

CHAPTER 219

GOVERNMENT - STATE

HOUSE BILL 22-1291

BY REPRESENTATIVE(S) Weissman, Duran, Lontine;
also SENATOR(S) Ginal.**AN ACT****CONCERNING THE SUNRISE REVIEW OF A PROPOSED REGULATION OF AN UNREGULATED PROFESSIONAL OR OCCUPATIONAL GROUP.***Be it enacted by the General Assembly of the State of Colorado:*

SECTION 1. In Colorado Revised Statutes, 24-34-104.1, **amend** (2)(a) introductory portion, (3)(a), (3)(b), (4)(b) introductory portion, and (4)(b)(I); **repeal** (2)(a)(III), (2)(a)(IV), and (2)(b); and **add** (4)(b)(I.5) and (8) as follows:

24-34-104.1. General assembly sunrise review of new regulation of occupations and professions - definition - repeal. (2) (a) For proposals submitted on or after ~~July 1, 2012~~ JULY 1, 2022, any professional or occupational group or organization, any individual, or any other interested party that proposes the regulation of any unregulated professional or occupational group shall submit the following information to the department: ~~of regulatory agencies no later than December 1 of any year for analysis and evaluation during the following year:~~

(III) ~~A statement of support for the proposed regulation as described in paragraph (b) of this subsection (2);~~

(IV) ~~The reasons why certification, registration, licensure, or other type of regulation is being proposed and why that regulatory alternative was chosen;~~

(b) ~~The department shall review a proposal to regulate a professional or occupational group only when the party requesting the review files a statement of support for the proposed regulation that has been signed by at least ten members of the professional or occupational group for which regulation is being sought or at least ten individuals who are not members of the professional or occupational group.~~

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(3) (a) (I) Except as provided in ~~paragraph (b) or (c) of this subsection (3)~~ SUBSECTION (3)(b) OR (3)(c) OF THIS SECTION, the department of regulatory agencies shall conduct an analysis and evaluation of any proposed regulation. ~~submitted on or after July 1, 2012.~~ The analysis and evaluation must be based upon the criteria listed in ~~paragraph (b) of subsection (4)~~ SUBSECTION (4)(b) of this section.

(II) (A) FOR A PROPOSED REGULATION SUBMITTED AFTER DECEMBER 1, 2021, AND BEFORE JULY 1, 2022, THE DEPARTMENT SHALL SUBMIT A REPORT TO THE PROPONENTS OF THE REGULATION AND TO THE GENERAL ASSEMBLY NO LATER THAN JUNE 30, 2023.

(B) THIS SUBSECTION (3)(a)(II) IS REPEALED, EFFECTIVE DECEMBER 31, 2023.

(III) FOR A PROPOSED REGULATION SUBMITTED ON OR AFTER JULY 1, 2022, the department of regulatory agencies shall submit a report to the proponents of the regulation and to the general assembly no later than:

(A) ~~October 15~~ JUNE 30 of the year following the year in which the proposed regulation was submitted, FOR A PROPOSED REGULATION SUBMITTED ON OR AFTER JULY 1 AND ON OR BEFORE DECEMBER 31; AND

(B) DECEMBER 31 OF THE SAME YEAR IN WHICH THE PROPOSED REGULATION WAS SUBMITTED, FOR A PROPOSED REGULATION SUBMITTED ON OR AFTER JANUARY 1 AND ON OR BEFORE JUNE 30.

(b) (I) After review of a proposal to regulate a professional or occupational group that was submitted on or after ~~July 1, 2012~~ JULY 1, 2022, the department of regulatory agencies may decline to conduct an analysis and evaluation of the proposed regulation only if: ~~it:~~

(A) THE DEPARTMENT previously conducted an analysis and evaluation of the proposed regulation of the same professional or occupational group, ISSUED A REPORT NOT MORE THAN THIRTY-SIX MONTHS PRIOR TO THE SUBMISSION OF THE CURRENT PROPOSAL TO REGULATE THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP, AND FINDS THAT NO NEW INFORMATION HAS BEEN SUBMITTED THAT WOULD CAUSE THE DEPARTMENT TO ALTER OR MODIFY THE RECOMMENDATIONS MADE IN ITS EARLIER REPORT ON THE PROPOSED REGULATION OF THE PROFESSIONAL OR OCCUPATIONAL GROUP;

(B) ~~Issued a report not more than thirty-six months prior to the submission of the current proposal to regulate the same professional or occupational group; and~~ THE PROPOSED REGULATION APPEARS TO REGULATE FEWER THAN TWO HUNDRED FIFTY INDIVIDUALS; OR

(C) ~~Finds that no new information has been submitted that would cause the department to alter or modify the recommendations made in its earlier report on the proposed regulation of the professional or occupational group~~ THE DEPARTMENT DETERMINES THAT AT LEAST THIRTY-THREE OTHER STATES LICENSE, CERTIFY, OR REQUIRE REGISTRATION OF MEMBERS OF THE SAME PROFESSIONAL OR OCCUPATIONAL GROUP.

(II) (A) If the department of regulatory agencies declines to conduct an analysis and evaluation pursuant to ~~this paragraph (b)~~ SUBSECTION (3)(b)(I)(A) OF THIS SECTION, the department shall reissue its earlier report on the proposed regulation to the proponents of the regulation and the general assembly.

(B) IF THE DEPARTMENT DECLINES TO CONDUCT THE ANALYSIS AND EVALUATION PURSUANT TO SUBSECTION (3)(b)(I)(B) OR (3)(b)(I)(C) OF THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE PROponents OF THE REGULATION AND THE GENERAL ASSEMBLY THAT IT IS DECLINING TO CONDUCT THE ANALYSIS AND EVALUATION AND THE REASON FOR SO DECLINING.

(III) (A) FOR A PROPOSED REGULATION SUBMITTED AFTER DECEMBER 1, 2021, AND BEFORE JULY 1, 2022, IF THE DEPARTMENT DECLINES TO CONDUCT AN ANALYSIS AND EVALUATION PURSUANT TO SUBSECTION (3)(b)(I) OF THIS SECTION, AS IT EXISTED BEFORE JULY 1, 2022, THE DEPARTMENT SHALL REISSUE ITS EARLIER REPORT NO LATER THAN JUNE 30, 2023.

(B) THIS SUBSECTION (3)(b)(III) IS REPEALED, EFFECTIVE DECEMBER 31, 2023.

(IV) FOR A PROPOSED REGULATION SUBMITTED ON OR AFTER JULY 1, 2022, THE DEPARTMENT SHALL REISSUE ITS EARLIER REPORT OR ISSUE THE NOTICE ~~no later than: October 15 of the year following the year in which the proposed regulation was submitted.~~

(A) JUNE 30 OF THE YEAR FOLLOWING THE YEAR IN WHICH THE PROPOSED REGULATION WAS SUBMITTED, FOR A PROPOSED REGULATION SUBMITTED ON OR AFTER JULY 1 AND ON OR BEFORE DECEMBER 31; OR

(B) DECEMBER 31 OF THE SAME YEAR IN WHICH THE PROPOSED REGULATION WAS SUBMITTED, FOR A PROPOSED REGULATION SUBMITTED ON OR AFTER JANUARY 1 AND BEFORE JUNE 30.

(4) (b) ~~In such hearings,~~ The determination as to whether such regulation of an occupation or a profession is needed shall be based upon the following considerations:

(I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public; ~~and whether the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;~~

(I.5) WHETHER THE PRACTITIONERS OF THE PROFESSION OR OCCUPATION EXERCISE INDEPENDENT JUDGMENT, AND WHETHER THE PUBLIC CAN REASONABLY BE EXPECTED TO BENEFIT FROM THE DIRECT REGULATION OF THE PROFESSION OR OCCUPATION IF A PRACTITIONER'S JUDGMENT OR PRACTICE IS LIMITED OR SUBJECT TO THE JUDGMENT OR SUPERVISION OF OTHERS.

(8) AS USED IN THIS SECTION, "DEPARTMENT" MEANS THE DEPARTMENT OF REGULATORY AGENCIES.

SECTION 2. Effective date. This act takes effect July 1, 2022; except that

section 24-34-104.1 (4)(b), Colorado Revised Statutes, as amended in section 1 of this act, takes effect October 16, 2022.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: May 25, 2022