

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0779.01 Shelby Ross x4510

SENATE BILL 22-106

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SENATE SPONSORSHIP

**Kolker and Sonnenberg**, Pettersen, Priola

HOUSE SPONSORSHIP

**Michaelson Jenet and Rich**, Amabile, McCluskie, Roberts, Soper

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**Senate Committees**  
Health & Human Services

**House Committees**

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A BILL FOR AN ACT

101 CONCERNING ADDRESSING CONFLICTS OF INTEREST IN REGIONAL  
102 ORGANIZATIONS RESPONSIBLE FOR PUBLIC BEHAVIORAL  
103 HEALTH SERVICES.

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

On or before October 1, 2022, the bill requires each managed care entity, administrative service organization, and managed service organization that has 25% or more provider ownership to comply with certain conflict of interest policies in order to promote transparency and accountability.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

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

2           **SECTION 1.** In Colorado Revised Statutes, 25.5-5-402, **amend**  
3 (9) as follows:

4           **25.5-5-402. Statewide managed care system - definitions -**  
5 **rules. (9) Bidding.** (a) The state department is authorized to institute a  
6 program for competitive bidding pursuant to section 24-103-202 or  
7 24-103-203 for MCEs seeking to provide, arrange for, or otherwise be  
8 responsible for the provision of services to its enrollees. The state  
9 department is authorized to award contracts to more than one offeror. The  
10 state department shall use competitive bidding procedures to encourage  
11 competition and improve the quality of care available to medicaid  
12 recipients over the long term that meets the requirements of this section  
13 and section 25.5-5-406.1.

14           (b) (I) ON OR BEFORE OCTOBER 1, 2022, IN ORDER TO PROMOTE  
15 TRANSPARENCY AND ACCOUNTABILITY, THE STATE DEPARTMENT SHALL  
16 REQUIRE EACH MCE THAT HAS TWENTY-FIVE PERCENT OR MORE PROVIDER  
17 OWNERSHIP TO COMPLY WITH THE FOLLOWING CONFLICT OF INTEREST  
18 POLICIES:

19           (A) PROVIDERS WHO HAVE OWNERSHIP OR BOARD MEMBERSHIP IN  
20 AN MCE SHALL NOT HAVE CONTROL, INFLUENCE, OR DECISION-MAKING  
21 AUTHORITY IN THE ESTABLISHMENT OF PROVIDER NETWORKS.

22           (B) EACH MCE SHALL INCLUDE IN THE MCE'S NETWORK  
23 ADEQUACY REPORTING THE NUMBER OF NETWORK DENIALS AND A  
24 COMPARISON OF RATES FOR PROVIDERS WHO HAVE OWNERSHIP OR BOARD  
25 MEMBERSHIP VERSUS PROVIDERS WHO DO NOT. THE STATE DEPARTMENT  
26 SHALL QUARTERLY REVIEW THE NETWORK ADEQUACY REPORTING TO

1 ENSURE THE MCE IS NOT INAPPROPRIATELY GIVING PREFERENCE TO  
2 PROVIDERS WITH OWNERSHIP OR BOARD MEMBERSHIP.

3 (C) AN EMPLOYEE OF A CONTRACTED PROVIDER OF AN MCE  
4 SHALL NOT ALSO BE AN EMPLOYEE OF THE MCE.

5 (D) AN MCE'S BOARD SHALL NOT HAVE MORE THAN FIFTY  
6 PERCENT OF CONTRACTED PROVIDERS AS BOARD MEMBERS, AND THE MCE  
7 IS ENCOURAGED TO HAVE A COMMUNITY MEMBER ON THE MCE'S BOARD.

8 (II) NO LATER THAN JULY 1, 2025, THE STATE DEPARTMENT SHALL  
9 APPROPRIATELY ADDRESS PERCEIVED OR ACTUAL PROVIDER OWNERSHIP  
10 AND CONTROL OF MCEs PARTICIPATING IN THE STATEWIDE MANAGED  
11 CARE SYSTEM IN THE INTEREST OF TRANSPARENCY AND ACCOUNTABILITY.  
12 IN DESIGNING A COMPETITIVE BIDDING PROCESS, THE STATE DEPARTMENT  
13 SHALL INCORPORATE COMMUNITY FEEDBACK AND HAVE A PUBLIC PROCESS  
14 RELATED TO GOVERNING REQUIREMENTS, INCLUDING HOW TO ADDRESS  
15 CONFLICTS OF INTEREST.

16 (III) AS USED IN THIS SUBSECTION (9)(b), "MCE" MEANS A  
17 MANAGED CARE ENTITY RESPONSIBLE FOR THE STATEWIDE SYSTEM OF  
18 COMMUNITY BEHAVIORAL HEALTH CARE, AS DESCRIBED IN SECTION  
19 25.5-5-402 (3).

20 **SECTION 2.** In Colorado Revised Statutes, 27-60-103, **add** (8)  
21 as follows:

22 **27-60-103. Behavioral health crisis response system - services**  
23 **- request for proposals - criteria - reporting - rules.** (8) (a) ON OR  
24 BEFORE OCTOBER 1, 2022, IN ORDER TO PROMOTE TRANSPARENCY AND  
25 ACCOUNTABILITY, THE OFFICE SHALL REQUIRE EACH ADMINISTRATIVE  
26 SERVICE ORGANIZATION THAT HAS TWENTY-FIVE PERCENT OR MORE  
27 PROVIDER OWNERSHIP TO COMPLY WITH THE FOLLOWING CONFLICT OF

1 INTEREST POLICIES:

2 (I) PROVIDERS WHO HAVE OWNERSHIP OR BOARD MEMBERSHIP IN  
3 AN ADMINISTRATIVE SERVICE ORGANIZATION SHALL NOT HAVE CONTROL,  
4 INFLUENCE, OR DECISION-MAKING AUTHORITY IN HOW FUNDING IS  
5 DISTRIBUTED TO ANY PROVIDER OR THE ESTABLISHMENT OF PROVIDER  
6 NETWORKS.

7 (II) THE OFFICE SHALL QUARTERLY REVIEW AN ADMINISTRATIVE  
8 SERVICE ORGANIZATION'S FUNDING ALLOCATION TO ENSURE THAT ALL  
9 PROVIDERS ARE BEING EQUALLY CONSIDERED FOR FUNDING. THE OFFICE  
10 IS AUTHORIZED TO REVIEW ANY OTHER PERTINENT INFORMATION TO  
11 ENSURE THE ADMINISTRATIVE SERVICE ORGANIZATION IS MEETING STATE  
12 AND FEDERAL RULES AND REGULATIONS AND IS NOT INAPPROPRIATELY  
13 GIVING PREFERENCE TO PROVIDERS WITH OWNERSHIP OR BOARD  
14 MEMBERSHIP.

15 (III) AN EMPLOYEE OF A CONTRACTED PROVIDER OF AN  
16 ADMINISTRATIVE SERVICE ORGANIZATION SHALL NOT ALSO BE AN  
17 EMPLOYEE OF THE ADMINISTRATIVE SERVICE ORGANIZATION.

18 (IV) AN ADMINISTRATIVE SERVICE ORGANIZATION'S BOARD SHALL  
19 NOT HAVE MORE THAN FIFTY PERCENT OF CONTRACTED PROVIDERS AS  
20 BOARD MEMBERS, AND THE ADMINISTRATIVE SERVICE ORGANIZATION IS  
21 ENCOURAGED TO HAVE A COMMUNITY MEMBER ON THE ADMINISTRATIVE  
22 SERVICE ORGANIZATION'S BOARD.

23 (b) THE OFFICE MAY DIRECT AN ADMINISTRATIVE SERVICE  
24 ORGANIZATION TO ALTER ITS INTERNAL PROCESS. IF THE MODIFICATIONS  
25 ARE UNSATISFACTORY, THE OFFICE MAY REPROCURE THE ADMINISTRATIVE  
26 SERVICE ORGANIZATION.

27 **SECTION 3.** In Colorado Revised Statutes, 27-80-107, **add** (2.5)

1 as follows:

2 **27-80-107. Designation of managed service organizations -**  
3 **purchase of services - revocation of designation. (2.5) (a)** ON OR  
4 BEFORE OCTOBER 1, 2022, IN ORDER TO PROMOTE TRANSPARENCY AND  
5 ACCOUNTABILITY, THE OFFICE OF BEHAVIORAL HEALTH SHALL REQUIRE  
6 EACH MANAGED SERVICE ORGANIZATION THAT HAS TWENTY-FIVE  
7 PERCENT OR MORE PROVIDER OWNERSHIP TO COMPLY WITH THE  
8 FOLLOWING CONFLICT OF INTEREST POLICIES:

9 (I) PROVIDERS WHO HAVE OWNERSHIP OR BOARD MEMBERSHIP IN  
10 A MANAGED SERVICE ORGANIZATION SHALL NOT HAVE CONTROL,  
11 INFLUENCE, OR DECISION-MAKING AUTHORITY IN HOW FUNDING IS  
12 DISTRIBUTED TO ANY PROVIDER OR THE ESTABLISHMENT OF PROVIDER  
13 NETWORKS.

14 (II) THE OFFICE OF BEHAVIORAL HEALTH SHALL QUARTERLY  
15 REVIEW A MANAGED SERVICE ORGANIZATION'S FUNDING ALLOCATION TO  
16 ENSURE THAT ALL PROVIDERS ARE BEING EQUALLY CONSIDERED FOR  
17 FUNDING. THE OFFICE OF BEHAVIORAL HEALTH IS AUTHORIZED TO REVIEW  
18 ANY OTHER PERTINENT INFORMATION TO ENSURE THE MANAGED SERVICE  
19 ORGANIZATION IS MEETING STATE AND FEDERAL RULES AND REGULATIONS  
20 AND IS NOT INAPPROPRIATELY GIVING PREFERENCE TO PROVIDERS WITH  
21 OWNERSHIP OR BOARD MEMBERSHIP.

22 (III) AN EMPLOYEE OF A CONTRACTED PROVIDER OF A MANAGED  
23 SERVICE ORGANIZATION SHALL NOT ALSO BE AN EMPLOYEE OF THE  
24 MANAGED SERVICE ORGANIZATION.

25 (IV) A MANAGED SERVICE ORGANIZATION'S BOARD SHALL NOT  
26 HAVE MORE THAN FIFTY PERCENT OF CONTRACTED PROVIDERS AS BOARD  
27 MEMBERS, AND THE MANAGED SERVICE ORGANIZATION IS ENCOURAGED

1 TO HAVE A COMMUNITY MEMBER ON THE MANAGED SERVICE  
2 ORGANIZATION'S BOARD.

3 (b) THE OFFICE OF BEHAVIORAL HEALTH MAY DIRECT A MANAGED  
4 SERVICE ORGANIZATION TO ALTER ITS INTERNAL PROCESS. IF THE  
5 MODIFICATIONS ARE UNSATISFACTORY, THE OFFICE OF BEHAVIORAL  
6 HEALTH MAY REDESIGNATE THE MANAGED SERVICE ORGANIZATION.

7 **SECTION 4. Safety clause.** The general assembly hereby finds,  
8 determines, and declares that this act is necessary for the immediate  
9 preservation of the public peace, health, or safety.