

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-0288.01 Christy Chase x2008

HOUSE BILL 22-1269

HOUSE SPONSORSHIP

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House Committees

Health & Insurance
Appropriations

Senate Committees

Business, Labor, & Technology
Appropriations

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS IMPOSED ON PERSONS NOT AUTHORIZED**
102 **TO TRANSACT INSURANCE BUSINESS IN THIS STATE WHO ARE**
103 **OFFERING COVERAGE OF HEALTH-CARE COSTS FOR COLORADO**
104 **RESIDENTS, AND, IN CONNECTION THEREWITH, MAKING AN**
105 **APPROPRIATION.**

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>.)

Starting October 1, 2022, and by each March 1 thereafter, the bill requires any person that is not authorized to engage in the business of

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.

SENATE
3rd Reading Unamended
May 5, 2022

SENATE
2nd Reading Unamended
May 4, 2022

HOUSE
3rd Reading Unamended
April 22, 2022

HOUSE
Amended 2nd Reading
April 21, 2022

insurance in this state but that offers or intends to offer a plan or arrangement to facilitate payment of or to cover health-care costs or services for Colorado residents to annually submit to the commissioner of insurance (commissioner) specified information and a certification that the information is accurate and complies with the requirements of the bill. The submission must include information about the operation of the plan or arrangement in the immediately preceding calendar year, including:

- The number of participants in the plan or arrangement;
- The total amount of fees, dues, or other payments collected from participants and the percentage of fees, dues, or other payments that the person retained;
- The total amount of payments made to providers or to reimburse participants for health-care services provided or received;
- The estimated number of participants the person anticipates in the next calendar year;
- The counties in which the person offers or intends to offer a plan or arrangement and any other states in which the person offers a plan or arrangement;
- A list of third parties associated with, or offering or enrolling participants in a plan or arrangement on behalf of, the person and a detailed accounting of commissions or other remuneration paid to a third party for services provided in promoting or administering the plan or arrangement;
- The person's reserve balance; and
- Contact information for an individual serving as the person's contact person in this state, a list of the person's officers and directors, and the person's organizational chart.

Within 45 days after receipt, the commissioner is to determine whether a submission by a person is complete. Each year, the commissioner is to compile a report summarizing the information submitted by persons, post the report on the division of insurance website, and submit the report to specified legislative committees. The commissioner is authorized to adopt rules to implement the bill and to issue an emergency cease-and-desist order against a person that fails to comply with the requirements of the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-107.4 as
3 follows:

4 **10-16-107.4. Health-care sharing plan or arrangement -**

1 **required reporting and certification - noncompliance - information**
2 **posted on division website - rules.** (1) A PERSON NOT AUTHORIZED

3 BY THE COMMISSIONER PURSUANT TO ARTICLE 3 OF THIS TITLE 10 TO
4 OFFER INSURANCE IN THIS STATE THAT OFFERS OR INTENDS TO OFFER A
5 PLAN OR ARRANGEMENT TO FACILITATE PAYMENT OR REIMBURSEMENT OF
6 HEALTH-CARE COSTS OR SERVICES FOR RESIDENTS OF THIS STATE,
7 REGARDLESS OF WHETHER THE PERSON IS DOMICILED IN THIS STATE OR
8 ANOTHER STATE, SHALL SUBMIT TO THE COMMISSIONER BY OCTOBER 1,
9 2022, AND BY MARCH 1 EACH YEAR THEREAFTER:

10 (a) THE FOLLOWING INFORMATION:

11 (I) THE TOTAL NUMBER OF INDIVIDUALS AND HOUSEHOLDS THAT
12 PARTICIPATED IN THE PLAN OR ARRANGEMENT IN THIS STATE IN THE
13 IMMEDIATELY PRECEDING CALENDAR YEAR;

14 (II) THE TOTAL NUMBER OF EMPLOYER GROUPS THAT
15 PARTICIPATED IN THE PLAN OR ARRANGEMENT IN THIS STATE IN THE
16 IMMEDIATELY PRECEDING CALENDAR YEAR, SPECIFYING THE TOTAL
17 NUMBER OF PARTICIPATING INDIVIDUALS IN EACH PARTICIPATING
18 EMPLOYER GROUP;

19 (III) IF THE PERSON OFFERS A PLAN OR ARRANGEMENT IN OTHER
20 STATES, THE TOTAL NUMBER OF PARTICIPANTS IN THE PLAN OR
21 ARRANGEMENT NATIONALLY;

22 (IV) ANY CONTRACTS THE PERSON HAS ENTERED INTO WITH
23 PROVIDERS IN THIS STATE THAT PROVIDE HEALTH-CARE SERVICES TO PLAN
24 OR ARRANGEMENT PARTICIPANTS;

25 (V) THE TOTAL AMOUNT OF FEES, DUES, OR OTHER PAYMENTS
26 COLLECTED BY THE PERSON IN THE IMMEDIATELY PRECEDING CALENDAR
27 YEAR FROM INDIVIDUALS, EMPLOYER GROUPS, OR OTHERS WHO

1 PARTICIPATED IN THE PLAN OR ARRANGEMENT IN THIS STATE, SPECIFYING
2 THE PERCENTAGE OF FEES, DUES, OR OTHER PAYMENTS RETAINED BY THE
3 PERSON FOR ADMINISTRATIVE EXPENSES;

4 (VI) THE TOTAL DOLLAR AMOUNT OF REQUESTS FOR
5 REIMBURSEMENT OF HEALTH-CARE COSTS OR SERVICES SUBMITTED IN THIS
6 STATE IN THE IMMEDIATELY PRECEDING CALENDAR YEAR BY
7 PARTICIPANTS IN THE PLAN OR ARRANGEMENT OR PROVIDERS THAT
8 PROVIDED HEALTH-CARE SERVICES TO PLAN OR ARRANGEMENT
9 PARTICIPANTS;

10 (VII) THE TOTAL DOLLAR AMOUNT OF REQUESTS FOR
11 REIMBURSEMENT OF HEALTH-CARE COSTS OR SERVICES THAT WERE
12 SUBMITTED IN THIS STATE AND WERE DETERMINED TO QUALIFY FOR
13 REIMBURSEMENT UNDER THE PLAN OR ARRANGEMENT IN THE
14 IMMEDIATELY PRECEDING CALENDAR YEAR;

15 (VIII) THE TOTAL AMOUNT OF PAYMENTS MADE TO PROVIDERS IN
16 THIS STATE IN THE IMMEDIATELY PRECEDING CALENDAR YEAR FOR
17 HEALTH-CARE SERVICES PROVIDED TO OR RECEIVED BY A PLAN OR
18 ARRANGEMENT PARTICIPANT;

19 (IX) THE TOTAL AMOUNT OF REIMBURSEMENTS MADE TO PLAN OR
20 ARRANGEMENT PARTICIPANTS IN THIS STATE IN THE IMMEDIATELY
21 PRECEDING CALENDAR YEAR FOR HEALTH-CARE SERVICES PROVIDED TO OR
22 RECEIVED BY A PLAN OR ARRANGEMENT PARTICIPANT;

23 (X) THE TOTAL NUMBER OF REQUESTS FOR REIMBURSEMENT OF
24 HEALTH-CARE COSTS OR SERVICES SUBMITTED IN THIS STATE IN THE
25 IMMEDIATELY PRECEDING CALENDAR YEAR THAT WERE DENIED,
26 EXPRESSED AS A PERCENTAGE OF TOTAL REIMBURSEMENT REQUESTS
27 SUBMITTED IN THAT CALENDAR YEAR, AND THE TOTAL NUMBER OF

1 REIMBURSEMENT REQUEST DENIALS THAT WERE APPEALED;

2 (XI) THE TOTAL AMOUNT OF HEALTH-CARE EXPENSES SUBMITTED
3 IN THIS STATE BY PLAN OR ARRANGEMENT PARTICIPANTS OR PROVIDERS
4 IN THE IMMEDIATELY PRECEDING CALENDAR YEAR THAT QUALIFY FOR
5 REIMBURSEMENT PURSUANT TO THE PLAN OR ARRANGEMENT CRITERIA
6 BUT THAT, AS OF THE END OF THAT CALENDAR YEAR, HAVE NOT BEEN
7 REIMBURSED, EXCLUDING ANY AMOUNTS THAT THE PLAN OR
8 ARRANGEMENT PARTICIPANTS INCURRING THE HEALTH-CARE COSTS MUST
9 PAY BEFORE RECEIVING REIMBURSEMENT UNDER THE PLAN OR
10 ARRANGEMENT;

11 (XII) THE ESTIMATED NUMBER OF PLAN OR ARRANGEMENT
12 PARTICIPANTS THE PERSON IS ANTICIPATING IN THIS STATE IN THE NEXT
13 CALENDAR YEAR, SPECIFYING THE ESTIMATED NUMBER OF INDIVIDUALS,
14 HOUSEHOLDS, EMPLOYER GROUPS, AND EMPLOYEES;

15 (XIII) THE SPECIFIC COUNTIES IN THIS STATE IN WHICH THE
16 PERSON:

17 (A) OFFERED A PLAN OR ARRANGEMENT IN THE IMMEDIATELY
18 PRECEDING CALENDAR YEAR; AND

19 (B) INTENDS TO OFFER A PLAN OR ARRANGEMENT IN THE NEXT
20 CALENDAR YEAR;

21 (XIV) OTHER STATES IN WHICH THE PERSON OFFERS A PLAN OR
22 ARRANGEMENT;

23 (XV) A LIST OF ANY THIRD PARTIES, OTHER THAN A PRODUCER,
24 THAT ARE ASSOCIATED WITH OR ASSIST THE PERSON IN OFFERING OR
25 ENROLLING PARTICIPANTS IN THIS STATE IN THE PLAN OR ARRANGEMENT,
26 COPIES OF ANY TRAINING MATERIALS PROVIDED TO A THIRD PARTY,
27 AND A DETAILED ACCOUNTING OF ANY COMMISSIONS OR OTHER FEES OR

1 REMUNERATION PAID TO A THIRD PARTY IN THE IMMEDIATELY PRECEDING
2 CALENDAR YEAR FOR:

3 (A) MARKETING, PROMOTING, OR ENROLLING PARTICIPANTS IN A
4 PLAN OR ARRANGEMENT OFFERED BY THE PERSON IN THIS STATE; OR

5 (B) OPERATING, MANAGING, OR ADMINISTERING A PLAN OR
6 ARRANGEMENT OFFERED BY THE PERSON IN THIS STATE;

7 (XVI) THE TOTAL NUMBER OF PRODUCERS THAT ARE ASSOCIATED
8 WITH OR ASSIST THE PERSON IN OFFERING OR ENROLLING PARTICIPANTS IN
9 THIS STATE IN THE PLAN OR ARRANGEMENT, THE TOTAL NUMBER OF
10 PARTICIPANTS ENROLLED IN THE PLAN OR ARRANGEMENT THROUGH A
11 PRODUCER, COPIES OF ANY TRAINING MATERIALS PROVIDED TO A
12 PRODUCER, AND A DETAILED ACCOUNTING OF ANY COMMISSIONS OR
13 OTHER FEES OR REMUNERATION PAID TO A PRODUCER IN THE
14 IMMEDIATELY PRECEDING CALENDAR YEAR FOR MARKETING, PROMOTING,
15 OR ENROLLING PARTICIPANTS IN A PLAN OR ARRANGEMENT OFFERED BY
16 THE PERSON IN THIS STATE;

17 (XVII) COPIES OF ANY CONSUMER-FACING AND MARKETING
18 MATERIALS USED IN THIS STATE IN PROMOTING THE PERSON'S PLAN OR
19 ARRANGEMENT, INCLUDING PLAN OR ARRANGEMENT AND BENEFIT
20 DESCRIPTIONS AND OTHER MATERIALS THAT EXPLAIN THE PLAN OR
21 ARRANGEMENT;

22 (XVIII) THE NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND
23 TELEPHONE NUMBER OF AN INDIVIDUAL SERVING AS A CONTACT PERSON
24 FOR THE PERSON IN THIS STATE;

25 (XIX) A LIST OF ANY PARENT COMPANIES, SUBSIDIARIES, AND
26 OTHER NAMES THAT THE PERSON HAS OPERATED UNDER AT ANY TIME
27 WITHIN THE IMMEDIATELY PRECEDING FIVE CALENDAR YEARS; AND

1 (XX) AN ORGANIZATIONAL CHART FOR THE PERSON AND A LIST OF
2 THE OFFICERS AND DIRECTORS OF THE PERSON;

3

4 (b) A CERTIFICATION BY AN OFFICER OF THE PERSON THAT, TO THE
5 BEST OF THE PERSON'S GOOD-FAITH KNOWLEDGE AND BELIEF, THE
6 INFORMATION SUBMITTED IS ACCURATE AND SATISFIES THE
7 REQUIREMENTS OF THIS SUBSECTION (1).

8 (2) (a) IF THE PERSON SUBJECT TO THE REQUIREMENTS OF
9 SUBSECTION (1) OF THIS SECTION FAILS TO SUBMIT THE INFORMATION OR
10 CERTIFICATION REQUIRED BY SAID SUBSECTION, THE SUBMISSION IS
11 INCOMPLETE. THE COMMISSIONER SHALL MAKE A DETERMINATION OF
12 COMPLETENESS NO LATER THAN FORTY-FIVE DAYS AFTER THE SUBMISSION.
13 IF THE COMMISSIONER HAS NOT INFORMED THE PERSON OF ANY
14 DEFICIENCIES IN THE SUBMISSION WITHIN FORTY-FIVE DAYS AFTER
15 RECEIVING THE SUBMISSION, THE SUBMISSION IS CONSIDERED COMPLETE.

16 (b) (I) IF THE COMMISSIONER DETERMINES THAT A PERSON FAILS
17 TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION,
18 THE COMMISSIONER SHALL:

19 (A) NOTIFY THE PERSON THAT THE SUBMISSION IS INCOMPLETE
20 AND ENUMERATE IN THE NOTIFICATION EACH DEFICIENCY FOUND IN THE
21 PERSON'S SUBMISSION; AND

22 (B) ALLOW THE PERSON THIRTY DAYS AFTER NOTICE OF THE
23 INCOMPLETE SUBMISSION TO REMEDY THE DEFICIENCY FOUND IN THE
24 SUBMISSION.

25 (II) IF THE PERSON DOES NOT REMEDY THE DEFICIENCY WITHIN THE
26 THIRTY-DAY PERIOD, THE COMMISSIONER MAY LEVY A FINE NOT TO
27 EXCEED FIVE THOUSAND DOLLARS PER DAY.

1 (III) IF THE PERSON DOES NOT REMEDY THE DEFICIENCY OR
2 DEFICIENCIES WITHIN THIRTY DAYS AFTER THE INITIAL FINE IS LEVIED, THE
3 COMMISSIONER MAY ISSUE A CEASE-AND-DESIST ORDER IN ACCORDANCE
4 WITH SECTION 10-3-904.5.

5 (3) ON OR BEFORE APRIL 1, 2023, AND ON OR BEFORE EACH
6 OCTOBER 1 THEREAFTER, THE COMMISSIONER SHALL:

7 (a) PREPARE A WRITTEN REPORT SUMMARIZING THE INFORMATION
8 SUBMITTED BY PERSONS PURSUANT TO SUBSECTION (1) OF THIS SECTION;
9 AND

10 (b) POST ON THE DIVISION'S WEBSITE THE REPORT AND ACCURATE
11 AND EVIDENCE-BASED INFORMATION ABOUT THE PERSONS WHO
12 SUBMITTED INFORMATION PURSUANT TO SUBSECTION (1) OF THIS SECTION,
13 INCLUDING HOW CONSUMERS MAY FILE COMPLAINTS.

14 (4) THE COMMISSIONER MAY ADOPT RULES AS NECESSARY TO
15 IMPLEMENT THIS SECTION.

16 (5) THIS SECTION DOES NOT APPLY TO:

17 (a) DIRECT PRIMARY CARE AGREEMENTS AS DEFINED IN ARTICLE
18 23 OF TITLE 6; OR

19 (b) OTHER CONSUMER PAYMENT ARRANGEMENTS IDENTIFIED BY
20 THE COMMISSIONER BY RULE, INCLUDING CONSUMER PAYMENT PLANS
21 OFFERED DIRECTLY BY A PROVIDER TO A PATIENT OR THE PARTY
22 RESPONSIBLE FOR PAYMENT ON BEHALF OF THE PATIENT.

23 **SECTION 2.** In Colorado Revised Statutes, 10-3-904.5, **amend**
24 (1)(a) as follows:

25 **10-3-904.5. Emergency cease-and-desist orders - issuance.**

26 (1) The commissioner may issue an emergency cease-and-desist order ex
27 parte if:

1 (a) The commissioner believes that:

2 (I) An unauthorized person is engaging in the business of
3 insurance in violation of the provisions of section 10-3-105 or 10-3-903
4 or is in violation of a rule promulgated by the commissioner; and OR

5 (II) A PERSON IS FAILING TO REMEDY OR HAS NOT REMEDIED A
6 DEFICIENCY OR DEFICIENCIES IN THE SUBMISSION REQUIRED PURSUANT TO
7 SECTION 10-16-107.4 (1) WITHIN THE THIRTY DAYS AFTER THE
8 COMMISSIONER LEVIES AN INITIAL FINE PURSUANT TO SECTION
9 10-16-107.4 (2)(b)(II); AND

10 **SECTION 3. Appropriation.** (1) For the 2022-23 state fiscal
11 year, \$84,568 is appropriated to the department of regulatory agencies.
12 This appropriation is from the division of insurance cash fund created in
13 section 10-1-103 (3), C.R.S. To implement this act, the department may
14 use this appropriation as follows:

15 (a) \$39,097 for use by the division of insurance for personal
16 services, which amount is based on an assumption that the division will
17 require an additional 0.5 FTE;

18 (b) \$6,875 for use by the division of insurance for operating
19 expenses;

20 (c) \$19,714 for the purchase of legal services; and

21 (d) \$18,882 for the purchase of information technology services.

22 (2) For the 2022-23 state fiscal year, \$19,714 is appropriated to
23 the department of law. This appropriation is from reappropriated funds
24 received from the department of regulatory agencies under subsection
25 (1)(c) of this section and is based on an assumption that the department
26 of law will require an additional 0.1 FTE. To implement this act, the
27 department of law may use this appropriation to provide legal services for

1 the department of regulatory agencies.

2 (3) For the 2022-23 state fiscal year, \$18,882 is appropriated to
3 the office of the governor for use by the office of information technology.

4 This appropriation is from reappropriated funds received from the
5 department of regulatory agencies under subsection (1)(d) of this section.

6 To implement this act, the office may use this appropriation to provide
7 information technology services for the department of regulatory
8 agencies.

9 **SECTION 4. Applicability.** This act applies to conduct occurring
10 on or after the effective date of this act.

11 **SECTION 5. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.