

First Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 03-0057.01 Julie Hoerner

SENATE BILL 03-059

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SENATE SPONSORSHIP

Taylor

HOUSE SPONSORSHIP

White, and Williams T.

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Senate Committees

House Committees

Business Affairs & Labor

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A BILL FOR AN ACT

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

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Recreates and reenacts the functions and duties of the division of

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.*



1 COMMISSIONER AS A QUALIFIED ACTUARY BASED ON REQUIREMENTS SET  
2 FORTH IN RULES PROMULGATED BY THE COMMISSIONER.

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

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

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

12 (3) "ADMITTED COMPANY" OR "AUTHORIZED COMPANY"  
13 DESIGNATES COMPANIES DULY QUALIFIED AND LICENSED TO TRANSACT  
14 BUSINESS IN THIS STATE, UNDER THE PROVISIONS OF THIS TITLE.  
15 "NONADMITTED COMPANIES" OR "UNAUTHORIZED COMPANIES"  
16 DESIGNATES COMPANIES NOT LICENSED TO TRANSACT BUSINESS IN THIS  
17 STATE, UNDER THE PROVISIONS OF THIS TITLE (EXCEPT PART 7 OF ARTICLE  
18 4 AND ARTICLE 15), ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24,  
19 C.R.S.

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

21 (a) MEETS THE DEFINITION AND STANDARDS CONTAINED IN  
22 SECTION 501 (m) (5) OF THE FEDERAL "INTERNAL REVENUE CODE OF  
23 1986", AS AMENDED;

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

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

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

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

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

14 (6) (a) "COMPANY", "CORPORATION", "INSURANCE COMPANY", OR  
15 "INSURANCE CORPORATION" INCLUDES ALL CORPORATIONS,  
16 ASSOCIATIONS, PARTNERSHIPS, OR INDIVIDUALS ENGAGED AS INSURERS IN  
17 THE BUSINESS OF INSURANCE, INCLUDING THE ATTORNEY-IN-FACT  
18 AUTHORIZED BY AND ACTING FOR THE SUBSCRIBERS OF A RECIPROCAL  
19 INSURER OR INTERINSURANCE EXCHANGE, OR SURETYSHIP EXCEPT  
20 FRATERNAL OR BENEVOLENT ORDERS AND SOCIETIES.

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

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

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

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

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

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

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

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

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

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

27 (15) "MOTOR VEHICLE RENTAL COMPANY" MEANS AN ENTITY THAT

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

5 (16) "NONADMITTED ASSETS" INCLUDES, BUT IS NOT LIMITED TO,  
6 THOSE ASSETS DEFINED AS NONADMITTED BY NATIONALLY RECOGNIZED  
7 INSURANCE STATUTORY ACCOUNTING PRINCIPLES. NONADMITTED ASSETS  
8 SHALL NOT BE TAKEN INTO ACCOUNT IN DETERMINING THE FINANCIAL  
9 CONDITION OF A COMPANY.

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

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

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

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

26 (c) IF ANY QUALIFIED UNITED STATES FINANCIAL INSTITUTION  
27 OPERATES A TRUST, SUCH INSTITUTION SHALL BE ELIGIBLE TO OPERATE AS

1 A FIDUCIARY OF A TRUST AND SHALL HAVE BEEN GRANTED AUTHORITY TO  
2 OPERATE WITH FIDUCIARY POWERS.

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

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

7 (a) SOLICITATION AND INDUCEMENT;

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

10 (c) EXECUTION OF A CONTRACT OF INSURANCE;

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

14 **10-1-103. Division of insurance - subject to termination -**  
15 **repeal of functions.** (1) THERE IS ESTABLISHED A DIVISION OF

16 INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AGENCIES. THIS  
17 DIVISION IS CHARGED WITH THE EXECUTION OF THE LAWS RELATING TO  
18 INSURANCE, AND HAS A SUPERVISING AUTHORITY OVER THE BUSINESS OF  
19 INSURANCE IN THIS STATE. OFFICES OF THE DIVISION OF INSURANCE SHALL  
20 BE PROVIDED IN THE CAPITOL BUILDINGS GROUP AT DENVER, COLORADO.  
21 WHENEVER ANY LAW OF THIS STATE REFERS TO THE INSURANCE  
22 DEPARTMENT OF THE STATE OF COLORADO, SAID LAW SHALL BE  
23 CONSTRUED AS REFERRING TO THE DIVISION OF INSURANCE.

24 (2) THE COMMISSIONER OF INSURANCE, BEFORE INCURRING ANY  
25 EXPENSE FOR HIS OR HER OFFICE AND THE MAINTENANCE THEREOF,  
26 EXCLUSIVE OF SALARIES AND WAGES, SHALL MAKE REQUISITION THEREFOR  
27 UPON AND RECEIVE THE APPROVAL OF THE EXECUTIVE DIRECTOR OF THE

1 DEPARTMENT OF PERSONNEL AS REQUIRED BY LAW.

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

21 (4) THE DIVISION OF INSURANCE SHALL ADOPT A SEAL WITH THE  
22 WORDS "COMMISSIONER OF INSURANCE OF THE STATE OF COLORADO" AND  
23 SUCH OTHER DESIGN AS THE COMMISSIONER MAY PRESCRIBE ENGRAVED  
24 THEREON, BY WHICH IT SHALL AUTHENTICATE ITS PROCEEDINGS, AND OF  
25 WHICH THE COURTS OF THIS STATE SHALL TAKE JUDICIAL NOTICE. ALL  
26 COPIES OF PAPERS, CERTIFIED BY THE COMMISSIONER AND SEALED WITH  
27 THE SEAL OF THE DIVISION, SHALL HAVE THE SAME FORCE AND VALIDITY



1 AS THE ORIGINALS THEREOF IN ANY SUIT OR PROCEEDING IN ANY COURT IN  
2 THIS STATE.

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

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

23 (b) (I) (A) THE FUNCTIONS OF THE DIVISION OF INSURANCE  
24 RELATED TO THE ISSUANCE OF CERTIFICATES OF AUTHORITY FOR HEALTH  
25 AND LIFE INSURERS ARE REPEALED, EFFECTIVE JULY 1, 2006.

26 (B) THE FUNCTIONS OF THE DIVISION OF INSURANCE RELATED TO  
27 THE LICENSING OF INSURANCE PRODUCERS ARE REPEALED, EFFECTIVE JULY

1 1, 2008.

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

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

9 **10-1-104. Commissioner of insurance - other employees.**

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

18 (2) THE COMMISSIONER SHALL HAVE SUCH EMPLOYEES AS MAY BE  
19 REQUIRED FOR THE TRANSACTION OF THE BUSINESS OF THE OFFICE OF THE  
20 COMMISSIONER. ONE OR MORE SHALL BE DEPUTY COMMISSIONERS OF  
21 INSURANCE WHO ARE AUTHORIZED IN ALL MATTERS TO ACT AS AND FOR  
22 THE COMMISSIONER OF INSURANCE IN THE ABSENCE OF THE  
23 COMMISSIONER. EXAMINERS SHALL BE CLASSIFIED AS SENIOR AND JUNIOR.  
24 A SENIOR EXAMINER SHALL HAVE HAD THREE FULL YEARS' EXPERIENCE IN  
25 THE EXAMINATION OF INSURANCE COMPANIES AS AN EMPLOYEE OF A STATE  
26 INSURANCE DEPARTMENT. THE SALARY AND TERM OF OFFICE OF THE  
27 COMMISSIONER AND THE EMPLOYEES OF THE DIVISION SHALL BE FIXED

1 PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION.

2 **10-1-105. Actuary.** THE COMMISSIONER MAY MAINTAIN IN THE  
3 DIVISION AN ACTUARY WHO IS EXPERIENCED, SKILLED, AND FULLY  
4 COMPETENT TO PERFORM THE ACTUARIAL DUTIES OF THE DIVISION AND TO  
5 ASSIST IN OR TAKE CHARGE OF EXAMINATIONS OF INSURANCE COMPANIES  
6 UNDER THE GENERAL DIRECTION OF THE COMMISSIONER.

7 **10-1-106. Oath required of insurance commissioner and**  
8 **actuary.** THE COMMISSIONER AND THE ACTUARY, BEFORE ENTERING UPON  
9 THEIR DUTIES, SHALL TAKE AND SUBSCRIBE TO THE OATH REQUIRED BY THE  
10 CONSTITUTION OF COLORADO, WHICH OATH SHALL BE FILED IN THE OFFICE  
11 OF THE SECRETARY OF STATE.

12 **10-1-107. Personal fees prohibited.** NEITHER THE  
13 COMMISSIONER NOR ANY OF THE COMMISSIONER'S EMPLOYEES SHALL BE  
14 DIRECTLY OR INDIRECTLY EMPLOYED BY ANY INSURANCE COMPANY,  
15 ASSOCIATION, OR SOCIETY, IN ANY CAPACITY, OR BE DIRECTLY OR  
16 INDIRECTLY INTERESTED IN ANY SUCH INSURANCE CORPORATION, EXCEPT  
17 AS A POLICYHOLDER; NOR SHALL THEY OR ANY OF THEM CHARGE ANY  
18 SUCH INSURANCE CORPORATION OR OFFICIAL ANY FEE OR TAKE ANY  
19 VALUABLE THING IN PAYMENT FOR ANY SERVICE OR OTHERWISE, UNLESS  
20 PAYMENT FOR SUCH SERVICE IS SPECIFICALLY AUTHORIZED BY LAW. THE  
21 PENALTY FOR VIOLATION OF THIS SECTION SHALL BE REMOVAL FROM  
22 OFFICE.

23 **10-1-108. Duties of commissioner - reports - publications - fees**  
24 **- disposition of funds - adoption of rules.** (1) IT IS THE DUTY OF THE  
25 COMMISSIONER TO:

26 (a) FILE IN OFFICES OF THE DIVISION, AND SAFELY KEEP, ALL BOOKS  
27 AND PAPERS REQUIRED BY LAW TO BE FILED THEREIN AND TO KEEP AND

1 PRESERVE IN PERMANENT FORM A FULL RECORD OF THE COMMISSIONER'S  
2 PROCEEDINGS, INCLUDING A CONCISE STATEMENT OF THE CONDITION OF  
3 SUCH INSURANCE COMPANIES REPORTED TO OR EXAMINED BY THE  
4 COMMISSIONER;

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

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

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

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

24 (3) THE COMMISSIONER SHALL FURNISH TO ALL INSURANCE  
25 COMPANIES DOING BUSINESS IN THIS STATE BLANKS FOR THE FILING OF  
26 STATEMENTS AS REQUIRED BY LAW. THE COMMISSIONER, ON RETIRING  
27 FROM OFFICE, SHALL DELIVER TO HIS OR HER QUALIFIED SUCCESSOR ALL

1 FURNITURE, PAPERS, AND PROPERTY PERTAINING TO THE COMMISSIONER'S  
2 OFFICE.

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

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

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

25 (7) IT IS THE DUTY AND RESPONSIBILITY OF THE COMMISSIONER TO  
26 SUPERVISE THE BUSINESS OF INSURANCE IN THIS STATE TO ASSURE THAT IT  
27 IS CONDUCTED IN ACCORDANCE WITH THE LAWS OF THIS STATE AND IN

1 SUCH A MANNER AS TO PROTECT POLICYHOLDERS AND THE GENERAL  
2 PUBLIC.

3 (8) IT IS THE DUTY OF THE COMMISSIONER TO EXAMINE ALL  
4 REQUESTS AND APPLICATIONS FROM INSURERS FOR CERTIFICATES OF  
5 AUTHORITY TO BE ISSUED PURSUANT TO SECTION 10-3-105. THE  
6 COMMISSIONER IS AUTHORIZED TO REFUSE TO ISSUE ANY SUCH  
7 CERTIFICATES OF AUTHORITY UNTIL THE COMMISSIONER IS REASONABLY  
8 SATISFIED AS TO THE QUALIFICATIONS AND GENERAL FITNESS OF THE  
9 INSURER TO COMPLY WITH THE REQUIREMENTS OF THE PROVISIONS OF THIS  
10 TITLE (EXCEPT PART 7 OF ARTICLE 4 AND ARTICLE 15), ARTICLE 7 OF TITLE  
11 12, AND ARTICLE 14 OF TITLE 24, C.R.S.

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

25 (10) IT IS THE DUTY OF THE COMMISSIONER TO ENCOURAGE THE  
26 DISSEMINATION TO THE PUBLIC OF GENERAL INFORMATION CONCERNING  
27 INSURANCE BY THOSE ENGAGED IN THE BUSINESS OF INSURANCE, SO AS TO

1 WORK TOWARD INFORMED CHOICES OF INSURANCE NEEDS AND OPTIONS.

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

7 (12) IT IS THE DUTY OF THE COMMISSIONER TO OVERSEE THE  
8 OPERATION OF ELECTRONIC DATA INTERCHANGE PROJECTS FOR PURPOSES  
9 OF UNIFORM BILLING AND ELECTRONIC DATA EXCHANGE FOR HEALTH  
10 BENEFIT COVERAGES IN COLORADO. IN CARRYING OUT SUCH DUTIES, THE  
11 COMMISSIONER SHALL COORDINATE WITH THE DEPARTMENTS OF LABOR  
12 AND EMPLOYMENT, PUBLIC HEALTH AND ENVIRONMENT, AND HEALTH  
13 CARE POLICY AND FINANCING, AS APPROPRIATE.

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

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

25 (I) THE DIFFERENCES BETWEEN LICENSED PROVIDER NETWORKS OR  
26 LICENSED INDIVIDUAL PROVIDERS AND THE TYPE, AMOUNT, AND EXTENT  
27 OF RISK THEY ACCEPT AND SERVICES THEY PROVIDE AS COMPARED WITH

1 THAT ACCEPTED BY TRADITIONAL SICKNESS AND ACCIDENT INSURERS,  
2 NONPROFIT HOSPITAL, MEDICAL-SURGICAL, AND HEALTH SERVICE  
3 CORPORATIONS, AND HEALTH MAINTENANCE ORGANIZATIONS;

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

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

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

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

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

27 **10-1-109. Rules of commissioner.** (1) THE COMMISSIONER MAY



1 ESTABLISH, AND FROM TIME TO TIME AMEND, SUCH REASONABLE RULES AS  
2 ARE NECESSARY TO ENABLE THE COMMISSIONER TO CARRY OUT THE  
3 COMMISSIONER'S DUTIES UNDER THE LAWS OF THE STATE OF COLORADO.

4 (2) THE COMMISSIONER SHALL ADOPT RULES TO ENSURE THAT  
5 PAYMENTS TO THE SUBSEQUENT INJURY FUND CREATED IN SECTION  
6 8-46-101, C.R.S., THE WORKERS' COMPENSATION CASH FUND, CREATED IN  
7 SECTION 8-44-112 (7), C.R.S., THE COST CONTAINMENT FUND CREATED IN  
8 SECTION 8-14.5-108, C.R.S., AND THE MAJOR MEDICAL INSURANCE FUND  
9 CREATED IN SECTION 8-46-202, C.R.S., FROM SURCHARGES ON PREMIUMS  
10 PAID FOR POLICIES OF WORKERS' COMPENSATION INSURANCE THAT  
11 FEATURE DEDUCTIBLES IN EXCESS OF THE LIMIT SET FORTH IN SECTION  
12 8-44-111 (1), C.R.S., REFLECT THE VALUE OF ANY REDUCTION IN PREMIUM  
13 ACHIEVED THROUGH THE USE OF SUCH DEDUCTIBLES. SUCH RULES SHALL  
14 APPLY ONLY TO CLAIMS MADE ON POLICIES ISSUED OR RENEWED AFTER THE  
15 EFFECTIVE DATE OF THE RULES. IN ADOPTING SUCH RULES, THE  
16 COMMISSIONER SHALL DETERMINE THE MOST EFFECTIVE METHOD OF  
17 ESTABLISHING THE VALUE OF DEDUCTIBLES IN EXCESS OF SUCH LIMITS AND  
18 ENSURING THAT PAYMENTS REFLECT SUCH VALUE.

19 **10-1-110. Grounds and procedure for suspension or revocation**  
20 **of certificate or license of entities.** (1) THE CERTIFICATE OF AUTHORITY  
21 OF AN INSURANCE COMPANY TO DO BUSINESS IN THIS STATE MAY BE  
22 REVOKED OR SUSPENDED BY THE COMMISSIONER FOR ANY REASON  
23 SPECIFIED IN THIS TITLE, ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE  
24 24, C.R.S. SPECIFICALLY, THE CERTIFICATE MAY BE SUSPENDED OR  
25 REVOKED BY THE COMMISSIONER FOR REASONS THAT INCLUDE, BUT ARE  
26 NOT LIMITED TO:

27 (a) INSOLVENCY OR IMPAIRMENT, AS DEFINED IN SECTION

1 10-3-212;

2 (b) FAILURE TO MEET THE REQUIREMENTS OF SECTION 10-3-201;

3 (c) REFUSAL OR FAILURE TO SUBMIT AN ANNUAL REPORT, AS

4 REQUIRED BY SECTION 10-3-109, OR ANY OTHER REPORT REQUIRED BY

5 LAW OR BY LAWFUL ORDER OF THE COMMISSIONER;

6 (d) DOING AN UNAUTHORIZED INSURANCE BUSINESS IN ANOTHER

7 STATE, AS SET FORTH IN SECTION 10-1-117;

8 (e) FAILURE TO COMPLY WITH THE PROVISIONS OF ITS OWN

9 CHARTER OR BYLAWS, IF SUCH FAILURE RENDERS ITS OPERATION

10 HAZARDOUS TO THE PUBLIC OR TO ITS POLICYHOLDERS;

11 (f) FAILURE TO SUBMIT TO EXAMINATION OR ANY LEGAL

12 OBLIGATION RELATIVE THERETO;

13 (g) REFUSAL TO PAY THE COST OF EXAMINATION, AS AUTHORIZED

14 BY LAW;

15 (h) USE OF METHODS THAT, ALTHOUGH NOT OTHERWISE

16 SPECIFICALLY PROSCRIBED BY LAW, NEVERTHELESS RENDER ITS

17 OPERATION HAZARDOUS, OR ITS CONDITION UNSOUND, TO THE PUBLIC OR

18 TO ITS POLICYHOLDERS;

19 (i) FAILURE TO OTHERWISE COMPLY WITH THE LAW OF THIS STATE,

20 IF SUCH FAILURE RENDERS ITS OPERATION HAZARDOUS TO THE PUBLIC OR

21 TO ITS POLICYHOLDERS;

22 (j) USE OF PRACTICES OR EXISTENCE OF CONDITIONS THAT RENDER

23 ITS FINANCIAL POSITION UNSOUND TO THE PUBLIC OR ITS POLICYHOLDERS.

24 (2) IF THE COMMISSIONER FINDS UPON EXAMINATION, HEARING, OR

25 OTHER EVIDENCE THAT ANY FOREIGN OR DOMESTIC INSURANCE COMPANY

26 HAS COMMITTED ANY OF THE ACTS SPECIFIED IN SUBSECTION (1) OF THIS

27 SECTION, OR ANY OTHER ACT SPECIFIED IN THIS TITLE, ARTICLE 7 OF TITLE

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

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

25 (4) IF THE COMMISSIONER FINDS UPON EXAMINATION OR OTHER  
26 EVIDENCE THAT ANY FOREIGN OR DOMESTIC INSURANCE COMPANY HAS  
27 COMMITTED ANY ACT SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE

1 COMMISSIONER AFTER NOTICE AND HEARING MAY ISSUE AN ORDER  
2 REQUIRING THAT THE INSURANCE COMPANY CEASE AND DESIST  
3 COMMITTING SUCH ACT. IF THE COMMISSIONER BELIEVES AN EMERGENCY  
4 EXISTS, THE COMMISSIONER MAY ENTER A CEASE AND DESIST ORDER AT  
5 ONCE, AND A HEARING SHALL BE HELD AS SOON AS PRACTICABLE.  
6 PENDING SUCH HEARING AND DECISION THEREON, THE EMERGENCY ORDER  
7 SHALL REMAIN IN EFFECT SUBJECT TO THE POWER OF THE COMMISSIONER  
8 ON THE COMMISSIONER'S OWN MOTION OR ON PETITION TO VACATE SUCH  
9 ORDER.

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

23 **10-1-112. Policy conditions required by other states.** THE  
24 POLICIES OF A DOMESTIC INSURANCE COMPANY, WHEN ISSUED OR  
25 DELIVERED IN ANY OTHER STATE, TERRITORY, DISTRICT, OR COUNTRY,  
26 MAY CONTAIN ANY PROVISION REQUIRED BY THE LAWS OF THE STATE,  
27 TERRITORY, DISTRICT, OR COUNTRY IN WHICH THE SAME ARE ISSUED,

1 ANYTHING IN THIS TITLE (EXCEPT PART 7 OF ARTICLE 4 AND ARTICLE 15),  
2 ARTICLE 7 OF TITLE 12, AND ARTICLE 14 OF TITLE 24, C.R.S., TO THE  
3 CONTRARY NOTWITHSTANDING.

4 **10-1-113. No seal required on policies.** ALL POLICIES OR  
5 CONTRACTS MADE OR ENTERED INTO BY ANY DOMESTIC COMPANY MAY BE  
6 MADE WITH OR WITHOUT THE SEAL THEREOF. THE POLICIES OR  
7 CONTRACTS SHALL BE SUBSCRIBED BY THE PRESIDENT OR SUCH OTHER  
8 OFFICERS AS MAY BE DESIGNATED BY THE BYLAWS FOR THAT PURPOSE,  
9 AND SHALL BE ATTESTED BY THE SECRETARY, AND, BEING SO SUBSCRIBED,  
10 SHALL BE OBLIGATORY UPON SUCH COMPANY.

11 **10-1-114. Sale of premium notes prohibited.** IT IS UNLAWFUL  
12 FOR ANY INSURANCE COMPANY OR ANY AGENT THEREOF WHO HAS  
13 ACCEPTED A PREMIUM NOTE IN PAYMENT FOR A POLICY OF INSURANCE TO  
14 HYPOTHECATE, SELL, ASSIGN, DISPOSE OF, OR ATTEMPT TO COLLECT SAID  
15 NOTE PRIOR TO THE DELIVERY OF SAID INSURANCE POLICY TO THE  
16 APPLICANT.

17 **10-1-115. Penalty.** IF ANY INSURANCE COMPANY OR ANY AGENT  
18 OF ANY SUCH COMPANY VIOLATES ANY OF THE PROVISIONS OF SECTION  
19 10-1-114, THE COMMISSIONER HAS THE POWER AND IS AUTHORIZED TO  
20 REVOKE THE CERTIFICATE OF AUTHORITY OF ANY COMPANY SO OFFENDING  
21 OR TO CANCEL THE LICENSE OF ANY SUCH AGENT WHO VIOLATES ANY  
22 PROVISIONS OF SECTION 10-1-114.

23 **10-1-116. Defamation of other companies.** IT IS UNLAWFUL FOR  
24 ANY INSURANCE COMPANY DOING BUSINESS IN THIS STATE, OR ANY  
25 OFFICER, DIRECTOR, CLERK, EMPLOYEE, OR AGENT THEREOF, TO MAKE,  
26 VERBALLY OR OTHERWISE, PUBLISH, PRINT, DISTRIBUTE, OR CIRCULATE, OR  
27 CAUSE THE SAME TO BE DONE, OR IN ANY WAY TO AID, ABET, OR

1 ENCOURAGE THE MAKING, PRINTING, PUBLISHING, DISTRIBUTING, OR  
2 CIRCULATING OF ANY PAMPHLET, CIRCULAR, ARTICLE, LITERATURE, OR  
3 STATEMENT OF ANY KIND THAT IS DEFAMATORY OF ANY OTHER INSURANCE  
4 COMPANY DOING BUSINESS IN THIS STATE, OR LICENSED TO SELL ITS  
5 CAPITAL STOCK WITHIN THIS STATE, THAT CONTAINS ANY FALSE AND  
6 MALICIOUS CRITICISM OR FALSE AND MALICIOUS STATEMENT CALCULATED  
7 TO INJURE SUCH COMPANY IN ITS REPUTATION OR BUSINESS. ANY OFFICER,  
8 DIRECTOR, CLERK, EMPLOYEE, OR AGENT OF ANY INSURANCE COMPANY  
9 VIOLATING THE PROVISIONS OF THIS SECTION IS GUILTY OF A  
10 MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY  
11 A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR BY IMPRISONMENT  
12 IN THE COUNTY JAIL FOR A TERM OF NOT MORE THAN TWELVE MONTHS, OR  
13 BY BOTH SUCH FINE AND IMPRISONMENT.

14 **10-1-117. Company unauthorized in other states.** IF, UPON  
15 INVESTIGATION, THE COMMISSIONER FINDS THAT ANY INSURANCE  
16 COMPANY INCORPORATED UNDER THE LAWS OF COLORADO IS DOING  
17 BUSINESS IN ANOTHER STATE OR TERRITORY WITHOUT HAVING FIRST  
18 PROCURED A LICENSE OR AUTHORITY FROM SUCH STATE OR TERRITORY, IF  
19 ANY IS REQUIRED, AUTHORIZING IT TO DO BUSINESS THEREIN, THE  
20 COMMISSIONER MAY REVOKE THE AUTHORITY OF SUCH COMPANY TO DO  
21 BUSINESS IN THIS STATE.

22 **10-1-118. Foreign companies - unsatisfied judgments -**  
23 **suspension.** (1) IF A JUDGMENT AGAINST A FOREIGN INSURANCE  
24 COMPANY IS UNSATISFIED, AND EXECUTION HAS ISSUED ON SAID  
25 JUDGMENT, AND THE RETURN OF THE SHERIFF DISCLOSES THAT THE  
26 SHERIFF CANNOT FULLY SATISFY SUCH JUDGMENT, THE JUDGMENT  
27 CREDITOR OR JUDGMENT CREDITOR'S ATTORNEY MAY FILE WITH THE

1 COMMISSIONER, IN TRIPLICATE, A COMPLAINT SETTING FORTH SUCH FACTS.  
2 THE COMMISSIONER SHALL MAIL A COPY OF SUCH COMPLAINT TO THE  
3 HOME OFFICE OF SUCH INSURANCE COMPANY, AT THE ADDRESS SHOWN IN  
4 THE RECORDS OF DIVISION OF INSURANCE, AND A COPY TO THE COLORADO  
5 OFFICE OR THE COLORADO GENERAL AGENT OF SUCH INSURANCE  
6 COMPANY.

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

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

19 **10-1-119. Insurance vending machines prohibited.** NO POLICY  
20 OR CONTRACT OF INSURANCE OF ANY KIND SHALL BE SOLD OR DISPENSED  
21 THROUGH ANY MECHANICAL DEVICE OR VENDING MACHINE, BUT THIS  
22 SECTION SHALL NOT BE CONSTRUED AS TO PREVENT THE USE OF OFFICE  
23 MACHINES OF ANY TYPE BY AN INSURANCE COMPANY. INSURANCE SHALL  
24 BE SOLD ONLY BY AN INSURANCE PRODUCER, AS DEFINED IN SECTION  
25 10-2-103 (6).

26 **10-1-120. Reporting of medical malpractice claims.** (1) EACH  
27 INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND

1 ENGAGED IN THE WRITING OF MEDICAL MALPRACTICE INSURANCE FOR  
2 LICENSED PRACTITIONERS SHALL SEND TO THE COLORADO STATE BOARD  
3 OF MEDICAL EXAMINERS, IN THE FORM PRESCRIBED BY THE COMMISSIONER  
4 OF INSURANCE, INFORMATION RELATING TO EACH MEDICAL MALPRACTICE  
5 CLAIM AGAINST A LICENSED PRACTITIONER THAT IS SETTLED OR IN WHICH  
6 JUDGMENT IS RENDERED AGAINST THE INSURED.

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

10 **10-1-121. Reporting of malpractice claims against physical**

11 **therapists.** (1) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS IN  
12 THIS STATE AND ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE  
13 FOR PHYSICAL THERAPISTS LICENSED UNDER ARTICLE 41 OF TITLE 12,  
14 C.R.S., SHALL SEND TO THE DIRECTOR OF THE DIVISION OF REGISTRATIONS,  
15 IN THE DEPARTMENT OF REGULATORY AGENCIES, IN THE FORM PRESCRIBED  
16 BY THE COMMISSIONER OF INSURANCE, INFORMATION RELATING TO EACH  
17 CLAIM INVOLVING PHYSICAL THERAPY MALPRACTICE OR AGAINST ANY  
18 SUCH PHYSICAL THERAPIST THAT IS SETTLED OR IN WHICH JUDGMENT IS  
19 RENDERED AGAINST THE INSURED.

20 (2) EVERY INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS  
21 STATE THAT MAKES PAYMENT UNDER A POLICY OF INSURANCE IN  
22 SETTLEMENT OF A CLAIM OF PHYSICAL THERAPY MALPRACTICE, OR IN  
23 SATISFACTION OF A JUDGMENT FOR SUCH MALPRACTICE, SHALL REPORT TO  
24 THE SECRETARY OF HEALTH AND HUMAN SERVICES, IN ACCORDANCE WITH  
25 42 U.S.C. SECS. 11131 AND 11134, THE FOLLOWING INFORMATION:

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



- 1 (b) THE AMOUNT OF THE PAYMENT;
- 2 (c) THE NAME, IF KNOWN, OF ANY HOSPITAL WITH WHICH THE
- 3 PHYSICAL THERAPIST IS AFFILIATED OR ASSOCIATED;
- 4 (d) A DESCRIPTION OF THE ACTS OR OMISSIONS AND INJURIES OR
- 5 ILLNESSES UPON WHICH THE ACTION OR CLAIM WAS BASED; AND
- 6 (e) SUCH OTHER INFORMATION AS THE SECRETARY OF HEALTH AND
- 7 HUMAN SERVICES DETERMINES IS REQUIRED FOR APPROPRIATE
- 8 INTERPRETATION OF THE INFORMATION SO REPORTED.

9 **10-1-122. Reporting of malpractice claims against architects.**

10 EACH INSURANCE COMPANY DOING BUSINESS IN THIS STATE AND ENGAGED

11 IN THE WRITING OF MALPRACTICE INSURANCE FOR ARCHITECTS SHALL

12 SEND TO THE COLORADO STATE BOARD OF EXAMINERS OF ARCHITECTS, IN

13 THE FORM PRESCRIBED BY THE COMMISSIONER, INFORMATION RELATING

14 TO EACH MALPRACTICE CLAIM AGAINST A LICENSED ARCHITECT OR A

15 CORPORATION, PARTNERSHIP, OR GROUP OF PERSONS PRACTICING

16 ARCHITECTURE THAT IS SETTLED OR IN WHICH JUDGMENT IS RENDERED

17 AGAINST THE INSURED WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE

18 OF SUCH SETTLEMENT OR JUDGMENT.

19 **10-1-123. Reporting of claims against plumbers.** EACH

20 INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND

21 ENGAGED IN THE WRITING OF INSURANCE FOR PLUMBERS SHALL SEND

22 WITHIN NINETY DAYS TO THE EXAMINING BOARD OF PLUMBERS, IN THE

23 FORM PRESCRIBED BY THE COMMISSIONER, INFORMATION RELATING TO

24 EACH MALPRACTICE CLAIM AGAINST A LICENSED PLUMBER THAT IS

25 SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST THE INSURED.

26 **10-1-124. Reporting of podiatric malpractice claims.** (1) EACH

27 INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE AND

1 ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE FOR LICENSED  
2 PODIATRISTS SHALL SEND TO THE COLORADO PODIATRY BOARD, IN THE  
3 FORM PRESCRIBED BY THE COMMISSIONER, INFORMATION RELATING TO  
4 EACH MALPRACTICE CLAIM AGAINST A LICENSED PODIATRIST THAT IS  
5 SETTLED OR IN WHICH JUDGMENT IS RENDERED AGAINST THE INSURED.

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

9 **10-1-125. Reporting of malpractice claims against**  
10 **optometrists.** (1) EACH INSURANCE COMPANY LICENSED TO DO BUSINESS  
11 IN THIS STATE AND ENGAGED IN THE WRITING OF MALPRACTICE INSURANCE  
12 FOR OPTOMETRISTS SHALL SEND TO THE COLORADO STATE BOARD OF  
13 OPTOMETRIC EXAMINERS, IN THE FORM PRESCRIBED BY THE  
14 COMMISSIONER, INFORMATION RELATING TO EACH MALPRACTICE CLAIM  
15 AGAINST A LICENSED OPTOMETRIST THAT IS SETTLED OR IN WHICH  
16 JUDGMENT IS RENDERED AGAINST THE INSURED.

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

20 **10-1-126. Training program for persons working with the**  
21 **aging.** THE DIVISION OF INSURANCE SHALL DEVELOP A TRAINING  
22 PROGRAM FOR PERSONS WORKING WITH THE AGING ON THE LOCAL LEVEL  
23 THAT WILL ENABLE THEM TO ASSIST THE ELDERLY IN DEALING WITH THEIR  
24 MEDICARE SUPPLEMENTAL INSURANCE PROBLEMS.

25 **10-1-127. Discretionary use of administrative law judges.**  
26 WHENEVER THE COMMISSIONER OR THE DIVISION OF INSURANCE  
27 PURSUANT TO THIS TITLE OR ANY OTHER PROVISION OF LAW IS OBLIGATED

1 OR AUTHORIZED TO HOLD A HEARING, THE COMMISSIONER, AT HIS OR HER  
2 DISCRETION, MAY DESIGNATE AN EMPLOYEE OF THE DIVISION OF  
3 INSURANCE WHO HAS ADMINISTRATIVE RESPONSIBILITIES TO ACT AS A  
4 HEARING OFFICER OR MAY USE THE SERVICES OF AN ADMINISTRATIVE LAW  
5 JUDGE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24,  
6 C.R.S., TO CONDUCT THE HEARING ACCORDING TO THE "STATE  
7 ADMINISTRATIVE PROCEDURE ACT". ANY DECISION BY SUCH A  
8 DESIGNATED HEARING OFFICER OR APPOINTED ADMINISTRATIVE LAW  
9 JUDGE SHALL BE AN INITIAL DECISION AND, IN THE ABSENCE OF AN APPEAL  
10 TO THE DIVISION OF INSURANCE OR A REVIEW UPON MOTION OF THE  
11 COMMISSIONER AS PROVIDED IN SECTION 24-4-105, C.R.S., SHALL  
12 THEREUPON BECOME THE DECISION OF THE DIVISION OF INSURANCE. ANY  
13 FINAL DECISION OF THE COMMISSIONER OR THE DIVISION OF INSURANCE  
14 SHALL BE SUBJECT TO JUDICIAL REVIEW BY THE COURT OF APPEALS  
15 PURSUANT TO SECTION 24-4-106 (11), C.R.S.

16 **10-1-128. Fraudulent insurance acts - immunity for furnishing**  
17 **information relating to suspected insurance fraud - legislative**  
18 **declaration.** (1) FOR PURPOSES OF THIS TITLE, ARTICLES 40 TO 47 OF  
19 TITLE 8, AND ARTICLES 6, 7, 29.5, 32, 33, 35, 36, 38, 40, 41, 41.5, AND 43  
20 OF TITLE 12, C.R.S., A FRAUDULENT INSURANCE ACT IS COMMITTED IF A  
21 PERSON KNOWINGLY AND WITH INTENT TO DEFRAUD PRESENTS, CAUSES TO  
22 BE PRESENTED, OR PREPARES WITH KNOWLEDGE OR BELIEF THAT IT WILL  
23 BE PRESENTED TO OR BY AN INSURER, A PURPORTED INSURER, OR ANY  
24 PRODUCER THEREOF ANY WRITTEN STATEMENT AS PART OR IN SUPPORT OF  
25 AN APPLICATION FOR THE ISSUANCE OR THE RATING OF AN INSURANCE  
26 POLICY OR A CLAIM FOR PAYMENT OR OTHER BENEFIT PURSUANT TO AN  
27 INSURANCE POLICY THAT HE OR SHE KNOWS TO CONTAIN FALSE

1 INFORMATION CONCERNING ANY FACT MATERIAL THERETO OR IF HE OR SHE  
2 KNOWINGLY AND WITH INTENT TO DEFRAUD OR MISLEAD CONCEALS  
3 INFORMATION CONCERNING ANY FACT MATERIAL THERETO. FOR PURPOSES  
4 OF THIS SECTION, "WRITTEN STATEMENT" INCLUDES A PATIENT MEDICAL  
5 RECORD AS SUCH TERM IS DEFINED IN SECTION 18-4-412 (2) (a), C.R.S.,  
6 AND ANY BILL FOR MEDICAL SERVICES.

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

18 (b) COLORADO HAS ADDRESSED INSURANCE FRAUD IN VARIOUS  
19 STATUTES, INCLUDING BUT NOT LIMITED TO THE CIVIL AND  
20 ADMINISTRATIVE PROVISIONS FOUND IN THIS SECTION, SECTION  
21 10-4-708.6, PART 4 OF ARTICLE 2 OF THIS TITLE, PARTS 1, 2, 9, AND 11 OF  
22 ARTICLE 3 OF THIS TITLE, AND NUMEROUS OTHER PROVISIONS OF THIS  
23 TITLE. IT HAS ALSO BEEN ADDRESSED IN CRIMINAL PROVISIONS FOUND IN  
24 PARTS 1, 2, AND 3 OF ARTICLE 2 OF TITLE 18, PART 1 OF ARTICLE 4 OF TITLE  
25 18, PART 1 OF ARTICLE 5 OF TITLE 18, AND SECTION 18-5-205, C.R.S.  
26 THESE STATUTORY PROVISIONS IMPOSE REGULATORY OVERSIGHT AND  
27 SEVERE CIVIL AND CRIMINAL PENALTIES ON AUTHORIZED AND

1 UNAUTHORIZED INSURANCE COMPANIES AND OTHER PERSONS WHO COMMIT  
2 INSURANCE FRAUD. THE PURPOSE OF THIS SECTION IS TO FURTHER  
3 IMPROVE REGULATORY OVERSIGHT OF LICENSED PERSONS WHO COMMIT  
4 INSURANCE FRAUD AND PROVIDE ADDITIONAL REMEDIES TO AGGRIEVED  
5 PERSONS.

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

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

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

1 (c) EVERY PERSON WHO OBTAINS A JUDGMENT OR SETTLEMENT  
2 INVOLVING A FRAUDULENT INSURANCE ACT BY AN INSURANCE COMPANY  
3 OR AN AGENT OF AN INSURANCE COMPANY MAY SEND TO THE COLORADO  
4 DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY  
5 AGENCIES NOTICE OF SUCH JUDGMENT OR SETTLEMENT, INCLUDING ANY  
6 EVIDENCE OF A FRAUDULENT INSURANCE ACT. NO CAUSE OF ACTION  
7 SHALL ARISE AGAINST ANY PERSON FOR PROVIDING INFORMATION AS  
8 PROVIDED IN THIS SUBSECTION (4).

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

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

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

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

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

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

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

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

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

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

1 OTHER APPLICABLE INSURANCE LAW.

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

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

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

24 **10-1-129. Fraudulent insurance acts - enforcement.** THE  
25 ATTORNEY GENERAL SHALL HAVE CONCURRENT JURISDICTION WITH THE  
26 DISTRICT ATTORNEYS OF THIS STATE TO INVESTIGATE AND PROSECUTE  
27 ALLEGATIONS OF CRIMINAL CONDUCT RELATED TO INSURANCE FRAUD



1 PURSUANT TO THIS TITLE AND TITLES 8 AND 18, C.R.S. THE COST TO THE  
2 ATTORNEY GENERAL OF SUCH INVESTIGATIONS AND PROSECUTIONS SHALL  
3 BE PAID FROM FEES COLLECTED FROM ENTITIES REGULATED BY THE  
4 DIVISION PURSUANT TO SECTION 10-3-207 (1) (e).

5 **10-1-130. Availability of sickness, health, and accident**  
6 **insurance.** THE COMMISSIONER SHALL ASSESS THE AVAILABILITY OF  
7 SICKNESS, HEALTH, AND ACCIDENT INSURANCE IN COLORADO WITH A VIEW  
8 TO IDENTIFYING SPECIFIC GROUPS OF PERSONS TO WHOM SUCH COVERAGE  
9 IS UNAVAILABLE BY VIRTUE OF COST, PREEXISTING CONDITION, OR OTHER  
10 CIRCUMSTANCES.

11 **10-1-131. Duties to third parties - rules.** (1) PURSUANT TO  
12 RULES PROMULGATED BY THE COMMISSIONER, AN INSURER SHALL NOTIFY  
13 ANY ADDITIONAL INSURED BY ENDORSEMENT ON A GENERAL LIABILITY  
14 POLICY, WHOSE INTERESTS ARE AFFECTED BY A CLAIM, OF THE RESULTS OF  
15 THE INSURER'S INVESTIGATION OF SUCH CLAIM AND THE STATUS OF THE  
16 CLAIM WITHIN A REASONABLE PERIOD OF TIME AS DETERMINED BY THE  
17 COMMISSIONER. SUCH NOTICE SHALL INCLUDE A STATEMENT CONFIRMING  
18 OR DENYING COVERAGE OF THE CLAIM AND, IF COVERAGE IS DENIED, THE  
19 REASONS FOR DENYING COVERAGE OF THE CLAIM OR ANY PORTION OF THE  
20 CLAIM. IN THE EVENT COVERAGE HAS NOT BEEN DETERMINED, A COPY OF  
21 THE RESERVATION OF RIGHTS LETTER SHALL CONSTITUTE SUFFICIENT  
22 NOTICE.

23 (2) FAILURE TO NOTIFY ANY ADDITIONAL INSURED BY  
24 ENDORSEMENT ON A GENERAL LIABILITY POLICY PURSUANT TO THIS  
25 SECTION SHALL SUBJECT THE INSURER TO THE PROVISIONS OF SECTIONS  
26 10-3-1108 AND 10-3-1109.

27 (3) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THOSE

1 CLAIMS UNDER A GENERAL LIABILITY POLICY UPON WHICH A LAWSUIT HAS  
2 BEEN FILED.

3 **10-1-132. Oversight of the general assembly.** NOTHING IN THIS  
4 TITLE SHALL LIMIT THE ABILITY OF THE GENERAL ASSEMBLY TO DIRECT  
5 THE ACCOUNTING PRINCIPLES TO BE USED BY INSURERS AUTHORIZED IN  
6 THIS STATE IN ORDER TO CREATE UNIFORMITY.

7 PART 2

8 EXAMINATIONS

9 **10-1-201. Legislative declaration.** THE GENERAL ASSEMBLY  
10 FINDS, DETERMINES, AND DECLARES THAT IT IS NECESSARY TO ESTABLISH  
11 AN EFFECTIVE AND EFFICIENT SYSTEM FOR EXAMINING THE ACTIVITIES,  
12 OPERATIONS, FINANCIAL CONDITIONS, AND AFFAIRS OF ALL PERSONS  
13 TRANSACTING THE BUSINESS OF INSURANCE IN THIS STATE AND ALL  
14 PERSONS OTHERWISE SUBJECT TO THE JURISDICTION OF THE  
15 COMMISSIONER. THE PROVISIONS OF THIS PART 2 ARE INTENDED TO  
16 ENABLE THE COMMISSIONER TO ADOPT A FLEXIBLE SYSTEM OF  
17 EXAMINATIONS THAT DIRECTS RESOURCES AS MAY BE DEEMED  
18 APPROPRIATE AND NECESSARY FOR THE ADMINISTRATION OF THE  
19 INSURANCE AND INSURANCE-RELATED LAWS OF THIS STATE.

20 **10-1-202. Definitions.** AS USED IN THIS PART 2, UNLESS THE  
21 CONTEXT OTHERWISE REQUIRES:

22 (1) "COMPANY" MEANS ANY PERSON OR GROUP OF PERSONS  
23 ENGAGING IN OR PROPOSING OR ATTEMPTING TO ENGAGE IN ANY  
24 TRANSACTION OR KIND OF INSURANCE OR SURETY BUSINESS AND ANY  
25 PERSON OR GROUP OF PERSONS WHO MAY OTHERWISE BE SUBJECT TO ANY  
26 ADMINISTRATIVE, REGULATORY, OR TAXING AUTHORITY OF THE  
27 COMMISSIONER AS WELL AS ANY ADVISORY ORGANIZATION OR RATING

1 ORGANIZATION AS DEFINED IN SECTION 10-4-402.

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

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

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

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

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

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

24 **10-1-203. Authority, scope, and scheduling of examinations.**

25 (1) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE MAY  
26 CONDUCT AN EXAMINATION OR INVESTIGATION OF ANY COMPANY AS  
27 OFTEN AS THE COMMISSIONER, IN THE COMMISSIONER'S SOLE DISCRETION,

1 DEEMS APPROPRIATE BUT SHALL, AT A MINIMUM, CONDUCT A FORMAL  
2 FINANCIAL EXAMINATION OF EVERY INSURER LICENSED IN THIS STATE NOT  
3 LESS FREQUENTLY THAN ONCE EVERY FIVE YEARS; EXCEPT THAT THIS DOES  
4 NOT INCLUDE APPROVED NONADMITTED INSURERS REGULATED IN  
5 ACCORDANCE WITH ARTICLE 5 OF THIS TITLE. IN SCHEDULING FINANCIAL  
6 OR MARKET CONDUCT EXAMINATIONS AND IN DETERMINING THEIR  
7 NATURE, SCOPE, AND FREQUENCY, THE COMMISSIONER SHALL CONSIDER  
8 SUCH MATTERS AS THE RESULTS OF FINANCIAL STATEMENT ANALYSES AND  
9 RATIOS, CHANGES IN MANAGEMENT OR OWNERSHIP, ACTUARIAL OPINIONS,  
10 REPORTS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS, COMPLAINT  
11 ANALYSES, UNDERWRITING AND CLAIMS PRACTICES, PRICING, PRODUCT  
12 SOLICITATION, POLICY FORM COMPLIANCE, MARKET SHARE ANALYSES, AND  
13 OTHER CRITERIA AS SET FORTH IN THE MOST RECENT AVAILABLE EDITION  
14 OF THE EXAMINERS' HANDBOOK ADOPTED BY THE NATIONAL ASSOCIATION  
15 OF INSURANCE COMMISSIONERS.

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

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

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

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

13 **10-1-204. Conduct of examinations.** (1) (a) IN CONDUCTING THE  
14 EXAMINATION, THE EXAMINERS SHALL OBSERVE THOSE GUIDELINES AND  
15 PROCEDURES SET FORTH IN THE MOST RECENT AVAILABLE EDITION OF THE  
16 EXAMINERS' HANDBOOK ADOPTED BY THE NATIONAL ASSOCIATION OF  
17 INSURANCE COMMISSIONERS AND THE COLORADO INSURANCE EXAMINERS  
18 HANDBOOK. THE COMMISSIONER MAY ALSO EMPLOY SUCH OTHER  
19 GUIDELINES OR PROCEDURES AS THE COMMISSIONER MAY DEEM  
20 APPROPRIATE.

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

25 (2) (a) EVERY COMPANY OR PERSON FROM WHOM INFORMATION IS  
26 SOUGHT AND ALL OFFICERS, DIRECTORS, AND AGENTS THEREOF SHALL  
27 PROVIDE TO THE EXAMINERS TIMELY, CONVENIENT, AND FREE ACCESS AT

1 REASONABLE HOURS AT ITS OFFICES TO ALL BOOKS, RECORDS, ACCOUNTS,  
2 PAPERS, TAPES, COMPUTER RECORDS, AND OTHER DOCUMENTS RELATING  
3 TO THE PROPERTY, ASSETS, BUSINESS, AND AFFAIRS OF THE COMPANY  
4 BEING EXAMINED. IF THE EXAMINATION IS AN EXAMINATION AS DEFINED  
5 IN SECTION 10-1-202 (3), SUCH COMPANY OR PERSON SHALL MAKE SUCH  
6 BOOKS, RECORDS, AND DOCUMENTS AVAILABLE FOR EXAMINATION OR  
7 INSPECTION AT THE OFFICE LOCATION OF THE DIVISION WHEN THE  
8 COMMISSIONER DETERMINES THAT IT IS REASONABLY COST-EFFECTIVE TO  
9 DO SO. THE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS OF THE  
10 COMPANY OR PERSON SHALL FACILITATE THE EXAMINATION AND AID IN  
11 THE EXAMINATION SO FAR AS IT IS IN THEIR POWER TO DO SO.

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

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

21 (3) THE COMMISSIONER AND ALL EXAMINERS SHALL HAVE THE  
22 POWER TO ISSUE SUBPOENAS, ADMINISTER OATHS, AND EXAMINE UNDER  
23 OATH ANY PERSON AS TO ANY MATTER PERTINENT TO THE EXAMINATION.  
24 UPON THE FAILURE OR REFUSAL OF ANY PERSON TO OBEY A SUBPOENA,  
25 THE COMMISSIONER MAY PETITION A COURT OF COMPETENT JURISDICTION  
26 FOR AN ORDER, WHICH SHALL BE ENFORCEABLE THROUGH CONTEMPT  
27 PROCEEDINGS, COMPELLING THE PERSON TO APPEAR AND TESTIFY OR

1 PRODUCE DOCUMENTARY EVIDENCE. THE COMMISSIONER MAY ARRANGE  
2 FOR THE SERVICES OF AN ADMINISTRATIVE LAW JUDGE APPOINTED  
3 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO TAKE  
4 EVIDENCE AND TO MAKE FINDINGS AND REPORT THEM TO THE  
5 COMMISSIONER.

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

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

24 (6) (a) IN ADDITION TO ANY OTHER POWERS GRANTED TO THE  
25 COMMISSIONER IN THIS SECTION OR IN ANY OTHER PROVISION OF LAW, THE  
26 COMMISSIONER MAY REQUIRE ANY COMPANY, ENTITY, OR NEW APPLICANT  
27 TO BE EXAMINED BY INDEPENDENT EXAMINERS CERTIFIED BY THE SOCIETY

1 OF FINANCIAL EXAMINERS OR THE INSURANCE REGULATORY EXAMINERS  
2 SOCIETY, ACTUARIES WHO ARE MEMBERS OF THE AMERICAN ACADEMY OF  
3 ACTUARIES, OR BY ANY OTHER QUALIFIED AND COMPETENT LOSS RESERVE  
4 SPECIALISTS, INDEPENDENT RISK MANAGERS, INDEPENDENT CERTIFIED  
5 PUBLIC ACCOUNTANTS, AUDITORS, OTHER EXAMINERS OF INSURANCE  
6 COMPANIES, OR COMBINATION OF SUCH PERSONS. ANY DOMESTIC  
7 COMPANY MAY MAKE A REQUEST TO THE COMMISSIONER TO BE SO  
8 EXAMINED.

9 (b) THE COMMISSIONER MAY ACCEPT, AS PART OF ANY SUCH  
10 EXAMINATION, REPORTS MADE BY ANY PERSON QUALIFIED AND  
11 COMPETENT TO CONDUCT THE EXAMINATION AS SET FORTH IN THIS  
12 SUBSECTION (6). NO SUCH PERSON NOR ANY MEMBER OF SUCH PERSON'S  
13 IMMEDIATE FAMILY SHALL BE OFFICERS OF, CONNECTED WITH, OR  
14 FINANCIALLY INTERESTED IN THE COMPANY, ENTITY, OR APPLICANT BEING  
15 EXAMINED OTHER THAN AS POLICYHOLDERS, NOR SHALL THEY BE  
16 FINANCIALLY INTERESTED IN ANY OTHER CORPORATION OR PERSON  
17 AFFECTED BY THE EXAMINATION OR BY ANY RELATED INVESTIGATION OR  
18 HEARING. SUCH PERSONS SHALL KEEP STRICTLY CONFIDENTIAL ALL  
19 INFORMATION, REGARDLESS OF ITS SOURCE, OBTAINED THROUGH ANY  
20 EXAMINATION OR ABOUT ANY EXAMINEE AND SHALL DISCLOSE SUCH  
21 INFORMATION ONLY TO THE COMMISSIONER OR THE EXAMINEE UPON THE  
22 SPECIFIC REQUEST OF EITHER. THE COMMISSIONER SHALL ESTABLISH  
23 GUIDELINES FOR ASSURING THE NEUTRALITY OF THOSE PERSONS TO BE  
24 AUTHORIZED TO SUPPLEMENT THE EXAMINATION PROCEDURES  
25 AUTHORIZED IN THIS SECTION. THE REASONABLE EXPENSES AND CHARGES  
26 OF PERSONS SO RETAINED OR DESIGNATED SHALL BE PAID DIRECTLY BY  
27 THE EXAMINEE TO SUCH PERSONS. THE EXAMINEE MAY CONTEST THE



1 AMOUNT OF FEES, COSTS, AND EXPENSES CHARGED TO IT BY SUCH PERSONS  
2 BY FILING AN OBJECTION WITH THE COMMISSIONER WHICH SETS FORTH THE  
3 CHARGES THAT THE EXAMINEE CONSIDERS TO BE UNREASONABLE AND THE  
4 BASIS FOR THE CLAIM THAT THE CHARGES ARE UNREASONABLE. NO  
5 AMOUNTS THAT ARE SO DISPUTED WILL BE DUE TO THE EXAMINER UNLESS  
6 AND UNTIL THE COMMISSIONER HAS REVIEWED THE OBJECTION AND MADE  
7 A WRITTEN FINDING THAT THE DISPUTED CHARGES WERE REASONABLE IN  
8 RELATION TO THE EXAMINATION PERFORMED.

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

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

24 (9) (a) THE COSTS OF FINANCIAL EXAMINATIONS OF FOREIGN  
25 COMPANIES MADE OUTSIDE THE BORDERS OF THIS STATE AND OF  
26 EXECUTIVE OR BRANCH OFFICES OF DOMESTIC COMPANIES LOCATED  
27 OUTSIDE THE BORDERS OF THIS STATE SHALL BE PAID BY THE COMPANY

1 EXAMINED AND SHALL INCLUDE THE EXPENSES OF THE COMMISSIONER AND  
2 THE COMMISSIONER'S ASSISTANTS, WHO SHALL BE PAID THE SAME  
3 COMPENSATION AS OTHER EXAMINERS ON SUCH EXAMINATIONS.

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

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

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

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

1 COLORADO AND RESTORED TO THE GENERAL FUND.

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

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

22 (2) NO LATER THAN SIXTY DAYS AFTER COMPLETION OF THE  
23 EXAMINATION, THE EXAMINER IN CHARGE SHALL FILE WITH THE DIVISION  
24 A VERIFIED WRITTEN REPORT OF EXAMINATION UNDER OATH. UPON  
25 RECEIPT OF THE VERIFIED REPORT, THE DIVISION SHALL TRANSMIT TO THE  
26 COMPANY EXAMINED BOTH THE REPORT AND A NOTICE STATING THAT THE  
27 COMPANY EXAMINED SHALL BE AFFORDED A REASONABLE PERIOD NOT

1 EXCEEDING THIRTY DAYS, WITHIN WHICH TO MAKE A WRITTEN SUBMISSION  
2 OR REBUTTAL WITH RESPECT TO ANY MATTERS CONTAINED IN THE  
3 EXAMINATION REPORT.

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

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

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

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

23 (d) MAY IMPOSE A MONETARY PENALTY OF NOT MORE THAN ONE  
24 THOUSAND DOLLARS FOR EVERY ACT IN VIOLATION OF ANY LAW, RULE, OR  
25 PRIOR LAWFUL ORDER OF THE COMMISSIONER DESCRIBED IN THE REPORT  
26 OF EXAMINATION, BUT NOT TO EXCEED AN AGGREGATE PENALTY OF TEN  
27 THOUSAND DOLLARS UNLESS THE COMPANY KNEW OR REASONABLY

1 SHOULD HAVE KNOWN THAT ITS CONDUCT WAS IN VIOLATION OF ANY LAW,  
2 RULE, OR PRIOR LAWFUL ORDER OF THE COMMISSIONER, IN WHICH CASE  
3 THE PENALTY SHALL NOT BE MORE THAN TEN THOUSAND DOLLARS FOR  
4 EVERY ACT OR VIOLATION, BUT NOT TO EXCEED AN AGGREGATE PENALTY  
5 OF ONE HUNDRED FIFTY THOUSAND DOLLARS IN ANY SIX-MONTH PERIOD.

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

21 (b) ANY HEARING CONDUCTED UNDER PARAGRAPH (c) OF  
22 SUBSECTION (3) OF THIS SECTION BY THE COMMISSIONER OR AN  
23 AUTHORIZED REPRESENTATIVE SHALL BE CONDUCTED AS A  
24 NONADVERSARIAL, CONFIDENTIAL, INVESTIGATORY PROCEEDING AS  
25 NECESSARY FOR THE RESOLUTION OF ANY INCONSISTENCIES,  
26 DISCREPANCIES, OR DISPUTED ISSUES APPARENT UPON THE FACE OF THE  
27 FILED EXAMINATION REPORT OR RAISED BY OR AS A RESULT OF THE

1 COMMISSIONER'S REVIEW OF RELEVANT WORKPAPERS OR BY THE WRITTEN  
2 SUBMISSION OR REBUTTAL OF THE COMPANY. SUCH HEARING SHALL NOT  
3 BE SUBJECT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE  
4 4 OF TITLE 24, C.R.S. WITHIN TWENTY DAYS AFTER THE CONCLUSION OF  
5 ANY SUCH HEARING, THE COMMISSIONER SHALL ENTER AN ORDER  
6 PURSUANT TO PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION.

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

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

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

1           (5) UPON THE ADOPTION OF THE EXAMINATION REPORT PURSUANT  
2 TO PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, THE  
3 COMMISSIONER SHALL CONTINUE, FOR AT LEAST THIRTY DAYS, TO HOLD  
4 THE CONTENT OF THE EXAMINATION REPORT AS PRIVATE AND  
5 CONFIDENTIAL INFORMATION EXCEPT TO THE EXTENT PROVIDED IN  
6 SUBSECTION (2) OF THIS SECTION. THEREAFTER, THE COMMISSIONER MAY  
7 OPEN THE REPORT FOR PUBLIC INSPECTION UNLESS A COURT OF COMPETENT  
8 JURISDICTION HAS STAYED ITS PUBLICATION.

9           (6) NO PROVISION OF THIS TITLE SHALL PREVENT OR BE  
10 CONSTRUED AS PROHIBITING THE COMMISSIONER FROM DISCLOSING THE  
11 CONTENT OF AN EXAMINATION REPORT, PRELIMINARY EXAMINATION  
12 REPORT OR RESULTS, OR ANY MATTER RELATING THERETO TO THE  
13 INSURANCE DIVISION OF THIS OR ANY OTHER STATE OR COUNTRY, OR TO  
14 LAW ENFORCEMENT OFFICIALS OF THIS OR ANY OTHER STATE, OR TO ANY  
15 AGENCY OF THE FEDERAL GOVERNMENT AT ANY TIME SUBJECT TO THE  
16 WRITTEN AGREEMENT OF THE RECIPIENT TO HOLD SUCH INFORMATION  
17 CONFIDENTIAL AND TO TREAT IT IN A MANNER CONSISTENT WITH THIS PART  
18 2.

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

23           (8) **Confidentiality of ancillary information.** (a) ALL WORKING  
24 PAPERS, RECORDED INFORMATION, DOCUMENTS, AND COPIES THEREOF  
25 THAT ARE PRODUCED OR OBTAINED BY OR DISCLOSED TO THE  
26 COMMISSIONER OR ANY OTHER PERSON IN THE COURSE OF A FINANCIAL OR  
27 MARKET CONDUCT EXAMINATION MADE UNDER THIS PART 2 SHALL BE

1 GIVEN CONFIDENTIAL TREATMENT, ARE NOT SUBJECT TO SUBPOENA, AND  
2 MAY NOT BE MADE PUBLIC BY THE COMMISSIONER OR ANY OTHER PERSON  
3 EXCEPT TO THE EXTENT PROVIDED IN SUBSECTION (5) OF THIS SECTION;  
4 EXCEPT THAT ACCESS TO SUCH MATERIALS MAY BE GRANTED TO THE  
5 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. DISCLOSURE OF  
6 THE SAID MATERIALS SHALL BE MADE ONLY UPON THE PRIOR WRITTEN  
7 AGREEMENT OF THE RECIPIENT TO HOLD SUCH INFORMATION  
8 CONFIDENTIAL AS REQUIRED BY THIS SECTION OR UPON THE PRIOR  
9 WRITTEN CONSENT OF THE COMPANY TO WHICH IT PERTAINS.

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

20 **10-1-206. Conflict of interest.** (1) NO EXAMINER MAY BE  
21 APPOINTED BY THE COMMISSIONER IF SUCH EXAMINER, EITHER DIRECTLY  
22 OR INDIRECTLY, HAS A CONFLICT OF INTEREST OR IS AFFILIATED WITH THE  
23 MANAGEMENT OF OR OWNS A PECUNIARY INTEREST IN ANY PERSON  
24 SUBJECT TO EXAMINATION UNDER THIS PART 2; EXCEPT THAT THIS SECTION  
25 SHALL NOT BE CONSTRUED TO AUTOMATICALLY PRECLUDE AN EXAMINER  
26 FROM BEING:

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



1 (b) A GRANTOR OF A MORTGAGE OR SIMILAR INSTRUMENT ON THE  
2 EXAMINER'S RESIDENCE TO A REGULATED ENTITY IF DONE UNDER  
3 CUSTOMARY TERMS AND IN THE ORDINARY COURSE OF BUSINESS;

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

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

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

15 **10-1-207. Immunity from liability.** (1) NO CAUSE OF ACTION  
16 SHALL ARISE, NOR SHALL ANY LIABILITY BE IMPOSED, AGAINST THE  
17 COMMISSIONER, THE COMMISSIONER'S AUTHORIZED REPRESENTATIVES, OR  
18 ANY EXAMINER APPOINTED BY THE COMMISSIONER FOR ANY STATEMENTS  
19 MADE OR CONDUCT PERFORMED IN GOOD FAITH WHILE CARRYING OUT THE  
20 PROVISIONS OF THIS PART 2.

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

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

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

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

14 **6-1-302. Definitions.** As used in this part 3, unless the context  
15 otherwise requires:

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

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

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

25 **6-18-302. Creation of provider networks - requirements.**

26 (1) (b) (III) The commissioner of insurance, in consultation with  
27 providers and other appropriate persons, shall evaluate the need for

1 specific legislation or ~~regulations~~ RULES for the licensure of provider  
2 networks and individual providers and, if determined appropriate, shall  
3 make recommendations thereon to the general assembly and governor and  
4 shall adopt such ~~regulations~~ RULES that are specific to licensed provider  
5 networks and licensed individual providers as provided in section  
6 10-1-108 (~~16~~) (13), C.R.S. A licensed provider network or licensed  
7 individual provider shall be subject to applicable provisions of title 10,  
8 C.R.S., except as otherwise provided in statute or ~~regulation~~ RULE  
9 adopted pursuant to ~~the said~~ section 10-1-108 (~~16~~) (13), C.R.S.

10 **SECTION 4.** 8-42-101 (3.6) (h), Colorado Revised Statutes, is  
11 amended to read:

12 **8-42-101. Employer must furnish medical aid - approval of**  
13 **plan - fee schedule - contracting for treatment - no recovery from**  
14 **employee - medical treatment guidelines - accreditation of physicians**  
15 **- repeal.** (3.6) The two-tier accreditation system shall ~~be comprised of~~  
16 COMPRISE the following programs:

17 (h) If a physician whose accreditation has been revoked submits  
18 a claim for payment for services rendered subsequent to such revocation,  
19 the physician shall be considered in violation of section ~~10-1-127~~  
20 10-1-128, C.R.S., and neither an insurance carrier nor a self-insured  
21 employer shall be under any obligation to pay such claim.

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

24 **8-45-101. Pinnacol Assurance - creation - powers and duties.**  
25 (2) (a) The powers of Pinnacol Assurance shall be vested in the board of  
26 directors of Pinnacol Assurance, which shall have nine members. The  
27 members of the board shall be appointed by the governor with the consent

1 of the senate. Of the nine members, four shall be employers whose  
2 liability under articles 40 to 47 of this title is insured by Pinnacol  
3 Assurance with one of such employers to be a farmer or rancher. Three  
4 of the nine members shall be employees of employers whose liability  
5 under articles 40 to 47 of this title is insured by Pinnacol Assurance. One  
6 of the nine members shall be experienced in the management and  
7 operation of insurance companies as defined in section 10-1-102 ~~(4)~~ (6),  
8 C.R.S. Such member shall not concurrently serve as an owner, a  
9 shareholder, an officer, an employee, an agent of, or in any other capacity  
10 with any business which competes with Pinnacol Assurance. One of the  
11 nine members shall be experienced in finance or investments, but shall  
12 not be an employer whose liability under articles 40 to 47 of this title is  
13 insured by Pinnacol Assurance. The term of office for each such member  
14 shall be five years. The appointees may serve on a temporary basis if the  
15 senate is not in session when they are appointed until the senate is in  
16 session and is able to confirm such appointments. Vacancies on the  
17 board shall be filled by appointment of the governor for the remainder of  
18 any unexpired terms. The board shall elect a chairman annually from its  
19 membership.

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

22 **8-45-117. Regulation by commissioner of insurance.**

23 (1) Pinnacol Assurance shall be subject to regulation by the  
24 commissioner of insurance as provided in:

25 (c) Sections 10-1-108 ~~(8)~~ (7), 10-1-109, and 10-1-102, C.R.S.,  
26 except ~~(2)~~ SUBSECTIONS (3) and (6); 10-1-205, C.R.S., (1) through (6) and  
27 (8); 10-3-109, C.R.S., except for the publication requirements; 10-3-118,

1 C.R.S.; 10-3-128, C.R.S.; 10-3-202, C.R.S.; 10-3-207, C.R.S.; 10-3-208,  
2 C.R.S. (1) and (2); 10-3-231, C.R.S.; 10-3-239, C.R.S.; 10-3-701, C.R.S.;  
3 and part 8 of article 3 of title 10, C.R.S., except as these sections are  
4 inconsistent with the provisions of this article.

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

7 **10-2-907. Required contract provisions - reinsurance**  
8 **intermediary -- managers.** (1) Transactions between an RM and the  
9 reinsurer such RM represents shall only be entered into pursuant to a  
10 written contract, specifying the responsibilities of each party, which shall  
11 be approved by the reinsurer's board of directors. At least thirty days  
12 before such reinsurer assumes or cedes business through such producer,  
13 a true copy of the approved contract shall be filed with the commissioner  
14 for approval. The contract shall, at a minimum, contain provisions that  
15 incorporate all of the following:

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

22 **SECTION 8.** 10-3-118 (5) (d) (I), the introductory portion to  
23 10-3-118 (6), and 10-3-118 (6) (c), Colorado Revised Statutes, are  
24 amended to read:

25 **10-3-118. Reinsurance - conditions - credit for reinsurance.**  
26 (5) (d) (I) Credit shall be allowed when the reinsurance is ceded to a  
27 reinsurer that maintains a trust fund in a qualified United States financial

1 institution, as defined in section 10-1-102 ~~(9.5)~~ (17), for the payment of  
2 the valid claims of its United States policyholders and ceding insurers,  
3 and their assigns and successors in interest. The reinsurer shall report  
4 annually to the commissioner information substantially the same as that  
5 required to be reported on the national association of insurance  
6 commissioners annual statement form by licensed insurers to enable the  
7 commissioner to determine the sufficiency of the trust fund. In the case  
8 of a single reinsurer, the trust shall consist of a trusteed account  
9 representing the reinsurer's liabilities attributable to business written in  
10 the United States and, in addition, the reinsurer shall maintain a trusteed  
11 surplus of not less than twenty million dollars. In the case of a group  
12 including incorporated and individual unincorporated underwriters, the  
13 trust shall consist of a trusteed account representing the group's liabilities  
14 attributable to business written in the United States and, in addition, the  
15 group shall maintain a trusteed surplus of which one hundred million  
16 dollars shall be held jointly for the benefit of United States ceding  
17 insurers of any member of the group; the incorporated members of the  
18 group shall not be engaged in any business other than underwriting as a  
19 member of the group and shall be subject to the same level of solvency  
20 regulation and control by the group's domiciliary regulator as are the  
21 unincorporated members; and the group shall make available to the  
22 commissioner an annual certification of the solvency of each underwriter  
23 by the group's domiciliary regulator and its independent public  
24 accountants.

25 (6) A reduction from liability for the reinsurance ceded by an  
26 insurer to a reinsurer not meeting the requirements of subsection (5) of  
27 this section shall be allowed in an amount not exceeding the liabilities

1 carried by the ceding insurer and such reduction shall be in the amount  
2 of funds held by or on behalf of the ceding insurer, including funds held  
3 in trust for the ceding insurer, under a reinsurance contract with such  
4 reinsurer as security for the payment of such obligations, if such security  
5 is held in the United States subject to withdrawal solely by and under the  
6 exclusive control of the ceding insurer; or, in the case of a trust, held in  
7 a qualified United States financial institution as defined in section  
8 10-1-102 ~~(9.5)~~ (17). This security may be in the form of:

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

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

22 **10-3-209. Tax on premiums collected - exemptions - penalties.**

23 (1) (a) All insurance companies writing business in this state, including,  
24 without limitation, those defined in section 10-1-102 ~~(4)~~ (6), shall pay to  
25 the division of insurance a tax on the gross amount of all premiums  
26 collected or contracted for on policies or contracts of insurance covering  
27 property or risks in this state during the previous calendar year, after

1 deducting from such gross amount the amount received as reinsurance  
2 premiums on business in this state, and the amount refunded under credit  
3 life and credit accident and health insurance policies on account of  
4 termination of insurance prior to the maturity date of the indebtedness,  
5 and, in the case of companies other than life, the amounts paid to  
6 policyholders as return premiums, which shall include dividends or  
7 unabsorbed premiums or premium deposits returned or credited to  
8 policyholders.

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

11 **10-3-237. Assets acquired under prior law.**

12 (2) Notwithstanding any other provision of this title (except part 7 of  
13 article 4 and article 15), article 7 of title 12, and article 14 of title 24,  
14 C.R.S., any asset held by a company on May 31, 1969, which is not an  
15 admitted asset under section 10-1-102 ~~(1.5)~~ (2), sections 10-3-215 to  
16 10-3-229, or subsection (1) of this section, and which did not meet the  
17 requirements of the law in effect immediately prior to such date for an  
18 investment of the company's reserves, paid-up capital stock, and other  
19 liabilities, but which, under such law, would have been taken into account  
20 as an asset in determining the surplus of the company, shall be taken into  
21 account as an admitted asset at all times at which the company has  
22 aggregate admitted assets under section 10-1-102 ~~(1.5)~~ (2), sections  
23 10-3-215 to 10-3-229, and subsection (1) of this section in an amount at  
24 least equal to the total of its reserves, paid-up capital stock, and all other  
25 liabilities.

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



1           **10-3-903. Definition of transacting insurance business.** (2) The  
2 provisions of this section do not apply to:

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

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

7           **10-4-911. Examinations.** The commissioner shall make an  
8 examination into the affairs of the association at least annually. Such  
9 examination shall be conducted and the report thereon filed in the manner  
10 prescribed in ~~section 10-1-110~~ PART 2 OF ARTICLE OF 1 OF THIS TITLE.

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

13           **10-4-1002. Definitions.** As used in this part 10, unless the  
14 context otherwise requires:

15           (1.5) "Fraudulent insurance act" has the meaning set forth in  
16 section ~~10-1-127~~ 10-1-128.

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

19           **10-4-1111. Examinations.** The commissioner shall make an  
20 examination into the affairs of the association at least annually. Such  
21 examination shall be conducted and the report thereon filed in the manner  
22 prescribed in ~~section 10-1-110~~ PART 2 OF ARTICLE 1 OF THIS TITLE.

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

25           **10-6-116. Capital and surplus requirements.** (2) Securities  
26 acceptable to the commissioner in the amount of three hundred thousand  
27 dollars, or such greater amount as determined by the commissioner, shall

1 be held by the commissioner or under the joint control of the  
2 commissioner and the captive insurance company. The commissioner  
3 shall accept an irrevocable letter of credit, in a form acceptable to the  
4 commissioner, issued or confirmed by a qualified United States financial  
5 institution as defined in section 10-1-102 ~~(9.5)~~ (17) on behalf of a captive  
6 insurance company in lieu of securities. All securities or letters of credit  
7 jointly held shall be the sole property of such captive insurance company  
8 and shall be free and clear of any claim or encumbrance.

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

11 **10-6-121. Legal investments.** (1) Group captive insurance  
12 companies shall comply with the investment requirements and limitations  
13 applicable to other insurance companies under the laws of this state as  
14 described in sections 10-1-102 ~~(1.5)~~ and ~~(9)~~ (2) AND (16), 10-3-213 to  
15 10-3-242, and 10-3-802.

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

18 **10-6-130. Laws applicable.** (3) The malpractice reporting  
19 requirements of sections ~~10-1-124 to 10-1-124.9~~ 10-1-120 TO 10-1-125  
20 shall apply to captive insurance companies.

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

23 **10-14-609. Suspension, revocation, or denial of license of**  
24 **foreign or alien society.** (4) In addition to the provisions of subsections  
25 (1) to (3) of this section, the provisions of section ~~10-1-111~~ 10-1-110,  
26 except for the provisions of paragraphs (a) to (c) of subsection (1) of said  
27 section, shall apply to societies doing business in this state.

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

3           **10-16-421. Statutory construction and relationship to other**  
4 **laws.** (1) Except for sections 10-1-102, ~~10-1-121, 10-1-122,~~ 10-1-117,  
5 10-1-118, 10-3-109 (2), 10-3-118, 10-3-128, 10-3-208, and 10-8-530  
6 (1.5), and parts 4 to 8 of article 3 of this title, and as otherwise provided  
7 in this article, the provisions of the insurance law and provisions of  
8 nonprofit hospital, medical-surgical, and health service corporation laws  
9 shall not be applicable to any health maintenance organization granted a  
10 certificate of authority under this part 4.

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

13           **10-16-704. Network adequacy.** (4.5) (m) Adjustments to claims  
14 made in cases where a carrier, pursuant to section ~~10-1-127~~ 10-1-128 (5)  
15 (a) (IV), has reported fraud or abuse committed by the provider, shall not  
16 be subject to the requirements of this subsection (4.5).

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

19           **10-16-705. Requirements for carriers and participating**  
20 **providers.** (11.5) A carrier or entity that contracts with the carrier shall  
21 not penalize a primary care provider who makes a standing referral of a  
22 covered person to a specialist, nor shall the specialist treating the covered  
23 person be penalized, with actions that include but are not limited to  
24 disincentives or disaffiliation, except for violations of section ~~10-1-127~~  
25 10-1-128.

26           (12) (b) (I) Each carrier, regardless of the mechanism used, shall  
27 issue a verification code that the participating provider may use as proof

1 of verification as required by section 10-16-704 (4.5) (f). ~~(4.5) (g), and~~  
2 ~~(4.5) (h)~~.

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

5 **12-2-117. Partnerships, professional corporations, and limited**  
6 **liability companies composed of certified public accountants -**  
7 **registration thereof - definitions.** (3) The corporation must be in  
8 compliance with the "Colorado Business Corporation Act", articles 101  
9 to 117 of title 7, C.R.S., and, to the extent applicable under section  
10 7-117-103, C.R.S., with the "Colorado Corporation Code", articles 1 to  
11 10 of title 7, C.R.S., as said articles existed prior to their repeal on July  
12 1, 1994. The limited liability company must be in compliance with the  
13 "Colorado Limited Liability Company Act", article 80 of title 7, C.R.S.  
14 The organizing documents of any partnership, the articles of  
15 incorporation of any such corporation, or the articles of organization of  
16 any such limited liability company shall contain provisions complying  
17 with the following requirements:

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

27 (V) A partnership, corporation, or limited liability company may

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

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

3           **12-6-118. Licenses - grounds for denial, suspension, or**  
4 **revocation.** (3) A motor vehicle dealer's, wholesale motor vehicle  
5 auction dealer's, wholesaler's, buyer agent's, or used motor vehicle  
6 dealer's license may be denied, suspended, or revoked on the following  
7 grounds:

8           (u) Committing a fraudulent insurance act pursuant to section  
9 ~~10-1-127~~ 10-1-128, C.R.S.

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

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

14           (1.3) "Bail insurance company" means an insurer as defined in  
15 section 10-1-102 ~~(8)~~ (13), C.R.S., engaged in the business of writing bail  
16 appearance bonds through bonding agents, which company is subject to  
17 regulation by the division of insurance in the department of regulatory  
18 agencies.

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

21           **12-29.5-106. Grounds for disciplinary action.** (1) The director  
22 may deny licensure to or take disciplinary action against an acupuncturist  
23 pursuant to section 24-4-105, C.R.S., if the director finds that the  
24 acupuncturist has committed any of the following acts:

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

1 section ~~10-1-127~~ 10-1-128, C.R.S.;

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

4 **12-32-107. Issuance, revocation, or suspension of license -**  
5 **probation - immunity in professional review.** (3) "Unprofessional  
6 conduct" as used in this article means:

7 (w) Committing a fraudulent insurance act, as defined in section  
8 ~~10-1-127~~ 10-1-128, C.R.S.;

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

11 **12-32-108.3. Disciplinary action by board.** (2) (b) The  
12 Colorado podiatry board shall cause an investigation to be made when the  
13 board is informed of:

14 (III) An instance of a malpractice settlement or judgment against  
15 a podiatrist reported to the board pursuant to section ~~10-1-124.7~~  
16 10-1-124, C.R.S.; or

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

19 **12-33-117. Discipline of licensees - letters of admonition,**  
20 **suspension, revocation, denial, and probation - grounds.** (1) Upon any  
21 of the following grounds, the board may issue a letter of admonition to a  
22 licensee or may revoke, suspend, deny, refuse to renew, or impose  
23 conditions on such licensee's license:

24 (k) Violation of abuse of health insurance pursuant to section  
25 18-13-119, C.R.S., or commission of a fraudulent insurance act, as  
26 defined in section ~~10-1-127~~ 10-1-128, C.R.S.;

27 **SECTION 29.** 12-35-118 (1) (n), Colorado Revised Statutes, is

1 amended to read:

2 **12-35-118. Causes for denial of issuance or renewal -**  
3 **suspension or revocation of licenses - other disciplinary action -**  
4 **unprofessional conduct defined - immunity in professional review.**

5 (1) The board may deny the issuance or renewal of, suspend for a  
6 specified time period, or revoke any license provided for by this article  
7 or may reprimand, censure, or place on probation any licensed dentist or  
8 dental hygienist after notice and hearing, which may be conducted by an  
9 administrative law judge, pursuant to the provisions of article 4 of title  
10 24, C.R.S., or it may issue a letter of admonition without a hearing  
11 (except that any licensed dentist or dental hygienist to whom such a letter  
12 of admonition is sent may, within thirty days after the date of the mailing  
13 of such letter by the board, request in writing to the board a formal  
14 hearing thereon, and the letter of admonition shall be deemed vacated,  
15 and the board shall, upon such request, hold such a hearing) for any of  
16 the following causes:

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

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

23 **12-36-117. Unprofessional conduct.** (1) "Unprofessional  
24 conduct" as used in this article means:

25 (dd) Committing a fraudulent insurance act, as defined in section  
26 ~~10-1-127~~ 10-1-128, C.R.S.;

27 **SECTION 31.** 12-36-118 (4) (b) (III), Colorado Revised Statutes,



1 is amended to read:

2 **12-36-118. Disciplinary action by board - immunity.**

3 (4) (b) The board shall cause an investigation to be made when the board  
4 is informed of:

5 (III) An instance of a medical malpractice settlement or judgment  
6 against a licensee reported to the board pursuant to section ~~10-1-124~~  
7 10-1-120, C.R.S.; or

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

10 **12-38-117. Grounds for discipline.** (1) "Grounds for discipline",  
11 as used in this article, means any action by any person who:

12 (o) Has committed a fraudulent insurance act, as defined in  
13 section ~~10-1-127~~ 10-1-128, C.R.S.;

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

16 **12-40-118. Unprofessional conduct defined.** (1) The term  
17 "unprofessional conduct", as used in this article, means:

18 (ee) Committing a fraudulent insurance act, as defined in section  
19 ~~10-1-127~~ 10-1-128, C.R.S.;

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

22 **12-40-127. Judgments and settlements - reporting.** Any final  
23 judgment, settlement, or arbitration award against an optometrist for  
24 malpractice shall be reported within fourteen days by such optometrist's  
25 malpractice insurance carrier in accordance with section ~~10-1-124.9~~  
26 10-1-125, C.R.S., or by such optometrist ~~himself~~ if no commercial  
27 malpractice insurance coverage is involved to the board for review,

1 investigation, and, where appropriate, disciplinary or other action. Any  
2 optometrist who knowingly fails to report as required by this section shall  
3 be subject to a civil penalty of not more than two thousand five hundred  
4 dollars. Such penalty shall be determined and collected in an action  
5 brought by the board in the district court in the city and county of  
6 Denver, which court shall have exclusive jurisdiction in such matters. All  
7 penalties collected pursuant to this section shall be transmitted to the state  
8 treasurer, who shall credit the same to the general fund.

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

11 **12-41-115. Grounds for disciplinary action.** (1) The director  
12 is authorized to take disciplinary action in accordance with section  
13 12-41-116 if the licensee has:

14 (i) Committed a fraudulent insurance act, as defined in section  
15 ~~10-1-127~~ 10-1-128, C.R.S.;

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

18 **12-41.5-109. Grounds for action - disciplinary proceedings.**

19 (2) The director has the power to revoke, suspend, deny, or refuse to  
20 renew a license, place on probation a licensee, or issue a cease and desist  
21 order or letter of admonition to a licensee in accordance with subsections  
22 (3), (4), (5), and (6) of this section upon proof that such person:

23 (j) Has committed:

24 (I) A fraudulent insurance act as defined in section ~~10-1-127~~  
25 10-1-128, C.R.S.;

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

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

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

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

8           **13-64-303. Judgments and settlements - reported.** Any final  
9 judgment, settlement, or arbitration award against any health care  
10 professional or health care institution for medical malpractice shall be  
11 reported within fourteen days by such professional's or institution's  
12 medical malpractice insurance carrier in accordance with ~~section~~  
13 ~~10-1-124~~ SECTIONS 10-1-120, 10-1-121, 10-1-124, OR 10-1-125, C.R.S.,  
14 or by such professional or institution if there is no commercial medical  
15 malpractice insurance coverage to the licensing agency of the health care  
16 professional or health care institution for review, investigation, and,  
17 where appropriate, disciplinary or other action. Any health care  
18 professional, health care institution, or insurance carrier ~~which~~ THAT  
19 knowingly fails to report as required by this section shall be subject to a  
20 civil penalty of not more than two thousand five hundred dollars. Such  
21 penalty shall be determined and collected by the district court in the city  
22 and county of Denver. All penalties collected pursuant to this section  
23 shall be transmitted to the state treasurer, who shall credit the same to the  
24 general fund.

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

27           **16-4-112. Enforcement procedures for compensated sureties.**

1 (2) As used in this section, unless the context otherwise requires:

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

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

9 **24-75-601.1. Legal investments of public funds.** (1) It is lawful  
10 to invest public funds in any of the following securities if the period from  
11 the date of purchase of such security to its maturity date is five years or  
12 less or if the governing body of the public entity authorizes investment  
13 for such period in excess of five years:

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

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

21 **42-11-101. Definitions.** As used in this article, unless the context  
22 otherwise requires:

23 (1) "Mechanical breakdown insurance" means ~~a~~ AN INSURANCE  
24 policy, contract, or agreement, as defined in section 10-1-102 ~~(7)~~ (12),  
25 C.R.S., that undertakes to perform or provide repair or replacement  
26 service, or indemnification for that service, for the operational or  
27 structural failure of a motor vehicle due to a defect in materials or skill of

1 work or normal wear and tear, and that is issued by an insurance  
2 company authorized to do business in this state.

3 **SECTION 42.** 24-34-104 (37), Colorado Revised Statutes, is  
4 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

5 **24-34-104. General assembly review of regulatory agencies and**  
6 **functions for termination, continuation, or reestablishment.** (37) The  
7 following agencies, functions, or both, shall terminate on July 1, 2006:

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

11 **SECTION 43.** 24-34-104 (39) (b), Colorado Revised Statutes, is  
12 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

13 **24-34-104. General assembly review of regulatory agencies and**  
14 **functions for termination, continuation, or reestablishment.**

15 (39) (b) The following agencies, functions, or both, shall terminate on  
16 July 1, 2008:

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

20 **SECTION 44.** 24-34-104 (41), Colorado Revised Statutes, is  
21 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22 **24-34-104. General assembly review of regulatory agencies and**  
23 **functions for termination, continuation, or reestablishment.** (41) The  
24 following agencies, functions, or both, shall terminate on July 1, 2010:

25 (n) THE FUNCTIONS OF THE DIVISION OF INSURANCE RELATED TO  
26 THE ISSUANCE OF CERTIFICATES OF AUTHORITY FOR PROPERTY AND  
27 CASUALTY, AUTOMOBILE, AND ANY OTHER ENTITY OR FUNCTION THAT

1 DOES NOT OFFER HEALTH, LIFE, PROPERTY, CASUALTY, OR AUTOMOBILE  
2 INSURANCE BY THE DIVISION, PURSUANT TO ARTICLE 1 OF TITLE 10, C.R.S.

3 **SECTION 45. Effective date - applicability.** This act shall take  
4 effect July 1, 2003, and shall apply to functions of the division of  
5 insurance on or after said date.

6 **SECTION 46. Safety clause.** The general assembly hereby  
7 finds, determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.