

Colorado Health Insurance Exchange Oversight Committee

Members of the Committee

Senator Ellen Roberts, Chair
Representative Beth McCann, Vice-Chair

Senator Irene Aguilar	Representative Lois Landgraf
Senator John Kefalas	Representative Dianne Primavera
Senator Kevin Lundberg	Representative Su Ryden
Senator Beth Martinez Humenik	Representative Lang Sias

Legislative Council Staff

Elizabeth Haskell, Senior Research Analyst
Amanda King, Senior Research Analyst
Bill Zepernick, Principal Fiscal Analyst

Office of Legislative Legal Services

Christy Chase, Managing Senior Attorney
Kristen Forrestal, Senior Attorney

November 2015

Colorado Health Insurance Exchange Oversight Committee

Committee Charge

In March 2010, federal health care legislation, also known as the Patient Protection and Affordable Care Act (PPACA), was adopted by the U.S. Congress and signed by the President. PPACA is intended to expand health care coverage by increasing access to private health insurance and public health programs through the use of the federal health insurance exchange and state-based health insurance exchanges. Health insurance exchanges are regulated marketplaces in which individuals and small businesses can shop for health insurance, or be referred to public health programs.

In 2011, Colorado passed Senate Bill 11-200, which established the Colorado Health Benefit Exchange (exchange) and its governance structure. The bill created the exchange as a nonprofit public entity with a board of directors responsible for its operation. The exchange currently does business under the name Connect for Health Colorado.

Senate Bill 11-200 also established the Legislative Health Benefit Exchange Implementation Review Committee. Senate Bill 15-256 changed the name of the committee to the Colorado Health Insurance Exchange Oversight Committee (committee). State law authorizes the committee to:

- meet at least two times a year; however, the committee can meet an unlimited number of times during the legislative session and up to seven times during the interim;
- approve the appointment of the executive director of the exchange by the Colorado Health Benefit Exchange board of directors (board);
- review and approve the board's initial financial and operational plans;
- review annual financial and operational plans of the exchange;
- review and approve any implementation grants for which the board wishes to apply; and
- recommend up to eight bills for consideration by the General Assembly each year.

Committee Activities

The Colorado Health Insurance Exchange Oversight Committee has met nine times thus far in 2015, and is scheduled to have one meeting in December 2015. The committee received briefings from the exchange board and staff at most of the meetings, and per its statutory charge, covered a range of topics pertaining to the operations and finances of the exchange. Additionally, the committee received briefings from the Colorado Association of Health Plans, Colorado Consumer Health Initiative, Colorado Health Institute, Colorado State Association of Health Underwriters, Department of Health Care Policy and Financing (HCPF), Division of Insurance in the Department of Regulatory Agencies, Independence Institute, National Conference of State Legislatures, Office of Legislative Legal Services, and Office of the State Auditor.

Financial and operational plans, sustainability, budget, and fees. In accordance with Section 10-22-107, C.R.S., the committee is required to review the financial and operational plans of the exchange. At the June 5, 2015, meeting, Connect for Health Colorado staff presented the FY 2015-16 budget and information on the sustainability of the exchange to the committee for review and comment. Exchange staff explained that federal grant funding is no longer available and that the exchange is funded primarily by earned revenue. Several sources of revenue for operational expenses were identified by exchange staff, including:

- the Marketplace Health Insurance Administrative Fee (MHIA);
- the Broad Market Assessment (BMA);
- carrier donations;
- grants;
- interest income;
- Small Business Health Options Program (SHOP); and
- potential Medicaid reimbursement.

The MHIA and the BMA will generate the bulk of revenue for the exchange. The MHIA is a carrier assessment based on the total premiums collected by a carrier from plans sold on the exchange. In 2015, the MHIA is set at 1.4 percent of premiums and will increase in 2016 to 3.5 percent of premiums. The BMA is a general monthly assessment on all health insurance plans sold in Colorado. This fee is set at \$1.25 per policy per month for 2015 and is set to increase to \$1.80 per policy per month in 2016. The BMA is a short-term funding mechanism that will expire at the end of 2016.

1332 State Innovation Waivers. Section 1332 of the PPACA allows a state to apply for a state innovation waiver to pursue innovative strategies for providing its residents with access to high-quality, affordable health insurance while still retaining certain elements of the PPACA. There is a specific application process, and if approved, the waiver can begin on or after January 1, 2017. The 1332 state innovation waivers are approved for five-year periods, and can be renewed. There are federally required components of a 1332 state innovation waiver, elements of federal law that can be waived, and a monitoring and review process for an approved waiver.

At the July 15, 2015, meeting, the committee discussed 1332 state innovation waivers with representatives from Connect for Health Colorado, the Colorado Health Institute, and the National Conference of State Legislatures. Prior to that meeting, there was discussion of creating a subcommittee to explore the possibility of applying for a 1332 state innovation waiver, but it was decided that a subcommittee would not be convened for this purpose.

Shared Eligibility System. The committee discussed the Shared Eligibility System utilized by the exchange and HCPF at several meetings over the course of the year. Both staff of the exchange and HCPF discussed the challenges of the system and identified technology improvements that are being evaluated for implementation. Some areas of improvement brought to the attention of the committee were:

- creation of a fast-track path for applicants that reduces the number of questions for those who do not qualify for Medicaid;
- creation of a wrap-up summary screen that allows customers to edit their application;
- providing enhanced customer service by allowing exchange customer service center representatives to access customer information in the Colorado Benefits Management System;

- development of an educational avatar within the online system to assist customers in answering questions;
- modification and clarification of Medicaid and Advance Premium Tax Credit (APTC) eligibility notices; and
- development of strategies to better identify exchange customers who move between financial eligibility categories.

Customer service and broker interactions. The committee had several discussions about the customer service provided by the exchange and the role of insurance brokers in relation to the exchange. At the April 15, 2015, committee meeting, the committee heard presentations from the Colorado State Association of Health Underwriters and the Colorado Consumer Health Initiative about the experience of insurance brokers and consumers with the exchange. Additionally, opportunities were provided at each committee meeting conducted during the interim for members of the public to provide testimony to the committee about their experience with the exchange or other topics. Finally, the committee created an online survey that allowed members of the public to submit feedback about their experience purchasing health insurance both through the exchange and with the assistance of insurance brokers. This feedback mechanism resulted in 72 completed surveys.

Appointment of new chief executive officer. In 2014, Patty Fontneau resigned as the exchange's chief executive officer (CEO). At that time Gary Drews was appointed as the interim CEO and served through June 2015. For several months, a CEO search was conducted by the exchange's board of directors and in April 2015, the committee formed a subcommittee to discuss the CEO appointment with the board. The board was not able to identify a successful candidate during this initial search and the appointment of a permanent CEO was postponed. Kevin Patterson was named to follow Mr. Drews as interim CEO. After several exchange board member appointments were made in July, the board resumed its search and named Mr. Patterson as the permanent CEO of the exchange. The committee approved Mr. Patterson's appointment at the October 27, 2015, meeting.

Committee Recommendations

As a result of committee discussions and deliberation, the Colorado Health Insurance Exchange Oversight Committee recommends the following bill for consideration in the 2016 legislative session.

Bill A — Exchange Use of Qualified Insurance Brokers. Bill A requires the Colorado Health Benefit Exchange (Connect for Health Colorado) to establish a system for referring consumers to qualified insurance brokers to enroll consumers in health plans. To participate in the system, a broker must be licensed by the Colorado Division of Insurance and certified by Connect for Health Colorado.

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

BILL A

Temporary storage location: S:\LCS\Council\Legcouncil\LC2015\Nov 10 Interim Committee Meeting\Health Insurance Exchange Oversight Committee\Bill A.wpd

LLS NO. 16--0284.01 Kristen Forrestal x4217

SENATE BILL

SENATE SPONSORSHIP

Martinez Humenik, Lundberg, Roberts

HOUSE SPONSORSHIP

Sias, Landgraf, Tate

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF QUALIFIED INSURANCE BROKERS TO ENROLL**
102 **ELIGIBLE PARTICIPANTS IN HEALTH BENEFIT PLANS THROUGH**
103 **THE COLORADO HEALTH BENEFIT EXCHANGE.**

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://www.leg.state.co.us/billsummaries>.)

Colorado Health Insurance Exchange Oversight Committee.
The bill requires the Colorado health benefit exchange (exchange) to establish a system to refer consumers to qualified insurance brokers to

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

enroll consumers in health benefit plans. To be qualified, an insurance broker must be licensed by the commissioner of insurance and be certified by the exchange.

The system must include the installation of a call center and the necessary software to make the referrals.

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

SECTION 1. In Colorado Revised Statutes, **add** 10-22-112 as follows:

10-22-112. Health benefit exchange - referral to private insurance brokers. (1) ON OR BEFORE NOVEMBER 1, 2016, THE EXCHANGE SHALL ESTABLISH A SYSTEM FOR QUALIFIED INSURANCE BROKERS, AS DETERMINED UNDER SUBSECTION (2) OF THIS SECTION TO ASSIST CONSUMERS IN ENROLLING IN HEALTH BENEFIT PLANS. A CUSTOMER SERVICE REPRESENTATIVE FROM THE EXCHANGE SHALL ASSIST CONSUMERS WITH THE ELIGIBILITY APPLICATION PROCESS. IF IT IS DETERMINED THAT A CONSUMER IS NOT ELIGIBLE FOR MEDICAID OR ANOTHER GOVERNMENTAL HEALTH BENEFIT PROGRAM, THE CUSTOMER SERVICE REPRESENTATIVE SHALL OFFER TO TRANSFER THE CONSUMER TO A QUALIFIED INSURANCE BROKER. UPON TRANSFER OF A CONSUMER FROM THE EXCHANGE, THE QUALIFIED INSURANCE BROKER SHALL ASSIST THE CONSUMER WITH THE HEALTH INSURANCE ENROLLMENT PROCESS.

(2) IN ORDER TO BE QUALIFIED TO RECEIVE A REFERRAL FROM THE EXCHANGE, AN INSURANCE BROKER MUST BE CERTIFIED BY THE EXCHANGE AND BE LICENSED PURSUANT TO ARTICLE 2 OF THIS TITLE.

(3) THE SYSTEM ESTABLISHED BY THE EXCHANGE SHALL:

(a) INCLUDE A CALL CENTER WHERE CONSUMERS CAN BE TRANSFERRED TO QUALIFIED INSURANCE BROKERS FOR IMMEDIATE ASSISTANCE;

1 (b) ALLOW BROKERS TO QUEUE INTO THE SYSTEM WHEN THEY ARE
2 AVAILABLE TO ASSIST CONSUMERS; AND

3 (c) MAKE THE NECESSARY SOFTWARE AVAILABLE TO QUALIFIED
4 INSURANCE BROKERS.

5 (4) AS USED IN THIS SECTION, "INSURANCE BROKER" MEANS AN
6 INSURANCE PRODUCER AS DEFINED IN SECTION 10-2-103.

7 **SECTION 2. 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, and safety.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Seventieth General Assembly of the State of Colorado (2015) ***

TITLE 10. INSURANCE
HEALTH CARE
ARTICLE 22. COLORADO HEALTH BENEFIT EXCHANGE

C.R.S. 10-22-103 (2015)

10-22-103. Definitions

As used in this article, unless the context otherwise requires:

- (1) "Board" means the board of directors of the exchange, appointed in accordance with [section 10-22-105](#).
- (2) "Committee" means the Colorado health insurance exchange oversight committee created in [section 10-22-107](#).
- (3) "Exchange" means the Colorado health benefit exchange created in this article.
- (4) "Federal act" means the "Patient Protection and Affordable Care Act", Pub.L. 111-148, as amended by the "Health Care and Education Reconciliation Act of 2010", Pub.L. 111-152.
- (5) "Group health plan" means an employee welfare benefit plan as defined in 29 U.S.C. sec. 1002 (1) of the federal "Employee Retirement Income Security Act of 1974" to the extent that the plan provides health care services, including items and services paid for as health care services, to employees or their dependents directly or through insurance reimbursement or otherwise. A "group health plan" includes a government or church plan.
- (6) "Health benefit plan" has the same meaning set forth in [section 10-16-102](#); except that the term includes a dental plan.
- (7) "Insurer" means any entity that provides group health plans or individual health benefit plans subject to insurance regulation in this state, as well as any entity that directly or indirectly provides stop-loss or excess loss insurance to a self-insured group health plan including a property and casualty insurance company.
- (8) "Medicaid" means federal insurance or assistance as provided by Title XIX of the federal "Social Security Act", as amended.

(9) "Medicare" means federal insurance or assistance as provided by Title XVIII of the federal "Social Security Act", as amended.

(10) "Number of lives insured" means the number of employees and retired employees and individual policyholders or subscribers in the individual and group markets on March 1 of the previous calendar year for which a special fee is being assessed. For insurers providing stop-loss, excess loss, or reinsurance, "number of lives insured" does not include employees, retired employees, or individual policyholders or subscribers who have been counted by the primary insurer or primary reinsurer.

(11) "Secretary" means the secretary of the United States department of health and human services.

HISTORY: Source: L. 2011: Entire article added, (SB 11-200), ch. 246, p. 1074, § 1, effective June 1. L. 2013: (5) amended and (6) to (11) added, (HB 13-1245), ch. 258, p. 1359, § 1, effective May 23. L. 2015: (2) amended, (SB 15-256), ch. 284, p. 1166, § 1, effective June 5.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Seventieth General Assembly of the State of Colorado (2015) ***

TITLE 10. INSURANCE
HEALTH CARE
ARTICLE 22. COLORADO HEALTH BENEFIT EXCHANGE

C.R.S. **10-22-107** (2015)

10-22-107. Colorado health insurance exchange oversight committee - creation - duties

(1) For the purposes of guiding implementation of an exchange in Colorado, making recommendations to the general assembly, and ensuring that the interests of Coloradans are protected and furthered, there is hereby created the Colorado health insurance exchange oversight committee. The committee shall meet on or before August 1, 2011, and thereafter at the call of the chair at least two times during each calendar year, but no more than seven times during each calendar year when the general assembly is not in session. The committee may meet an unlimited number of times at the call of the chair when the general assembly is in session. The committee may use the legislative council staff to assist its members in researching any matters.

(2) (a) The president of the senate shall appoint three members to the committee. Two appointees shall be members of the senate health and human services committee, the business, labor, and technology committee, or the legislative audit committee, or their successor committees. One appointee shall be a representative of the senate at large.

(b) The speaker of the house of representatives shall appoint three members to the committee. Two appointees shall be members of the house health and environment committee, the economic and business development committee, or the legislative audit committee, or their successor committees. One appointee shall be a representative of the house of representatives at large.

(c) The minority leader of the senate shall appoint two members to the committee. One appointee shall be a member of the senate health and human services committee, the business, labor, and technology committee, or the legislative audit committee, or their successor committees. One appointee shall be a representative of the senate at large.

(d) The minority leader of the house of representatives shall appoint two members to the committee. One appointee shall be a member of the house health and environment committee, the economic and business development committee, or the legislative audit

committee, or their successor committees. One appointee shall be a representative of the house of representatives at large.

(e) Members of the committee shall serve at the pleasure of the appointing authority.

(3) Members of the committee shall serve without compensation; except that each member shall receive the sums specified in [section 2-2-307 \(3\) \(a\)](#) and (3) (b), C.R.S., for attendance at meetings of the committee when the general assembly is in recess for more than three days or is not in session.

(4) During odd-numbered years, the president of the senate shall appoint the chair and the speaker of the house of representatives shall appoint the vice-chair of the committee. During even-numbered years, the speaker of the house of representatives shall appoint the chair and the president of the senate shall appoint the vice-chair of the committee.

(5) In any year, the committee may report up to eight bills or other measures to the legislative council created in [section 2-3-301, C.R.S.](#) These bills are exempt from any applicable bill limit imposed on the individual committee members sponsoring such bills if the bills have been approved by the legislative council under joint rules of the senate and house of representatives.

(6) The committee shall review grants applied for by the board to implement the exchange.

(7) The board shall send the committee an annual report that contains the financial and operational plans of the exchange. The committee shall review the financial and operational plans of the exchange.

HISTORY: Source: L. 2011: Entire article added, [\(SB 11-200\)](#), ch. 246, p. 1078, § 1, effective June 1. L. 2013: (1) and (7) amended, [\(HB 13-1245\)](#), ch. 258, p. 1360, § 3, effective May 23. L. 2015: (1) and (5) amended, [\(SB 15-256\)](#), ch. 284, p. 1166, § 2, effective June 5.

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the First Regular Session of the Seventieth General Assembly of the State of Colorado (2015) ***

TITLE 10. INSURANCE
HEALTH CARE
ARTICLE 22. COLORADO HEALTH BENEFIT EXCHANGE

C.R.S. 10-22-108 (2015)

10-22-108. Moneys for implementation, operation, and sustainability of the exchange

Moneys received by the board for the implementation of this article, and for building reserves for the operation and sustainability of the exchange pursuant to [section 10-22-109](#), must be transferred directly to the exchange for the purposes of this article. The board shall deposit any moneys received in a banking institution within or outside the state. Moneys from the general fund shall not be used for the implementation of this article, except for the sums specified in [section 10-22-107 \(3\)](#) and for legislative staff agency services. The account of the banking institution must be insured by the federal deposit insurance corporation and compliant with the "Public Deposit Protection Act", article 10.5 of title 11, C.R.S.

HISTORY: Source: L. 2011: Entire article added, [\(SB 11-200\)](#), ch. 246, p. 1079, § 1, effective June 1. L. 2013: Entire section amended, [\(HB 13-1245\)](#), ch. 258, p. 1360, § 4, effective May 23.