANTI-FRAUD PLAN OF AN INSURANCE COMPANY AND THE SUMMARY OF ANTI-FRAUD EFFORTS PREPARED AS REQUIRED IN PARAGRAPH (c) OF THIS SUBSECTION (5) ARE NOT PUBLIC RECORDS AND ARE EXEMPTED FROM ARTICLE 72 OF TITLE 24, C.R.S.; ARE PROPRIETARY AND NOT SUBJECT TO PUBLIC EXAMINATION; AND ARE NOT DISCOVERABLE OR ADMISSIBLE UNDER THE COLORADO RULES OF CIVIL PROCEDURE IN ANY CIVIL LITIGATION.

(e) ANY INSURANCE COMPANY OR PRODUCER OF AN INSURANCE COMPANY THAT HAS COMMITTED A FRAUDULENT INSURANCE ACT SHALL BE SUBJECT TO AVAILABLE DISCIPLINARY ACTION BY THE COMMISSIONER OF INSURANCE.

(f) THE RESPONSIBILITY OF AN INSURANCE COMPANY UNDER THIS SECTION TO PREVENT, DETECT, AND INVESTIGATE INSURANCE FRAUD SHALL NOT EXCUSE ITS DUTY TO COMPLY WITH SECTION 10-3-1104 OR ANY OTHER APPLICABLE INSURANCE LAW.

(6)(a) EACH INSURANCE COMPANY SHALL PROVIDE ON ALL PRINTED APPLICATIONS FOR INSURANCE, OR ON ALL INSURANCE POLICIES, OR ON ALL CLAIM FORMS PROVIDED AND REQUIRED BY AN INSURANCE COMPANY, OR REQUIRED BY LAW, WHETHER PRINTED OR ELECTRONICALLY TRANSMITTED, A STATEMENT, IN CONSPICUOUS NATURE, PERMANENTLY AFFIXED TO THE APPLICATION, INSURANCE POLICY, OR CLAIM FORM SUBSTANTIALLY THE SAME AS THE FOLLOWING:

"IT IS UNLAWFUL TO KNOWINGLY PROVIDE FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO AN INSURANCE COMPANY FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE COMPANY. PENALTIES MAY INCLUDE IMPRISONMENT, FINES, DENIAL OF INSURANCE, AND CIVIL DAMAGES. ANY INSURANCE COMPANY OR AGENT OF AN INSURANCE COMPANY WHO KNOWINGLY PROVIDES FALSE, INCOMPLETE, OR MISLEADING FACTS OR INFORMATION TO A POLICYHOLDER OR CLAIMANT FOR THE PURPOSE OF DEFRAUDING OR ATTEMPTING TO DEFRAUD THE POLICYHOLDER OR CLAIMANT WITH REGARD TO A SETTLEMENT OR AWARD PAYABLE FROM INSURANCE PROCEEDS SHALL BE REPORTED TO THE COLORADO DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AGENCIES."

(b) THIS SUBSECTION (6) SHALL NOT APPLY TO REINSURANCE CONTRACTS, REINSURANCE AGREEMENTS, OR REINSURANCE CLAIMS TRANSACTIONS.

10-1-129. Fraudulent insurance acts - enforcement. THE ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH THE DISTRICT ATTORNEYS OF THIS STATE TO INVESTIGATE AND PROSECUTE ALLEGATIONS OF CRIMINAL CONDUCT RELATED TO INSURANCE FRAUD PURSUANT TO THIS TITLE AND TITLES 8 AND 18, C.R.S. THE COST TO THE ATTORNEY GENERAL OF SUCH INVESTIGATIONS AND PROSECUTIONS SHALL BE PAID FROM FEES COLLECTED FROM ENTITIES REGULATED BY THE DIVISION PURSUANT TO SECTION 10-3-207 (1) (e).

10-1-130. Availability of sickness, health, and accident insurance. THE COMMISSIONER SHALL ASSESS THE AVAILABILITY OF SICKNESS, HEALTH, AND ACCIDENT INSURANCE IN COLORADO WITH A VIEW TO IDENTIFYING SPECIFIC GROUPS OF PERSONS TO WHOM SUCH COVERAGE IS UNAVAILABLE BY VIRTUE OF COST, PREEXISTING CONDITION, OR OTHER CIRCUMSTANCES.

10-1-131. Duties to third parties - rules. (1) PURSUANT TO RULES PROMULGATED BY THE COMMISSIONER, AN INSURER SHALL NOTIFY ANY ADDITIONAL INSURED BY ENDORSEMENT ON A GENERAL LIABILITY POLICY, WHOSE INTERESTS ARE AFFECTED BY A CLAIM, OF THE RESULTS OF THE INSURER'S INVESTIGATION OF SUCH CLAIM AND THE STATUS OF THE CLAIM WITHIN A REASONABLE PERIOD OF TIME AS DETERMINED BY THE COMMISSIONER. SUCH NOTICE SHALL INCLUDE A STATEMENT CONFIRMING OR DENYING COVERAGE OF THE CLAIM AND, IF COVERAGE IS DENIED, THE REASONS FOR DENYING COVERAGE OF THE CLAIM OR ANY PORTION OF THE CLAIM. IN THE EVENT COVERAGE HAS NOT BEEN DETERMINED, A COPY OF THE RESERVATION OF RIGHTS LETTER SHALL CONSTITUTE SUFFICIENT NOTICE.

(2) FAILURE TO NOTIFY ANY ADDITIONAL INSURED BY ENDORSEMENT ON A GENERAL LIABILITY POLICY PURSUANT TO THIS SECTION SHALL SUBJECT THE INSURER TO THE PROVISIONS OF SECTIONS 10-3-1108 AND 10-3-1109.

(3) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THOSE CLAIMS UNDER A GENERAL LIABILITY POLICY UPON WHICH A LAWSUIT HAS BEEN FILED.

10-1-132. Oversight of the general assembly. NOTHING IN THIS TITLE SHALL LIMIT THE ABILITY OF THE GENERAL ASSEMBLY TO DIRECT THE ACCOUNTING PRINCIPLES TO BE USED BY INSURERS AUTHORIZED IN THIS STATE IN ORDER TO CREATE UNIFORMITY.

PART 2 EXAMINATIONS

10-1-201. Legislative declaration. THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT IT IS NECESSARY TO ESTABLISH AN EFFECTIVE AND EFFICIENT SYSTEM FOR EXAMINING THE ACTIVITIES, OPERATIONS, FINANCIAL CONDITIONS, AND AFFAIRS OF ALL PERSONS TRANSACTING THE BUSINESS OF INSURANCE IN THIS STATE AND ALL PERSONS OTHERWISE SUBJECT TO THE JURISDICTION OF THE COMMISSIONER. THE PROVISIONS OF THIS PART 2 ARE INTENDED TO ENABLE THE COMMISSIONER TO ADOPT A FLEXIBLE SYSTEM OF EXAMINATIONS THAT DIRECTS RESOURCES AS MAY BE DEEMED APPROPRIATE AND NECESSARY FOR THE ADMINISTRATION OF THE INSURANCE AND INSURANCE-RELATED LAWS OF THIS STATE.

10-1-202. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMPANY" MEANS ANY PERSON OR GROUP OF PERSONS ENGAGING IN OR PROPOSING OR ATTEMPTING TO ENGAGE IN ANY TRANSACTION OR KIND OF INSURANCE OR SURETY BUSINESS AND ANY PERSON OR GROUP OF PERSONS WHO MAY OTHERWISE BE SUBJECT TO ANY ADMINISTRATIVE, REGULATORY, OR TAXING AUTHORITY OF THE COMMISSIONER AS WELL AS ANY ADVISORY ORGANIZATION OR RATING ORGANIZATION AS DEFINED IN SECTION 10-4-402.

(2) "DIVISION" MEANS THE DIVISION OF INSURANCE.

(3) "EXAMINATION" MEANS A FORMAL FINANCIAL EXAMINATION OR MARKET CONDUCT EXAMINATION, AS WELL AS INFORMAL INVESTIGATIONS CONDUCTED BY THE COMMISSIONER FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THE LAW. MARKET CONDUCT EXAMINATIONS MAY INCLUDE ROUTINE, TARGETED, FOLLOW-UP, MULTISTATE, OR DESK EXAMINATIONS.

(4) "EXAMINER" MEANS ANY INDIVIDUAL OR FIRM AUTHORIZED BY THE COMMISSIONER TO CONDUCT AN EXAMINATION UNDER THIS PART 2.

(5) "INSURANCE DEPARTMENT" MEANS THE COMMISSIONER OR OTHER GOVERNMENT OFFICIAL OR AGENCY OF A STATE OTHER THAN COLORADO EXERCISING POWERS AND DUTIES SUBSTANTIALLY EQUIVALENT TO THOSE OF THE COMMISSIONER OR THE DIVISION.

(6) "INSURER" MEANS ANY PERSON, FIRM, CORPORATION, ASSOCIATION, OR AGGREGATION OF PERSONS DOING AN INSURANCE BUSINESS AND SUBJECT TO THE INSURANCE SUPERVISORY AUTHORITY OF, OR TO LIQUIDATION, REHABILITATION, REORGANIZATION, OR CONSERVATION BY, THE COMMISSIONER OR ANY EQUIVALENT INSURANCE SUPERVISORY OFFICIAL OF ANOTHER STATE.

(7) "PERSON" MEANS ANY INDIVIDUAL, AGGREGATION OF INDIVIDUALS, TRUST, ASSOCIATION, PARTNERSHIP, OR CORPORATION, OR ANY AGENT OR AFFILIATE THEREOF.

10-1-203. Authority, scope, and scheduling of examinations. (1) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY CONDUCT AN EXAMINATION OR INVESTIGATION OF ANY COMPANY AS OFTEN AS THE COMMISSIONER, IN THE COMMISSIONER'S SOLE DISCRETION, DEEMS APPROPRIATE BUT SHALL, AT A MINIMUM, CONDUCT A FORMAL FINANCIAL EXAMINATION OF EVERY INSURER LICENSED IN THIS STATE NOT LESS FREQUENTLY THAN ONCE EVERY FIVE YEARS; EXCEPT THAT THIS DOES NOT INCLUDE APPROVED NONADMITTED INSURERS REGULATED IN ACCORDANCE WITH ARTICLE 5 OF THIS TITLE. IN SCHEDULING FINANCIAL OR MARKET CONDUCT EXAMINATIONS AND IN DETERMINING THEIR NATURE, SCOPE, AND FREQUENCY, THE COMMISSIONER SHALL CONSIDER SUCH MATTERS AS THE RESULTS OF FINANCIAL STATEMENT ANALYSES AND RATIOS, CHANGES IN MANAGEMENT OR OWNERSHIP, ACTUARIAL OPINIONS, REPORTS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS, COMPLAINT ANALYSES, UNDERWRITING AND CLAIMS PRACTICES, PRICING, PRODUCT SOLICITATION, POLICY FORM COMPLIANCE, MARKET SHARE ANALYSES, AND OTHER CRITERIA AS SET FORTH IN THE MOST RECENT AVAILABLE EDITION OF THE EXAMINERS' HANDBOOK ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

(2) FOR PURPOSES OF COMPLETING AN EXAMINATION OF ANY COMPANY UNDER THIS PART 2, THE COMMISSIONER MAY EXAMINE OR INVESTIGATE ANY PERSON OR THE BUSINESS OF ANY PERSON INsofar AS SUCH EXAMINATION OR INVESTIGATION IS, IN THE SOLE DISCRETION OF THE COMMISSIONER, NECESSARY OR MATERIAL TO THE EXAMINATION OF THE COMPANY.

(3) IN LIEU OF A FINANCIAL EXAMINATION UNDER THIS PART 2 OF ANY FOREIGN OR ALIEN INSURER LICENSED IN THIS STATE, THE COMMISSIONER MAY ACCEPT AN EXAMINATION REPORT ON THE COMPANY AS PREPARED BY THE INSURANCE DEPARTMENT FOR THE COMPANY'S STATE OF DOMICILE OR PORT-OF-ENTRY STATE; EXCEPT THAT SUCH REPORTS MAY ONLY BE ACCEPTED IF:

(a) THE INSURANCE DEPARTMENT WAS, AT THE TIME OF THE EXAMINATION, ACCREDITED UNDER THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' FINANCIAL REGULATION STANDARDS AND ACCREDITATION PROGRAM; OR

(b) THE EXAMINATION IS PERFORMED UNDER THE SUPERVISION OF AN ACCREDITED INSURANCE DEPARTMENT OR WITH THE PARTICIPATION OF ONE OR MORE EXAMINERS WHO ARE EMPLOYED BY SUCH AN ACCREDITED STATE INSURANCE DEPARTMENT AND WHO, AFTER A REVIEW OF THE EXAMINATION WORK PAPERS AND REPORT, STATE UNDER OATH THAT THE EXAMINATION WAS PERFORMED IN A MANNER CONSISTENT WITH THE STANDARDS AND PROCEDURES REQUIRED BY THE EXAMINERS' INSURANCE DEPARTMENT.

10-1-204. Conduct of examinations. (1) (a) IN CONDUCTING THE EXAMINATION, THE EXAMINERS SHALL OBSERVE THOSE GUIDELINES AND PROCEDURES SET FORTH IN THE MOST RECENT AVAILABLE EDITION OF THE EXAMINERS' HANDBOOK ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND THE COLORADO INSURANCE EXAMINERS HANDBOOK. THE COMMISSIONER MAY ALSO EMPLOY SUCH OTHER GUIDELINES OR PROCEDURES AS THE COMMISSIONER MAY DEEM APPROPRIATE.

(b) AN EXAMINATION UNDER THIS ARTICLE SHALL NOT BE LIMITED TO AN EXAMINATION OF THE FINANCIAL CONDITION OF A COMPANY BUT MAY, IN THE DISCRETION OF THE COMMISSIONER, ALSO INCLUDE ALL OTHER ACTIVITIES AND AFFAIRS OF THE COMPANY.

(2) (a) EVERY COMPANY OR PERSON FROM WHOM INFORMATION IS SOUGHT AND ALL OFFICERS, DIRECTORS, AND AGENTS THEREOF SHALL PROVIDE TO THE EXAMINERS TIMELY, CONVENIENT, AND FREE ACCESS AT REASONABLE HOURS AT ITS OFFICES TO ALL BOOKS, RECORDS, ACCOUNTS, PAPERS, TAPES, COMPUTER RECORDS, AND OTHER DOCUMENTS RELATING TO THE PROPERTY, ASSETS, BUSINESS, AND AFFAIRS OF THE COMPANY BEING EXAMINED. IF THE EXAMINATION IS AN EXAMINATION AS DEFINED IN SECTION 10-1-202 (3), SUCH COMPANY OR PERSON SHALL MAKE SUCH BOOKS, RECORDS, AND DOCUMENTS AVAILABLE FOR EXAMINATION OR INSPECTION AT THE OFFICE LOCATION OF THE DIVISION WHEN THE COMMISSIONER DETERMINES THAT IT IS REASONABLY COST-EFFECTIVE TO DO SO. THE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS OF THE COMPANY OR PERSON SHALL FACILITATE THE EXAMINATION AND AID IN THE EXAMINATION SO FAR AS IT IS IN THEIR POWER TO DO SO.

(b) (I) THE REFUSAL OF ANY COMPANY OR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS TO SUBMIT TO EXAMINATION OR TO COMPLY WITH ANY REASONABLE WRITTEN REQUEST OF THE EXAMINERS SHALL BE GROUNDS FOR SUSPENSION, REVOCATION, DENIAL, OR NONRENEWAL OF ANY LICENSE OR AUTHORITY HELD BY THE COMPANY AND SUBJECT TO THE COMMISSIONER'S JURISDICTION.

(II) PROCEEDINGS FOR ANY SUSPENSION OR REVOCATION PURSUANT TO THIS SUBSECTION (2) SHALL BE CONDUCTED IN ACCORDANCE WITH SECTION 10-1-110.

(3) THE COMMISSIONER AND ALL EXAMINERS SHALL HAVE THE POWER TO ISSUE SUBPOENAS, ADMINISTER OATHS, AND EXAMINE UNDER OATH ANY PERSON AS TO ANY MATTER PERTINENT TO THE EXAMINATION. UPON THE FAILURE OR REFUSAL OF ANY PERSON TO OBEY A SUBPOENA, THE COMMISSIONER MAY PETITION A COURT OF COMPETENT JURISDICTION FOR AN ORDER, WHICH SHALL BE ENFORCEABLE THROUGH CONTEMPT PROCEEDINGS, COMPELLING THE PERSON TO APPEAR AND TESTIFY OR PRODUCE DOCUMENTARY EVIDENCE. THE COMMISSIONER MAY ARRANGE FOR THE SERVICES OF AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO TAKE EVIDENCE AND TO MAKE FINDINGS AND REPORT THEM TO THE COMMISSIONER.

(4) ANY PERSON WHO KNOWINGLY OR WILLFULLY TESTIFIES FALSELY IN REFERENCE TO ANY MATTER MATERIAL TO AN INVESTIGATION, EXAMINATION, OR INQUIRY IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN THREE MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

(5) ANY PERSON WHO KNOWINGLY OR WILLFULLY MAKES ANY FALSE CERTIFICATE, ENTRY, OR MEMORANDUM UPON ANY OF THE BOOKS OR PAPERS OF A COMPANY OR UPON ANY STATEMENT FILED OR OFFERED TO BE FILED IN THE DIVISION OR USED IN THE COURSE OF ANY EXAMINATION, INQUIRY, OR INVESTIGATION, WITH THE INTENT TO DECEIVE THE COMMISSIONER OR ANY PERSON APPOINTED BY THE COMMISSIONER TO MAKE SUCH EXAMINATION, INQUIRY, OR INVESTIGATION, IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT LESS THAN TWO MONTHS NOR MORE THAN TWELVE MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

(6) (a) IN ADDITION TO ANY OTHER POWERS GRANTED TO THE COMMISSIONER IN THIS SECTION OR IN ANY OTHER PROVISION OF LAW, THE COMMISSIONER MAY REQUIRE ANY COMPANY, ENTITY, OR NEW APPLICANT TO BE EXAMINED BY INDEPENDENT EXAMINERS CERTIFIED BY THE SOCIETY OF FINANCIAL EXAMINERS OR THE INSURANCE REGULATORY EXAMINERS SOCIETY, ACTUARIES WHO ARE MEMBERS OF THE AMERICAN ACADEMY OF ACTUARIES, OR BY ANY OTHER QUALIFIED AND COMPETENT LOSS RESERVE SPECIALISTS, INDEPENDENT RISK MANAGERS, INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS, AUDITORS, OTHER EXAMINERS OF INSURANCE COMPANIES, OR COMBINATION OF SUCH PERSONS. ANY DOMESTIC COMPANY MAY MAKE A REQUEST TO THE COMMISSIONER TO BE SO EXAMINED.

(b) THE COMMISSIONER MAY ACCEPT, AS PART OF ANY SUCH EXAMINATION, REPORTS MADE BY ANY PERSON QUALIFIED AND COMPETENT TO CONDUCT THE EXAMINATION AS SET FORTH IN THIS SUBSECTION (6). NO SUCH PERSON NOR ANY MEMBER OF SUCH PERSON'S IMMEDIATE FAMILY SHALL BE OFFICERS OF, CONNECTED WITH, OR FINANCIALLY INTERESTED IN THE COMPANY, ENTITY, OR APPLICANT BEING EXAMINED OTHER THAN AS POLICYHOLDERS, NOR SHALL THEY BE FINANCIALLY INTERESTED IN ANY OTHER CORPORATION OR PERSON AFFECTED BY THE EXAMINATION OR BY ANY RELATED INVESTIGATION OR HEARING. SUCH PERSONS SHALL KEEP STRICTLY CONFIDENTIAL ALL INFORMATION, REGARDLESS OF ITS SOURCE, OBTAINED THROUGH ANY EXAMINATION OR ABOUT ANY EXAMINEE AND SHALL DISCLOSE SUCH INFORMATION ONLY TO THE COMMISSIONER OR THE EXAMINEE UPON THE SPECIFIC REQUEST OF EITHER. THE COMMISSIONER SHALL ESTABLISH GUIDELINES FOR ASSURING THE NEUTRALITY OF THOSE PERSONS TO BE AUTHORIZED TO SUPPLEMENT THE EXAMINATION PROCEDURES AUTHORIZED IN THIS SECTION. THE REASONABLE EXPENSES AND CHARGES OF PERSONS SO RETAINED OR DESIGNATED SHALL BE PAID DIRECTLY BY THE EXAMINEE TO SUCH PERSONS. THE EXAMINEE MAY CONTEST THE AMOUNT OF FEES, COSTS, AND EXPENSES CHARGED TO IT BY SUCH PERSONS BY FILING AN OBJECTION WITH THE COMMISSIONER WHICH SETS FORTH THE CHARGES THAT THE EXAMINEE CONSIDERS TO BE UNREASONABLE AND THE BASIS FOR THE CLAIM THAT THE CHARGES ARE UNREASONABLE. NO AMOUNTS THAT ARE SO DISPUTED WILL BE DUE TO THE EXAMINER UNLESS AND UNTIL THE COMMISSIONER HAS REVIEWED THE OBJECTION AND MADE A WRITTEN FINDING THAT THE DISPUTED CHARGES WERE REASONABLE IN RELATION TO THE EXAMINATION PERFORMED.

(7) NOTHING CONTAINED IN THIS PART 2 SHALL BE CONSTRUED TO LIMIT THE COMMISSIONER'S AUTHORITY TO TERMINATE OR SUSPEND ANY EXAMINATION IN ORDER TO PURSUE OTHER LEGAL OR REGULATORY ACTION PURSUANT TO THE INSURANCE LAWS OF THIS STATE. FINDINGS OF FACT AND CONCLUSIONS MADE PURSUANT TO ANY EXAMINATION SHALL BE PRIMA FACIE EVIDENCE IN ANY LEGAL OR

REGULATORY ACTION.

(8) NOTHING CONTAINED IN THIS PART 2 SHALL BE CONSTRUED TO LIMIT THE COMMISSIONER'S AUTHORITY TO USE AND, IF APPROPRIATE, TO MAKE PUBLIC, IF CONSISTENT WITH SECTION 10-3-414, ANY FINAL OR PRELIMINARY EXAMINATION REPORT, ANY EXAMINER OR COMPANY WORKPAPERS OR OTHER DOCUMENTS, OR ANY OTHER INFORMATION DISCOVERED OR DEVELOPED DURING THE COURSE OF ANY EXAMINATION IN THE FURTHERANCE OF ANY LEGAL OR REGULATORY ACTION THAT THE COMMISSIONER MAY, IN THE COMMISSIONER'S SOLE DISCRETION, DEEM APPROPRIATE.

(9) (a) THE COSTS OF FINANCIAL EXAMINATIONS OF FOREIGN COMPANIES MADE OUTSIDE THE BORDERS OF THIS STATE AND OF EXECUTIVE OR BRANCH OFFICES OF DOMESTIC COMPANIES LOCATED OUTSIDE THE BORDERS OF THIS STATE SHALL BE PAID BY THE COMPANY EXAMINED AND SHALL INCLUDE THE EXPENSES OF THE COMMISSIONER AND THE COMMISSIONER'S ASSISTANTS, WHO SHALL BE PAID THE SAME COMPENSATION AS OTHER EXAMINERS ON SUCH EXAMINATIONS.

(b) THE REASONABLE EXPENSES OF MARKET CONDUCT EXAMINATIONS SHALL BE PAID BY THE COMPANY EXAMINED, BUT SHALL NOT INCLUDE THE COMPENSATION OF THE COMMISSIONER AND THE COMMISSIONER'S ASSISTANTS.

(c) (I) THERE IS A PRESUMPTION THAT A MARKET CONDUCT EXAMINATION OF A DOMESTIC COMPANY SHALL BE CONDUCTED BY THE COMMISSIONER OR THE COMMISSIONER'S ASSISTANTS UNLESS THE COMMISSIONER DETERMINES THAT GOOD CAUSE EXISTS TO HAVE THE EXAMINATION CONDUCTED BY A CONTRACT EXAMINER.

(II) THE COMMISSIONER SHALL DEVELOP RULES FOR DETERMINING WHEN CONTRACT MARKET CONDUCT EXAMINERS CAN BE USED. SUCH RULES SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, SUCH FACTORS AS OUT-OF-STATE TRAVEL REQUIREMENTS, WORKLOAD NEEDS, SPECIAL EXPERTISE REQUIRED FOR THE EXAMINATION, AND MARKET ISSUES REQUIRING AN UNANTICIPATED EXAMINATION.

(d) WHEN INSURANCE COMPANIES NOT AUTHORIZED TO DO BUSINESS IN THIS STATE, COMPANIES ADJUDGED INSOLVENT, OR COMPANIES FOR ANY CAUSE WITHDRAWING FROM THIS STATE NEGLECT, FAIL, OR REFUSE TO PAY THE REASONABLE CHARGES FOR EXAMINATION AS APPROVED BY THE COMMISSIONER, SUCH CHARGES SHALL BE PAID BY THE STATE TREASURER FROM THE GENERAL FUND UPON THE ORDER OF THE COMMISSIONER, AND THE AMOUNT SO PAID SHALL BE A FIRST LIEN UPON ALL ASSETS AND PROPERTY OF SUCH COMPANY AND MAY BE RECOVERED BY SUIT BY THE ATTORNEY GENERAL ON BEHALF OF THE STATE OF COLORADO AND RESTORED TO THE GENERAL FUND.

(10) THE COMMISSIONER MAY ALSO EXAMINE A COMPANY UPON THE REQUEST OF FIVE OR MORE OF THE COMPANY'S POLICYHOLDERS REPRESENTING AT LEAST ONE HUNDRED THOUSAND DOLLARS' WORTH OF INSURANCE IN FORCE, WHO SHALL MAKE AFFIDAVIT OF THEIR BELIEF, WITH SPECIFICATIONS OF THEIR REASONS THEREFOR IN WRITING, THAT SUCH COMPANY IS IN AN UNSOUND OR INSOLVENT CONDITION; BUT ONLY THE UNITED STATES BRANCHES OF COMPANIES INCORPORATED IN FOREIGN COUNTRIES SHALL BE EXAMINED BY THE COMMISSIONER.

10-1-205. Financial examination reports. (1) THE PROVISIONS OF THIS SECTION SHALL APPLY TO FINANCIAL EXAMINATIONS AND MARKET CONDUCT EXAMINATIONS BUT SHALL NOT APPLY TO INFORMAL INVESTIGATIONS OF CONSUMER COMPLAINTS EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF SUBSECTION (8) OF THIS SECTION. EXAMINATION REPORTS SHALL COMPRISE ONLY FACTS APPEARING UPON THE BOOKS, RECORDS, OR OTHER DOCUMENTS OF THE COMPANY, ITS AGENTS, OR OTHER PERSONS EXAMINED, OR AS ASCERTAINED FROM THE TESTIMONY OF ITS OFFICERS OR AGENTS OR OTHER PERSONS EXAMINED CONCERNING ITS AFFAIRS, AND SUCH CONCLUSIONS AND RECOMMENDATIONS AS THE EXAMINERS FIND REASONABLY WARRANTED BASED UPON THE FACTS.

(2) NO LATER THAN SIXTY DAYS AFTER COMPLETION OF THE EXAMINATION, THE EXAMINER IN CHARGE SHALL FILE WITH THE DIVISION A VERIFIED WRITTEN REPORT OF EXAMINATION UNDER OATH. UPON RECEIPT OF THE VERIFIED REPORT, THE DIVISION SHALL TRANSMIT TO THE COMPANY EXAMINED BOTH THE REPORT AND A NOTICE STATING THAT THE COMPANY EXAMINED SHALL BE AFFORDED A REASONABLE PERIOD NOT EXCEEDING THIRTY DAYS, WITHIN WHICH TO MAKE A WRITTEN SUBMISSION OR REBUTTAL WITH RESPECT TO ANY MATTERS CONTAINED IN THE EXAMINATION REPORT.

(3) WITHIN THIRTY DAYS AFTER THE END OF THE PERIOD ALLOWED FOR THE RECEIPT OF WRITTEN SUBMISSIONS OR REBUTTALS, THE COMMISSIONER SHALL FULLY CONSIDER AND REVIEW THE REPORT, ANY WRITTEN SUBMISSIONS OR REBUTTALS, AND ANY RELEVANT PORTIONS OF THE EXAMINER'S WORKPAPERS AND SHALL ENTER AN ORDER THAT:

(a) ADOPTS THE EXAMINATION REPORT AS FILED OR WITH SPECIFIED MODIFICATIONS OR CORRECTIONS; AND IF THE EXAMINATION REPORT REVEALS THAT THE COMPANY IS OPERATING IN VIOLATION OF ANY LAW, RULE, OR PRIOR LAWFUL ORDER OF THE COMMISSIONER, THE COMMISSIONER MAY ORDER THE COMPANY TO TAKE ANY ACTION THE COMMISSIONER CONSIDERS NECESSARY AND APPROPRIATE TO CURE SUCH VIOLATION; OR

(b) REJECTS THE EXAMINATION REPORT AND DIRECTS THE EXAMINERS TO REOPEN THE EXAMINATION FOR PURPOSES OF OBTAINING ADDITIONAL DATA, DOCUMENTATION, OR INFORMATION AND TO REFILE THE REPORT PURSUANT TO SUBSECTION (1) OF THIS SECTION; OR

(c) CALLS FOR AN INVESTIGATORY HEARING, UPON NO LESS THAN TWENTY DAYS' NOTICE TO THE COMPANY, FOR PURPOSES OF OBTAINING ADDITIONAL DOCUMENTATION, DATA, INFORMATION, AND TESTIMONY; OR

(d) MAY IMPOSE A MONETARY PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EVERY ACT IN VIOLATION OF ANY LAW, RULE, OR PRIOR LAWFUL ORDER OF THE COMMISSIONER DESCRIBED IN THE REPORT OF EXAMINATION, BUT NOT TO EXCEED AN AGGREGATE PENALTY OF TEN THOUSAND DOLLARS UNLESS THE COMPANY KNEW OR REASONABLY SHOULD HAVE KNOWN THAT ITS CONDUCT WAS IN VIOLATION OF ANY LAW, RULE, OR PRIOR LAWFUL ORDER OF THE COMMISSIONER, IN WHICH CASE THE PENALTY SHALL NOT BE MORE THAN TEN THOUSAND DOLLARS FOR EVERY ACT OR VIOLATION, BUT NOT TO EXCEED AN AGGREGATE PENALTY OF ONE HUNDRED FIFTY THOUSAND DOLLARS IN ANY SIX-MONTH PERIOD.

(4) (a) ALL ORDERS ENTERED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION SHALL BE ACCOMPANIED BY FINDINGS AND CONCLUSIONS RESULTING FROM THE COMMISSIONER'S CONSIDERATION AND REVIEW OF THE EXAMINATION REPORT, RELEVANT EXAMINER WORKPAPERS, AND ANY WRITTEN SUBMISSIONS OR REBUTTALS. ANY SUCH ORDER SHALL BE CONSIDERED A FINAL AGENCY DECISION AND SHALL BE SERVED UPON THE COMPANY BY CERTIFIED MAIL TOGETHER WITH A COPY OF THE ADOPTED EXAMINATION REPORT. REVIEW OF SUCH DECISION MAY BE SOUGHT IN THE DISTRICT COURT IN AND FOR THE CITY AND COUNTY OF DENVER AND SHALL BE GOVERNED BY THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S. WITHIN SIXTY DAYS OF THE ISSUANCE OF THE ADOPTED REPORT, THE COMPANY SHALL FILE AFFIDAVITS EXECUTED BY EACH OF ITS DIRECTORS STATING UNDER OATH THAT THEY HAVE RECEIVED A COPY OF THE ADOPTED REPORT AND RELATED ORDERS.

(b) ANY HEARING CONDUCTED UNDER PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION BY THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE SHALL BE CONDUCTED AS A NONADVERSARIAL, CONFIDENTIAL, INVESTIGATORY PROCEEDING AS NECESSARY FOR THE RESOLUTION OF ANY INCONSISTENCIES, DISCREPANCIES, OR DISPUTED ISSUES APPARENT UPON THE FACE OF THE FILED EXAMINATION REPORT OR RAISED BY OR AS A RESULT OF THE COMMISSIONER'S REVIEW OF RELEVANT WORKPAPERS OR BY THE WRITTEN SUBMISSION OR REBUTTAL OF THE COMPANY. SUCH HEARING SHALL NOT BE SUBJECT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S. WITHIN TWENTY DAYS AFTER THE CONCLUSION OF ANY SUCH HEARING, THE COMMISSIONER SHALL ENTER AN ORDER PURSUANT TO PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION.

(c) THE COMMISSIONER SHALL NOT APPOINT AN EXAMINER AS AN AUTHORIZED REPRESENTATIVE TO CONDUCT THE HEARING. THE HEARING SHALL PROCEED EXPEDITIOUSLY WITH DISCOVERY BY THE COMPANY LIMITED TO THE EXAMINER'S WORKPAPERS THAT TEND TO SUBSTANTIATE ANY ASSERTIONS SET FORTH IN ANY WRITTEN SUBMISSION OR REBUTTAL. THE COMMISSIONER OR REPRESENTATIVE MAY ISSUE SUBPOENAS FOR THE ATTENDANCE OF ANY WITNESSES OR THE PRODUCTION OF ANY DOCUMENTS DEEMED RELEVANT TO THE INVESTIGATION, WHETHER UNDER THE CONTROL OF THE DIVISION, THE COMPANY, OR OTHER PERSONS. THE DOCUMENTS PRODUCED SHALL BE INCLUDED IN THE RECORD. TESTIMONY TAKEN BY THE COMMISSIONER OR REPRESENTATIVE SHALL BE UNDER OATH AND PRESERVED FOR THE RECORD.

(d) THE HEARING SHALL PROCEED WITH THE COMMISSIONER OR REPRESENTATIVE POSING QUESTIONS TO THE PERSONS SUBPOENAED. THEREAFTER THE COMPANY AND THE DIVISION MAY PRESENT TESTIMONY RELEVANT TO THE INVESTIGATION. THE COMPANY AND THE DIVISION SHALL BE PERMITTED TO MAKE CLOSING STATEMENTS AND MAY BE REPRESENTED BY COUNSEL OF THEIR CHOICE.

(e) ANY ORDER ISSUED BY THE COMMISSIONER PURSUANT TO PARAGRAPH (d) OF SUBSECTION (3) OF THIS SECTION MAY BE APPEALED DIRECTLY TO THE COURT OF APPEALS.

(5) UPON THE ADOPTION OF THE EXAMINATION REPORT PURSUANT TO PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, THE COMMISSIONER SHALL CONTINUE, FOR AT LEAST THIRTY DAYS, TO HOLD THE CONTENT OF THE EXAMINATION REPORT AS

PRIVATE AND CONFIDENTIAL INFORMATION EXCEPT TO THE EXTENT PROVIDED IN SUBSECTION (2) OF THIS SECTION. THEREAFTER, THE COMMISSIONER MAY OPEN THE REPORT FOR PUBLIC INSPECTION UNLESS A COURT OF COMPETENT JURISDICTION HAS STAYED ITS PUBLICATION.

(6) NO PROVISION OF THIS TITLE SHALL PREVENT OR BE CONSTRUED AS PROHIBITING THE COMMISSIONER FROM DISCLOSING THE CONTENT OF AN EXAMINATION REPORT, PRELIMINARY EXAMINATION REPORT OR RESULTS, OR ANY MATTER RELATING THERETO TO THE INSURANCE DIVISION OF THIS OR ANY OTHER STATE OR COUNTRY, OR TO LAW ENFORCEMENT OFFICIALS OF THIS OR ANY OTHER STATE, OR TO ANY AGENCY OF THE FEDERAL GOVERNMENT AT ANY TIME SUBJECT TO THE WRITTEN AGREEMENT OF THE RECIPIENT TO HOLD SUCH INFORMATION CONFIDENTIAL AND TO TREAT IT IN A MANNER CONSISTENT WITH THIS PART 2.

(7) IN THE EVENT THE COMMISSIONER DETERMINES THAT REGULATORY ACTION IS APPROPRIATE AS A RESULT OF ANY EXAMINATION, THE COMMISSIONER MAY INITIATE ANY PROCEEDINGS OR ACTIONS AS PROVIDED BY LAW.

(8) **Confidentiality of ancillary information.** (a) ALL WORKING PAPERS, RECORDED INFORMATION, DOCUMENTS, AND COPIES THEREOF THAT ARE PRODUCED OR OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON IN THE COURSE OF A FINANCIAL OR MARKET CONDUCT EXAMINATION MADE UNDER THIS PART 2 SHALL BE GIVEN CONFIDENTIAL TREATMENT, ARE NOT SUBJECT TO SUBPOENA, AND MAY NOT BE MADE PUBLIC BY THE COMMISSIONER OR ANY OTHER PERSON EXCEPT TO THE EXTENT PROVIDED IN SUBSECTION (5) OF THIS SECTION; EXCEPT THAT ACCESS TO SUCH MATERIALS MAY BE GRANTED TO THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. DISCLOSURE OF THE SAID MATERIALS SHALL BE MADE ONLY UPON THE PRIOR WRITTEN AGREEMENT OF THE RECIPIENT TO HOLD SUCH INFORMATION CONFIDENTIAL AS REQUIRED BY THIS SECTION OR UPON THE PRIOR WRITTEN CONSENT OF THE COMPANY TO WHICH IT PERTAINS.

(b) WHEN AN INFORMAL INVESTIGATION OF A CONSUMER COMPLAINT IS CONDUCTED BY THE COMMISSIONER, ALL WORKING PAPERS, CLAIM FILES, RECORDED INFORMATION, AND DOCUMENTS, AND ALL COPIES THEREOF, THAT ARE PRODUCED OR OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON IN THE COURSE OF AN INFORMAL INVESTIGATION SHALL BE GIVEN CONFIDENTIAL TREATMENT UNTIL THE INFORMAL INVESTIGATION IS CONCLUDED BY THE COMMISSIONER. AFTER AN INFORMAL INVESTIGATION IS CONCLUDED, THE RECORDS SHALL NO LONGER BE CONSIDERED CONFIDENTIAL EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 72 OF TITLE 24, C.R.S., RELATING TO PUBLIC RECORDS.

10-1-206. Conflict of interest. (1) NO EXAMINER MAY BE APPOINTED BY THE COMMISSIONER IF SUCH EXAMINER, EITHER DIRECTLY OR INDIRECTLY, HAS A CONFLICT OF INTEREST OR IS AFFILIATED WITH THE MANAGEMENT OF OR OWNS A PECUNIARY INTEREST IN ANY PERSON SUBJECT TO EXAMINATION UNDER THIS PART 2; EXCEPT THAT THIS SECTION SHALL NOT BE CONSTRUED TO AUTOMATICALLY PRECLUDE AN EXAMINER FROM BEING:

(a) A POLICYHOLDER OR CLAIMANT UNDER AN INSURANCE POLICY;

(b) A GRANTOR OF A MORTGAGE OR SIMILAR INSTRUMENT ON THE EXAMINER'S

RESIDENCE TO A REGULATED ENTITY IF DONE UNDER CUSTOMARY TERMS AND IN THE ORDINARY COURSE OF BUSINESS;

(c) AN INVESTMENT OWNER IN SHARES OF REGULATED DIVERSIFIED INVESTMENT COMPANIES; OR

(d) A SETTLOR OR BENEFICIARY OF A "BLIND TRUST" INTO WHICH ANY OTHERWISE IMPERMISSIBLE HOLDINGS HAVE BEEN PLACED.

(2) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE COMMISSIONER MAY RETAIN FROM TIME TO TIME, ON AN INDIVIDUAL BASIS, QUALIFIED ACTUARIES, CERTIFIED PUBLIC ACCOUNTANTS, OR OTHER SIMILAR INDIVIDUALS WHO ARE INDEPENDENTLY PRACTICING THEIR PROFESSIONS EVEN THOUGH SUCH PERSONS MAY FROM TIME TO TIME BE SIMILARLY EMPLOYED OR RETAINED BY PERSONS SUBJECT TO EXAMINATION UNDER THIS PART 2.

10-1-207. Immunity from liability. (1) NO CAUSE OF ACTION SHALL ARISE, NOR SHALL ANY LIABILITY BE IMPOSED, AGAINST THE COMMISSIONER, THE COMMISSIONER'S AUTHORIZED REPRESENTATIVES, OR ANY EXAMINER APPOINTED BY THE COMMISSIONER FOR ANY STATEMENTS MADE OR CONDUCT PERFORMED IN GOOD FAITH WHILE CARRYING OUT THE PROVISIONS OF THIS PART 2.

(2) NO CAUSE OF ACTION SHALL ARISE, NOR SHALL ANY LIABILITY BE IMPOSED, AGAINST ANY PERSON FOR THE ACT OF COMMUNICATING OR DELIVERING INFORMATION OR DATA TO THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED REPRESENTATIVE OR EXAMINER PURSUANT TO AN EXAMINATION MADE UNDER THIS PART 2, IF SUCH ACT OF COMMUNICATION OR DELIVERY WAS PERFORMED IN GOOD FAITH AND WITHOUT FRAUDULENT INTENT OR THE INTENT TO DECEIVE.

(3) THIS SECTION DOES NOT ABROGATE OR MODIFY IN ANY WAY ANY COMMON-LAW OR STATUTORY PRIVILEGE OR IMMUNITY HERETOFORE ENJOYED BY ANY PERSON IDENTIFIED IN SUBSECTION (1) OF THIS SECTION.

(4) A PERSON IDENTIFIED IN SUBSECTION (1) OF THIS SECTION SHALL BE ENTITLED TO AN AWARD OF ATTORNEY FEES AND COSTS IF SUCH PERSON IS THE PREVAILING PARTY IN A CIVIL ACTION FOR LIBEL, SLANDER, OR ANY OTHER RELEVANT TORT ARISING OUT OF ACTIVITIES IN CARRYING OUT THE PROVISIONS OF THIS PART 2 AND THE PARTY BRINGING THE ACTION WAS NOT SUBSTANTIALLY JUSTIFIED IN DOING SO. FOR PURPOSES OF THIS SECTION, A PROCEEDING IS "SUBSTANTIALLY JUSTIFIED" IF IT HAD A REASONABLE BASIS IN LAW OR FACT AT THE TIME THAT IT WAS INITIATED.

SECTION 2. 6-1-302 (1) (g), Colorado Revised Statutes, is amended to read:

6-1-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Commercial telephone seller" or "seller" means a person who, in the course of such person's business, vocation, or occupation, on the person's own behalf or on behalf of another person, causes or attempts to cause a commercial telephone solicitation to be made; except that "commercial telephone seller" or "seller" does not include the following:

(g) A person selling insurance, as defined in section 10-1-102 (~~7~~) (12), C.R.S., in compliance with the requirements of title 10, C.R.S.;

SECTION 3. 6-18-302 (1) (b) (III), Colorado Revised Statutes, is amended to read:

6-18-302. Creation of provider networks - requirements. (1) (b) (III) The commissioner of insurance, in consultation with providers and other appropriate persons, shall evaluate the need for specific legislation or ~~regulations~~ RULES for the licensure of provider networks and individual providers and, if determined appropriate, shall make recommendations thereon to the general assembly and governor and shall adopt such ~~regulations~~ RULES that are specific to licensed provider networks and licensed individual providers as provided in section 10-1-108 (~~16~~) (13), C.R.S. A licensed provider network or licensed individual provider shall be subject to applicable provisions of title 10, C.R.S., except as otherwise provided in statute or ~~regulation~~ RULE adopted pursuant to ~~the said~~ section 10-1-108 (~~16~~) (13), C.R.S.

SECTION 4. The introductory portion to 8-42-101 (3.6) and 8-42-101 (3.6) (h), Colorado Revised Statutes, is amended to read:

8-42-101. Employer must furnish medical aid - approval of plan - fee schedule - contracting for treatment - no recovery from employee - medical treatment guidelines - accreditation of physicians - repeal. (3.6) The two-tier accreditation system shall ~~be comprised of~~ COMPRISE the following programs:

(h) If a physician whose accreditation has been revoked submits a claim for payment for services rendered subsequent to such revocation, the physician shall be considered in violation of section ~~10-1-127~~ 10-1-128, C.R.S., and neither an insurance carrier nor a self-insured employer shall be under any obligation to pay such claim.

SECTION 5. 8-45-101 (2) (a), Colorado Revised Statutes, is amended to read:

8-45-101. Pinnacol Assurance - creation - powers and duties. (2) (a) The powers of Pinnacol Assurance shall be vested in the board of directors of Pinnacol Assurance, which shall have nine members. The members of the board shall be appointed by the governor with the consent of the senate. Of the nine members, four shall be employers whose liability under articles 40 to 47 of this title is insured by Pinnacol Assurance with one of such employers to be a farmer or rancher. Three of the nine members shall be employees of employers whose liability under articles 40 to 47 of this title is insured by Pinnacol Assurance. One of the nine members shall be experienced in the management and operation of insurance companies as defined in section 10-1-102 (~~4~~) (6), C.R.S. Such member shall not concurrently serve as an owner, a shareholder, an officer, an employee, an agent of, or in any other capacity with any business which competes with Pinnacol Assurance. One of the nine members shall be experienced in finance or investments, but shall not be an employer whose liability under articles 40 to 47 of this title is insured by Pinnacol Assurance. The term of office for each such member shall be five years. The appointees may serve on a temporary basis if the senate is not in session when they are appointed until the senate is in session and is able to confirm such appointments. Vacancies on the board shall be filled by appointment of the governor for the remainder of any

unexpired terms. The board shall elect a chairman annually from its membership.

SECTION 6. 8-45-117 (1) (c), Colorado Revised Statutes, is amended to read:

8-45-117. Regulation by commissioner of insurance. (1) Pinnacol Assurance shall be subject to regulation by the commissioner of insurance as provided in:

(c) Sections 10-1-108 ~~(8)~~ (7), 10-1-109, and 10-1-102, C.R.S., except ~~(2)~~ SUBSECTIONS (3) and (6); 10-1-205, C.R.S., (1) through (6) and (8); 10-3-109, C.R.S., except for the publication requirements; 10-3-118, C.R.S.; 10-3-128, C.R.S.; 10-3-202, C.R.S.; 10-3-207, C.R.S.; 10-3-208, C.R.S. (1) and (2); 10-3-231, C.R.S.; 10-3-239, C.R.S.; 10-3-701, C.R.S.; and part 8 of article 3 of title 10, C.R.S., except as these sections are inconsistent with the provisions of this article.

SECTION 7. 10-2-907 (1) (c), Colorado Revised Statutes, is amended to read:

10-2-907. Required contract provisions - reinsurance intermediary -- managers. (1) Transactions between an RM and the reinsurer such RM represents shall only be entered into pursuant to a written contract, specifying the responsibilities of each party, which shall be approved by the reinsurer's board of directors. At least thirty days before such reinsurer assumes or cedes business through such producer, a true copy of the approved contract shall be filed with the commissioner for approval. The contract shall, at a minimum, contain provisions that incorporate all of the following:

(c) All funds collected for the reinsurer's account shall be held by the RM in a fiduciary capacity in a bank ~~which~~ THAT is a qualified United States financial institution as defined in section 10-1-102 ~~(9.5)~~ (17). The RM may retain no more than three months' estimated claims payments and allocated loss adjustment expenses. The RM shall maintain a separate bank account for each reinsurer that such RM represents.

SECTION 8. 10-3-118 (5) (d) (I), the introductory portion to 10-3-118 (6), and 10-3-118 (6) (c), Colorado Revised Statutes, are amended to read:

10-3-118. Reinsurance - conditions - credit for reinsurance. (5) (d) (I) Credit shall be allowed when the reinsurance is ceded to a reinsurer that maintains a trust fund in a qualified United States financial institution, as defined in section 10-1-102 ~~(9.5)~~ (17), for the payment of the valid claims of its United States policyholders and ceding insurers, and their assigns and successors in interest. The reinsurer shall report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single reinsurer, the trust shall consist of a trustee account representing the reinsurer's liabilities attributable to business written in the United States and, in addition, the reinsurer shall maintain a trustee surplus of not less than twenty million dollars. In the case of a group including incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars shall be held jointly for the benefit of United States

ceding insurers of any member of the group; the incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(6) A reduction from liability for the reinsurance ceded by an insurer to a reinsurer not meeting the requirements of subsection (5) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such reinsurer as security for the payment of such obligations, if such security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution as defined in section 10-1-102 ~~(9.5)~~ (17). This security may be in the form of:

(c) Letters of credit issued or confirmed in accordance with section 10-1-102 ~~(9.5)~~ (17) (b) by a qualified United States financial institution, as defined by section 10-1-102 ~~(9.5)~~ (17), no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs.

SECTION 9. 10-3-209 (1) (a), Colorado Revised Statutes, is amended to read:

10-3-209. Tax on premiums collected - exemptions - penalties. (1) (a) All insurance companies writing business in this state, including, without limitation, those defined in section 10-1-102 ~~(4)~~ (6), shall pay to the division of insurance a tax on the gross amount of all premiums collected or contracted for on policies or contracts of insurance covering property or risks in this state during the previous calendar year, after deducting from such gross amount the amount received as reinsurance premiums on business in this state, and the amount refunded under credit life and credit accident and health insurance policies on account of termination of insurance prior to the maturity date of the indebtedness, and, in the case of companies other than life, the amounts paid to policyholders as return premiums, which shall include dividends or unabsorbed premiums or premium deposits returned or credited to policyholders.

SECTION 10. 10-3-237 (2), Colorado Revised Statutes, is amended to read:

10-3-237. Assets acquired under prior law. (2) Notwithstanding any other provision of this title (except part 7 of article 4 and article 15), article 7 of title 12, and article 14 of title 24, C.R.S., any asset held by a company on May 31, 1969, which is not an admitted asset under section 10-1-102 ~~(1.5)~~ (2), sections 10-3-215 to 10-3-229, or subsection (1) of this section, and which did not meet the requirements of the law in effect immediately prior to such date for an investment of

the company's reserves, paid-up capital stock, and other liabilities, but which, under such law, would have been taken into account as an asset in determining the surplus of the company, shall be taken into account as an admitted asset at all times at which the company has aggregate admitted assets under section 10-1-102 ~~(1.5)~~ (2), sections 10-3-215 to 10-3-229, and subsection (1) of this section in an amount at least equal to the total of its reserves, paid-up capital stock, and all other liabilities.

SECTION 11. 10-3-903 (2) (i), Colorado Revised Statutes, is amended to read:

10-3-903. Definition of transacting insurance business. (2) The provisions of this section do not apply to:

(i) Any transaction in this state involving the issuance of a charitable gift annuity, as defined in section 10-1-102 ~~(2.5)~~ (4);

SECTION 12. 10-4-911, Colorado Revised Statutes, is amended to read:

10-4-911. Examinations. The commissioner shall make an examination into the affairs of the association at least annually. Such examination shall be conducted and the report thereon filed in the manner prescribed in ~~section 10-1-110~~ PART 2 OF ARTICLE 1 OF THIS TITLE.

SECTION 13. 10-4-1002 (1.5), Colorado Revised Statutes, is amended to read:

10-4-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(1.5) "Fraudulent insurance act" has the meaning set forth in section ~~10-1-127~~ 10-1-128.

SECTION 14. 10-4-1111, Colorado Revised Statutes, is amended to read:

10-4-1111. Examinations. The commissioner shall make an examination into the affairs of the association at least annually. Such examination shall be conducted and the report thereon filed in the manner prescribed in ~~section 10-1-110~~ PART 2 OF ARTICLE 1 OF THIS TITLE.

SECTION 15. 10-6-116 (2), Colorado Revised Statutes, is amended to read:

10-6-116. Capital and surplus requirements. (2) Securities acceptable to the commissioner in the amount of three hundred thousand dollars, or such greater amount as determined by the commissioner, shall be held by the commissioner or under the joint control of the commissioner and the captive insurance company. The commissioner shall accept an irrevocable letter of credit, in a form acceptable to the commissioner, issued or confirmed by a qualified United States financial institution as defined in section 10-1-102 ~~(9.5)~~ (17) on behalf of a captive insurance company in lieu of securities. All securities or letters of credit jointly held shall be the sole property of such captive insurance company and shall be free and clear of any claim or encumbrance.

SECTION 16. 10-6-121 (1), Colorado Revised Statutes, is amended to read:

10-6-121. Legal investments. (1) Group captive insurance companies shall comply with the investment requirements and limitations applicable to other insurance companies under the laws of this state as described in sections 10-1-102 ~~(1.5)~~ and ~~(9)~~ (2) AND (16), 10-3-213 to 10-3-242, and 10-3-802.

SECTION 17. 10-6-130 (3), Colorado Revised Statutes, is amended to read:

10-6-130. Laws applicable. (3) The malpractice reporting requirements of sections ~~10-1-124 to 10-1-124.9~~ 10-1-120 TO 10-1-125 shall apply to captive insurance companies.

SECTION 18. 10-14-609 (4), Colorado Revised Statutes, is amended to read:

10-14-609. Suspension, revocation, or denial of license of foreign or alien society. (4) In addition to the provisions of subsections (1) to (3) of this section, the provisions of section ~~10-1-111~~ 10-1-110, except for the provisions of paragraphs (a) to (c) of subsection (1) of said section, shall apply to societies doing business in this state.

SECTION 19. 10-16-421 (1), Colorado Revised Statutes, is amended to read:

10-16-421. Statutory construction and relationship to other laws. (1) Except for sections 10-1-102, ~~10-1-121, 10-1-122,~~ 10-1-117, 10-1-118, 10-3-109 (2), 10-3-118, 10-3-128, 10-3-208, and 10-8-530 (1.5), and parts 4 to 8 of article 3 of this title, and as otherwise provided in this article, the provisions of the insurance law and provisions of nonprofit hospital, medical-surgical, and health service corporation laws shall not be applicable to any health maintenance organization granted a certificate of authority under this part 4.

SECTION 20. 10-16-704 (4.5) (m), Colorado Revised Statutes, is amended to read:

10-16-704. Network adequacy. (4.5) (m) Adjustments to claims made in cases where a carrier, pursuant to section ~~10-1-127~~ 10-1-128 (5) (a) (IV), has reported fraud or abuse committed by the provider, shall not be subject to the requirements of this subsection (4.5).

SECTION 21. 10-16-705 (11.5) and (12) (b) (I), Colorado Revised Statutes, are amended to read:

10-16-705. Requirements for carriers and participating providers. (11.5) A carrier or entity that contracts with the carrier shall not penalize a primary care provider who makes a standing referral of a covered person to a specialist, nor shall the specialist treating the covered person be penalized, with actions that include but are not limited to disincentives or disaffiliation, except for violations of section ~~10-1-127~~ 10-1-128.

(12) (b) (I) Each carrier, regardless of the mechanism used, shall issue a verification code that the participating provider may use as proof of verification as required by section 10-16-704 (4.5) (f). ~~(4.5) (g), and (4.5) (h).~~

SECTION 22. 12-2-117 (3) (c) (V), Colorado Revised Statutes, is amended to read:

12-2-117. Partnerships, professional corporations, and limited liability companies composed of certified public accountants - registration thereof - definitions. (3) The corporation must be in compliance with the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., and, to the extent applicable under section 7-117-103, C.R.S., with the "Colorado Corporation Code", articles 1 to 10 of title 7, C.R.S., as said articles existed prior to their repeal on July 1, 1994. The limited liability company must be in compliance with the "Colorado Limited Liability Company Act", article 80 of title 7, C.R.S. The organizing documents of any partnership, the articles of incorporation of any such corporation, or the articles of organization of any such limited liability company shall contain provisions complying with the following requirements:

(c) All partners, shareholders of the corporation, or members of the limited liability company shall be jointly and severally liable for all acts, errors, and omissions of the employees of the partnership, corporation, or limited liability company except during periods of time when the partnership, corporation, or limited liability company maintains in good standing professional liability insurance, or designated or segregated moneys in lieu of such professional liability insurance, which meets the standards set forth in subparagraphs (I) to (V) of this paragraph (c):

(V) A partnership, corporation, or limited liability company may maintain, in lieu of the insurance specified in subparagraph (III) of this paragraph (c), moneys specifically designated and segregated as security for the payment of liabilities imposed by law against the partnership, corporation, or limited liability company, or its partners, shareholders, or members, arising out of claims of the type specified in subparagraphs (I) and (II) of this paragraph (c), in the amount of at least fifty thousand dollars multiplied by the number of certified public accountants employed by or members of the partnership, corporation, or limited liability company within this state; except that such amount is not required to exceed one million dollars and except that the board, in the public interest, may adopt ~~regulations~~ RULES increasing the minimum amount of designated and segregated moneys required by this subparagraph (V). The partnership, corporation, or limited liability company remains in compliance with this section notwithstanding amounts paid from the designated or segregated moneys in any one calendar year in settling or discharging such claims, so long as the amount of the designated and segregated moneys is increased to at least the minimum required amount as of the first business day of the next calendar year. A partnership, corporation, or limited liability company is in compliance with this subparagraph (V) if it maintains moneys in the required amount in trust or in bank escrow in the form of cash, bank certificates of deposit, or United States treasury obligations, or maintains in effect bank unconditional, irrevocable letters of credit in the required amount or insurance or surety company bonds in the required amount. Such moneys or equivalency shall be maintained in or issued by a qualified United States financial institution as defined by section 10-1-102 ~~(9.5)~~ (17), C.R.S.

SECTION 23. 12-6-118 (3) (u), Colorado Revised Statutes, is amended to read:

12-6-118. Licenses - grounds for denial, suspension, or revocation. (3) A motor vehicle dealer's, wholesale motor vehicle auction dealer's, wholesaler's, buyer

agent's, or used motor vehicle dealer's license may be denied, suspended, or revoked on the following grounds:

(u) Committing a fraudulent insurance act pursuant to section ~~10-1-127~~ 10-1-128, C.R.S.

SECTION 24. 12-7-101 (1.3), Colorado Revised Statutes, is amended to read:

12-7-101. Definitions. As used in this article, unless the context otherwise requires:

(1.3) "Bail insurance company" means an insurer as defined in section 10-1-102 ~~(8)~~ (13), C.R.S., engaged in the business of writing bail appearance bonds through bonding agents, which company is subject to regulation by the division of insurance in the department of regulatory agencies.

SECTION 25. 12-29.5-106 (1) (d), Colorado Revised Statutes, is amended to read:

12-29.5-106. Grounds for disciplinary action. (1) The director may deny licensure to or take disciplinary action against an acupuncturist pursuant to section 24-4-105, C.R.S., if the director finds that the acupuncturist has committed any of the following acts:

(d) Committed, or advertised in any manner that he OR SHE will commit, any act constituting an abuse of health insurance as prohibited by section 18-13-119, C.R.S., or a fraudulent insurance act as defined in section ~~10-1-127~~ 10-1-128, C.R.S.;

SECTION 26. 12-32-107 (3) (w), Colorado Revised Statutes, is amended to read:

12-32-107. Issuance, revocation, or suspension of license - probation - immunity in professional review. (3) "Unprofessional conduct" as used in this article means:

(w) Committing a fraudulent insurance act, as defined in section ~~10-1-127~~ 10-1-128, C.R.S.;

SECTION 27. 12-32-108.3 (2) (b) (III), Colorado Revised Statutes, is amended to read:

12-32-108.3. Disciplinary action by board. (2) (b) The Colorado podiatry board shall cause an investigation to be made when the board is informed of:

(III) An instance of a malpractice settlement or judgment against a podiatrist reported to the board pursuant to section ~~10-1-124.7~~ 10-1-124, C.R.S.; or

SECTION 28. 12-33-117 (1) (k), Colorado Revised Statutes, is amended to read:

12-33-117. Discipline of licensees - letters of admonition, suspension, revocation, denial, and probation - grounds. (1) Upon any of the following grounds, the board may issue a letter of admonition to a licensee or may revoke,

suspend, deny, refuse to renew, or impose conditions on such licensee's license:

(k) Violation of abuse of health insurance pursuant to section 18-13-119, C.R.S., or commission of a fraudulent insurance act, as defined in section ~~10-1-127~~ 10-1-128, C.R.S.;

SECTION 29. 12-35-118 (1) (n), Colorado Revised Statutes, is amended to read:

12-35-118. Causes for denial of issuance or renewal - suspension or revocation of licenses - other disciplinary action - unprofessional conduct defined - immunity in professional review. (1) The board may deny the issuance or renewal of, suspend for a specified time period, or revoke any license provided for by this article or may reprimand, censure, or place on probation any licensed dentist or dental hygienist after notice and hearing, which may be conducted by an administrative law judge, pursuant to the provisions of article 4 of title 24, C.R.S., or it may issue a letter of admonition without a hearing (except that any licensed dentist or dental hygienist to whom such a letter of admonition is sent may, within thirty days after the date of the mailing of such letter by the board, request in writing to the board a formal hearing thereon, and the letter of admonition shall be deemed vacated, and the board shall, upon such request, hold such a hearing) for any of the following causes:

(n) False billing in the delivery of dental or dental hygiene services, including, but not limited to, performing one service and billing for another and billing for any service not rendered and committing a fraudulent insurance act, as defined in section ~~10-1-127~~ 10-1-128, C.R.S.;

SECTION 30. 12-36-117 (1) (dd), Colorado Revised Statutes, is amended to read:

12-36-117. Unprofessional conduct. (1) "Unprofessional conduct" as used in this article means:

(dd) Committing a fraudulent insurance act, as defined in section ~~10-1-127~~ 10-1-128, C.R.S.;

SECTION 31. 12-36-118 (4) (b) (III), Colorado Revised Statutes, is amended to read:

12-36-118. Disciplinary action by board - immunity. (4) (b) The board shall cause an investigation to be made when the board is informed of:

(III) An instance of a medical malpractice settlement or judgment against a licensee reported to the board pursuant to section ~~10-1-124~~ 10-1-120, C.R.S.; or

SECTION 32. 12-38-117 (1) (o), Colorado Revised Statutes, is amended to read:

12-38-117. Grounds for discipline. (1) "Grounds for discipline", as used in this article, means any action by any person who:

(o) Has committed a fraudulent insurance act, as defined in section ~~10-1-127~~

10-1-128, C.R.S.;

SECTION 33. 12-40-118 (1)(ee), Colorado Revised Statutes, is amended to read:

12-40-118. Unprofessional conduct defined. (1) The term "unprofessional conduct", as used in this article, means:

(ee) Committing a fraudulent insurance act, as defined in section ~~10-1-127~~ 10-1-128, C.R.S.;

SECTION 34. 12-40-127, Colorado Revised Statutes, is amended to read:

12-40-127. Judgments and settlements - reporting. Any final judgment, settlement, or arbitration award against an optometrist for malpractice shall be reported within fourteen days by such optometrist's malpractice insurance carrier in accordance with section ~~10-1-124.9~~ 10-1-125, C.R.S., or by such optometrist ~~himself~~ if no commercial malpractice insurance coverage is involved to the board for review, investigation, and, where appropriate, disciplinary or other action. Any optometrist who knowingly fails to report as required by this section shall be subject to a civil penalty of not more than two thousand five hundred dollars. Such penalty shall be determined and collected in an action brought by the board in the district court in the city and county of Denver, which court shall have exclusive jurisdiction in such matters. All penalties collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the general fund.

SECTION 35. 12-41-115 (1) (i), Colorado Revised Statutes, is amended to read:

12-41-115. Grounds for disciplinary action. (1) The director is authorized to take disciplinary action in accordance with section 12-41-116 if the licensee has:

(i) Committed a fraudulent insurance act, as defined in section ~~10-1-127~~ 10-1-128, C.R.S.;

SECTION 36. 12-41.5-109 (2) (j) (I), Colorado Revised Statutes, is amended to read:

12-41.5-109. Grounds for action - disciplinary proceedings. (2) The director has the power to revoke, suspend, deny, or refuse to renew a license, place on probation a licensee, or issue a cease and desist order or letter of admonition to a licensee in accordance with subsections (3), (4), (5), and (6) of this section upon proof that such person:

(j) Has committed:

(I) A fraudulent insurance act as defined in section ~~10-1-127~~ 10-1-128, C.R.S.;

SECTION 37. 12-43-222 (1) (v), Colorado Revised Statutes, is amended to read:

12-43-222. Prohibited activities - related provisions. (1) A person licensed, registered, or regulated under part 3, 4, 5, 6, or 7 of this article is in violation of this article if such person:

(v) Has committed a fraudulent insurance act, as set forth in section ~~10-1-127~~ 10-1-128, C.R.S.

SECTION 38. 13-64-303, Colorado Revised Statutes, is amended to read:

13-64-303. Judgments and settlements - reported. Any final judgment, settlement, or arbitration award against any health care professional or health care institution for medical malpractice shall be reported within fourteen days by such professional's or institution's medical malpractice insurance carrier in accordance with ~~section 10-1-124~~ SECTIONS 10-1-120, 10-1-121, 10-1-124, OR 10-1-125, C.R.S., or by such professional or institution if there is no commercial medical malpractice insurance coverage to the licensing agency of the health care professional or health care institution for review, investigation, and, where appropriate, disciplinary or other action. Any health care professional, health care institution, or insurance carrier ~~which~~ THAT knowingly fails to report as required by this section shall be subject to a civil penalty of not more than two thousand five hundred dollars. Such penalty shall be determined and collected by the district court in the city and county of Denver. All penalties collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the general fund.

SECTION 39. 16-4-112 (2) (a), Colorado Revised Statutes, is amended to read:

16-4-112. Enforcement procedures for compensated sureties. (2) As used in this section, unless the context otherwise requires:

(a) "Bail insurance company" means an insurer as defined in section 10-1-102 ~~(8)~~ (13), C.R.S., engaged in the business of writing bail appearance bonds through bonding agents, which company is subject to regulation by the division of insurance in the department of regulatory agencies.

SECTION 40. 24-75-601.1 (1) (I) (I), Colorado Revised Statutes, is amended to read:

24-75-601.1. Legal investments of public funds. (1) It is lawful to invest public funds in any of the following securities if the period from the date of purchase of such security to its maturity date is five years or less or if the governing body of the public entity authorizes investment for such period in excess of five years:

(I) (I) Any guaranteed investment contract, guaranteed interest contract, annuity contract, or funding agreement issued by an insurance company, either domestic or foreign, as defined in section 10-1-102 ~~(5)~~ (8) AND (9), C.R.S., ~~which~~ THAT holds a certificate of authority issued pursuant to section 10-3-105, C.R.S.

SECTION 41. 42-11-101 (1), Colorado Revised Statutes, is amended to read:

42-11-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Mechanical breakdown insurance" means ~~a~~ AN INSURANCE policy, contract, or agreement, as defined in section 10-1-102 ~~(7)~~ (12), C.R.S., that undertakes to perform or provide repair or replacement service, or indemnification for that service,

for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear, and that is issued by an insurance company authorized to do business in this state.

SECTION 42. 12-7-112, Colorado Revised Statutes, is amended to read:

12-7-112. Repeal - review of functions. This article is repealed, effective July 1, 2006 2004. Prior to such repeal, the licensing functions of the commissioner and the division shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 43. 24-34-104 (34), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (34) The following agencies, functions, or both, shall terminate on July 1, 2004:

(h) THE LICENSING OF BONDING AGENTS THROUGH THE DIVISION OF INSURANCE IN ACCORDANCE WITH ARTICLE 7 OF TITLE 12, C.R.S.

SECTION 44. 24-34-104 (37) (c), Colorado Revised Statutes, is amended, and the said 24-34-104 (37) is further amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (37) The following agencies, functions, or both, shall terminate on July 1, 2006:

(c) ~~The licensing of bonding agents through the division of insurance in accordance with article 7 of title 12, C.R.S.;~~

(e) THE FUNCTIONS OF THE DIVISION OF INSURANCE RELATED TO THE ISSUANCE OF CERTIFICATES OF AUTHORITY FOR HEALTH AND LIFE INSURERS PURSUANT TO ARTICLE 1 OF TITLE 10, C.R.S.

SECTION 45. 24-34-104 (39) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (39) (b) The following agencies, functions, or both, shall terminate on July 1, 2008:

(XVI) THE FUNCTIONS OF THE DIVISION OF INSURANCE RELATED TO THE LICENSING OF INSURANCE PRODUCERS, PURSUANT TO ARTICLE 1 OF TITLE 10, C.R.S.

SECTION 46. 24-34-104 (41), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41) The following agencies, functions, or both, shall terminate on July 1, 2010:

(n) THE FUNCTIONS OF THE DIVISION OF INSURANCE RELATED TO THE ISSUANCE OF CERTIFICATES OF AUTHORITY FOR PROPERTY AND CASUALTY, AUTOMOBILE, AND ANY OTHER ENTITY OR FUNCTION THAT DOES NOT OFFER HEALTH, LIFE, PROPERTY, CASUALTY, OR AUTOMOBILE INSURANCE BY THE DIVISION, PURSUANT TO ARTICLE 1 OF TITLE 10, C.R.S.

SECTION 47. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to functions of the division of insurance on or after said date.

SECTION 48. 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 18, 2003