

Dec. 18, 2023

The Honorable Jared Polis, Governor  
Members of the Colorado General Assembly  
200 E. Colfax Ave.  
Denver, CO 80203

Dear Gov. Polis and Members of the Colorado General Assembly:

Pursuant to C.R.S. Section 8-45-122, attached please find Pinnacol Assurance's Report to Colorado Policymakers on 2022 Data. Per the statute, the report contains the following information:\*

- (a) Number of policies held by Pinnacol.
- (b) Total assets of Pinnacol.
- (c) Amount of reserves.
- (d) Amount of surplus.
- (e) Number of claims filed.
- (f) Number of claims admitted or contested within the 20-day period pursuant to Section 8-43-203, specifying the number of contested claims that are medical only and those that are indemnity claims.
- (g) Number of medical procedures denied.
- (h) Amount of total compensation each executive officer or staff member receives, including bonuses and deferred compensation.
- (i) Amount spent on commissions.
- (j) Amount paid to trade associations for marketing fees.
- (k) All information relating to bonus programs.
- (l) Any other information the CEO deems relevant to the report.

*\*All data is as of year-end 2022.*

The introduction to the report also highlights Pinnacol's focus on and commitment to policyholders, injured workers and the Colorado community.

Additional financial information may be found in the appendices to this document.

If you have any questions concerning the information in this report, please contact me at 303.361.4891.

Sincerely,



John O'Donnell  
President and CEO

cc:

Hon. Steve Fenberg, Senate President  
Hon. Paul Lundeen, Senate Minority Leader  
Hon. Julie McCluskie, Speaker of the House  
Hon. Mike Lynch, House Minority Leader  
Hon. Jessie Danielson, Chair, Senate Business, Labor and Technology Committee  
Hon. Rhonda Fields, Chair, Senate Health and Human Services Committee  
Hon. Judy Amabile, Chair, House Business Affairs and Labor Committee  
Hon. Lindsey Daugherty, Chair, House Health and Insurance Committee  
Colorado Legislative Council Library

# REPORT TO COLORADO POLICYMAKERS ON 2022 DATA BY PINNACOL ASSURANCE

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# INTRODUCTION

Members of the Colorado General Assembly,

I am writing to you as the President & CEO of Pinnacol Assurance with a sense of immense pride in our organization and a profound commitment to the State of Colorado. Pinnacol recently celebrated its 108th year of service to Colorado, which the General Assembly created to ensure that all in our state have access to workers' compensation coverage.

That's a unique role that our leadership team embraces today. Over the last century, as the state's workforce has grown, expanded and evolved, Pinnacol too has adapted to meet the needs of Colorado. Today, Pinnacol operates as a community leader and market-leading carrier for both injured workers and employers - including support of jobs and industries that weren't even contemplated in 1915.

As we continue to adapt to a modern and post-pandemic economy, our leadership team is working proactively to reinvest in our community alongside modern technology, new services and partnerships to provide our policyholders greater options to multi-state coverage so that we are living into our mission to not only remain accessible to Colorado, but to provide the strongest access to the best coverage in our market.

## 1. Unparalleled Care for Injured Workers

Pinnacol invests into its operations to support the injured worker experience. Pinnacol's claim denial rates are roughly half the state average and it maintains the highest satisfaction from injured workers among major carriers in Colorado - and recent investments in a bilingual claims team contributed to record performance of inclusive claims services. Another significant driver of our performance is preventing injuries before they even occur. Investments in safety programs in partnership with policyholders over the past decade have reduced injuries in the workplace - Pinnacol's overall claims fell nearly 20% from 2014 - 2022.

## 2. Responsible Stewardship of Policyholder's Premiums

Our prudent financial management, responsible stewardship of policyholder's premiums and thoughtful investment strategies ensure the longevity and stability of our organization, meaning that we can reliably support workers and employers in times of need, regardless of risk. Our balanced approach toward investment and expenditure is designed to maximize the value we offer to those we serve while maintaining a robust financial footing. Pinnacol consistently performs in the top 2% of property and casualty insurers in the country, according WARD 50, an industry benchmarking agency. Pinnacol was also recognized by Forbes Advisor as one of the top 10 workers' compensation insurers in the country, awarding us a 5-out-of-5-star rating. We've decreased premiums and reinvested back into Colorado workplaces in the form of general dividends for eight consecutive years.

## 3. Reinvestment in Colorado to Address Workforce and Community Needs

Understanding the dynamic needs of Colorado's workforce, we have continually reinvested in the state, focusing on areas that critically impact the well-being of our communities. We believe in our caring mission and that a skilled and well-supported workforce is fundamental to a thriving economy. We invest in nonprofits that address the needs of marginalized communities, support the families of workers affected by workplace accidents through Pinnacol Foundation scholarships, and encourage our employees' drive to volunteer and give back to their communities in staggering numbers.

## 4. Leadership in Workforce Development and Youth Apprenticeship

As one of Colorado's leading employers, we have taken the initiative to not only build a strong workforce within our organization but to also pave the way for future generations. Our nationally recognized and multiple award-winning youth apprenticeship program is a prime example of this commitment. By providing supportive and rewarding on-the-job training combined with educational opportunities, we are preparing young Coloradans for successful careers, thereby strengthening the state's workforce for the future and proving that the concept is not only possible but massively beneficial for businesses and young workers.

## 5. Industry-Leading Occupational Safety Services

Our dedication to making workplaces safer across Colorado shows in our state's nearly decades-long consistent reduction in workplace injuries and illnesses. Through our industry-leading occupational safety services, we help businesses and workers learn how to reduce workplace hazards. Unlike other carriers in the state, Pinnacol provides language-accessible trainings to ensure workers get the most value out of their experience.

## 6. Robust policyholder solutions for an evolving Workforce

The recent changes in our workforce caused by the pandemic have impacted so many in the workplace – remote and hybrid hiring trends are historic and will continue to evolve. Today, nearly half of Colorado employers have employees in multiple states. We are working proactively to enhance new services and partnerships to provide our policyholders a more seamless experience and greater options to multi-state coverage so that we are living our mission to not only remain accessible to Colorado, but to provide the strongest access to coverage in our market.

Thank you for your continued support and partnership as we work together for a safer, stronger, and more prosperous Colorado.

Sincerely,



John O'Donnell  
President & CEO, Pinnacol Assurance

# REQUIRED REPORTING PER C.R.S. §8-45-122

All data as of Dec. 31, 2022

## A. Policy Count: 51,872

Pinnacol's policies-in-force (active) as of Dec. 31, 2022, were lower by 968 policies than in 2021, while premiums decreased by \$40.1M primarily due to a -13.3% rate decrease.

## B. Total (Admitted) Assets: \$3,044,918,971

Pinnacol's total assets decreased by 3.01% over year-end 2021. The change was driven by a reduction in the value of invested assets due to changes in investment markets during 2022.

## C. Reserves: \$922,847,000

Our reserves represent the financial obligations of Pinnacol to pay injured workers' expected future benefits and related claims expenses, as determined by a contracted third-party actuarial firm (Milliman). Pinnacol's total reserves slightly increased by 1.58% over year-end 2021.

## D. Surplus: \$1,508,951,303

Our surplus is equity to cover unexpected claims/losses and economic fluctuations as well as other risks. It is, essentially, our rainy day fund. It is important to recognize that, because Pinnacol is not allowed to participate in the state's insurance guaranty fund, our surplus serves as our own guaranty fund. Every year, the board sets a surplus target range based on A.M. Best Capital Adequacy Ratio.

Pinnacol's attention to its operating performance helped drive positive net income, which is consistently the biggest driver of surplus growth for Pinnacol. Our surplus also reflects our share of PERA's unfunded liability.

## E. Claims received in 2022: 38,206

## F. Claims required by statute to be admitted or denied within 20 days and notice provided to the Colorado Division of Workers' Compensation (DOWC):

**Contested claims that are medical-only: 1,436**

**Contested claims that are indemnity claims: 85**

The number of claims Pinnacol admitted or contested (denied) within 20 days decreased by 5.41% in 2022 compared to 2021.

The total number of claims Pinnacol contested (denied) and reported to the DOWC increased in 2022 from 2021 by 9.5%. The number of contested indemnity claims increased by 9 claims and the number of contested medical-only claims increased by 123 claims. Pinnacol's most common basis for contesting a claim in 2022 was due to an injury not being work-related or the need for further investigation.

Here is a more complete picture of key data elements for 2022 with explanations to follow.

1. Claims processed with no filing required with DOWC	<b>32,908</b>	(86%)
2. Claims admitted within 20 days with DOWC	3,777	(10%)
3. Claims contested within 20 days with DOWC	1,521	(4%)
Subtotal of items 2 and 3	<b>5,298</b>	
Total claims in fiscal year 2022	<b>38,206</b>	(100%)

**Item 1: No Filing Required:** Claims that are minor in nature; the injured worker has not sustained a permanent disability or disfigurement, or lost time from work in excess of three calendar days/shifts. These claims are processed by Pinnacol and do not require a filing of admission or contest with the DOWC. These claims represent 86% of all claims received by Pinnacol in 2022.

**Items 2 and 3: Admitted or Contested within 20 days:** Claims that are more complex in nature require a formal filing with the DOWC of “contested” or “admitted.” It should be noted that not all contested claims are ultimately denied; many may initially be contested based on the need for more information within the 20-day window, the time in which compensability must be determined.

Claims where the injured worker has sustained one of the following require a formal filing of “contested” or “admitted” with the DOWC:

- The injured employee contracted an occupational disease
- The injured employee was found to have a permanent disability due to the injury.
- The injury or occupational disease resulted in lost time from work for the injured employee in excess of three shifts or calendar days.

As noted above, the number of claims that fall into these two categories (14%) is in the range of 12%-14% of total claims where we historically have been, with the exception of 2021 (15%).

**Item 3: Contested Claims:** The 1,521 contested claims (4% of total claims in 2022) stemmed from one or more of the following reasons:

- Injury or illness was not work-related — 858 (56%)
- Pending further investigation or information — 388 (26%)
- Other — Multiple reasons — 150 (10%). This category includes such things as no insurance policy or the injured worker is covered by another carrier. Note: this category includes more than one reason, such as injury/illness not work-related, no insurance coverage, third-party involvement or independent contractor — no coverage.

Pinnacol contested 4% of claims in 2022.

#### **G. Medical procedures denied: 2,565**

Pinnacol’s percentage of medical procedures denied compared to total bills received was 0.51% for 2022.

Medical procedures denied are in accordance with Rule 16 of the Colorado Division of Workers’ Compensation’s Rules of Procedure. Some medical procedures require prior approval from the insurance company. Once a request for prior authorization is received, Pinnacol has seven business days to inform the medical provider and the injured worker that we will pay or deny payment for the procedure.

**H. Amount of total compensation each executive officer or staff member receives, including bonuses or deferred compensation**

<b>Title</b>	<b>2022 Total Compensation</b>
President and CEO — hired 2/28/2022	\$828,102
Vice President, Agency Relations and Safety	\$308,402
Vice President, Chief Financial Officer	\$625,759
Vice President, Chief Human Resources Officer	\$351,188
Vice President, Chief Information Officer	\$406,582
Vice President, Chief Investment Officer	\$314,275
Vice President, Chief Marketing Officer	\$376,760
Vice President, General Counsel and Corporate Secretary	\$770,555
Vice President, Operations	\$340,820
Vice President, Public Affairs – hired 9/19/22	\$68,243
Average total compensation for 13 Associate Vice Presidents	\$267,993

**J. Amount spent on commissions: \$74,396,875**

**K. Amount paid to trade associations for marketing fees: \$106,090**

**L. Information related to bonus programs**

See Appendix A

**M. Other information the CEO deems relevant to the report**

See Appendix B

Note: Sources for all items except H and the Appendices are the 2022 Pinnacol Annual Statement, the Pinnacol Assurance Key Factor Report, the General Ledger Account (60511-100—Advertising Expenses—Association Marketing) and other internal reports.



# APPENDIX A

Information related to bonus programs

**PINNACOL ASSURANCE**

**EXECUTIVE PERFORMANCE PLAN**

**(As Amended February 28, 2022)**

**SUMMARY**

The Executive Performance Plan (“Performance Plan”) is hereby amended and restated effective for Plan Years commencing on or after January 1, 2022. The Performance Plan is intended to recognize the achievement of major company objectives and individual objectives, measured on an annual basis.

This Performance Plan appropriately emphasizes individual and group accountability for making specific contributions to Pinnacol Assurance’s overall business results. Based on Board of Directors of Pinnacol Assurance (“Board”) approval, the Performance Plan will be finalized and communicated to Executive Staff. A relatively short decision-result cycle should be attainable (first quarter of the following year) to determine award payout following Board approval.

**PLAN DESCRIPTION**

**Plan Year** – The Plan Year shall be a calendar year.

**Performance Measures** – Awards are paid under this Performance Plan for meeting or exceeding annual performance objectives for pre-established company metrics for the Plan Year, as set forth by the Board.

**Eligibility** – This Performance Plan will only apply to the following positions, each of which will be considered an Eligible Employee: CEO, Vice Presidents, and Associate Vice Presidents; however, an individual is not an Eligible Employee in this Performance Plan if he or she is an Eligible Employee in a plan that is designated as an “alternative executive performance plan.” For purposes of the foregoing, the Pinnacol Assurance Investment Executive Performance Plan (“IEPP”) is an alternative executive performance plan, and any individual eligible to participate in the IEPP shall not be eligible to participate in or receive an award under this Performance Plan.

An Eligible Employee who is hired on or after October 1 of a Plan Year is not eligible to participate in the Performance Plan for the year of hire.

**Incentive Award Plans** – Eligible Employees will have incentive award plans based on meeting major company objectives and individual objectives related to Pinnacol Assurance’s annual business plan. For Vice Presidents and Associate Vice Presidents, the amount of an award under this Performance Plan, if any, is subject to the approval of the CEO and then ultimately the Board. For the CEO, the amount of an award under this Performance Plan, if any, is subject to the approval of the Board.

**Determination of Payment**1. **Eligible Employees Other Than the CEO**

The CEO shall make a determination as soon as practicable after the end of the Plan Year as to whether each Eligible Employee (other than the CEO) has met his or her individual objectives and whether the company objectives have been met. The CEO shall make an initial determination as to the award that each such Eligible Employee is eligible for under this Performance Plan for the Plan Year. The Board shall then approve the amount of all awards (the date of such approval being the “Initial Determination Date” with respect to such Eligible Employee). The “Determination” of an award by the Board, as well as the decision as to whether to make any such award, and the

amount, if any, of such award, shall be in the sole discretion of the Board. Determination means the Board has passed a resolution approving or denying a bonus award as well as the amount of any such award.

2. CEO

The Compensation Committee of the Board (the "Committee") shall make a determination as soon as practicable after the end of the Plan Year as to whether the CEO has met his individual objectives and whether the company objectives have been met. The Committee shall make an initial determination as to the award that the CEO is eligible for under this Performance Plan for the Plan Year. The Board shall then approve the amount of the final award (the date of such approval being the "Initial Determination Date" with respect to the CEO). The Determination of an award by the Board, as well as the decision as to whether to make any such award, and the amount, if any, of such award, shall be in the sole discretion of the Board. Determination means the Board has passed a resolution approving or denying a bonus award as well as the amount of any such award.

3. Subsequent Adjustment Due to Error

The Board may increase or decrease the amount of an award subsequent to an Initial Determination Date (a "Subsequent Adjustment Due to Error"), provided, however, that a Subsequent Adjustment Due to Error shall only be made because of a mathematical error, an adjustment to results as described below under "Company Objectives," or upon the determination of the Board that a metric or criterion used to compute an award had been determined in error. The date on which the Board approves a Subsequent Adjustment Due to Error shall be a Subsequent Determination Date with respect to such adjustment.

4. Determination Dates

The Initial Determination Date with respect to a Plan Year shall be on or after January 1 of the calendar year immediately following the Plan Year but no later than the May 31 of the calendar year immediately following such Plan Year. Any Subsequent Determination Date with respect to a Plan Year shall be no later than the September 30 of the calendar year immediately following such Plan Year.

**Payment** – Payment of an award, or of a Subsequent Adjustment Due to Error that increases an award, shall be made within 2-1/2 months of the Initial Determination Date (with respect to the award) or within 2-1/2 months of the Subsequent Determination Date (with respect to the Subsequent Adjustment Due to Error). In the event that a Subsequent Adjustment Due to Error reduces an award that has already been paid, Pinnacol Assurance may recoup such Subsequent Adjustment Due to Error from the recipient of an award by reducing the compensation otherwise payable to such recipient within sixty (60) days of the Subsequent Determination Date (including, but not limited to, regular compensation, bonuses, commissions, or severance pay and any amount of such Subsequent Adjustment Due to Error that Pinnacol Assurance has not recouped from such compensation shall be paid by the recipient to Pinnacol Assurance on the sixtieth (60<sup>th</sup>) day following the Subsequent Determination Date. This paragraph applies whether or not such recipient has remained an Eligible Employee.

**Vesting** – An Eligible Employee who is not employed by Pinnacol Assurance on a Determination Date (whether an Initial or Subsequent Determination Date) forfeits all rights to an award (or an increase in an award in the case of a Subsequent Adjustment Due to Error) for the Plan Year to which such Determination Date relates. An Eligible Employee who is employed by Pinnacol Assurance on an Initial or Subsequent Determination Date is fully vested in the award (or an increase in an award, in the case of a Subsequent Adjustment Due to Error) granted on such

Initial or Subsequent Determination Date.

**Allocation of Award Under Each Plan** – Incentive awards will be earned as follows once the Board has determined that an Eligible Employee has met the criteria for an individual award, which for all Performance Plan participants shall be based 80% on achievement of company objectives and 20% on Individual Strategic Goals.

**Eligible Employee’s Performance Plan Award Range (% of Base Salary)**

	Threshold	Commendable	Maximum
Associate Vice Presidents	20.0%	32.5%	45.0%
Senior Vice President and Vice Presidents	22.5%	37.5%	52.5%
CEO	50.0%	100.0%	150.0%

**Award Payout Calculation**

Individual worksheets will be prepared for each Eligible Employee. Pinnacol Assurance will use the following factors in determining the amount of the award once the threshold criteria are met:

1. Company Objectives

Annual targets for Combined Ratio Before General Dividends, New Business, Original Premium Retention, Policyholder Net Promoter Score, Injured Worker Satisfaction, Business Transformation Goals, and Individual Strategic Goals (each as defined or described below) will be established by the Board. Projected as well as past performance will be factored into the formula for establishing company objectives.

- A. “Combined Ratio Before General Dividends” is the combined ratio results for insurance operations, excluding other income/expense, as determined by the company’s financial statements. The numerator of the ratio is total expenses (all losses incurred, loss adjustment expenses, underwriting expenses and safety group dividends). The denominator of the ratio is net underwriting premiums earned (underwriting premiums earned minus program dividends (but not minus general dividends)).
- B. “New Business” will be based upon the premium generated by policies that are new business to Pinnacol Assurance during the Plan Year.
- C. “Original Premium Retention” will be based on the average percentage of premium Pinnacol Assurance retains during the Plan Year.
- D. “Policyholder Net Promoter Score” will be based on the score of the “how likely are you to recommend Pinnacol” question contained in the service quality surveys of customers (policyholders) sent during the Plan Year. The new promoter score is calculated by taking the number of promoters (responses of 9 & 10) and subtracting the number of detractors (0 – 6).
- E. “Injured Worker Satisfaction” will be based on the average score of the overall satisfaction question contained in the statutory surveys of injured workers for surveys sent during the Plan Year.

- F. "Eliminate Critical Technology Risk Goals" will be established by the Board from time to time.
- G. "Individual Strategic Goals" will be based on the total score of the leadership competencies established by the Board. The Board will evaluate the CEO's performance, the CEO will evaluate the Vice Presidents performance and the Vice Presidents will evaluate the Associate Vice Presidents for this measure.

The weighting of the objectives shall be:

- Combined Ratio 40.0%
- New Business 12.5%
- Original Premium Retention 12.5%
- Policyholder Net Promoter Score 5.0%
- Injured Worker Satisfaction 5.0%
- Eliminate Critical Technology Goals 5.0%
- Individual Strategic Goals 20.0%

2. Discretionary Adjustment

The CEO may review additional issues or concerns regarding any award with the Committee prior to final award approval by the full Board.

The final results pertaining to any objective may be adjusted at the discretion of the Board, based on the recommendation of the Committee, to account for unforeseen or uncontrollable events. Such adjustments will be made to assure that the results of this Performance Plan are a fair reflection of the business performance of Pinnacol Assurance. Unforeseen or uncontrollable events may include, without limitation, adverse court rulings, imposed regulatory costs and/or revenue reductions, significantly better than expected performance results, and Board-approved budget adjustments.

3. Calculation of the Award Amount

- A. If the actual result is between two measurements (i.e., threshold and commendable or commendable and maximum) then the award will be linearly interpolated to match the actual result, but not to exceed the maximum award for that performance measure.
- B. If an Eligible Employee has been employed in an eligible position for less than the full twelve calendar months of the Plan Year and was hired prior to October 1 of the Plan Year, the award will be calculated based on the Eligible Employee's base salary on December 31 of the Plan Year or if the Eligible Employee moves from an Eligible Position to a non-eligible position, on the Eligible Employee's base salary on the last day in the eligible position in the Plan Year, in either case prorated based on the number of months in the eligible position.

- C. If an Eligible Employee has been employed in more than one classification eligible for an award under this Performance Plan (e.g., as both an Associate Vice President and a Vice President) during a Plan Year, the award will be calculated based on the Eligible Employee's base salary in each eligible classification, using the base salary on the day prior to any eligible classification change during the year and the base salary on December 31 of the Plan Year in the additional eligible classification, in each case prorated based on the number of months in the eligible classification and multiplied by the Eligible Employee's Performance Plan Award Range for each eligible classification.
- D. The principles of B. and C. above are illustrated by the following examples.

Dakota is hired (or promoted) on July 1 into an AVP position with a base salary of \$100,000 per year. He performs at a commendable level for the Plan Year.

$$\text{Dakota's award} = \$50,000 \times 32.5\% = \$16,250$$

Montana is an AVP on January 1 with a base salary of \$100,000 per year. She is promoted to a VP with a base salary of \$150,000 on July 1. She performs at a commendable level for the Plan Year.

$$\text{Montana's award} = (\$50,000 \times 32.5\%) + (\$75,000 \times 37.5\%) = \$44,375$$

#### **Section 409A**

All payments contemplated by this Plan are intended to qualify as "short-term deferrals" as such term is defined in Treasury Regulation Section 1.409A-1(b)(4) and this Performance Plan shall be administered and construed accordingly. To the extent that any such payment is not a short-term deferral, this Performance Plan is intended to otherwise comply with Section 409A of the Internal Revenue Code of 1986, as amended, the Treasury Regulations promulgated thereunder, and any administrative guidance or judicial decisions with respect thereto ("Section 409A") and shall be administered and construed accordingly. It is the intention of Pinnacol Assurance that payments under this Performance Plan not be subject to the additional tax or interest imposed pursuant to Section 409A. To the extent such potential payments or benefits are or could become subject to Section 409A, Pinnacol Assurance may amend this Performance Plan with the goal of giving Eligible Employees the economic benefits described herein in a manner that does not result in such additional tax or interest being imposed. It is the intention of Pinnacol Assurance that no person shall be considered to have a legally binding right to any award under this Performance Plan at any time prior to an Initial Determination Date that relates to an award, or, in the case of a Subsequent Adjustment Due to Error that provides for an increase to an award, prior to such Subsequent Determination Date. Each payment described in this Performance Plan shall be a separate payment and a separately identifiable payment to the maximum extent permitted by Section 409A.

***Pinnacol Assurance reserves the right to add to, change, end, or suspend this Performance Plan at any time, with or without notice. This document shall not be construed as a contract of employment, nor does it restrict the right of Pinnacol Assurance to discharge the employee or the right of the employee to terminate his or her employment at any time.***

This Pinnacol Assurance Executive Performance Plan (As Amended and Restated January 1, 2022) supersedes and replaces the Pinnacol Assurance Executive Performance Plan (As Amended and Restated January 1, 2022) executed on December 4, 2021, and such prior plan shall have no force or effect.

Pinnacol Assurance has evidenced its adoption of this Pinnacol Assurance Executive Performance Plan (As Amended and Restated January 1, 2022) effective for Plan Years commencing on or after January 1, 2022, by the signature of its duly authorized officers.

PINNACOL ASSURANCE

PINNACOL ASSURANCE

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Philip B. Kalin

Title: \_\_\_\_\_

Title: President and Chief Executive Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# APPENDIX B.1

**Other information the CEO deems relevant to the report:**

Annual financial statement audit report



The image features a dark blue background with several white diagonal lines that create a sense of movement and depth. The lines intersect to form various geometric shapes, including triangles and parallelograms. The overall aesthetic is clean, modern, and professional.

**PINNACOL**  
ASSURANCE

# 2022 Audited Financials

## **Pinnacol Assurance**

Statutory-Basis Financial Statements and Supplemental  
Schedules of Investment and Reinsurance Information

December 31, 2022 and 2021

(With Independent Auditors' Report Thereon)

## LIMITATIONS ON DISCLOSURE OF INFORMATION CONTAINED IN THIS DOCUMENT

The attached document is confidential pursuant to the following state statutes:

Section 2-3-103(2), C.R.S., states in part:

**All reports shall be open to public inspection** except for that portion of any report containing recommendations, comments, and any narrative statements, which is released **only upon the approval of a majority vote of the legislative audit committee.** (Emphasis supplied.)

Section 2-3-103.7(1), C.R.S., states in part:

**Any state employee or other individual acting in an oversight role** as a member of a committee, board, or commission, or any employee or other individual acting in an oversight role with respect to any audit conducted pursuant to Sections 2-3-120, 2-3-123, 10-22-105(4)(c), and 25.5-10-209(4), **who willfully and knowingly discloses the contents of any report** prepared by or at the direction of the Office of the State Auditor **prior to the release of such report by a majority vote of the legislative audit committee** as provided in Section 2-3-103(2), C.R.S., **is guilty of a misdemeanor** and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars. (Emphasis supplied.)

As an intended recipient of this confidential document, you are responsible for safeguarding and maintaining the confidentiality of the document and its contents.

COSA – Updated July 2021

## LEGISLATIVE AUDIT COMMITTEE 2023 MEMBERS

Senator Robert Rodriguez *Chair*  
Representative Lisa Frizell *Vice Chair*  
Representative Andrew Boesenecker  
Representative Gabe Evans  
Senator Rhonda Fields  
Representative Dafna Michaelson Jenet  
Senator Rod Pelton  
Senator Kevin Van Winkle

## OFFICE OF THE STATE AUDITOR STAFF

Kerri L. Hunter *State Auditor*  
Marisa Edwards *Deputy State Auditor*  
Crystal Dorsey *Contract Monitor*  
KPMG LLP *Contract Auditors*

## PINNACOL ASSURANCE 2023 BOARD OF DIRECTORS

Mark D. Goodman *Chair*  
Akasha N. Absher  
Howard L. Carver  
Celia M. Dietrich  
Mowa Haile  
Emily L. King  
Andi G. Rugg  
Jesus J. Salazar  
Isaac Wanasika

## PINNACOL ASSURANCE 2022 BOARD OF DIRECTORS

Joseph A Hoff *Chair*  
Akasha N. Absher  
Howard L. Carver  
Ellen J. Golombek  
Mark D. Goodman  
Mowa Haile  
Andi G. Rugg  
Jesus J. Salazar

An electronic version of this report is available at [www.colorado.gov/auditor](http://www.colorado.gov/auditor).  
A bound report may be obtained by calling the Office of the State Auditor, 303.869.2800.  
Please refer to the report number 2210F when requesting this report.

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# Report Summary

## AUTHORITY & PURPOSE/SCOPE OF THE AUDIT

This audit is conducted under the authority of Section 8-45-121(2) of the Colorado Revised Statutes (C.R.S.), which authorizes the State Auditor to conduct an annual financial audit of Pinnacol Assurance (Pinnacol or the Company) and contract with an auditor or firm of auditors, having the specialized knowledge and experience. The primary purpose of our engagement is to audit the statutory-basis financial statements of Pinnacol as of and for the year ended December 31, 2022, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and to express an opinion on those statutory-basis financial statements and the supplemental schedules of investment and reinsurance information. The objective of an audit conducted in accordance with such standards is to obtain reasonable, but not absolute, assurance about whether the statutory-basis financial statements are free of material misstatement.

The financial statements of Pinnacol are prepared in accordance with statutory accounting principles prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado (hereinafter referred to as statutory-basis financial statements, or financial statements in accordance with statutory accounting principles). Accordingly, they are not designed to present, and do not present, the financial position or results of operations in accordance with U.S. generally accepted accounting principles.

In the course of our audit, we examined, on a test basis, evidence supporting the amounts and disclosures in Pinnacol's statutory-basis financial statements as of and for the year ended December 31, 2022.

## AUDIT OPINION & REPORT

As we are issuing an opinion on the statutory-basis financial statements in conformity with accounting principles prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado, we have modified our financial statement opinion to include an adverse opinion on accounting principles generally accepted in the United States of America (GAAP).

We issued a report on Pinnacol's compliance and internal control over financial reporting based on an audit of the financial statements performed in accordance with *Government Auditing Standards*. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be deficiencies, significant deficiencies, or material weaknesses. A deficiency in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.

## SUMMARY OF CURRENT YEAR FINDINGS & RECOMMENDATIONS

There were no reported findings and recommendations resulting from the audit for fiscal year 2022.

## SUMMARY OF PRIOR YEAR FINDINGS & RECOMMENDATIONS

There were no reported findings and recommendations resulting from the audit for fiscal year 2021.

## Description of Pinnacol Assurance

### DECEMBER 31, 2022

Pinnacol Assurance (Pinnacol or the Company) was established as a political subdivision of the State of Colorado (the State) under provisions of the Workers' Compensation Act of Colorado (Title 8, Article 45 of the Colorado Revised Statutes, as amended) to operate as a domestic mutual insurance company for the benefit of injured employees and dependents of deceased employees in Colorado. As required under state law, Pinnacol provides an assured source of workers' compensation insurance to Colorado employers. Pinnacol shall not refuse to insure any Colorado employer or cancel any insurance policy due to the risk of loss or amount of premium, except as otherwise provided in Title 8, Article 45, C.R.S., as amended.

Pinnacol is controlled by a nine-member board of directors, which is appointed by the Governor with the consent of the Colorado Senate. The board of directors has control over all monies of Pinnacol and is restricted to use such monies only for the purposes provided in Title 8, Article 45, C.R.S., as amended. The board of directors appoints a chief executive officer who is vested with full power and jurisdiction over the administration of Pinnacol. Pinnacol is not an agency of state government. The State retains no liability on the part of Pinnacol and no State monies are used for Pinnacol operations. All revenue, monies, and assets of Pinnacol belong solely to Pinnacol. The State of Colorado has no claim to, nor any interest in, such revenue, monies, and assets and shall not borrow, appropriate, or direct payments from such revenue, monies, and assets for any purpose.

Cake Insure, Inc. (Cake) was incorporated on September 20, 2017. Cake is a wholly owned subsidiary of Pinnacol and helps small businesses quote and purchase a workers' compensation insurance policy from Pinnacol. Cake is a digital platform designed to market, underwrite, and service small policyholders that are not considered high risk. With the launch of Cake, Pinnacol became subject to Title 10, Article 3, Part 8 of the C.R.S., Insurance Holding Company Systems, which requires additional report filings with the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado. Pinnacol holds 100% of the voting shares ownership in Cake. An "Insurance Holding Company System" is two or more affiliated persons, one or more of which is an insurer.

### POLICYHOLDERS' SURPLUS

Pinnacol had policyholders' surplus of \$1,508,951,000 and \$1,628,060,000 as of December 31, 2022 and 2021, respectively. The decrease in surplus was primarily due to decreased equity markets and rising interest rates causing a decline in market-valued securities as well as repurchasing surplus notes.

# Independent Auditors' Report

The Members of the Legislative Audit Committee and Pinnacol Assurance Board of Directors:

## REPORT ON THE FINANCIAL STATEMENTS

### **Opinions**

We have audited the financial statements of Pinnacol Assurance (the Company), which comprise the statutory-basis statements of admitted assets, liabilities, and policyholders' surplus as of December 31, 2022 and 2021, and the related statutory-basis statements of operations and changes in policyholders' surplus, and cash flow for the years then ended, and the related notes to the financial statements.

### **Unmodified Opinion on Statutory Basis of Accounting**

In our opinion, the accompanying financial statements present fairly, in all material respects, the admitted assets, liabilities, and policyholders' surplus of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flow for the years then ended in accordance with accounting practices prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado described in Note 1.

### **Adverse Opinion on U.S. Generally Accepted Accounting Principles**

In our opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles section of our report, the financial statements do not present fairly, in accordance with U.S. generally accepted accounting principles, the financial position of the Company as of December 31, 2022 and 2021, or the results of its operations or its cash flows for the years then ended.

### **Basis for Opinions**

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

### **Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles**

As described in Note 1 to the financial statements, the financial statements are prepared by the Company using accounting practices prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado, which is a basis of accounting other than U.S. generally accepted accounting principles. Accordingly, the financial statements are not intended to be presented in accordance with U.S. generally accepted accounting principles. The effects on the financial statements of the variances between the statutory accounting practices described in Note 1 and U.S. generally accepted accounting principles, although not reasonably determinable, are presumed to be material and pervasive.

### **Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting practices prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for one year after the date that the financial statements are issued.

### **Auditors' Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance



is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

### **Supplementary Information**

Our audits were conducted for the purpose of forming an opinion on the financial statements as a whole. The supplementary information included in the Investment Risks Interrogatories, Summary Investment Schedule and Reinsurance Interrogatories is presented for purposes of additional analysis and is not a required part of the financial statements but is supplementary information required by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audits of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

## **REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS**

In accordance with *Government Auditing Standards*, we have also issued our report dated May 17, 2023 on our consideration of the Company's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Company's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Company's internal control over financial reporting and compliance.

**KPMG LLP**

Denver, Colorado

May 17, 2023

# Statutory-Basis Statements of Admitted Assets, Liabilities & Policyholders' Surplus

DECEMBER 31, 2022 & 2021 (IN THOUSANDS)

<b>Admitted Assets</b>	<b>2022</b>	<b>2021</b>
Cash and invested assets:		
Bonds at adjusted carrying value, fair value of \$2,037,758 in 2022 and \$2,450,971 in 2021 (note 4)	\$2,266,895	\$2,322,842
Preferred stock at adjusted carrying value, fair value of \$2,006 in 2022 and \$754 in 2021 (note 4)	1,973	752
Common stock at fair value, actual cost of \$378,692 in 2022 and \$331,772 in 2021 (note 4)	381,883	456,309
Mortgage loans on real estate (note 4)	71,283	68,554
Real estate at cost – net of accumulated depreciation of \$22,493 in 2022 and \$21,178 in 2021	11,615	12,847
Cash, cash equivalents, and short-term investments	77,540	53,272
Other invested assets (note 4 and 9)	152,246	156,972
Receivables for securities sold	2,595	26
<b>Total cash and invested assets</b>	<b>2,966,030</b>	<b>3,071,574</b>
Uncollected premiums	30,789	28,559
Earned but unbilled premiums	22,250	15,575
Funds held by or deposited with reinsurers	4,491	4,491
Electronic data processing equipment – at cost – net of accumulated depreciation of \$1,989 in 2022 and \$2,677 in 2021	442	570
Receivables from subsidiaries and affiliates	81	74
Accrued investment income	20,836	18,595
<b>Total admitted assets</b>	<b>\$3,044,919</b>	<b>\$3,139,438</b>
<b>Liabilities and Policyholders' Surplus</b>	<b>2022</b>	<b>2021</b>
Reserve for unpaid losses and loss adjustment expenses:		
Reserve for unpaid losses (note 2)	\$810,187	\$802,573
Reserve for unpaid loss adjustment expenses (note 2)	112,660	105,898
<b>Total reserve for unpaid losses and loss adjustment expenses</b>	<b>922,847</b>	<b>908,471</b>
Unearned premiums	64,333	69,787
Borrowed money and interest thereon	53,197	—
Advance premiums	1,408	9,628
Dividends payable to policyholders	29,584	70,878
Commissions payable	32,135	30,396
Structured settlement liability (note 3)	381,982	381,815
Payable to subsidiaries and affiliates	52	64
Credit balances due policyholders	7,073	9,111
Payable for securities purchased	7,862	341
Other liabilities	35,495	30,887
<b>Total liabilities</b>	<b>1,535,968</b>	<b>1,511,378</b>
Surplus notes (note 8)	45,000	92,000
Special surplus fund for unfunded pension benefits (notes 1 and 8)	135,098	192,211
Unassigned policyholders' surplus (note 8)	1,328,853	1,343,849
<b>Total liabilities and policyholders' surplus</b>	<b>\$3,044,919</b>	<b>\$3,139,438</b>

See accompanying notes to statutory-basis financial statements.

# Statutory-Basis Statements of Operations & Changes in Policyholders' Surplus

YEARS ENDED DECEMBER 31, 2022 & 2021 (IN THOUSANDS)

	2022	2021
Underwriting income:		
Premiums earned	\$530,224	\$548,807
Deductions:		
Losses incurred (note 2)	314,737	306,712
Loss adjustment expenses incurred (note 2)	91,175	80,358
Other underwriting expenses incurred	160,863	155,531
Total underwriting deductions	566,775	542,601
Net underwriting gain (loss)	(36,551)	6,206
Investment income:		
Net investment income earned (note 4)	94,262	91,173
Net realized capital gain (note 4)	25,093	49,417
Total investment income	119,355	140,590
Other income (loss):		
Provision for uncollectible premiums	(1,505)	(2,397)
Structured settlement expense (note 3)	(9,264)	(2,286)
Software impairment	—	(6,142)
Other income	1,438	599
Dividends to policyholders	(10,614)	(90,919)
Net income before federal income taxes	62,859	45,651
Less federal income taxes incurred	(159)	(564)
Net income	62,700	45,087
Change in net unrealized gains (losses) on investments	(138,343)	73,682
Change in nonadmitted assets	3,534	(40,519)
Change in surplus note	(47,000)	(8,000)
Policyholders' surplus – beginning of year	1,628,060	1,557,810
<b>Policyholders' surplus — end of year</b>	<b>\$1,508,951</b>	<b>\$1,628,060</b>

See accompanying notes to statutory-basis financial statements.

# Statutory-Basis Statements of Cash Flow

YEARS ENDED DECEMBER 31, 2022 & 2021 (IN THOUSANDS)

	2022	2021
Cash flow from operations:		
Premiums collected — net of reinsurance	\$506,972	\$530,646
Losses and loss adjustment expenses paid — net of reinsurance and deductibles	(391,536)	(388,548)
Other underwriting expenses paid	(155,773)	(153,694)
Dividends paid to policyholders	(51,907)	(51,701)
Federal and foreign income taxes paid	(319)	(405)
Investment income received — net of investment expenses paid	94,981	96,039
Miscellaneous proceeds (expenses)	1,441	(5,543)
Net cash provided by operations	3,859	26,794
Cash flow from investments:		
Proceeds from sale, maturity, or redemption of investments:		
Bonds	331,802	486,129
Stocks	293,702	90,776
Mortgage loans on real estate	18,309	11,935
Other invested assets	12,938	8,112
Miscellaneous proceeds	7,520	45
Total proceeds from sale or redemption of investments	664,271	596,997
Cost of investments acquired:		
Bonds	(293,496)	(551,823)
Stocks	(310,426)	(14,567)
Mortgage loans on real estate	(21,038)	(35,423)
Other invested assets	(12,690)	(28,317)
Miscellaneous proceeds (applications)	(2,653)	(4,346)
Total investments acquired	(640,303)	(634,476)
Net cash provided by (used in) investments	23,968	(37,479)
Cash flow provided by (used in) financing and miscellaneous sources:		
Cash from repurchase of surplus notes	(47,000)	(8,000)
Cash from borrowed funds and interest thereon	53,197	—
Cash provided by (used in) other miscellaneous sources	(9,756)	1,626
Net cash used in financing and miscellaneous sources	(3,559)	(6,374)
Net increase (decrease) in cash, cash equivalents, and short-term investments	24,268	(17,059)
Cash, cash equivalents, and short-term investments — beginning of year	53,272	70,331
<b>Cash, cash equivalents, and short-term investments — end of year</b>	<b>\$77,540</b>	<b>\$53,272</b>

See accompanying notes to statutory-basis financial statements.

# Notes to the Statutory-Basis Financial Statements

DECEMBER 31, 2022 AND 2021

## 1 / NATURE OF OPERATIONS & SIGNIFICANT ACCOUNTING POLICIES

### (a) Organization

Pinnacol Assurance (Pinnacol or the Company) was established under provisions of the Workers' Compensation Act of Colorado (Title 8, Article 45 of the C.R.S., as amended), as a political subdivision of the State of Colorado (the State), to operate as a domestic mutual insurance company for the benefit of injured employees and dependents of deceased employees. Pinnacol offers insurance to employers operating within the State.

Pinnacol is controlled by a nine member board of directors, which is appointed by the Governor with the consent of the Colorado Senate. In accordance with the applicable statutes of the State, the administration of Pinnacol is under the direction of a chief executive officer, appointed by the board of directors. Pinnacol is not an agency of the State and the State retains no liability on behalf of Pinnacol and no State moneys are used for Pinnacol operations.

Cake Insure, Inc. (Cake) was incorporated on September 20, 2017. Cake is a wholly owned subsidiary of Pinnacol and helps small businesses obtain quotes and purchase a workers' compensation insurance policy from Pinnacol. Cake created a digital platform designed to market, underwrite, and service small policyholders that are not considered high risk. Pinnacol is leveraging the innovations of Cake and continues to scale those innovations across both companies.

### (b) Basis of Presentation

The accompanying statutory basis financial statements of Pinnacol have been prepared in accordance with accounting practices prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado (the Division). Prescribed statutory accounting practices (SAP) are those practices that are incorporated directly or by reference to state laws, regulations, and general administrative rules applicable to all insurance enterprises domiciled in a particular state. Colorado has adopted the National Association of Insurance Commissioners' (NAIC) SAP, which are codified in the NAIC's *Accounting Practices and Procedures Manual* (the Manual). Therefore, compliance with the Manual is a prescribed accounting practice. In the preparation of the accompanying statutory basis financial statements, the Company has followed NAIC guidelines and has not utilized any practices considered to be permitted practices.

Statutory accounting practices contained in the Manual vary in some respects from accounting principles generally accepted in the United States of America (GAAP). The more significant differences between NAIC SAP and GAAP are as follows:

- Policy acquisition costs, such as commissions, premium surcharges, and other expenses directly related to the cost of acquiring new business, are expensed as incurred; while under GAAP, they are deferred and amortized over the policy term to provide for proper matching of revenue and expense.
- Investments in debt securities are generally carried at amortized value; while under GAAP, they would be carried at fair value. For GAAP, changes in fair value in bonds go through net investment income.
- Pinnacol's investment in preferred stock of Cake, a subsidiary, is reported at the lower of cost or fair value. Under GAAP, it would be included in the consolidated financial statements and all significant intercompany balances and transactions would be eliminated in consolidation.
- Short-term investments, which include investments with maturities at the time of acquisition of one year or less, are included with cash and cash equivalents in the accompanying statutory-basis financial statements, while under GAAP, only investments with maturities at the time of acquisition of three months or less are included with cash and cash equivalents.
- Assets are reported under NAIC SAP at "admitted asset" value and "nonadmitted" assets, or those items not meeting the definition of an asset, are excluded through a charge against policyholders' surplus; while under GAAP, all assets are reported on the balance sheet, net of any required valuation allowance. Nonadmitted assets at December 31, 2022 and 2021 comprised the following (in thousands):

	<b>2022</b>	<b>2021</b>
Other invested assets	\$42,927	\$45,772
Receivables	14,214	15,089
Fixed assets	859	360
Prepays	4,262	4,575
<b>Total nonadmitted assets</b>	<b>\$62,262</b>	<b>\$65,796</b>

- The reserve for losses and loss adjustment expenses (LAE) is reported net of reinsurance, while under GAAP these amounts are reported gross.
- The surplus note is reported as a component of surplus, increasing policyholders' surplus under NAIC SAP. Under GAAP, the surplus note is recorded as long term debt. The related interest expense may not be accrued under NAIC SAP until approved for payment by the commissioner of the state of domicile; while under GAAP, the interest expense is recorded as incurred.
- Governmental Accounting Standards Board (GASB) Statement No. 68, *Accounting and Financial Reporting for Pensions*, requires employers that are part of a cost-sharing multiple-employer pension fund to record their portion of the unfunded liability; while under NAIC SAP, the employer must only record the cost of the contribution and any liability for any contributions due and unpaid.
- GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*, requires employers that are part of a cost-sharing multiple-employer Other Postemployment Benefit (OPEB) plan to record their portion of the net OPEB liability; while under NAIC SAP, the employer must only record the cost of the contribution and any liability for any contributions due and unpaid.

The effect of the differences between statutory basis of accounting and generally accepted accounting principles, although not reasonably determinable, is presumed to be material. Pinnacol is a political subdivision of the State and as such would follow all applicable GASB pronouncements.

#### **(c) Use of Estimates**

The preparation of statutory-basis financial statements in accordance with accounting practices prescribed by the Division requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the statutory-basis financial statements and the reported amounts of revenue and expenses during the reporting period. Significant estimates include the structured settlement liability, the reserves for unpaid losses and loss adjustment expenses, the earned but unbilled premiums asset, estimated fair value of investments, as well as the contingency for uncollectible premiums, among others. Actual results could differ from those estimates and such differences could be significant.

#### **(d) Investments**

Investments are recorded on the trade date. Bonds and preferred stocks are stated at amortized value or fair value, based on their NAIC designation, and are adjusted for other than temporary declines in fair value. Mortgage loans on real estate are carried at the outstanding principal balance, less any allowances for credit losses. Common stocks, mutual funds, and common trust funds are carried at fair value. Other invested assets, including partnerships, are recorded at the underlying audited equity value. Due to Colorado Revised Statutes limitations, the balance of other invested assets may not exceed 5% of admitted assets. Any amount exceeding that threshold is treated as a nonadmitted asset. For those investments in which the audited financial statements are not available in a timely manner, the unaudited equity value is used. Unrealized capital gains or losses on common stocks, preferred stocks, mutual funds, and common trust funds are reported as a direct adjustment to policyholders' surplus. Common stocks and preferred stocks in an unrealized loss position for both years are recorded as other-than-temporary impairments (OTTI) and are recorded as a realized loss in the statutory-basis statement of operations in the period in which they occur.

Bond premium or discount is recognized using the effective-interest method taking into consideration specified interest and principal provisions over the life of the bond. Bonds containing call provisions are amortized to the call or maturity value or date that produces the lowest asset value.

Federal Home Loan Bank (FHLB) of Topeka common stock shares are valued at par, which is presumed to be fair value as they are only redeemable at par and are not publicly traded.

Gains and losses on investments sold are realized in operations and are computed using the specific identification method.

Prepayment assumptions for purposes of recognition of income and valuing of loan backed bonds and structured securities were obtained from widely accepted models with inputs from major third party data providers. Model assumptions are specific to asset class and collateral type and are regularly evaluated and adjusted where appropriate. The prospective-adjustment method is used to value all loan backed securities.

Real estate includes land, the building on the land, and capitalized building improvements used in conducting the Company's business. Land is carried at cost. Building and capitalized building improvements are carried at cost less accumulated depreciation. The cost of the building and capitalized improvements is depreciated over an estimated useful life of 30 years using the straight-line method. Depreciation expense was approximately \$1,315,000 and \$1,313,000 for the years ended December 31, 2022 and 2021, respectively, and is included in net investment income earned in the statutory-basis statements of operations and changes in policyholders' surplus.

#### ***(e) Investment in Subsidiary***

Cake was incorporated on September 20, 2017 as a subsidiary of Pinnacol. Pinnacol purchased 2,000,000 voting shares of preferred stock in Cake on September 28, 2017. Pinnacol's ownership percentage in Cake is 100%.

As disclosed in note 1(b), Pinnacol does not consolidate its financial results with Cake. Pinnacol and Cake issue stand-alone financial statements.

Perpetual preferred stock of Cake is reported at the lower of book value or fair value. Cake preferred shares are not publicly priced. As of December 31, 2022 and 2021, Pinnacol recorded \$0 for the carrying value of its investment.

#### ***(f) Cash, Cash Equivalents and Short-Term Investments***

For purposes of the statement of cash flow, cash, cash equivalents, and short-term investments include cash on deposit, money market funds, and other investments with maturities of one year or less at the date of acquisition.

As of December 31, 2022, cash, cash equivalents, and short-term investments of approximately \$77,540,000 include (\$2,383,000) of book overdrafts, \$79,773,000 of cash equivalents, and \$150,000 of short-term investments. As of December 31, 2021, cash, cash equivalents, and short-term investments of approximately \$53,272,000 include (\$7,992,000) of book overdrafts, \$61,264,000 of cash equivalents, and \$0 of short-term investments.

#### ***(g) Receivables for Securities Sold***

As of December 31, 2022 and 2021, receivables for securities sold were approximately \$2,595,000 and \$26,000, respectively. Receivables for securities arise when sales of securities are recorded as of the trade date. A receivable due from the custodian is established when a security has been sold, but the proceeds from the sale have not yet been received. Receivables for securities not received within 15 days from the stated settlement date are nonadmitted. There were no nonadmitted receivables for securities sold in 2022 or 2021.

#### ***(h) Uncollected Premiums***

Uncollected premiums are reported net of loss contingencies for uncollectible and nonadmitted balances. Certain receivables are not admissible for statutory accounting purposes.

All receivables for canceled policies and billed receivables that relate to balances outstanding for a period exceeding 90 days are not admissible according to the Manual. As of December 31, 2022 and 2021, nonadmitted uncollected premiums were \$11,714,000 and \$13,339,000, respectively.

Pinnacol independently estimates the realizable amounts of premiums receivable and records a loss contingency for any uncollectible balances that were not already nonadmitted. During 2022 and 2021, Pinnacol recorded a provision of

approximately \$1,505,000 and \$2,397,000, respectively, for premiums receivable due to the unlikelihood of ultimate collection thereof. These amounts are reflected as provision for uncollectible premiums in the accompanying statutory-basis statements of operations and changes in policyholders' surplus.

A significant portion of Pinnacol's premium receivable balances at December 31, 2022 and 2021 were from companies operating in the construction and services industries in Colorado. The construction industry represents approximately 38% of premiums earned as of December 31, 2022 and 2021. The services industry represents approximately 37% of active policy premiums as of December 31, 2022 and 38% as of December 31, 2021, with all other individual industries constituting the remainder of premiums receivable balances.

***(i) Earned but Unbilled Premiums***

Earned but unbilled premiums represent a receivable or liability for changes in earned premium and audit premiums, which are amounts due from or to policyholders after the respective policy period has expired based on payroll audits performed by Pinnacol. Such amounts are estimated by Pinnacol based upon internal calculations using historical premium data. Pinnacol recorded a net estimated earned but unbilled premium receivable in 2022 and 2021 of approximately \$22,250,000 and \$15,575,000, respectively.

***(j) Credit Balances Due Policyholders***

Credit balances due policyholders represent excess premiums or are amounts due to policyholders. Generally, credit balances due policyholders are applied to future premium obligations of policyholders. For 2022 and 2021, such amounts are approximately \$7,073,000 and \$9,111,000, respectively.

***(k) Electronic Data Processing Equipment and Software***

Electronic data processing (EDP) equipment is recorded at cost, less accumulated depreciation, and depreciated on a straight-line basis over an estimated useful life of three years. Net book value of electronic data processing equipment at December 31, 2022 and 2021 was approximately \$442,000 and \$570,000, respectively. Operating software is recorded at cost, less accumulated depreciation, and depreciated on a straight-line basis over an estimated useful life of three years. Nonoperating software is recorded at cost, less accumulated depreciation, and depreciated on a straight-line basis over an estimated useful life of five years and nonadmitted. Net book value of EDP and software at December 31, 2022 and 2021 was approximately \$729,000 and \$190,000, respectively. Related depreciation expense of approximately \$604,000 and \$517,000 was incurred during 2022 and 2021, respectively, and is included in LAE and other underwriting expenses incurred in the statutory-basis statements of operations and changes in policyholders' surplus.

Internal-use software implementation costs were impaired and written down from \$6,142,000 to \$0 in 2021, based on a significant change in the manner and timeframe in which the software is expected to be used. The software was previously recorded as a nonadmitted asset in 2020 and, thus, had no impact on surplus in 2021. The software impairment was recorded in the other income (loss) section of the statutory-basis statements of operations and changes in policyholders' surplus. There were no internal-use software implementation costs incurred in 2022.

***(l) Office Equipment, Furniture, Art and Leasehold Improvements***

Office equipment, furniture, art, and leasehold improvements are recorded at cost and depreciated on a straight-line basis. Office equipment, furniture, and art are depreciated over an estimated useful life of five years. Leasehold improvements are depreciated over the shorter of the term of the lease or the useful life. In accordance with the Manual, these are nonadmitted assets. The net book value of these assets at December 31, 2022 and 2021 was approximately \$131,000 and \$170,000, respectively. Related depreciation expense of approximately \$84,000 and \$95,000 was incurred in 2022 and 2021, respectively, and is included in LAE and other underwriting expenses incurred in the statutory-basis statements of operations and changes in policyholders' surplus.

***(m) Safety Group Dividend Program***

Pinnacol has a safety group program whereby policyholders who are members of the program are entitled to a dividend based on established criteria. Pinnacol paid out safety group dividends of \$1,182,000 in 2022 and \$1,507,000 in 2021. As of December 31, 2022 and 2021, safety group dividends payable of \$1,529,000 and \$2,072,000, respectively, are included in



dividends payable to policyholders. These dividends are not declared from surplus nor are they recorded as a direct reduction to policyholders' surplus. The dividends are recorded as dividends to policyholders in the statutory-basis statements of operations and changes in policyholders' surplus.

***(n) Individual Loss Control Dividend Program***

Pinnacol has an individual loss control dividend (ILCD) program that is designed for policyholders who are committed to effective loss control in their business operations. If the policyholder meets the minimum premium requirements and pays an additional 5% premium charge as a buy in to the plan, the policyholder may receive a reduction of premium based on the policy premium and the loss ratio. Pinnacol paid out ILCDs of \$19,562,000 in 2022 and \$18,962,000 in 2021. As of December 31, 2022 and 2021, ILCDs payable of \$27,179,000 and \$28,196,000, respectively, are included as dividends payable to policyholders in the statutory-basis statements of operations and changes in policyholders' surplus.

***(o) General Policyholder Dividends***

The board of directors, at its discretion, determines the amount of general policyholder dividends to be declared, based on Pinnacol's overall experience and financial condition. Pinnacol has declared or accrued policyholder dividends to its policyholders in good standing of approximately \$9,994,000 in 2022 and \$89,953,000 in 2021. These are included in dividends to policyholders. General policyholder dividends are accrued when declared by the board of directors. The board of directors chose not to declare a general policyholder dividend in November 2022, delaying the consideration of, and, if applicable, the declaration of a general dividend until year-end 2022 financial results were available. On February 22, 2023, the board of directors declared a general policyholder dividend based on 2022 financial results to be paid in March 2023 of \$15,000,000.

***(p) Reserve for Unpaid Losses and Loss Adjustment Expenses and Structured Settlement Liability***

The reserve for unpaid losses and loss adjustment expenses represents management's best estimate of ultimate net cost of all reported and unreported losses incurred through December 31, 2022 and 2021. The reserve for unpaid losses and loss adjustment expenses is estimated by management, which uses an independent third party actuary to provide estimates based on individual case basis valuations and statistical analyses. Those estimates are subject to the effects of trends in loss severity and frequency. Although considerable variability is inherent in such estimates, management believes the reserve for unpaid losses and loss adjustment expenses is adequate. These estimates are continually reviewed and adjusted, as necessary, as experience develops, or new information becomes known. Such adjustments are included in losses incurred or loss adjustment expenses incurred within the statutory-basis statements of operations and changes in policyholders' surplus in the period such information becomes known. Subrogation claims (claims against third parties) are recognized as a reduction of losses incurred when collections are received.

Internal structured settlement liabilities represent obligations to claimants and dependents on cases that have been closed by contract. The discounted reserve for internal structured settlements is estimated by management, which uses an independent third party actuary to provide estimates based on these obligations.

***(q) Revenue Recognition and Unearned Premiums***

For certain policies, earned premium is recorded on an installment basis to match the billing frequency stated in the policyholder contract with a provision for amounts earned but unbilled. Earned premium for all other contracts is recognized using the daily pro rata method over the period the policy is effective.

Unearned premiums represent amounts either collected or billed and due from policyholders at December 31, 2022 and 2021, but unearned at those dates as they pertain to subsequent policy periods. Unearned premiums billed, which relate to policy effective dates subsequent to December 31, 2022, are not included in the unearned premiums balance but are included as advance premium if the related cash is collected. Unearned premiums are computed on a daily pro rata basis over the effective period of the policies.

***(r) Premium Deficiency Reserve***

A premium deficiency reserve is recognized by recording an additional liability for the deficiency, which results when anticipated future loss, loss adjustment expense, commissions, other acquisition costs, and maintenance costs exceed the recorded unearned premium reserve, any future installment premiums on existing policies, and anticipated investment income. The

change in this reserve is recorded as a component of other underwriting deductions.

Pinnacol recorded a premium deficiency reserve of \$0 at December 31, 2022 and 2021. Pinnacol considered anticipated investment income at 2.8% and 2.5% when evaluating the premium deficiency reserve for 2022 and 2021, respectively.

**(s) Multiemployer Pension Plans and Other Postretirement Benefits**

Pinnacol participates in the State Division Trust Fund (SDTF), a cost sharing multiple employer defined benefit pension and healthcare trust fund plan administered by the Public Employees' Retirement Association (PERA). SDTF provides retirement, disability, and survivor benefits. All employees of Pinnacol are members of the SDTF.

Pinnacol participates in the Health Care Trust Fund (HCTF), a cost sharing multiple employer defined benefit OPEB plan administered by PERA. The HCTF provides a healthcare premium subsidy to eligible participating PERA benefit recipients and retirees who choose to enroll in one of the PERA healthcare plans; however, the subsidy is not available if only enrolled in the dental and/or vision plan(s).

As a participant in a multiple employer pension plan and HCTF, Pinnacol recognizes as net pension cost and net postretirement benefit cost the required contribution for the period and as a liability any contributions due and unpaid.

**(t) Reinsurance**

Ceded reinsurance transactions are accounted for based on estimates of their ultimate cost. Losses incurred, loss adjustment expenses incurred, and the reserve for loss adjustment expenses are reported net of reinsured amounts in accordance with the Manual. Premiums earned are reported net of reinsurance (note 6).

**(u) Taxes**

As a political subdivision of the State of Colorado, Pinnacol is generally not subject to federal or state income taxes under a specific exemption granted under Section 501(c) of the Internal Revenue Code; nor is Pinnacol subject to property tax or sales and use taxes. However, Pinnacol is subject to income taxes on any net income that is derived from a trade or business regularly carried on and not in furtherance of the purposes for which it was granted exemption.

The Inflation Reduction Act (the Act) was enacted during the reporting period on August 16, 2022. Pinnacol has determined that it does not expect to be liable for the Corporate Alternative Minimum Tax (CAMT) in 2023.

Pinnacol incurred \$159,000 and \$564,000 of federal tax expense that is attributable to investment income that is considered unrelated business income in 2022 and 2021, respectively. Pinnacol recorded an estimated federal tax liability of approximately \$0 and \$159,000 at December 31, 2022 and 2021. This is included in other liabilities. Pinnacol is not aware of any uncertain tax positions.

Pinnacol is not subject to a premium tax pursuant to Section 8-45-117(3), C.R.S. However, Pinnacol is subject to a surcharge on premiums pursuant to Section 8-44-112(1)(a), C.R.S. The surcharge is based on a rate established by the Colorado Department of Labor and Employment Division of Workers' Compensation annually, approximately 1.43% and 1.45% at December 31, 2022 and 2021, respectively. Such amounts are included in other underwriting expenses incurred.

**(v) Surplus Note**

Pinnacol issued a \$100,000,000 surplus note on June 25, 2014. Before issuing this debt, the Company obtained approval from the Commissioner of the Division for the transaction and approval to classify the debt as a component of policyholders' surplus. Upon obtaining approval from the Commissioner of the Division, Pinnacol repurchased \$8,000,000 of its outstanding surplus notes on October 28, 2021 and \$47,000,000 of its outstanding surplus notes on December 5, 2022, by paying the noteholder cash consideration equal to 131% and 108%, respectively, of the principal repurchased plus accrued interest.

**(w) Special Surplus Fund for Unfunded Pension Benefits**

Pinnacol participates in a cost-sharing multiple-employer defined-benefit pension plan administered by PERA. PERA has a net pension liability, which represents the unfunded pension benefits. Statutory accounting does not allow Pinnacol's portion of the net pension liability to be recorded as a liability but allows a company to establish a special surplus fund to provide for contingencies. PERA provides Pinnacol with the audited schedule of employers' allocations and net pension liability. The total pension liability used to calculate the net pension liability is determined by an actuarial valuation as of December 31, 2020.

PERA uses standard update procedures to roll forward the total pension liability to December 31, 2021. A discount rate of 7.25% is being used. PERA also provides the employer allocation percentage for purposes of calculating Pinnacol's proportionate share of the collective net pension liability.

Pinnacol participates in the Health Care Trust Fund (HCTF), a cost-sharing multiple-employer defined benefit Other Postemployment Benefit (OPEB) plan administered by PERA. Although not required under statutory accounting to record its share of the liability, the Company has identified its portion of the HCTF liability in a special surplus fund in the same manner as the PERA net pension liability obligation.

### **(x) Application of Recent Statutory Accounting Pronouncements**

During 2022, there were no substantive revisions to statutory accounting that were applicable to Pinnacol, and therefore, there were no substantive revisions adopted by the Company.

## **2 / UNPAID LOSSES & LOSS ADJUSTMENT EXPENSES**

Unpaid losses and loss adjustment expenses (both allocated and unallocated) represent management's best estimate of the ultimate medical and indemnity net cost of all losses and loss adjustment expenses that are incurred but unpaid at year-end. Such estimates are based on individual case estimates for reported claims and actuarial estimates for losses that have been incurred but not reported. Any change in probable ultimate liabilities is reflected in losses incurred or loss adjustment expenses incurred within the statutory-basis statements of operations and changes in policyholders' surplus in the period such determination is made.

The estimated ultimate cost of losses is based on historical patterns and the expected impact of current socioeconomic trends. The ultimate settlement of claims will not be known in many cases for years after the time a policy expires. Court decisions and federal and state legislation between the time a policy is written, and the time associated claims are ultimately settled, among other factors, may dramatically impact the ultimate cost. Due to these factors, among others, the process to estimate loss and loss adjustment reserves at a point in time cannot provide an exact forecast of future payments. Rather, it produces a best estimate of liability as of a certain date. Management believes the currently estimated reserves to be adequate. While the ultimate liability may differ from the current estimate, management does not believe the difference will have a material effect, either adverse or favorable, on Pinnacol's financial position or results of operations.

### **Unpaid Losses and Loss Adjustment Expenses**

Activity in the liability for unpaid losses and loss adjustment expenses in 2022 and 2021 is summarized as follows (in thousands):

	<b>Unpaid losses and loss adjustment expenses</b>	
	<b>2022</b>	<b>2021</b>
Balance at January 1	\$908,471	\$909,949
Additional amounts incurred related to:		
Current year	461,010	433,373
Prior years	(55,098)	(46,303)
<b>Total incurred</b>	<b>405,912</b>	<b>387,070</b>
Reductions relating to payments for:		
Current year	142,952	133,658
Prior years	248,584	254,890
<b>Total paid</b>	<b>391,536</b>	<b>388,548</b>
<b>Balance at December 31</b>	<b>\$922,847</b>	<b>\$908,471</b>

During the year ended December 31, 2022, the provision for unpaid losses and loss adjustment expenses for insured events of prior years was reduced by \$303,682,000 to \$604,789,000. This reduction includes payments for unpaid losses and loss adjustment expenses of approximately \$248,584,000 and a \$55,098,000 reduction in reserves for prior year unpaid losses and loss adjustment expense. This decrease is generally the result of ongoing analysis of recent loss development trends and better than expected development. Pinnacol's claims continue the trend of favorable development that has been evident for a number of calendar years. When the actual selected ultimate cost of an accident year's claims is less than the original estimate, favorable development is recorded. This favorable development resulted from initiatives to improve claims handling practices and reduce claims handling expenses when prudent and a reduction of ultimate claim frequency in Colorado. Pinnacol management continually evaluates the estimated ultimate cost of all accident years and on a calendar year basis adjusts to the best estimate available, favorable or unfavorable, in the current period. The amount of reserve credit recorded for high deductibles on unpaid losses was \$5,740,000 and \$6,011,000 as of December 31, 2022 and 2021, respectively. Such reduction is collateralized generally with letters of credit for the benefit of Pinnacol. Pinnacol received \$8,460,000 and \$6,907,000 in subrogation as of December 31, 2022 and 2021, respectively. There were no significant changes in methodologies or assumptions used in calculating the reserves.

### 3 / INTERNAL STRUCTURED SETTLEMENTS

Pinnacol has an internal structured settlement program in which it retains the liability for settlements to claimants rather than purchasing annuities from third parties. This liability has mortality risk and is discounted using a market rate. The internal structured settlement liability is actuarially valued. The internal structured settlement liability is reported as a financing liability separate from unpaid losses and loss adjustment expenses on the statutory-basis statements of admitted assets, liabilities, and policyholders' surplus.

Activity in the liability for internal structured settlements in 2022 and 2021 is summarized as follows (in thousands):

	<b>2022</b>	<b>2021</b>
Beginning balance	\$381,815	\$383,881
Amounts incurred:		
Change in valuation	9,264	2,286
Amounts paid	(28,960)	(27,597)
New internal structured settlements	19,863	23,245
<b>Ending balance</b>	<b>\$381,982</b>	<b>\$381,815</b>

Pinnacol uses an annuity quote that is based upon an estimated discount rate as a basis for the paid claim amount. As such, the liability should be discounted at a long-term market rate. The discount rate applied to internal structured settlement liabilities is 2.5% at December 31, 2022 and 2021.

The amount of the discount for unpaid internal structured settlements as of December 31, 2022 and 2021 is approximately \$138,176,000 and \$136,364,000, respectively. The discount amounts for internal structured settlement reserves at December

31, 2022 and 2021 are distributed over the years in which the losses were incurred as follows (in thousands):

2022		2021	
Loss Year	Discount	Loss Year	Discount
Prior	\$95,923	Prior	\$99,072
2012	3,156	2011	5,152
2013	4,718	2012	3,383
2014	6,571	2013	5,185
2015	4,825	2014	6,906
2016	9,442	2015	4,919
2017	3,950	2016	2,892
2018	4,304	2017	2,789
2019	2,220	2018	3,900
2020	860	2019	1,249
2021	2,207	2020	560
2022	—	2021	357
<b>Total</b>	<b>\$138,176</b>	<b>Total</b>	<b>\$136,364</b>

## 4 / INVESTMENTS

Estimated fair value of investments in bonds and equities is based on quotations provided by widely accepted third party data providers. In 2022 and 2021, Reuters (Refinitiv), and Interactive Data Corporation (IDC) were used to obtain fair market values. Additionally, in 2021, the fair value of certain common trust funds was primarily determined by net asset value and common stock warrants were primarily determined by a widely accepted third party vendor, followed by a hierarchy using broker/dealer quotes, including Bloomberg, and Yield Book analytic model. Prior month price is used only when information is limited or unavailable.

### (a) Bonds

The NAIC's Securities Valuation Office (SVO) assigns designations of bonds from 1 to 6. Bonds with designations of 1–2 are stated at amortized value using the interest method. Bonds with designations of 3–6 require the bond to be carried at the lower of amortized value or fair value, with any related unrealized loss reported in policyholders' surplus.

During 2022 and 2021, Pinnacol had investments in long term bonds, which the NAIC's SVO assigned a 3 or higher designation. Carrying values are equal to the lower of amortized value or fair value for these bonds.

The carrying value and the fair value of investments in long term bonds in 2022 and 2021 are summarized as follows (in thousands). The carrying value includes investment grade bonds that are reported at amortized value and low rated bonds that are reported at the lower of cost or fair value:

	2022			
	Carrying value	Gross unrealized gains	Gross unrealized losses	Fair value
Government obligations:				
Nonloan-backed bonds	\$152,489	\$116	\$(14,565)	\$138,040
Loan-backed bonds	904	21	(1)	924
U.S. political subdivisions:				
Nonloan-backed bonds	17,914	7	(1,600)	16,321
Loan-backed bonds	—	—	—	—
U.S. special revenue:				
Nonloan-backed bonds	65,290	—	(9,030)	56,260
Loan-backed bonds	338,444	29	(44,643)	293,830
Industrial and miscellaneous:				
Nonloan-backed bonds	1,270,248	3,701	(122,933)	1,151,016
Loan-backed bonds	415,884	548	(40,660)	375,772
Hybrid securities:				
Nonloan-backed bonds	5,722	80	(207)	5,595
Loan-backed bonds	—	—	—	—
	<b>\$2,266,895</b>	<b>\$4,502</b>	<b>\$(233,639)</b>	<b>\$2,037,758</b>

	2021			
	Carrying value	Gross unrealized gains	Gross unrealized losses	Fair value
Government obligations:				
Nonloan-backed bonds	\$190,336	\$9,025	\$(427)	\$198,934
Loan-backed bonds	1,145	159	—	1,304
U.S. political subdivisions:				
Nonloan-backed bonds	16,412	1,186	(43)	17,555
Loan-backed bonds	—	—	—	—
U.S. special revenue:				
Nonloan-backed bonds	63,980	7,892	(116)	71,756
Loan-backed bonds	365,412	7,002	(4,140)	368,274
Industrial and miscellaneous:				
Nonloan-backed bonds	1,290,923	106,652	(3,645)	1,393,930
Loan-backed bonds	388,645	5,942	(1,947)	392,640
Hybrid securities:				
Nonloan-backed bonds	5,989	589	—	6,578
Loan-backed bonds	—	—	—	—
	<b>\$2,322,842</b>	<b>\$138,447</b>	<b>\$(10,318)</b>	<b>\$2,450,971</b>

The book/adjusted carrying value and estimated fair value of investments in long term bonds at December 31, 2022, by contractual maturity, are shown in the following table (in thousands). Contractual maturities for investments such as mortgage-backed securities may differ from actual maturities because the borrower may have the right to call or prepay obligations with or without call or prepayment penalties.

	2022	
	Book/adjusted carrying value	Fair value
Due in one year or less	\$51,585	\$51,359
Due after one year through five years	506,120	483,602
Due after five years through ten years	488,213	446,009
Due after ten years	465,745	386,263
Loan-backed and/or structured securities	755,232	670,525
	<b>\$2,266,895</b>	<b>\$2,037,758</b>

Proceeds from sales of investments in long term bonds during 2022 and 2021 were approximately \$196,892,000 and \$176,071,000, respectively. Realized gains on long term bonds of approximately \$3,777,000 and \$11,677,000 and realized losses of approximately \$(4,613,000) and \$(941,000) were recognized during 2022 and 2021, respectively.

The following table provides the length of impairment for those investments in long term bonds with an unrealized loss as of December 31, 2022 (in thousands):

Description of securities	Less than 12 months		12 months or greater		Total	
	Fair value	Unrealized losses	Fair value	Unrealized losses	Fair value	Unrealized losses
Government obligations	\$130,068	\$(12,155)	\$6,096	\$(2,410)	\$136,164	\$(14,565)
U.S. political subdivisions	13,230	(1,108)	1,559	(492)	14,789	(1,600)
U.S. special revenue	207,606	(21,968)	141,261	(31,705)	348,867	(53,673)
Industrial and miscellaneous	1,126,361	(115,639)	253,389	(58,330)	1,379,750	(173,969)
Hybrid securities	5,317	(224)	—	—	5,317	(224)
<b>Total</b>	<b>\$1,482,582</b>	<b>\$(151,094)</b>	<b>\$402,305</b>	<b>\$(92,937)</b>	<b>\$1,884,887</b>	<b>\$(244,031)</b>

The following table provides the length of impairment for those investments in long term bonds with an unrealized loss as of December 31, 2021 (in thousands):

Description of securities	Less than 12 months		12 months or greater		Total	
	Fair value	Unrealized losses	Fair value	Unrealized losses	Fair value	Unrealized losses
Government obligations	\$8,077	\$(427)	\$—	\$—	\$8,077	\$(427)
U.S. political subdivisions	2,007	(43)	—	—	2,007	(43)
U.S. special revenue	207,780	(4,257)	—	—	207,780	(4,257)
Industrial and miscellaneous	326,284	(5,236)	36,715	(1,084)	362,999	(6,320)
Hybrid securities	198	(2)	—	—	198	(2)
<b>Total</b>	<b>\$544,346</b>	<b>\$(9,965)</b>	<b>\$36,715</b>	<b>\$(1,084)</b>	<b>\$581,061</b>	<b>\$(11,049)</b>

**(b) Loan-Backed and Structured Securities**

Loan backed securities are stated at amortized value or fair value based on their NAIC designation. The prospective method is used to value mortgage backed securities. Prepayment assumptions for single class and multiclass mortgage backed/asset backed securities were obtained from widely accepted models with inputs from major third party data providers. Any loan backed and structured securities in an unrealized loss position were reviewed to determine whether an other-than-temporary impairment (OTTI) should be recognized at year end. At December 31, 2022 and 2021, Pinnacol recognized approximately \$0, respectively, in OTTI on loan-backed securities. Loan backed and structured securities in an unrealized loss position as of year end, stratified based on length of time continuously in these unrealized loss positions, are as follows (in thousands):

	<b>2022</b>	
	<b>Aggregate amount of unrealized loss</b>	<b>Aggregate fair value of securities with unrealized loss</b>
Less than 12 months	\$(30,848)	\$363,703
12 months or longer	(54,454)	275,544
	<b>\$(85,302)</b>	<b>\$639,247</b>

**(c) Equities**

Unrealized gains on investments in common stocks, mutual funds, and common trust funds are reported as a component of policyholders' surplus. For any decline in the fair value of equities, which is determined to be other than temporary, the resulting OTTI loss is recognized in the statement of operations. OTTI of common stocks, mutual funds, and common trust funds result in the establishment of a new, adjusted cost basis for such investments. The original cost, adjusted cost, net unrealized gains (measured against adjusted cost), and fair value of common stocks, mutual funds, and common trust funds are summarized as follows (in thousands):

	<b>Original cost</b>	<b>Adjusted cost</b>	<b>Net unrealized gains</b>	<b>Fair value</b>
December 31, 2022	\$379,496	\$378,692	\$3,191	\$381,883
December 31, 2021	337,664	331,772	124,537	456,309

The Company is a member of the Federal Home Loan Bank (FHLB) of Topeka. Through its membership, the Company conducted business activity (borrowings) with the FHLB by utilizing the overnight line of credit. The Company used these funds to retire surplus notes. The Company has determined the borrowing capacity as approximately \$64,342,000 based on current securities pledged. The Company was provided this amount by the FHLB as of December 31, 2022. As a requirement of the membership and conducting business activities with FHLB, Pinnacol owns FHLB Class A and Class B Capital Stock. In 2022, these assets totaled approximately \$537,000 and \$1,959,000 respectively. In 2021, these assets totaled approximately \$500,000 and \$30,500 respectively.

**(d) Mortgage Loans on Real Estate**

The Company held approximately \$71,283,000 and \$68,554,000 of commercial mortgage loans at December 31, 2022 and 2021, respectively. Mortgage loans on real estate consist entirely of domestic commercial collateralized loans and are carried at their unpaid principal balances adjusted for any unamortized premiums or discounts, origination fees, provision allowances, and foreign currency translations. Interest income is accrued on the unpaid principal balance for all loans, except for loans on nonaccrual status. Premiums, discounts, and origination fees are amortized to net investment income using the effective-interest method.

A third-party manager actively manages the Company's mortgage loan portfolio by completing ongoing comprehensive analysis of factors, such as debt service coverage ratios, loan-to-value ratios, payment status, default or legal status, collateral property evaluations, and general market conditions. On a quarterly basis, the Company reviews any provided credit quality risk indicators in its internal assessment of loan impairment and credit loss.



Management's periodic evaluation and assessment for mortgage impairments is based on delinquency status, internally derived fair value, as well as credit concern status based on known and inherent risks in the portfolio, adverse situations that may affect the borrower's ability to repay, the fair value of the underlying collateral, composition of the loan portfolio, current economic conditions, loss experience, and other relevant factors. Risk is mitigated primarily through first lien collateralization, guarantees, loan covenants, and borrower reporting requirements. Since the Company does not hold uncollateralized mortgages, loans are generally deemed to be collectible. Any remaining unrecoverable amounts are written off during the final stage of the foreclosure process.

Loan balances are considered delinquent when payment has not been received based on contractually agreed-upon terms. The accrual of interest is discontinued when concerns exist regarding the realization of loan principal or interest. The Company resumes interest accrual on loans when a loan returns to current status or under new terms when loans are restructured or modified.

At December 31, 2022, the Company did not have any troubled, impaired, or delinquent mortgage loans, or any reason to believe payments would be uncollectible on any existing loans.

#### **(e) Other Invested Assets**

Investments in partnerships are stated at the underlying audited equity value. For those investments in which the audited financial statements were not available by the March 1, 2023 statutory annual statement filing deadline, the unaudited equity value was used. Other invested assets total approximately \$195,173,000 and \$202,744,000 in 2022 and 2021, respectively, with \$191,658,000 and \$199,224,000 relating to investments in partnerships. Due to Colorado Revised Statutes limitations, the balance of other invested assets may not exceed 5% of admitted assets. At December 31, 2022 and 2021, approximately \$42,927,000 and \$45,772,000 was nonadmitted due to this requirement, respectively. The Company has contributed \$139,274,000 in net capital (capital contributions, less capital distributions) since investing in partnerships and is responsible for up to an additional \$58,131,000.

#### **(f) Impairment of Investments**

The Company writes securities down to fair value that it deems to be OTTI in the period the securities are deemed to be so impaired. The Company records write downs as realized capital losses and adjusts the cost basis of the securities, accordingly. The Company does not adjust the revised cost basis for subsequent recoveries in value.

The assessment of whether an OTTI occurred is based upon management's case by case evaluation of the underlying reasons for the decline in fair value. Management considers a wide range of factors, as described below, regarding the security issuer and uses its best judgment in evaluating the cause of the decline in its estimated fair value and in assessing the prospects for near term recovery. Inherent in management's evaluation of the security are assumptions and estimates about the operations and future earnings potential of the issuer.

Considerations used by the Company in the impairment evaluation process include, but are not limited to, the following:

- Fair value is significantly below cost.
- The decline in fair value is attributable to specific adverse conditions affecting a particular instrument, its issuer, an industry, or geographic area.
- The decline in fair value has existed for an extended period of time.
- A debt security has been downgraded by a credit rating agency.
- The financial condition of the issuer has deteriorated.
- A change in future expected cash flows has occurred.
- Dividends have been reduced or eliminated or scheduled interest payments have not been made.
- The ability and intent to hold investments until recovery, including consideration of the investment manager's discretion to sell securities.
- The present value of projected cash flows expected to be collected is less than amortized value of loan backed and structured securities.

While all available information is taken into account, it is difficult to predict the ultimate recoverable amount from a distressed or impaired security.

At December 31, 2022 and 2021, 5.01% and 5.19% of long term bonds held by the Company were rated noninvestment grade, respectively. At December 31, 2022 and 2021, the Company had approximately \$244,031,000 and \$11,049,000, respectively, of unrealized losses related to its long term bonds. The unrealized losses on securities are primarily attributable to fluctuations in market interest rates and changes in credit spreads since the securities were acquired.

#### **(g) Other-Than-Temporary Impairment**

During 2022 and 2021, the Company recognized approximately \$5,498,000 and \$902,000, respectively, in OTTI on long term bonds, and \$2,143,000 and \$10,000, respectively, in OTTI on common stocks, preferred stocks, and mutual funds. The Company also recognized OTTI on other invested assets of approximately \$15,000 in 2022.

#### **h) Fair Value Measurements**

The Company has categorized its assets and liabilities that are reported on the statutory basis statements of admitted assets, liabilities, and policyholders' surplus at fair value into the three level fair value hierarchy. The three level fair value hierarchy is based on the degree of subjectivity inherent in the valuation method by which fair value was determined. The three levels are defined as follows.

- Level 1 – Quoted prices in active markets for identical assets and liabilities: This category, for items measured at fair value on a recurring basis includes common stocks, preferred stocks, and money market mutual funds. The estimated fair value of the equity securities within this category are based on quoted prices in active markets and are thus classified as Level 1.
- Level 2 – Significant other observable inputs: This category for items measured at fair value on a recurring basis includes bonds and common stocks, which are not exchange traded. The estimated fair values of some of these items were determined by independent pricing services using observable inputs. Others were based on quotes from markets, which were not considered actively traded.
- Level 3 – Significant unobservable inputs: This category for items measured at fair value includes common stocks, common stock warrants, preferred stocks, and bonds. The estimated fair value of common stock warrants and bonds was determined by internal ratings in the absence of observable inputs.

The following table represents (in thousands) information about the Company's financial assets measured at fair value in Level 3 as of December 31, 2022.

<b>Fair value measurements – Level 3 – December 31, 2022</b>							
<b>Assets</b>	<b>Beginning Balance January 1, 2022</b>	<b>Amortization accretion</b>	<b>Current realized net income (loss)</b>	<b>Change in unrealized surplus</b>	<b>Purchases/ transfers into Level 3</b>	<b>Sales/ settlements/ transfers out of Level 3</b>	<b>Ending Balance December 31, 2022</b>
Bonds – private placements	\$—	\$—	\$—	\$(475)	\$8,527	\$(5,530)	\$2,522
All other bonds	—	—	(117)	(11)	239	(111)	—
Common stocks – industrial and miscellaneous	771	—	(76)	142	3,084	—	3,921
<b>Total assets</b>	<b>\$771</b>	<b>\$—</b>	<b>\$(193)</b>	<b>\$(344)</b>	<b>\$11,850</b>	<b>\$(5,641)</b>	<b>\$6,443</b>

The following table represents (in thousands) information about the Company's financial assets measured at fair value in Level 3 as of December 31, 2021.

Fair value measurements – Level 3 – December 31, 2021							
Assets	Beginning Balance January 1, 2021	Amortization accretion	Current realized net income	Change in unrealized surplus	Purchases/transfers into Level 3	Sales/settlements/transfers out of Level 3	Ending Balance December 31, 2021
Bonds – private placements	\$–	\$–	\$25	\$(386)	\$2,297	\$(1,936)	\$–
All other bonds	1,217	–	3	33	–	(1,253)	–
Common stocks – industrial and miscellaneous	650	–	9	28	100	(16)	771
<b>Total assets</b>	<b>\$1,867</b>	<b>\$–</b>	<b>\$37</b>	<b>\$(325)</b>	<b>\$2,397</b>	<b>\$(3,205)</b>	<b>\$771</b>

The following tables present (in thousands) information about the Company's financial assets measured at fair value on a recurring basis for accounting purposes as of December 31, 2022 and 2021, respectively, and indicates the fair value hierarchy of the valuation techniques utilized by the Company to determine such fair value:

Fair value measurements – recurring basis – December 31, 2022				
Assets	Quoted prices in active markets for identical assets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)	Total
Common stocks:				
Industrial and miscellaneous	\$248	\$–	\$3,921	\$4,169
Mutual funds	377,714	–	–	377,714
Total common stocks	377,962	–	3,921	381,883
Perpetual preferred stocks	668	–	–	668
Money market mutual funds	13,037	–	–	13,037
<b>Total assets</b>	<b>\$391,667</b>	<b>\$–</b>	<b>\$3,921</b>	<b>\$395,588</b>

Fair value measurements — recurring basis — December 31, 2021				
Assets	Quoted prices in active markets for identical assets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)	Total
Common stocks:				
Industrial and miscellaneous	\$525	\$—	\$771	\$1,296
Common trust funds	—	124,396	—	124,396
Mutual funds	257,694	72,922	—	330,616
<b>Total common stocks</b>	<b>258,219</b>	<b>197,318</b>	<b>771</b>	<b>456,308</b>
Perpetual preferred stocks	652	—	—	652
Money market mutual funds	19,975	—	—	19,975
<b>Total assets</b>	<b>\$278,846</b>	<b>\$197,318</b>	<b>\$771</b>	<b>\$476,935</b>

Certain assets are measured at fair value on a nonrecurring basis quarterly or more frequently if events dictate that the carrying value of the asset may not be recovered. These assets include bonds held at fair value with an NAIC designation of 3–6 and redeemable preferred stocks held at fair value with an NAIC designation of RP3–RP6. There were bonds with these designations where the fair value was less than amortized value, which resulted in an unrealized loss of \$10,393,000 at December 31, 2022 and \$730,000 at December 31, 2021.

The following tables reflect (in thousands) the fair values and admitted values of all admitted assets and liabilities that are financial instruments, excluding those accounted for under the equity method as of December 31, 2022 and 2021, respectively. The fair values are also categorized into the three-level fair value hierarchy as described above.

<b>December 31, 2022</b>					
<b>Type of financial instrument</b>	<b>Fair value</b>	<b>Admitted value</b>	<b>Level 1</b>	<b>Level 2</b>	<b>Level 3</b>
Financial instruments-assets:					
Long-term bonds:					
CDOs/CBOs/CLOs	\$200,915	\$210,245	\$—	\$200,915	\$—
Private placements	169,666	189,160	—	986	168,680
All other bonds	1,667,177	1,867,490	—	1,609,326	57,851
Total long-term bonds	2,037,758	2,266,895	—	1,811,227	226,531
Preferred stocks:					
Perpetual preferred	668	668	668	—	—
Redeemable preferred	1,338	1,305	—	—	1,338
Total preferred stocks	2,006	1,973	668	—	1,338
Common stocks:					
Industrial and miscellaneous	4,169	4,169	248	—	3,921
Mutual funds	377,714	377,714	377,714	—	—
Total common stocks	381,883	381,883	377,962	—	3,921
Mortgage loans	71,104	71,283	—	—	71,104
Cash, cash equivalents and short-term investments	77,541	77,540	77,390	151	—
<b>Total assets</b>	<b>\$2,570,292</b>	<b>\$2,799,574</b>	<b>\$456,020</b>	<b>\$1,811,378</b>	<b>\$302,894</b>

December 31, 2021					
Type of financial instrument	Fair value	Admitted value	Level 1	Level 2	Level 3
Financial instruments-assets:					
Long-term bonds:					
CDOs/CBOs/CLOs	\$191,937	\$190,055	\$—	\$191,937	\$—
Private placements	138,948	134,476	—	—	138,948
All other bonds	2,120,086	1,998,311	—	2,039,648	80,438
Total long-term bonds	2,450,971	2,322,842	—	2,231,585	219,386
Preferred stocks:					
Perpetual preferred	754	752	754	—	—
Total preferred stocks	754	752	754	—	—
Common stocks:					
Industrial and miscellaneous	1,297	1,297	525	—	771
Common trust funds	124,396	124,396	—	124,396	—
Mutual funds	330,616	330,616	257,695	72,922	—
Total common stocks	456,309	456,309	258,220	197,318	771
Mortgage loans	68,511	68,554	—	—	68,511
Cash, cash equivalents and short-term investments	53,273	53,272	53,273	—	—
<b>Total assets</b>	<b>\$3,029,818</b>	<b>\$2,901,729</b>	<b>\$312,247</b>	<b>\$2,428,903</b>	<b>\$288,668</b>

**(j) Investment Income**

Major categories of net investment income (expense) for the years ended December 31, 2022 and 2021 are summarized as follows (in thousands):

	<b>2022</b>	<b>2021</b>
Investment income (expense):		
Corporate and miscellaneous bonds	\$80,292	\$73,119
U.S. government bonds	3,469	4,147
Cash and other investments	801	12
Real estate	5,513	5,646
Other invested assets	12,996	11,031
Mortgage loans	3,861	2,526
Equity securities	10,348	13,400
Surplus note interest expense	(12,365)	(11,101)
Investment expenses	(10,653)	(7,607)
Net investment income earned	94,262	91,173
Net realized capital gain (loss):		
Corporate and miscellaneous bonds	(6,575)	9,834
U.S. government bonds	241	—
Equity securities	31,442	39,583
Other investments	(15)	—
Net realized capital gains	25,093	49,417
<b>Net investment income</b>	<b>\$119,355</b>	<b>\$140,590</b>

**5 / BORROWINGS**

Pinnacol is a member of the Federal Home Loan Bank (FHLB) of Topeka. Through its membership, the Company has conducted business activity (borrowings) with the FHLB by utilizing the Overnight Line of Credit advance. The Company must deliver qualifying collateral to FHLB in an amount that provides a collateral coverage level sufficient to cover its extensions of credit. FHLB assigns the appropriate borrowing capacity to each security according to the security type and then determines the total borrowing capacity as a percentage of the market value of the securities pledged.

The following table summarizes the FHLB pledge and borrowing (in thousands):

	<b>2022</b>	<b>2021</b>
Borrowing capacity as of reporting date	\$64,342	\$—
Collateral amount pledged		
Fair value	66,079	—
Carrying value	80,083	—
Borrowing	53,000	—
Accrued interest	197	—
<b>Total borrowing and accrued interest</b>	<b>\$53,197</b>	<b>\$—</b>

The Company drew on the FHLB line of credit beginning on November 18, 2022. Overnight Line of Credit advances mature daily, with automatic daily renewals of the outstanding balance subject to FHLB's discretion not to renew. Members can adjust their outstanding balance daily; however, Overnight Line of Credit advances are not prepayable on the date of the draw. As of December 31, 2022, the Face Value/Carrying Value of the Overnight Line of Credit advance was \$53,000,000. Interest is payable at a rate that is adjusted and reset by FHLB on a daily basis. As of December 31, 2022 the interest rate was set at 4.48% with year-to-date interest paid of \$78,000 and interest accrued of \$197,000.

The Company is subject to compliance with the terms of the FHLB membership program including providing reports as FHLB may require and notices for specified events such as defaults, mergers, and changes in charter. As of December 31, 2022, the Company is in compliance with all FHLB membership terms.

## 6 / REINSURANCE

**Ceded Reinsurance** – Pinnacol purchases excess of loss reinsurance with two layers and terrorism coverage. The reinsurance coverage for individual workers' compensation accidents was as follows:

- Layer 1 – Limit of \$20,000,000 in excess of retention of \$20,000,000 per occurrence
- Layer 2 – Limit of \$40,000,000 in excess of retention of \$40,000,000 per occurrence
- Terrorism Only – Limit of \$50,000,000 in excess of retention of \$80,000,000 per occurrence

Management is not aware of any loss nor did the Company record any loss great enough to attach to these layers during any of the prior policy periods.

Reinsurance contracts do not relieve Pinnacol of its obligations, and a failure of the reinsurer to honor its obligations could result in losses unreimbursed to Pinnacol. Pinnacol evaluates and monitors the financial condition of its reinsurers to minimize its exposure to loss from reinsurer insolvency. Management of Pinnacol believes its reinsurers are financially sound and will continue to meet their contractual obligations.

Pinnacol uses Lloyd's Syndicates as part of its ceded reinsurer program. The Syndicates are given an "A" rating by AM Best. The remaining reinsurers had the following AM Best ratings at December 31, 2022:

Reinsurer	AM Best Rating
Allied World Assurance Company, Limited	A
Arch Reinsurance Company	A+
Markel Bermuda Limited	A
Endurance Specialty Insurance Limited	A+
Convex Insurance UK Limited	A-
XL Re Europe	A+

**Assumed Reinsurance** — Pinnacol has entered into assumed reinsurance contracts that allow the Company to provide insurance coverage under the workers' compensation provisions of other states for the employees of Colorado companies who work outside of Colorado (Other States Coverage). Effective March 1, 2004, Pinnacol executed a reinsurance contract with Argonaut Insurance Company for Other States Coverage. The contract was canceled in 2010; however, Pinnacol will continue to pay existing claims in accordance with this reinsurance agreement until these claims are closed or these risks are transferred. As the Company entered into a reinsurance agreement in 2010 with Zurich American Insurance Company, there were no gaps in coverage. This agreement was still in effect as of December 31, 2022. The Other States Coverage contracts are designed as 100% quota share arrangements with Pinnacol acting as the assuming company. Premium revenue is recognized pro rata over the period the policy is effective.

Funds have been placed on deposit as collateral with Argonaut Insurance Company and Zurich American Insurance Company in the amount of \$4,491,000 in 2022 and 2021.



A Letter of Credit has been posted to Argonaut Insurance Company in the amount of \$4,235,000 and \$4,715,000 in 2022 and 2021, respectively.

Assets have been pledged in a trust to Zurich American Insurance Company in the amount of \$56,046,000 and \$20,755,000 in 2022 and 2021, respectively.

Pinnacol held unearned premium reserves related to assumed business of \$1,101,000 and \$884,000 for the years ended December 31, 2022 and 2021, respectively. Pinnacol had loss and loss adjustment expense reserves related to assumed business of \$25,526,000 and \$19,645,000 for the years ended December 31, 2022 and 2021, respectively.

The following reinsurance activity has been recorded in the accompanying statutory basis financial statements (in thousands):

	2022	2021
Direct premiums written	\$511,941	\$539,424
Premiums ceded	(1,369)	(1,427)
Premiums assumed	14,199	10,096
<b>Net premiums written</b>	<b>524,771</b>	<b>548,092</b>
Direct premiums earned	517,611	540,261
Premiums ceded	(1,369)	(1,427)
Premiums assumed	13,982	9,973
<b>Net premiums earned</b>	<b>530,224</b>	<b>548,807</b>
Direct losses incurred	291,838	300,175
Losses ceded	—	—
Losses assumed	22,899	6,538
<b>Net losses incurred</b>	<b>314,737</b>	<b>306,712</b>
Direct loss adjustment expenses incurred	88,938	79,193
Loss adjustment expenses ceded	—	—
Loss adjustment expenses assumed	2,237	1,165
<b>Net loss adjustment expenses incurred</b>	<b>\$91,175</b>	<b>\$80,358</b>

## 7 / EMPLOYEE BENEFITS

### (a) Defined-Benefit Pension Plan through the State of Colorado

**Pensions** — Pinnacol participates in the State Division Trust Fund (SDTF), a cost sharing multiple employer defined-benefit pension fund administered by the Public Employees' Retirement Association of Colorado (PERA). The net pension liability, deferred outflows of resources, and deferred inflows of resources related to pensions, pension expense, information about the fiduciary net position (FNP) and additions to/deductions from the FNP of the SDTF have been determined using the economic resources measurement focus and the accrual basis of accounting. For this purpose, benefit payments (including refunds of employee contributions) are recognized when due and payable in accordance with the benefit terms. Investments held by the SDTF are reported at fair value.

**Plan description** — All Pinnacol employees are provided with pensions through the SDTF – a cost sharing multiple employer defined-benefit pension plan administered by PERA. Plan benefits are specified in Title 24, Article 51 of the Colorado Revised Statutes (C.R.S.), administrative rules set forth at 8 C.C.R. 1502 1, and applicable provisions of the federal Internal Revenue

Code. Colorado State law provisions may be amended from time to time by the Colorado General Assembly. PERA issues a publicly available annual comprehensive financial report (ACFR) that can be obtained at <https://www.copera.org/investments/pera-financial-reports>.

**Benefits provided** — PERA provides retirement, disability, and survivor benefits. Retirement benefits are determined by the amount of service credit earned and/or purchased, highest average salary, the benefit structure(s) under which the member retires, the benefit option selected at retirement, and age at retirement. Retirement eligibility is specified in tables set forth at C.R.S. § 24 51 602, 604, 1713, and 1714.

The lifetime retirement benefit for all eligible retiring employees under the PERA benefit structure is the greater of the:

- Highest average salary multiplied by 2.5% and then multiplied by years of service credit.
- Value of the retiring employee's member contribution account plus a 100% match on eligible amounts as of the retirement date. This amount is then annuitized into a monthly benefit based on life expectancy and other actuarial factors.

In all cases, the service retirement benefit is limited to 100% of highest average salary and also cannot exceed the maximum benefit allowed by federal Internal Revenue Code.

Members may elect to withdraw their member contribution accounts upon termination of employment with all PERA employers; waiving rights to any lifetime retirement benefits earned. If eligible, the member may receive a match of either 50% or 100% on eligible amounts depending on when contributions were remitted to PERA, the date employment was terminated, whether five years of service credit has been obtained, and the benefit structure under which contributions were made.

Upon meeting certain criteria, benefit recipients who elect to receive a lifetime retirement benefit generally receive post-retirement cost of living adjustments, referred to as annual increases in the C.R.S. Subject to the automatic adjustment provision (AAP) under C.R.S. § 24-51-413, eligible benefit recipients under the PERA benefit structure who began membership before January 1, 2007, will receive the maximum annual increase (AI) or AI cap of 1.00% unless adjusted by the AAP. Eligible benefit recipients under the PERA benefit structure who began membership on or after January 1, 2007, will receive the lesser of an annual increase of the 1.00% AI cap or the average increase of the Consumer Price Index for Urban Wage Earners and Clerical Workers for the prior calendar year, not to exceed a determined increase that would exhaust 10% of PERA's Annual Increase Reserve (AIR) for the SDTF. The AAP may raise or lower the aforementioned AI cap by up to 0.25% based on the parameters specified in C.R.S. § 24-51-413.

Disability benefits are available for eligible employees once they reach five years of earned service credit and are determined to meet the definition of disability. The disability benefit amount is based on the retirement benefit formula(s) shown above considering a minimum 20 years of service credit, if deemed disabled.

Survivor benefits are determined by several factors, which include the amount of earned service credit, highest average salary of the deceased, the benefit structure(s) under which service credit was obtained, and the qualified survivor(s) who will receive the benefits.

**Contributions** — Eligible employees of Pinnacol and the State are required to contribute to the SDTF at a rate set by Colorado statute. The contribution requirements for the SDTF are established under C.R.S. § 24 51 401, et seq. and § 24 51 413. Eligible employees were required to contribute 10.50% of their PERA-includable salary until June 30, 2022; thereafter, the contribution increased to 11.00% of PERA-includable salary. The employer contribution requirements for Pinnacol are summarized in the table below:

	For the year ended December 31		
	2022	2021	2020
Employer contribution rate (includes 1.02% allocation to the Health Care Trust Fund — see note 6c) <sup>1</sup>	11.40%	10.90%	10.90%
Amortization Equalization Disbursement (AED) as specified in C.R.S. § 24-51-411 <sup>1</sup>	5.00	5.00	5.00
Supplemental Amortization Equalization Disbursement (SAED) as specified in C.R.S. § 24-51-411 <sup>1</sup>	5.00	5.00	5.00
Defined Contribution Supplement as specified in C.R.S. §24-51-415	0.10	0.05	—
<b>Total employer contribution rate <sup>1</sup></b>	<b>21.50%</b>	<b>20.95%</b>	<b>20.90%</b>

<sup>1</sup> Contribution rates are expressed as a percentage of salary as defined in C.R.S. § 24-51-101(42).

Employer contributions are recognized by the SDTF in the period in which the compensation becomes payable to the member and Pinnacol is statutorily committed to pay the contributions to the SDTF. Employer contributions recognized by the SDTF from Pinnacol were \$15,075,000 and \$13,590,000, for the years ended December 31, 2022 and 2021, respectively. These contributions met the contribution requirement for each year.

As specified in C.R.S. § 24-51-414, the State is required to contribute \$225,000,000 each year to PERA starting on July 1, 2018. A portion of the direct distribution payment is allocated to the SDTF based on the proportionate amount of annual payroll of the SDTF to the total annual payroll of the SDTF, School Division Trust Fund, Judicial Division Trust Fund, and Denver Public Schools (DPS) Division Trust Fund. In addition to the \$225,000,000 direct distribution due July 1, 2022, House Bill (HB) 22-1029 instructs the State treasurer to issue a warrant to PERA in the amount of \$380,000,000, upon enactment, with reductions to future direct distributions scheduled to occur July 1, 2023, and July 1, 2024.

#### **(b) Voluntary Tax Deferred Retirement Plans**

**Plan Description** — Employees of Pinnacol that are also members of the SDTF may voluntarily contribute to the Voluntary Investment Program, an Internal Revenue Code Section 401(k) defined contribution plan administered by PERA. Title 24, Article 51, Part 14 of the C.R.S., as amended, assigns the authority to establish the Plan provisions to the PERA Board of Trustees. PERA issues a publicly available ACFR which includes additional information on the Voluntary Investment Program. That report can be obtained at <https://www.copera.org/investments/pera-financial-reports>.

**Funding Policy** — The Voluntary Investment Program is funded by voluntary member contributions up to the maximum limits set by the Internal Revenue Service, as established under Title 24, Article 51, Section 1402 of the C.R.S., as amended. In addition, Pinnacol has agreed to match employee's elective contributions into the PERA 401(k) Plan at 50% up to the first 6% of employees' elected deferrals. Employees are immediately vested in their own contributions, employer contributions, and investment earnings. For the years ended December 31, 2022 and 2021, Pinnacol contributed approximately \$1,683,000 and \$1,564,000, respectively, in matching contributions to the PERA 401(k) Plan. Pinnacol also offers a 457 deferred compensation plan.

#### **(c) Defined Benefit Other Postemployment Benefit (OPEB) Plan**

**OPEB Plan** — Pinnacol participates in the Health Care Trust Fund (HCTF), a cost sharing multiple employer defined-benefit OPEB plan administered by PERA.

**Plan Description** — The HCTF is established under Title 24, Article 51, Part 12 of the C.R.S., as amended, and sets forth a framework that grants authority to the PERA Board to contract, self-insure, and authorize disbursements necessary in order to carry out the purposes of the PERACare program, including the administration of the premium subsidies. Colorado State law provisions may be amended by the Colorado General Assembly. PERA issues a publicly available ACFR that can be obtained at <https://www.copera.org/investments/pera-financial-reports>.

**Benefits Provided** — The HCTF provides a healthcare premium subsidy to eligible participating PERA benefit recipients and retirees who choose to enroll in one of the PERA healthcare plans; however, the subsidy is not available if only enrolled in the dental and/or vision plan(s). The healthcare premium subsidy is based upon the benefit structure under which the member retires and the member's years of service credit. The basis for the amount of the premium subsidy funded by each trust fund is the percentage of the member contribution account balance from each division, as it relates to the total member contribution account balance from which the retirement benefit is paid.

C.R.S. § 24 51 1202 et seq. specifies the eligibility for enrollment in the healthcare plans offered by PERA and the amount of the premium subsidy. The law governing a benefit recipient's eligibility for the subsidy and the amount of the subsidy differs slightly depending under which benefit structure the benefits are calculated. All benefit recipients under the PERA benefit structure are eligible for a premium subsidy, if enrolled in a healthcare plan under PERACare.

Enrollment in the PERACare health benefits program is voluntary and is available to benefit recipients and their eligible dependents, certain surviving spouses, and divorced spouses and guardians, among others. Eligible benefit recipients may enroll into the program upon retirement, upon the occurrence of certain life events, or on an annual basis during an open enrollment period.

**PERA Benefit Structure** — The maximum service-based premium subsidy is \$230 per month for benefit recipients who are under 65 years of age and who are not entitled to Medicare; the maximum service based subsidy is \$115 per month for benefit recipients who are 65 years of age or older or who are under 65 years of age and entitled to Medicare. The maximum service-based subsidy, in each case, is for benefit recipients with retirement benefits based on 20 or more years of service credit. There is a 5% reduction in the subsidy for each year less than 20. The benefit recipient pays the remaining portion of the premium to the extent the subsidy does not cover the entire amount.

For retirees who have not participated in Social Security and who are not otherwise eligible for premium-free Medicare Part A for hospital-related services, C.R.S. § 24-51-1206(4) provides an additional subsidy. According to the statute, PERA cannot charge premiums to benefit recipients without Medicare Part A that are greater than premiums charged to benefit recipients with Part A for the same plan option, coverage level, and service credit. Currently, for each individual PERACare enrollee, the total premium for Medicare coverage is determined assuming plan participants have both Medicare Part A and Part B and the difference in premium cost is paid by the HCTF on behalf of benefit recipients not covered by Medicare Part A.

**Contributions** — Pursuant to Title 24, Article 51, Section 208(1) (f) of the C.R.S., as amended, certain contributions are apportioned to the HCTF. PERA-affiliated employers are required to contribute at a rate of 1.02% of PERA-includable salary into the HCTF. Pinnacol's contribution is included in the contribution rate of 21.5% in note 6(a). No member contributions are required to the HCTF. The contribution requirements for Pinnacol are established under Title 24, Article 51, Part 4 of the C.R.S., as amended. For the years ended December 31, 2022 and 2021, Pinnacol contributions to the HCTF were approximately \$724,000 and \$662,000, respectively, equal to the required contributions for each year.

#### **(d) Other**

**Health and Welfare Trust** — Effective January 1, 2010, Pinnacol entered into certain self-funded benefit programs with its vendors for healthcare, dental care, and vision care and established a separate legal trust for administrative purposes. In 2019, Pinnacol also entered into a guaranteed cost program with one of its two healthcare vendors. Pinnacol withholds monthly premium from its employee participants' payroll checks and uses these premiums and the employer contribution amounts to fund the trust account. These premiums are used to reimburse medical claims paid by the third-party vendors for the self-funded programs or pay premiums to the healthcare vendor for the guaranteed cost program. Employer contributions in 2022 and 2021 were \$7,551,000 and \$7,182,000, respectively.

**Accrued Paid Leave** — Pinnacol employees may accrue paid time off based on their length of service subject to certain limitations on the amount that will be paid upon termination or taken in future periods. Paid time off is recorded as an expense and a liability at the time the paid time off is earned. The estimated liability for cumulative accrued paid time off of approximately \$4,391,000 and \$4,262,000 at December 31, 2022 and 2021, respectively, is included in other liabilities in the statutory-basis statements of admitted assets, liabilities, and policyholders' surplus.

## 8 / POLICYHOLDERS' SURPLUS

The board of directors chose not to declare a general policyholder dividend in November 2022, delaying the consideration of, and if applicable, the declaration of a general dividend until year-end 2022 financial results were available. On February 22, 2023, the board of directors declared a general policyholder dividend of \$15,000,000 which was paid in March 2023 to policyholders in good standing. On November 3, 2021, the Board of Directors declared a general policyholder dividend to be paid in March 2022 of approximately \$40,000,000. On February 23, 2022, the Board of Directors determined the final amount of the general policyholder dividend paid in March 2022 to be \$50,000,000 based on year-end 2021 financial results.

The Division monitors a company's "risk-based capital" in assessing the financial strength of an insurance company. Pinnacol's level of surplus exceeds the "company action level" of risk-based capital, which is approximately \$203,679,000 for 2022.

A surplus note in the amount of \$100,000,000 was issued on June 25, 2014, to an unaffiliated third party in exchange for cash. Each payment of principal and interest on the surplus note may be made only with the prior approval of the Division and only to the extent Pinnacol has sufficient policyholders' surplus to make such payment. The interest on the unpaid principal amount of this note will be paid in semiannual installments at the rate of 8.625% per annum. Upon obtaining approval from the Commissioner of the Division, Pinnacol repurchased \$8,000,000 of its outstanding surplus notes on October 28, 2021 and \$47,000,000 of its outstanding surplus notes on December 5, 2022 by paying the noteholder cash consideration equal to 131% and 108%, respectively, of the principal repurchased plus accrued interest. In 2022, \$12,089,000 of interest was paid on the note and recorded as investment expense. The note, which is subordinate to the prior payment of all other liabilities of the Company, will be due and payable twenty years from the issuance date, with an optional prepayment date in whole or part in fifteen years with no penalty. The surplus note was issued to partially cover Pinnacol's estimated proportionate share of PERA's unfunded liability for vested service of Pinnacol employees and retirees. This liability is not required to be recorded in the statutory-basis financial statements as of December 31, 2022, but it reduces the capital adequacy assessments of outside rating agencies, such as A.M. Best. In accordance with the note agreement, Pinnacol may apply the proceeds for general corporate purposes.

The surplus note agreement contains customary affirmative and negative covenants and requires that Pinnacol maintain certain specified ratios and thresholds. Among others, these covenants include maintaining a maximum writing ratio, debt to capitalization ratio, and interest coverage ratio. Management believes that Pinnacol is in compliance with such covenants, ratios, and thresholds at December 31, 2022.

As discussed in note 1(w), the Company participates in the State Division Trust Fund (SDTF), a cost-sharing multiple-employer defined-benefit pension fund administered by PERA. The funded portion of the SDTF's total pension liability as of December 31, 2021 is 64.0%. The Company has a special surplus fund to identify its portion of the unfunded pension benefits. The discount rate is 7.25%. Based on information provided by PERA as of July 2022, the Company's special surplus fund for the unfunded pension benefits has decreased by \$56,358,000 from \$185,612,000 in 2021 to a new balance of \$129,254,000 for 2022. There are no limitations for using the special surplus fund for policyholders, injured workers, or other creditors.

As discussed in note 1(w), the Company participates in the Health Care Trust Fund (HCTF) administered by PERA. The Company has identified its portion of the HCTF liability in a special surplus fund in the same manner as the PERA net pension liability obligation. The HCTF liability has decreased by \$756,000 from \$6,600,000 in 2021 to a new balance of \$5,844,000 for 2022.

## 9 / COMMITMENTS & CONTINGENCIES

Pinnacol has made the following commitments:

<b>Total Contingent Liabilities</b>	<b>2022</b>
Pinnacol has committed to fund partnerships investments	\$58,131,000
Pinnacol has committed to rated note investments	5,528,000
Pinnacol has committed to mortgage loan investments	22,274,000
<b>Total</b>	<b>\$85,933,000</b>

Lawsuits arise against the Company in the normal course of business. Contingent liabilities arising from litigation and other matters are not considered material in relation to the financial position of the Company.

At December 31, 2022 and 2021, Pinnacol had a letter of credit for the benefit of Argonaut Insurance Company under an assumed reinsurance agreement for approximately \$4,235,000 and \$4,715,000, respectively. This reinsurance agreement allows Argonaut Insurance Company to draw upon the letter of credit, which is 100% collateralized, at any time to secure any of Pinnacol's obligations under the agreement. Included in long-term bonds and money market securities are amounts held as collateral for the letter of credit of approximately \$10,074,000 and \$10,085,000, compared to a requirement of \$4,235,000 and \$4,715,000, as of December 31, 2022 and 2021, respectively.

At December 31, 2022 and 2021, Pinnacol had a trust for the benefit of Zurich American Insurance Company under an assumed reinsurance agreement. This reinsurance agreement allows Zurich American Insurance Company, the beneficiary, to claim the trust assets at any time to secure any of Pinnacol's obligations under the agreement. Included in long term bonds are amounts held in the trust of approximately \$56,046,000 and \$20,755,000 as of December 31, 2022 and 2021. These bonds had a total market value of approximately \$51,584,000 and \$21,833,000 as of December 31, 2022 and 2021, which Zurich American Insurance Company deemed sufficient to secure Pinnacol's obligations under the agreement.

Pinnacol is contingently liable for approximately \$30,952,000 of claims closed by the purchase of annuities from life insurers for structured settlements. Pinnacol has not purchased annuities from life insurers under which the Company is payee, and therefore, no balances are due from such annuity insurers.

Pinnacol is aware of an unfunded net pension liability. If Pinnacol were to partially or fully leave the PERA program, the unfunded net pension liability for the vested service of Pinnacol employees and retirees would become immediately due to PERA. Title 24, Article 51, Section 316 of the C.R.S. requires a company to calculate the reserve transfer necessary when an employer disaffiliates from PERA. The formula to calculate the termination liability differs significantly from the formula used to calculate Pinnacol's share of the unfunded pension obligation under GASB Statement No. 68. Therefore, the amount of a possible future termination liability is unknown but is expected to exceed \$200,000,000. Currently, the possibility of the Company partially or fully leaving the PERA program is remote and would require legislative action.

## 10 / RELATED-PARTY TRANSACTIONS

Pinnacol purchased preferred stock in a non-insurance subsidiary, Cake, on September 28, 2017. In 2019, Pinnacol recognized OTTI on the full balance of its investment in Cake's preferred stock and recorded a realized loss. Losses reported by Cake do not have an impact on Pinnacol's other investments. The losses are summarized in the table below:

Entity	Pinnacol's share of net income (loss)	Accumulated share of net income (losses)	Pinnacol's share of equity, including negative equity	Guaranteed obligation commitment for financial support (yes/no)	Reported value
Cake Insure, Inc.	\$(9,953,000)	\$(9,593,000)	\$2,302,000	No	—

Under a program administrator agreement approved by the Division, Cake writes policies for Pinnacol through its digital platform that potential policyholders can utilize to receive a quote and bind a policy. Pinnacol pays Cake program administration fees on premium that Cake generates organically or through a referral program with Pinnacol and makes payments to Cake monthly as policies are generated. During 2022, Pinnacol incurred \$771,000 in program administrator fees.

Pinnacol is currently leveraging Cake's research and software development to transform Pinnacol's business and reimagine enterprise-wide systems. The use of this technology will allow Pinnacol to operate a digital platform for multiple distribution channels while continuing to build digital capabilities for all policies.

Under a management service agreement approved by the Division, Pinnacol provides certain personnel services to its subsidiary for a variable monthly fee and receives reimbursement for costs Cake incurred. During 2022, Pinnacol received \$429,000 in management fees and reimbursed costs from its subsidiary. The management fees offset various expenses in the income statement.

At December 31, 2022, Pinnacol reported \$52,000 due to subsidiary for commissions due to Cake as an agent. Pinnacol also reported \$81,000 due from subsidiary for management fees and reimbursable expenses under the management service agreement.

There were no transactions with affiliates in amounts that exceeded 0.5% of the total admitted assets of Pinnacol.

## 11 / SUBSEQUENT EVENTS

The board of directors chose not to declare a general policyholder dividend in November 2022, delaying the consideration of, and if applicable, the declaration of a general dividend until year-end 2022 financial results were available. On February 22, 2023, the board of directors declared a general policyholder dividend of \$15,000,000 which was paid in March 2023 to policyholders in good standing.

On January 4, 2023, Pinnacol's subsidiary Cake exercised its right to convert 2,000,000 preferred stock shares to 2,000,000 common stock shares. Pinnacol purchased an additional 8,000,000 common stock shares at \$5 per share for a total additional investment of \$40,000,000. With this additional investment, Cake acquired an existing managing general agent (MGA) as a wholly-owned subsidiary. In March 2023, Pinnacol made an additional \$10,000,000 capital contribution to Cake.

Subsequent events have been evaluated through May 17, 2023, the date these statutory basis financial statements were available to be issued.

Supplemental Schedules of  
Investment and Reinsurance Information  
(See Independent Auditors' Report)



# Investment Risks Interrogatories

## YEAR ENDED DECEMBER 31, 2022 (IN THOUSANDS)

**1 /** Pinnacol's total admitted assets as reported on page 2 of its annual statement are \$3,044,919.

**2 /** The following are the ten largest exposures to a single issuer/borrower/investment by investment category, excluding:

(i) U.S. government securities, U.S. government agency securities, and those U.S. government money market funds listed in the Appendix to the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* as exempt, (ii) property occupied by Pinnacol, (iii) policy loans, and (iv) all SEC and foreign registered funds (open-end, closed-end, UIT and ETFs) and common trust funds that are diversified within the meaning of the Investment Company Act of 1940 (Section 5(b) (1)).

Issuer	Description of exposure	Amount	Percentage of total admitted assets
2.01 Federal National Mortgage Association	MBS	\$227,406	7.468%
2.02 Federal Home Loan Mortgage Corporation	CMO, MBS	111,037	3.647
2.03 Nb Pinnacol Assurance Fund LP	Sch BA-Joint Venture	98,208	3.225
2.04 Deerpath Newbury Partners LLC	Bonds, Sch BA-Joint Venture	25,238	0.829
2.05 Lending Ark Asia Secured Private Debt Fund I, LP	Bonds, Sch BA-Joint Venture	22,668	0.744
2.06 First Eagle DI V-A Funding LLC	Bonds, Sch BA-Joint Venture	15,852	0.521
2.07 GCM Grosvenor Opportunistic Credit Fund V, LTD	Sch BA-Joint Venture	12,620	0.414
2.08 GCM Grosvenor Special Opportunities Fund, LTD	Sch BA-Joint Venture	11,668	0.383
2.09 NB Strategic Co-Investment Partners III, LP	Sch BA-Joint Venture	10,769	0.354
2.10 Warburg Pincus Private Equity XII, LP	Sch BA-Joint Venture	10,604	0.348

3 / Pinnacol's total admitted assets held in bonds and preferred stocks by NAIC designation are:

NAIC Designation	Amount	Percentage of total admitted assets
Bonds:		
NAIC-1	\$1,563,117	51.335%
NAIC-2	603,025	19.804
NAIC-3	48,361	1.588
NAIC-4	39,852	1.309
NAIC-5	11,243	0.369
NAIC-6	1,448	0.048
Preferred stocks:		
P/RP-1	1,304	0.043
P/RP-2	206	0.007
P/RP-3	462	0.015
P/RP-4	0	—
P/RP-5	0	—
P/RP-6	0	—
<b>\$2,269,018</b>		

4 / Assets held in foreign investments are \$403,464 and assets held in foreign-currency-denominated investments are \$0, which is approximately 13.3% and 0% of Pinnacol's total admitted assets, respectively.

5 / The following represents aggregate foreign investment exposure categorized by NAIC sovereign designation:

Foreign investment assets		
NAIC Designation	Amount	Percentage of total admitted assets
Countries designated NAIC-1	\$367,685	12.075%
Countries designated NAIC-2	27,674	0.909
Countries designated NAIC-3 or below	8,105	0.266
<b>\$403,464</b>		

6 / The following represents the largest foreign investment exposures by country, categorized by the country's NAIC sovereign designation:

Foreign investment assets			
NAIC Designation	Country	Amount	Percentage of total admitted assets
Countries designated NAIC-1:			
Country 1:	Cayman Islands	\$195,774	6.430%
Country 2:	United Kingdom	35,453	1.164
Countries designated NAIC-2:			
Country 1:	Mexico	16,283	0.535
Country 2:	Panama	6,031	0.198
Countries designated NAIC-3 or below:			
Country 1:	Virgin Islands, British	4,489	0.147
Country 2:	Aruba	1,800	0.059
		<b>\$259,830</b>	

7 / Aggregate unhedged foreign currency exposure is \$0, which is approximately 0% of Pinnacol's total admitted assets.

8 / The following represents aggregate unhedged foreign currency exposure categorized by NAIC sovereign designation:

Foreign-currency-denominated investment assets		
NAIC Designation	Amount	Percentage of total admitted assets
Countries designated NAIC-1	\$0	—%
Countries designated NAIC-2	0	—
Countries designated NAIC-3 or below	0	—
		<b>\$0</b>

9 / The following represents the largest unhedged foreign currency exposures by country, categorized by the country's NAIC sovereign designation:

Foreign-currency-denominated investment assets			
NAIC Designation	Country	Amount	Percentage of total admitted assets
Countries designated NAIC-1:			
Country 1:		\$0	—%
Country 2:		0	—
Countries designated NAIC-2:			
Country 1:		0	—
Country 2:		0	—
Countries designated NAIC-3 or below:			
Country 1:		0	—
Country 2:		0	—
		<b>\$0</b>	

**10 /** The following represents the ten largest nonsovereign (i.e., nongovernmental) foreign issues:

<b>Issuer</b>	<b>NAIC Designation</b>	<b>Amount</b>	<b>Percentage of total admitted assets</b>
10.01 Lending Ark Asia Secured Private Debt	1PL, Sch BA-Joint Venture	22,668	0.744%
10.02 Macquarie Group Limited	1FE	8,500	0.279
10.03 HSBC Holdings plc	1FE	7,006	0.230
10.04 Fomento Económico Mexicano, S.A.B. de C.V.	2FE	5,145	0.169
10.05 Aptiv PLC	2FE	5,095	0.167
10.06 Shell International Finance B.V.	1FE	5,072	0.167
10.07 Arch Capital Group Ltd.	2FE	5,062	0.166
10.08 Nippon Life Insurance Company	1FE	5,005	0.164
10.09 The Royal Bank of Scotland plc	1FE	5,000	0.164
10.10 Société Générale Société anonyme	2FE	5,000	0.164

**11 /** Assets held in Canadian investments are less than 2.5% of Pinnacol's total admitted assets.

**12 /** Amounts and percentages of the reporting entity's total admitted assets held in investments with contractual sales restrictions:

12.01 Are assets held in investments with contractual sales restrictions less than 2.5% of the reporting entity's total admitted assets? Yes [ ] No [X]

<b>Issuer</b>	<b>Amount</b>	<b>Percentage of total admitted assets</b>
12.02 Aggregate statement value of investments held in investments with contractual sales restrictions	\$182,975	6.009%
Largest three investments held in investments with contractual sales restrictions:		
12.03 NB Pinnacol Assurance Fund LP	\$98,208	3.225%
12.04 Lending Ark Asia Secured Private Debt Fund I, LP	22,668	0.744
12.05 First Eagle DI V-A Funding LLC	15,852	0.521

**13 /** The following are the ten largest equity interests (including investments in the shares of mutual funds, preferred stocks, publicly traded equity securities, and other equity securities and excluding money market and bond mutual funds listed in the *Purposes and Procedures Manual of the NAIC Investment Analysis Office* as exempt or NAIC Class 1):

Issuer	Amount	Percentage of total admitted assets
13.02 Fidelity 500 Index Fund	\$101,219	3.324%
13.03 NB Pinnacol Assurance Fund LP	98,208	3.225
13.04 MFS International Growth Fund	55,560	1.825
13.05 Goldman Sachs GQG Partners International Opportunities Fund	55,259	1.815
13.06 Vanguard International High Dividend Yield Fund	53,987	1.773
13.07 T. Rowe Price U.S. Equity Research Fund	50,830	1.669
13.08 Vanguard High Dividend Yield Index Fund	21,157	0.695
13.09 T. Rowe Price Institutional Small-Cap Stock Fund	19,943	0.655
13.10 GCM Grosvenor Opportunistic Credit Fund V, LTD	12,620	0.414
13.11 GCM Grosvenor Special Opportunities Fund, LTD	11,668	0.383

**14 /** Amounts and percentages of the reporting entity's total admitted assets held in nonaffiliated, privately placed equities:

14.01	Are assets held in nonaffiliated, privately placed equities less than 2.5% of the reporting entity's total admitted assets? Yes [ X ] No [ ]
-------	--

Issuer	Amount	Percentage of total admitted assets
14.02	Aggregate statement value of investments held in nonaffiliated, privately placed equities	\$— —%
Largest three investments held in nonaffiliated, privately placed equities:		
14.03	—	—
14.04	—	—
14.05	—	—

Ten Largest Fund Managers		Total Invested	Diversified	Non-Diversified
14.06	Fidelity 500 Index Fund	\$101,219	\$101,219	\$—
14.07	Vanguard High Dividend Yield Funds	84,308	84,308	—
14.08	T.Rowe Price Funds	70,773	70,773	—
14.09	Wells Fargo Funds Trust - Treasury Plus Money Market Fund	66,902	66,902	—
14.10	MFS International Growth Fund	55,560	55,560	—
14.11	Goldman Sachs GQG Partners International Opportunities Fund	55,259	55,259	—
14.12	State Street Institutional Investment Trust - International Treasure Plus Money Market Fund	12,871	12,871	—
14.13	Diamond Hill Small-Mid Cap Fund	10,596	10,596	—
14.14		—	—	—
14.15		—	—	—

Items 15 through 19 are not applicable.

See accompanying independent auditors' report.

# Summary Investment Schedule

DECEMBER 31, 2022 (IN THOUSANDS)

Investment categories	Gross investment holdings*		Admitted assets as reported in the annual statement	
	Amount	Percentage of gross investment holdings	Amount	Percentage of total admitted assets
<b>Long-term bonds:</b>				
U.S. governments	\$131,602	4.4%	\$131,602	4.4%
All other governments	21,791	0.7	21,791	0.7
U.S. states, territories, and possessions	2,526	0.1	2,526	0.1
U.S. political subdivisions of states, territories, and possessions	15,388	0.5	15,388	0.5
U.S. special revenue and special assessment obligations	403,733	13.4	403,733	13.6
Industrial and miscellaneous	1,686,133	56.0	1,686,133	56.8
Hybrid securities	5,722	0.2	5,722	0.2
Parent, subsidiaries, and affiliates	—	—	—	—
SVO identified funds	—	—	—	—
Unaffiliated bank loans	—	—	—	—
<b>Preferred stocks:</b>				
Industrial and miscellaneous (unaffiliated)	1,973	0.1	1,973	0.1
Parent, subsidiaries, and affiliates	—	—	—	—
<b>Common stocks:</b>				
Industrial and miscellaneous publicly traded (unaffiliated)	811	—	811	—
Industrial and miscellaneous other (unaffiliated)	3,288	0.1	3,288	0.1
Parent, subsidiaries, and affiliates publicly traded	—	—	—	—
Parent, subsidiaries, and affiliates other	—	—	—	—
Mutual funds	377,714	12.6	377,714	12.7
Unit investment trusts	—	—	—	—
Closed-end funds	70	—	70	—
<b>Mortgage loans:</b>				
Farm mortgages	—	—	—	—
Residential mortgages	—	—	—	—
Commercial mortgages	71,283	2.4	71,283	2.4
Mezzanine real estate loans	—	—	—	—

\*Gross investment holdings as valued in compliance with NAIC *Accounting Practices and Procedures Manual*.

Investment categories	Gross investment holdings*		Admitted assets as reported in the annual statement	
	Amount	Percentage of gross investment holdings	Amount	Percentage of total admitted assets
<b>Real estate:</b>				
Property occupied by Company	11,615	0.4	11,615	0.4
Property held for production of income	—	—	—	—
Property held for sale	—	—	—	—
<b>Cash, cash equivalents, and short-term investments:</b>				
Cash	(2,383)	(0.1)	(2,383)	(0.1)
Cash equivalents	79,773	2.7	79,773	2.7
Short-term investments	150	—	150	—
<b>Contract loans</b>	—	—	—	—
<b>Derivatives</b>	—	—	—	—
<b>Other invested assets (Schedule BA)</b>	195,173	6.5	152,246	5.1
<b>Receivables for securities</b>	2,595	0.1	2,595	0.1
<b>Securities lending</b>	—	—	—	—
<b>Other invested assets</b>	—	—	—	—
<b>Total invested assets</b>	<b>\$3,008,957</b>	<b>100%</b>	<b>\$2,966,030</b>	<b>100%</b>

\*Gross investment holdings as valued in compliance with NAIC *Accounting Practices and Procedures Manual*.

See accompanying independent auditors' report.

# Reinsurance Interrogatories

DECEMBER 31, 2022

- 1 /** Has the reporting entity ceded any risk under any reinsurance contract (or under multiple contracts with the same reinsurer or its affiliates) for which during the period covered by the statement: (i) it recorded a positive or negative underwriting result greater than 5% of prior year-end surplus as regards policyholders or it reported calendar year written premium ceded or year-end loss and loss expense reserves ceded greater than 5% of prior year-end surplus as regards policyholders; (ii) it accounted for that contract as reinsurance and not as deposit; and (iii) the contract(s) contain one or more of the following features or other features that would have similar results: Yes [ ] No [X]
- (a) A contract term longer than two years and the contract is noncancelable by the reporting entity during the contract term;
  - (b) A limited or conditional cancellation provision under which cancellation triggers an obligation by the reporting entity, or an affiliate of the reporting entity, to enter into a new reinsurance contract with the reinsurer, or an affiliate of the reinsurer;
  - (c) Aggregate stoploss reinsurance coverage;
  - (d) A unilateral right by either party (or both parties) to commute the reinsurance contract, whether conditional or not, except for such provisions, which are only triggered by a decline in the credit status of the other party;
  - (e) A provision permitting reporting of losses, or payment of losses, less frequently than on a quarterly basis (unless there is no activity during the period); or
  - (f) Payment schedule, accumulating retentions from multiple years or any features inherently designed to delay timing of the reimbursement to the ceding entity?
- 2 /** Has the reporting entity during the period covered by the statement ceded any risk under any reinsurance contract (or under multiple contracts with the same reinsurer or its affiliates), for which it recorded a positive or negative underwriting result greater than 5% of prior year-end surplus as regards policyholders or it reported calendar year written premium ceded or year-end loss and loss expense reserves ceded greater than 5% of prior year-end surplus as regards policyholders. This disclosure is limited to reinsurance contracts with written premium cessions or loss and loss expense reserve cessions described in paragraph 116 of SSAP No. 62R, *Property and Casualty Reinsurance*. This disclosure excludes cessions to approved pooling arrangements or to captive insurance companies that are directly or indirectly controlling, controlled by, or under control with (i) one or more unaffiliated policyholders of the reporting entity, or (ii) an association of which one or more unaffiliated policyholders of the reporting entity is a member. Yes [ ] No [X]
- (a) The written premium ceded to the reinsurer by the reporting entity or its affiliates represents fifty percent (50%) or more of the entire direct and assumed premium written by the reinsurer based on its most recently available financial statement; or
  - (b) Twenty-five percent (25%) or more of the written premium ceded to the reinsurer has been retroceded back to the reporting entity or its affiliates in a separate reinsurance contract?



- 3 /** If yes to 1 or 2, please provide the following information in the Reinsurance Summary Supplemental Filing: N/A [X]
- (a) The aggregate financial statement impact gross of all such ceded reinsurance contracts on the balance sheet and statement of income;
  - (b) A summary of the reinsurance contract terms and indicate whether it applies to the contracts meeting the criteria in 1 or 2; and
  - (c) A brief discussion of management's principle objectives in entering into the reinsurance contract, including the economic purpose to be achieved.
- 4 /** Except for transactions meeting the requirements of paragraph 31 of SSAP No. 62R, *Property and Casualty Reinsurance*, has the reporting entity ceded any risk under any reinsurance contract (or multiple contracts with the same reinsurer or its affiliates) during the period covered by the financial statement, and either: Yes [ ] No [X]
- (a) Accounted for that contract as reinsurance (either prospective or retroactive) under statutory accounting principles (SAP) and as a deposit under generally accepted accounting principles (GAAP); or
  - (b) Accounted for that contract as reinsurance under GAAP and as a deposit under SAP?
- 5 /** If yes to 4, explain in the Reinsurance Summary Supplemental Filing why the contract(s) is treated differently for GAAP and SAP. N/A [X]
- 6 /** Does the reporting entity have any risks reinsured under a quota share reinsurance contract with any other entity that includes a provision that would limit the reinsurer's losses below the stated quota share percentage? Yes [ ] No [X]

See accompanying independent auditors' report.

# Independent Auditors' Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*

The Members of the Legislative Audit Committee and Pinnacol Assurance Board of Directors

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of Pinnacol Assurance, which comprise the statutory basis statements of admitted assets, liabilities, and policyholders' surplus as of December 31, 2022, and the related statutory basis statements of operations and changes in policyholders' surplus, and cash flow for the year then ended, and the related notes to the financial statements, and have issued our report thereon dated May 17, 2023. Our report on the financial statements includes an adverse opinion on U.S. generally accepted accounting principles because the financial statements are prepared using statutory accounting practices prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado, which is a basis of accounting other than U.S. generally accepted accounting principles. Our report on the financial statements also includes an unmodified opinion on the financial statements in accordance with statutory accounting practices prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado, which is a basis of accounting other than U.S. generally accepted accounting principles.

## REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

In planning and performing our audit of the financial statements, we considered Pinnacol Assurance's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Pinnacol Assurance's internal control. Accordingly, we do not express an opinion on the effectiveness of Pinnacol Assurance's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

## REPORT ON COMPLIANCE AND OTHER MATTERS

As part of obtaining reasonable assurance about whether Pinnacol Assurance's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

## PURPOSE OF THIS REPORT

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

**KPMG LLP**

Denver, Colorado

May 17, 2023

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The Members of the Legislative Audit Committee and Pinnacol Assurance Board of Directors

Denver, Colorado

Ladies and Gentlemen:

We have audited the financial statements of Pinnacol Assurance (the Company), prepared in accordance with accounting practices prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado, as of December 31, 2022 and 2021 and for each of the years then ended, and issued our report thereon under date of May 17, 2023. Under our professional standards, we are providing you with the accompanying information related to the conduct of our audits.

### **Our Responsibility Under Professional Standards**

We are responsible for forming and expressing an opinion about whether the financial statements, that have been prepared by management with the oversight of the Pinnacol Assurance Risk and Audit Committee of the Board of Directors (Pinnacol Risk and Audit Committee), are presented fairly, in all material respects, in conformity with accounting practices prescribed or permitted by the Division of Insurance of the Department of Regulatory Agencies of the State of Colorado, which practices differ from the U.S. generally accepted accounting principles. We have a responsibility to perform our audit of the financial statements in accordance with auditing standards generally accepted in the United States of America (AICPA) and the standards applicable to financial statement audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. In carrying out this responsibility, we planned and performed the audit to obtain reasonable assurance about whether the financial statements as a whole are free of material misstatement, whether caused by error or fraud. Because of the nature of audit evidence and the characteristics of fraud, we are to obtain reasonable, not absolute, assurance that material misstatements are detected. We have no responsibility to plan and perform the audit to obtain reasonable assurance that misstatements, whether caused by error or fraud, that are not material to the financial statements are detected. Our audit does not relieve management or the Pinnacol Risk and Audit Committee of their responsibilities.

In addition, in planning and performing our audit of the financial statements, we considered internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Company's internal control. We also have a responsibility to communicate significant matters related to the financial statement audit that are, in our professional judgment, relevant to the responsibilities of the Pinnacol Risk and Audit Committee in overseeing the financial reporting process. We are not required to design procedures for the purpose of identifying other matters to communicate to you.

### **Significant Unusual Transactions**

In connection with our audit of the Company's financial statements, no significant unusual transactions were identified

### **Uncorrected and Corrected Misstatements**

#### *Uncorrected Misstatements and Financial Statement Presentation and Disclosure Omissions*

In connection with our audit of the Company's financial statements, we have discussed with management a financial statement misstatement related to accounts and disclosures that has not been corrected in the Company's books and records as of and for the year ended December 31, 2022. We have reported such misstatement to management on a Summary of Audit Misstatements and have received written representations from management that the effect of the uncorrected financial statement misstatement related to accounts and disclosures is immaterial, both individually and in the aggregate, to the financial statements taken as a whole. Uncorrected immaterial misstatements, or matters underlying them, could potentially cause future period financial statements to be materially misstated. The impact of the uncorrected misstatement is an overstatement of total assets of \$5,200,000, total liabilities of \$5,120,000, and surplus and net income of \$140,000.

*Corrected Misstatements*

In connection with our audit of the Company's financial statements, no corrected financial statement misstatements in the Company's books and records were identified as of and for the year ended December 31, 2022.

**Significant Accounting Policies and Practices**

In connection with our audit of the Company's financial statements, no new, or changes in, significant accounting policies and practices were identified.

*Qualitative Aspects of Accounting Practices*

We have discussed with the Pinnacol Assurance Risk and Audit Committee and management our judgments about the quality, not just the acceptability, of the Company's accounting policies as applied in its financial reporting. The discussions generally included such matters as the consistency of the Company's accounting policies and their application and the understandability and completeness of the Company's financial statements, which include related disclosures.

**Significant Accounting Estimates and Significant Financial Statement Disclosures**

The preparation of the financial statements requires management of the Company to make a number of estimates and assumptions relating to the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period. Significant accounting estimates reflected in the Company's 2022 statutory basis financial statements included the following:

*Reserve for Unpaid Losses and Loss Adjustment Expenses* is based on an analysis of historical paid and incurred claims. To assist management in estimating the liability for unpaid losses and loss adjustment expenses, the Company retains the assistance of an actuarial consulting firm. We evaluated the key factors and assumptions used to develop the reserve for unpaid losses and loss adjustment expenses, including possible management bias in developing the estimate, in determining that the reserve for unpaid losses and loss adjustment expenses is reasonable in relation to the financial statements as a whole.

*Internal Structured Settlement Liability* is based on mortality risk and discounted using a market rate. The Company discounts internal structured settlement liabilities on a tabular basis using a discount rate of 2.5% for 2022. The discount rate is based on an estimate of expected investment yield and considers the risk of adverse deviation in the future from such yield. To assist management in estimating the internal structured settlement liability, the Company retains the assistance of an actuarial consulting firm. We evaluated key factors and assumptions used to develop the structured settlement liability, including possible management bias in developing the estimate, in determining that the structured settlement liability is reasonable in relation to the financial statements as a whole.

*Fair Value of Investments* is based on quotations provided by widely accepted third party providers, the net asset value or in limited instances prior month prices. We evaluated the pricing methods used by management, including possible management bias in estimating fair value, in determining that the fair value of investments is reasonable in relation to the financial statements as a whole.

**Other Information in Documents Containing Audited Financial Statements**

Our responsibility for other information in documents containing the Company's financial statements and our auditors' report thereon does not extend beyond the financial information identified in our auditors' report, and we have no obligation to perform any procedures to corroborate other information contained in these documents.

**Significant Difficulties Encountered During the Audit**

We encountered no significant difficulties in dealing with management in performing our audit.

**Significant Issues Discussed, or Subject to Correspondence, with Management**

We generally discuss a variety of matters, including the application of accounting principles and auditing standards with the Pinnacol Risk and Audit Committee and management each year prior to our retention by the Legislative Audit Committee as the Company's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

### **Management's Consultation with Other Accountants**

To the best of our knowledge, management has not consulted with other accountants during the year ended December 31, 2022

### **Difficult or Contentious Matters for Which We Consulted**

In connection with our audit of the Company's financial statements, we did not consult outside of the engagement team for any difficult or contentious matters.

### **Disagreements with Management**

There were no disagreements with management on financial accounting and reporting matters that individually or in the aggregate could be significant to the Company's financial statements, or our report.

### **Written Communications**

The following written communications between management and us have been provided:

1. Internal legal letter
2. Management representation letter

### **Independence**

We are not aware of any additional circumstances or relationships between our firm and the Company and persons in a financial reporting oversight role at the Company that may reasonably be thought to bear on independence.

#### *Affirmation of Independence*

We hereby affirm that as of May 17, 2023, we are independent accountants with respect to the Company under all relevant professional and regulatory standards.

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This letter to the Legislative Audit Committee and Pinnacol Risk and Audit Committee is intended solely for the information and use of Legislative Audit Committee and Pinnacol Risk and Audit Committee, management and the Office of the State Auditor and is not intended to be and should not be used by anyone other than these specified parties. However, upon release by the Legislative Audit Committee, the report is a public document.

Very truly yours,

**KPMG LLP**

## APPENDIX B.2

**Other information the CEO deems relevant to the report:**

Rule 16 of the Colorado Division of Workers' Compensation Rules of Procedure

# DEPARTMENT OF LABOR AND EMPLOYMENT

## Division of Workers' Compensation

7 CCR 1101-3

### WORKERS' COMPENSATION RULES OF PROCEDURE

#### Rule 16 UTILIZATION STANDARDS

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16-1 STATEMENT OF PURPOSE

In an effort to comply with the legislative charge to assure the quick and efficient delivery of medical benefits at a reasonable cost, the Director (Director) of the Division of Workers' Compensation (Division) has promulgated these utilization standards, effective January 1, 2021. This Rule defines the standard terminology, administrative procedures, and dispute resolution procedures required to implement the Division's Medical Treatment Guidelines (Rule 17) and Medical Fee Schedule (Rule 18).

16-2 STANDARD TERMINOLOGY FOR RULES 16, 17, AND 18

- A. Ambulatory Surgical Center (ASC) means licensed as such by the Colorado Department of Public Health and Environment (CDPHE).
- B. Authorized Treating Provider (ATP) means any of the following:
  - 1. The treating physician designated by the employer and selected by the injured worker;
  - 2. A healthcare provider to whom an ATP refers the injured worker for treatment, consultation, or impairment rating;
  - 3. A physician selected by the injured worker when the injured worker has the right to select a provider;
  - 4. A physician authorized by the employer when the employer has the right or obligation to make such an authorization;
  - 5. A healthcare provider determined by the Director or an administrative law judge to be an ATP;
  - 6. A provider who is designated by the agreement of the injured worker and the payer.
- C. Billed Service(s) means any billed service, procedure, equipment, or supply provided to an injured worker by a Provider.
- D. Billing Party means a service provider or an injured worker who has incurred authorized medical expenses.
- E. Children's Hospital means federally qualified, and certified by CDPHE, and licensed as a general hospital by CDPHE.
- F. Critical Access Hospital means federally qualified, and certified by CDPHE, and licensed as a general hospital by CDPHE. A list is available at [www.ruralcenter.org/resource-library/cah-locations](http://www.ruralcenter.org/resource-library/cah-locations).
- G. Day means a calendar day unless otherwise noted. In computing any period of time prescribed or allowed by Rules 16, 17, or 18, the parties shall refer to Rule 1-2.
- H. Designated Provider List means a list of physicians as required under § 8-43-404(5)(a)(I) and Rule 8.
- I. Freestanding Facility means an entity that furnishes healthcare services and is not integrated with any other entity as a main provider, a department of a provider, remote location of a hospital, satellite facility, or a provider-based entity.
- J. Hospital means licensed as such by CDPHE.

- K. Long-Term Acute Care Hospital means federally certified and licensed as such by CDPHE.
- L. Medical Fee Schedule means Division's Rule 18, its exhibits and the documents incorporated by reference in that Rule.
- M. Medical Treatment Guidelines (MTGs) means Division's Rule 17, its exhibits, and the documents incorporated by reference in that Rule.
- N. Non-Physician Provider means individual who is registered, certified or licensed by the Colorado Department of Regulatory Agencies (DORA), the Colorado Secretary of State, or a national entity recognized by the State of Colorado as follows:
  - 1. Acupuncturist (Lac) licensed by the Office of Acupuncture Licensure, DORA;
  - 2. Advanced Practice Nurse (APN) licensed by the Colorado Board of Nursing, Advanced Practice Nurse Registry;
  - 3. Anesthesiologist Assistant (AA) licensed by the Colorado Medical Board, DORA;
  - 4. Athletic Trainer (ATC) licensed by the Office of Athletic Trainer Licensure, DORA;
  - 5. Audiologist (AU.D. CCC-A) licensed by the Office of Audiology and Hearing Aid Provider Licensure, DORA;
  - 6. Certified Medical Interpreter certified by the Certification Commission for Healthcare Interpreters or the National Board of Certification for Medical Interpreters.
  - 7. Certified Registered Nurse Anesthetist (CRNA) licensed by the Colorado Board of Nursing;
  - 8. Clinical Social Worker (LCSW) licensed by the Board of Social Work Examiners, DORA;
  - 9. Durable Medical Equipment, Prosthetic, Orthotics, and Supplies (DMEPOS) Supplier licensed by the Colorado Secretary of State;
  - 10. Marriage and Family Therapist (LMFT) licensed by the Board of Marriage and Family Therapist Examiners, DORA;
  - 11. Massage Therapist licensed as a massage therapist by the Office of Massage Therapy Licensure, DORA;
  - 12. Nurse Practitioner (NP) licensed as an APN and authorized by the Colorado Board of Nursing;
  - 13. Occupational Therapist (OTR) licensed by the Office of Occupational Therapy, DORA;
  - 14. Occupational Therapist Assistant (OTA) licensed by the Office of Occupational Therapy, DORA;
  - 15. Pharmacist licensed by the Board of Pharmacy, DORA;
  - 16. Physical Therapist (PT) licensed by the Physical Therapy Board, DORA;
  - 17. Physical Therapist Assistant (PTA) licensed by the Physical Therapy Board, DORA;
  - 18. Physician Assistant (PA) licensed by the Colorado Medical Board;

19. Practical Nurse (LPN) licensed by the Colorado Board of Nursing;
  20. Professional Counselor (LPC) licensed by the Board of Professional Counselor Examiners, DORA;
  21. Psychologist (PsyD, PhD, EdD) licensed by the Board of Psychologist Examiners, DORA;
  22. Registered Nurse (RN) licensed by the Colorado Board of Nursing;
  23. Respiratory Therapist (RTL) certified by the National Board of Respiratory Care and licensed by the Office of Respiratory Therapy Licensure, DORA;
  24. Speech Language Pathologist (CCC-SLP) certified by the Office of Speech-Language Pathology Certification, DORA;
  25. Surgical Assistant registered by the Office of Surgical Assistant and Surgical Technologists Registration, DORA.
- O. Over-the-Counter Drugs means medications that are available for purchase by the general public without a prescription.
- P. Payer means an insurer, self-insured employer, or designated agent(s) responsible for payment of medical expenses. (Use of agents, including but not limited to preferred provider organization (PPO) networks, bill review companies, third party administrators (TPAs), and case management companies shall not relieve the insurer or self-insured employer from their legal responsibilities for compliance with these Rules).
- Q. Physician Provider means individual who is licensed by the State of Colorado through one of the following boards:
1. Colorado Medical Board;
  2. Colorado Dental Board;
  3. Colorado Podiatry Board;
  4. Colorado Optometry Board; or
  5. Colorado Board of Chiropractic Examiners.
- R. Prior Authorization means a guarantee of payment for treatment requested in accordance with this Rule.
- S. Provider means a person or entity providing authorized health care service, whether involving treatment or not, to a worker in connection with a work-related injury or occupational disease.
- T. Psychiatric Hospital means licensed as such by CDPHE.
- U. Rehabilitation Hospital means licensed as such by CDPHE.
- V. Rural Health Clinic means a clinic located in areas designated by the United States Census Bureau as rural, or the state as medically underserved, that is federally qualified, and certified as such by CDPHE. A list is available at [www.colorado.gov/pacific/cdphe/rural-health-clinic-consumer-resources](http://www.colorado.gov/pacific/cdphe/rural-health-clinic-consumer-resources).

- W. Skilled Nursing Facility (SNF) means federally certified, and licensed as a nursing care facility by CDPHE.
- X. State-run Psychiatric Hospital means mental health institute operated by the Colorado Department of Human Services, Office of Behavioral Health.
- Y. Telemedicine means two-way, real time interactive communication between the injured worker and the provider at a distant site. This electronic communication involves, at a minimum, audio and video telecommunications equipment. Telemedicine enables the remote evaluation and diagnosis of injured workers in addition to the ability to detect fluctuations in their medical condition(s) at a remote site in such a way as to confirm or alter the treatment plan, including medications and/or specialized therapy.
- Z. Treatment means any service, procedure, or supply prescribed by an ATP as may reasonably be needed at the time of the injury or occupational disease and thereafter to cure and/or relieve the employee from the effects of the injury or occupational disease.
- AA. Veterans Administration Hospital means all medical facilities overseen by the United States Department of Veterans' Affairs.
- AB. Writing, for the purposes of Rules 16 and 18, means transmitted by letter, email, fax, or other electronic means of communication.

16-3 GENERAL REQUIREMENTS

- A. Any provider not listed in 16-2 must obtain Prior Authorization when providing services related to a compensable injury.
- B. Upon request, healthcare providers must provide copies of accreditation, licensure, registration, certification, or evidence of healthcare training for billed services.
- C. To the extent not otherwise precluded by the laws of this state, contracts between providers, payers, and any agents acting on behalf of providers or payers shall comply with this Rule.
- D. Referrals:
  - 1. All providers must have a referral from a physician provider managing the claim (or NP/PA working under that physician provider). A physician making the referral to another provider shall, upon request of any party, answer any questions and clarify the scope of the referral, prescription, or the reasonableness or necessity of the care.
  - 2. A payer or employer shall not redirect or alter the scope of a referral to another provider for evaluation or treatment of a compensable injury. Any party who has concerns regarding a referral or its scope shall advise the other parties and providers involved.
- E. Use of PAs and NPs:
  - 1. All Colorado workers' compensation (WC) claims (medical only and lost time) shall have a Physician responsible for all services rendered to an injured worker by any PA or NP.
  - 2. The Physician must evaluate the injured worker at least once within the first three visits to the Designated Provider's office.
  - 3. For services performed by a PA or NP, the Physician must counter-sign patient records related to the injured worker's inability to work resulting from the claimed work injury or

disease and the injured worker's ability to return to regular or modified employment, as required by §§ 8-42-105(2)(b) and (3). The Physician must sign the WC 164 form, certifying that all requirements of this rule have been met.

#### 16-4 OUT-OF-STATE PROVIDERS

##### A. Relocated Injured Worker

1. Upon receipt of the "Employer's First Report of Injury" or the "Worker's Claim for Compensation" form, the payer shall notify the injured worker that the procedures for change of provider can be obtained from the payer should the injured worker relocate out of state.
2. A change of provider must be made through referral by the Physician managing the claim or in accordance with § 8-43-404(5)(a).

##### B. In the event an injured worker has not relocated out of state but is referred to an out-of-state provider for treatment not available within Colorado, the referring provider shall obtain Prior Authorization. The referring provider's written request for out of state treatment shall include:

1. Description of treatment requested, including medical justification, the estimated frequency and duration, and known associated medical expenses;
2. Explanation as to why the requested treatment cannot be obtained within Colorado;
3. Name, complete mailing address, and phone number of the out-of-state provider; and
4. Out-of-state provider's qualifications to provide the requested treatment.

#### 16-5 REQUIRED USE OF THE MEDICAL TREATMENT GUIDELINES

When an injury or occupational disease falls within the purview of Rule 17, Medical Treatment Guidelines and the injury occurs on or after July 1, 1991, providers and payers shall use the MTG, in effect at the time of service, to prepare or review their treatment plan(s) for the injured worker. A payer may not dictate the type or duration of medical treatment or rely on its own internal guidelines or other standards for medical determination. Initial recommendations for a treatment or modality should not exceed the time to produce functional effect parameters in the applicable MTG. When treatment exceeds or is outside of the MTGs, Prior Authorization is required. Requesters and reviewers should consider how their decision will affect the overall treatment plan for the individual patient. In all instances of denial, appropriate processes to deny are required.

#### 16-6 NOTIFICATION TO TREAT

- A. The Notification to Treat process applies to treatment that is consistent with the MTGs and has an established value under the Medical Fee Schedule. Providers may, but are not required to, utilize Notification to ensure payment for medical treatment that falls within the purview of the MTGs. The lack of response from the payer within the time requirement set forth below shall deem the proposed treatment authorized for payment.
- B. Notification to Treat may be submitted by phone during regular business hours, or by submitting the "Authorized Treating Provider's Notification to Treat" form (WC 195). Notification to Treat must include:

1. Provider's certification that the proposed treatment is medically necessary and consistent with the MTGs.
  2. Citation of the specific MTG applicable to the proposed treatment.
  3. Provider's email address or fax number to which the payer can respond.
- C. Payers shall respond to a Notification to Treat submission within seven days from the receipt of the submission with an approval or a denial of the proposed treatment. Providers may accept verbal confirmation or may request written confirmation, which the payer should provide upon request.
1. The payer may limit its approval of initial treatment to the number or duration specified in the relevant MTG without a medical review. If subsequent medical records document functional progress, additional treatment should be approved.
  2. If payer proposes to discontinue treatment before the maximum number of treatments/treatment duration has been reached due to lack of functional progress, payer shall support that decision with a medical review compliant with this rule.
- D. Payers may deny proposed treatment for the following reasons only:
1. For claims that have been reported to the Division, no admission of liability or final order finding the injury compensable has been issued;
  2. Proposed treatment is not related to the admitted injury;
  3. Provider submitting Notification is not an ATP or is proposing treatment to be performed by a provider who is not eligible to be an ATP.
  4. Injured worker is not entitled to the proposed treatment pursuant to statute or settlement;
  5. Medical records contain conflicting opinions among the ATPs regarding proposed treatment;
  6. Proposed treatment falls outside of the MTGs.
- E. If the payer denies a Notification to Treat per sections 16-6 D 2, 5, or 6, the payer shall notify the provider, allow the submission of relevant supporting medical documentation as defined in section 16-7 C and review the submission as a Prior Authorization request, allowing 10 additional days for review.
- F. Appeals for denied Notifications to Treat shall be made in accordance with the Prior Authorization Appeals Process outlined in this rule.
- G. Any provider or payer who incorrectly applies the MTGs in the Notification to Treat process may be subject to penalties under the Workers' Compensation Act.

#### 16-7 PRIOR AUTHORIZATION

- A. Prior Authorization may be requested using the "Authorized Treating Provider's Request for Prior Authorization" (Form WC 188) or in the alternative, shall be clearly labeled as a Prior Authorization request. Prior Authorization for payment shall only be requested when:
1. A prescribed treatment exceeds the recommended limitations set forth in the MTGs.

2. The MTGs require Prior Authorization for that specific service;
  3. A prescribed treatment is not priced in the Medical Fee Schedule or is identified in Rule as requiring Prior Authorization for payment.
- B. Prior Authorization for prescribed treatment may be granted immediately and without a medical review. However, the payer shall respond to all Prior Authorization requests in writing within 10 days from receipt of a completed request as defined per this Rule.

The payer, unless it has previously notified the provider, shall give notice to the provider of the procedures for obtaining Prior Authorization for payment upon receipt of the initial bill from that provider.

- C. When submitting a Prior Authorization request, a provider shall concurrently explain the reasonableness and medical necessity of the treatment requested and shall provide relevant supporting documentation (documentation used in the provider's decision-making process to substantiate need for the requested treatment). A complete Prior Authorization request includes the following:
1. An adequate definition or description of the nature, extent and necessity for the treatment;
  2. Identification of the appropriate MTG if applicable; and
  3. Final diagnosis.

#### 16-7-1 PRIOR AUTHORIZATION DENIALS

- A. If an ATP requests Prior Authorization and indicates in writing, including reasoning and supporting documentation, that the requested treatment is related to the admitted WC claim, the payer cannot deny solely for relatedness without a medical opinion as required by this Rule. The medical review, independent medical examination (IME) report, or report from an ATP that addresses relatedness of the requested treatment to the admitted claim may precede the Prior Authorization request if:
1. The opinion was issued within 365 days prior to the date of the Prior Authorization request; and
  2. An admission of liability has not been filed admitting the relatedness of the requested treatment to the admitted claim or a final order has not been entered finding the specific medical condition related to the admitted injury.

If not, the medical review, IME report, or report from the ATP must be subsequent to the prior authorization request.

- B. The payer may deny a request for Prior Authorization for medical or non-medical reasons. Examples of non-medical reasons are listed in section 16-10-2 A.
1. If the payer is denying a request for non-medical reasons, the payer shall, within 10 days of receipt of the complete request, furnish the requesting ATP and the parties with a written denial that sets forth clear and persuasive reasons for the denial, including citation of appropriate statutes, rules, and/or supporting documents (e.g., a copy of claim denial or a detailed explanation why the requesting provider is not authorized to treat).
  2. If the payer is denying a request for medical reasons, the payer shall, within 10 days of receipt of the complete request:



- a. Have all of the submitted documentation reviewed by a Physician, who holds a license in the same or similar specialty as would typically manage the medical condition or treatment under review. The physician provider performing this review shall be Level I or II Accredited. In addition, clinical Pharmacists (Pharm.D.) may review Prior Authorization requests for medications, and Psychologists may review requests for mental health services, without having received Level I or II Accreditation.

After reviewing all of the submitted documentation and documentation referenced in the Prior Authorization request that is available to the payer, the reviewing Physician may call the requesting provider to expedite the communication and processing of the Prior Authorization request.

- b. Furnish the requesting ATP and the parties with a written denial that sets forth an explanation of the specific medical reasons for the denial, including the name and professional credentials of the provider performing the medical review and a copy of the reviewer's opinion; the specific cite from the MTGs, when applicable; and identification of the information deemed most likely to influence a reconsideration of the denial, when applicable.

#### 16-7-2 PRIOR AUTHORIZATION APPEALS

- A. The requesting ATP shall have 10 days from the date of the written denial to submit an appeal with additional information to support the request. A written response is not considered a "special report" as defined in Rule 18.
- B. The payer shall have 10 days from the date of the appeal to issue a final decision and provide documentation of that decision to the provider and parties.
- C. In the event of continued disagreement, the parties should follow dispute resolution and adjudication procedures available through the Division or the Office of Administrative Courts.
- D. An urgent need for Prior Authorization of health care services, as recommended in writing by an ATP, shall be deemed good cause for an expedited hearing.
- E. Failure of the payer to timely comply in full with all Prior Authorization requirements outlined in this rule shall be deemed authorization for payment of the requested treatment unless the payer has scheduled an independent medical examination (IME) and notified the requesting provider of the IME within the time prescribed for responding.
  - 1. The IME must occur within 30 days, or upon first available appointment, of the Prior Authorization request, not to exceed 60 days absent an order extending the deadline.
  - 2. The IME physician must serve all parties concurrently with the report within 20 days of the IME.
  - 3. The payer shall respond to the Prior Authorization request within 10 days of the receipt of the IME report.
  - 4. If the injured worker does not attend or reschedules the IME, the payer may deny the Prior Authorization request pending completion of the IME.
  - 5. The IME shall comply with Rule 8 as applicable.

16-8 REQUIRED USE OF THE FEE SCHEDULE

- A. All providers and payers shall use the Medical Fee Schedule to determine the maximum allowable payments for any medical treatments or services within the purview of the Workers' Compensation Act of Colorado and the Colorado Workers' Compensation Rules of Procedure, unless one of the following exceptions applies:
  - 1. If billed charges are less than the fee schedule, the payment shall not exceed the billed charges.
  - 2. The payer and an out-of-state provider may negotiate reimbursement in excess of the fee schedule when required to obtain reasonable and necessary care for an injured worker.
  - 3. Pursuant to § 8-67-112(3), the Uninsured Employer Board may negotiate rates of reimbursement for medical providers.
- B. The Medical Fee Schedule does not limit the billing charges.
- C. Payment for treatment not identified or identified but without established value in the Medical Fee Schedule shall require Prior Authorization, except for when the treatment is an emergency. Similar established code values from the Medical Fee Schedule, determined in compliance with section 16-10-1 B, shall govern payment.

16-8-1 REQUIRED BILLING FORMS AND CODES

- A. Medical providers shall use only the billing forms listed below or exact electronic reproductions. If the payer agrees, providers may place identifying information in the margin of the form. Payment for any service not billed on the forms identified below may be denied.
  - 1. A CMS-1500 shall be used by all providers billing for professional services (unless otherwise specified below), DMEPOS, and ambulance services. Medical providers shall provide their name and credentials in box 31 of the CMS-1500. Non-hospital based ASCs may bill on the CMS-1500, however an SG modifier must be appended to the technical component of services to indicate a facility charge and to qualify for reimbursement as a facility claim.
  - 2. A UB-04 shall be used by all hospitals and facilities meeting definitions found in section 16-2, hospital-based ambulance/air services, and other providers, such as hospital-based ASCs, when billing for hospital/facility services.
    - a. Some outpatient hospital therapy services may also be billed on a UB-04. For these services, the UB-04 must have Form Locator Type 13x, 074x, 075x or 085x, and one of the following revenue codes:
      - 042X - Physical Therapy
      - 043X - Occupational Therapy
      - 044X - Speech Therapy
  - 3. American Dental Association's Dental Claim Form, Version 2019 shall be used by all providers billing for dental treatment.

4. An NCPDP (National Council for Prescription Drug Programs) Workers' Compensation/Property and Casualty universal claim form, version 1.1 shall be used by dispensing pharmacies and pharmacy benefit managers.

An ANSI ASC X12 (American National Standards Institute Accredited Standards Committee) or NCPDP electronic billing transaction containing the same information as in 1, 2, or 3 of this subsection may be used with payer agreement.

5. An invoice or other agreed upon form may be used for services incident to medical treatment, such as language interpreting or mileage reimbursement.

B. International Classification of Diseases (ICD) Codes

All medical provider bills shall list the ICD-10 Clinical Modification (CM) diagnosis code(s) that are current, accurate, and specific to each patient encounter, in accordance with the ICD-10-CM Chapter Guidelines provided by CMS (Centers for Medicare & Medicaid Services). Bills should include the External Causes code(s). ICD-10 codes shall not be used as a sole factor to establish work-relatedness of an injury or treatment.

- C. Medical providers must accurately report their services using applicable billing codes, modifiers, instructions, and parenthetical notes as incorporated by reference in Rule 18. The provider may be subject to penalties for inaccurate billing when the provider knew or should have known that the treatment billed was inaccurate, as determined by the Director or an administrative law judge.
- D. National provider identification (NPI) numbers are required for WC bills. Provider types ineligible to obtain NPI numbers are exempt from this requirement. When billing on a CMS-1500, Dental Claim Form, or UB-04, the NPI shall be that of the rendering provider and shall include the correct place of service code(s) at the line level.

16-8-2 TIMELY FILING

- A. Providers shall submit their bills for treatment rendered within 120 days of the date of service or the bill may be denied unless extenuating circumstances exist.
  1. For bills submitted through electronic data interchange (EDI), providers may prove timely filing by showing a payer acknowledgement (claim accepted). Rejected claims or clearinghouse acknowledgement reports are not proof of timely filing.
  2. For paper bills, providers may prove timely filing with a signed certificate of mailing listing the original date mailed and the payer's address; a fax acknowledgement report; or a certified mail receipt showing the date the payer received the bill.
  3. All timely filing issues will be considered final 10 months from the date of service unless extenuating circumstances exist.
- B. Injured workers shall submit requests for mileage reimbursement within 120 days of the date of service or reimbursement may be denied unless good cause exists.
- C. Extenuating circumstances/good cause may include, but are not limited to, delays in compensability being decided or the party has not been informed of this benefit or where to send the bill.

## REQUIRED MEDICAL RECORD DOCUMENTATION

- A. The treating provider shall maintain medical records for each injured worker when billing for the provided treatment. The rendering provider shall sign the medical records. Electronic signatures are accepted.
- B. All medical records shall legibly document the treatment billed and shall include at least the following information:
  - 1. Patient's name;
  - 2. Date of treatment;
  - 3. Name and professional designation of person providing treatment;
  - 4. Assessment or diagnosis of current condition with appropriate objective findings;
  - 5. Treatment provided;
  - 6. Treatment plan, when applicable; and
  - 7. If being completed by an authorized treating physician, all pertinent changes to work and or activity restrictions which reflect lifting, standing, stooping, kneeling, hot or cold environment, repetitive motion or other appropriate physical considerations.
- C. All treatment provided to injured workers is expected to be documented in the medical record at the time it is rendered. Occasionally, certain entries related to treatment provided are not made timely. In this event, the documentation will need to be amended, corrected, or entered after rendering treatment. Amendments, corrections, and delayed entries must comply with Medicare's widely accepted recordkeeping principles as outlined in the Medicare Program Integrity Manual Chapter 3, section 3.3.2.5, implemented August 2017. (This section does not apply to injured workers' requests to amend records as permitted by the Health Insurance Portability and Accountability Act (HIPAA)).
- D. The ATP must sign (or counter-sign) and submit to the payer, within 14 days of the initial and final visit, a completed WC 164 form.
  - 1. The form shall be completed as an "initial" report when the injured worker has the initial visit with the Designated Physician, or in the case of a transfer of care, the new Designated Physician. If applicable, the emergency department (ED) or urgent care physician initially treating the injury may also complete a WC 164 initial report. In such cases, the initial report from the ED or urgent care physician, and the Designated Physician shall be reimbursed. Unless requested or prior authorized by the payer, no other physician should complete and bill for the WC 164 initial report. See Rule 18 for required fields.
  - 2. The form shall be completed as a "closing" report when the ATP managing the total WC claim determines the injured worker has reached maximum medical improvement (MMI) for all covered injuries or diseases, with or without permanent impairment. See Rule 18 for required fields.
  - 3. The ATP shall supply the injured worker with a copy of the WC 164 at the time of completion, at no charge.
- E. Providers other than hospitals shall provide the payer with all supporting documentation and treatment records at the time of billing unless the parties have made other agreements. Hospitals shall provide documentation to the payer upon request. Payers shall specify what portion of a

hospital record is being requested (for example, only the ED chart notes, in-patient physician orders and chart notes, x-rays, pathology reports, etc.). The payer may deny payment for billed treatment until the provider submits the required medical documentation.

16-10 PAYMENT REQUIREMENTS FOR MEDICAL BILLS

- A. All bills submitted by a provider are due and payable in accordance with the Medical Fee Schedule within 30 days after receipt by the payer, unless the payer provides timely and proper reasons set forth by section 16-10-2 or 3.
- B. For every medical treatment bill submitted by a provider, the payer shall reply with a written notice (explanation of benefits) within 30 days of receipt of the bill that includes the following:
  - 1. Injured worker's name;
  - 2. Payer's name and address;
  - 3. Date(s) of service;
  - 4. Each procedure code billed; and
  - 5. Amount paid.
- C. If any adjustment is made to the amount submitted on the bill, the payer's written notice shall also include:
  - 1. Payer's claim number and/or Division's WC number;
  - 2. Specific identifying information coordinating the notice with any payment instrument associated with the bill;
  - 3. Notice that the billing party may submit a corrected bill or an appeal within 60 days;
  - 4. Name of insurer with admitted, ordered, or contested liability for the WC claim, when known;
  - 5. Name and address of any third-party administrator (TPA) and/or bill reviewer associated with processing the bill;
  - 6. Name and contact information of a person who has responsibility and authority to discuss and resolve disputes on the bill;
  - 7. Name and address of the employer, when known;
  - 8. For compensable treatment related to a work injury, the payer shall notify the billing party that the injured worker shall not be balance-billed;
  - 9. If applicable, a statement that the payment is being held in abeyance because a hearing is pending on a relevant issue.
- D. Any written notice that fails to include the required information is defective and does not satisfy the 30-day notice requirement.
- E. If the payer discounts a bill and the provider requests clarification in writing, the payer shall furnish to the requester the specifics of the discount within 30 days, including a copy of any contract

relied upon for the discount. If no response is forthcoming within 30 days, the payer must pay the maximum Medical Fee Schedule allowance or the billed charges, whichever is less.

- F. Date of bill receipt by the payer may be established by the payer's date stamp or electronic acknowledgment date; otherwise, receipt is presumed to occur five days after the date the bill was mailed to the payer's correct address.
- G. Payers shall reimburse injured workers for mileage expenses as required by statute or provide written notice of the reason(s) for denying reimbursement within 30 days of receipt.
- H. An injured worker shall never be required to directly pay for admitted or ordered medical benefits covered under the Workers' Compensation Act. In the event the injured worker has directly paid for medical treatment that is then admitted or ordered under the Workers' Compensation Act, the payer shall reimburse the injured worker for the amounts actually paid for authorized treatment within 30 days of receipt of the bill. If the actual costs exceed the maximum fee allowed by the Medical Fee Schedule, the payer may seek a refund from the medical provider for the difference between the amount charged to the injured worker and the maximum fee.

#### 16-10-1 MODIFIED, UNLISTED, AND UNPRICED CODES

- A. Prior to modifying a billed code, the payer must contact the billing provider and determine if the code is accurate. If the payer disagrees with the level of care billed, the payer may deny the claim or contact the provider to explain why the billed code does not meet the level of care criteria.
  - 1. If the billing provider agrees with the payer, then the payer shall process the service with the agreed upon code and shall document on the written notice the agreement with the provider. The written notice shall include the name of the party at the billing office who made the agreement.
  - 2. If the billing provider disagrees with the payer, then the payer shall proceed with a denial.
- B. When no established fee is identified in the Medical Fee Schedule and the payer agrees the service or procedure is reasonable and necessary, the payer shall list on the written notice one of the following payment options:
  - 1. Payment based on a similar established code value as recommended by the billing provider.
  - 2. A reasonable value based upon a similar established code value as determined by the payer.

If the payer disagrees with the billing provider's recommended code value, the denial shall include an explanation of why the requested fee is not reasonable, identification of the similar code as determined by the payer, and how the payer calculated its fee recommendation. If the provider disagrees with the payer's determination, it can follow the process for appealing billed treatment denials.

#### 16-10-2 DENYING PAYMENT OF BILLED TREATMENT FOR NON-MEDICAL REASONS

- A. Non-medical reasons are administrative issues that do not require medical documentation review other than to verify the appropriate use of a billed code. Examples of non-medical reasons for denying payment include the following: no WC claim has been filed with the payer; compensability has not been established; the provider is not authorized to treat; the insurance coverage is at issue; typographic or date errors on the bill; failure to submit medical documentation; or unrecognized or improper use of a CPT® code.

- B. If an ATP bills for medical treatment and indicates in writing, including reasoning and relevant documentation that the medical services are related to the admitted WC claim, the payer cannot deny payment solely for relatedness without a medical opinion as required by section 16-10-3. The medical review, IME report, or report from an ATP that addresses the relatedness of the requested treatment to the admitted claim may precede the date of service, unless the requesting physician presents new evidence as to why treatment is now related.
- C. In all cases where a billed treatment is denied for non-medical reasons, the payer's written notice shall include all notice requirements set forth in sections 16-10 B and C, and shall also include:
  - 1. Reference to each code being denied; and
  - 2. Clear and persuasive reasons for denying payment, including citation of appropriate statutes, rules, and/or documents supporting the payer's reason(s).
- D. If after the treatment was provided, the payer agrees the service was reasonable and necessary, lack of prior authorization does not warrant denial of payment. However, the provider may still be required to provide additional supporting documentation as outlined in section 16-7 for a complete Prior Authorization request.

16-10-3 DENYING PAYMENT OF BILLED TREATMENT FOR MEDICAL REASONS

- A. The payer shall have the bill and all supporting medical documentation reviewed by a Physician who holds a license and is in the same or similar specialty as would typically manage the medical condition or treatment under review. The Physician shall be Level I or II Accredited. In addition, a clinical Pharmacist (Pharm.D.) may review billed services for medications, and a Psychologist may review billed services for mental health, without having received Level I or II Accreditation. After reviewing the supporting medical documentation, the reviewing provider may call the billing provider to expedite communication and timely processing of the bill.
- B. In all cases where a billed treatment is denied for medical reasons, the payer's written notice shall include all notice requirements set forth in sections 16-10 B and C, and shall also include:
  - 1. Reference to each code being denied;
  - 2. Clear and persuasive medical reasons for denying payment, including the name and professional credentials of the provider performing the medical review and a copy of the reviewer's opinion;
  - 3. Citation from the MTGs, when applicable; and
  - 4. Identification of additional information deemed likely to influence reconsideration, when applicable.

16-10-4 APPEALING BILLED TREATMENT DENIALS

- A. The billing party shall have 60 days from the date of the written notice to request reconsideration. The billing party's appeal must include:
  - 1. A copy of the original or corrected bill;
  - 2. A copy of the written notice;
  - 3. Identification of the specific code being appealed; and



4. Clear and persuasive reason(s) for the appeal, including additional supporting documentation when applicable.
- B. If the billing party appeals the denial in compliance with above requirements, the payer shall:
1. When denied for non-medical reasons, have the bill and all supporting documentation reviewed by a person who has knowledge of the bill. After reviewing the provider's appeal, the reviewer may call the appealing party to expedite the communication and timely processing of the appeal.
  2. When denied for medical reasons, have the bill and all supporting documentation reviewed by a Physician who holds a license and is in the same or similar specialty as would typically manage the medical condition or treatment under review. The Physician shall be Level I or II Accredited. In addition, a clinical pharmacist (Pharm.D.) may review appeals for payment of medications and a Psychologist may review appeals for payment of mental health services without having received Level I or II Accreditation. After reviewing the supporting medical documentation, the reviewing provider may call the appealing provider to expedite communication and timely processing of the appeal.
  3. If after reviewing the appeal the payer agrees with the billing party, payment for treatment is due and payable in accordance with the Medical Fee Schedule within 30 days of receipt of the appeal. Date of receipt may be established by the payer's date stamp or electronic acknowledgment date; otherwise, receipt is presumed to occur five days after the date the response was mailed to the payer's correct address.
  4. If after reviewing the appeal the payer upholds its denial, the payer shall send the billing party written notice within 30 days of receipt of the appeal. The written notice shall include all notice requirements set forth in sections 16-10 B and C, and shall also include:
    - a. Reference to each code being denied;
    - b. Clear and persuasive medical or non-medical reasons for upholding the denial, including the name and professional credentials of the reviewer and a copy of the reviewer's opinion when medically based;
    - c. Citation of appropriate statutes, rules, and/or documents supporting the payer's reason(s).
  5. In the event of continued disagreement, the parties should follow dispute resolution and adjudication procedures available through the Division or the Office of Administrative Courts. The parties shall do so within 12 months of the date of the original bill should have been processed in compliance with section 16-10, unless extenuating circumstances exist.

16-11 RETROACTIVE REVIEW OF MEDICAL BILLS

- A. All medical bills shall be considered final at 12 months after the date of the original written notice unless the provider is notified that:
1. A hearing is requested within the 12 month period; or
  2. A request for utilization review has been filed pursuant to § 8-43-501.



- B. If the payer conducts a retroactive review to recover overpayments from a provider based on non-medical reasons, the payer shall send the billing party written notice that includes all notice requirements set forth in sections 16-10 B and C, and shall also include:
  - 1. Reference to each item of the bill for which the payer seeks to recover payment;
  - 2. Clear and persuasive reason(s) for seeking recovery of overpayment(s), including citation of appropriate statutes, rules and/or documents supporting the payer's reason(s).
  - 3. Evidence that these payments were in fact made to the provider.
- C. If the payer conducts a retroactive review to recover overpayments from a provider, based on medical reasons, the payer shall have the bill and all supporting documentation reviewed by a Physician, who holds a license and is in the same or similar specialty as would typically manage the medical condition or treatment under review. The Physician shall be Level I or II Accredited. In addition, a clinical pharmacist (Pharm.D.) may review billed medications, and a Psychologist may review billed services for mental health, without having received Level I or II Accreditation. The payer shall send the billing party written notice that includes all notice requirements set forth in sections 16-10 B and C, and 16-11 B.
- D. In the event of disagreement, the parties may follow dispute resolution and adjudication procedures available through the Division or the Office of Administrative Courts.

16-11-1            ONSITE REVIEW OF HOSPITAL OR MEDICAL FACILITY CHARGES

- A. If the payer conducts a review of billed and non-billed hospital or medical facility charges related to a specific workers' compensation claim, the payer shall comply with the following procedures:
  - 1. Within 30 days of receipt of the bill, send written notification to the hospital or medical facility of its intent to conduct a review. Notification shall include the following information:
    - a. Name of the injured worker;
    - b. Division's WC number and/or hospital or medical facility patient identification number;
    - c. An outline of the items to be reviewed; and
    - d. Name and contact information of a person designated by the payer to conduct the review, if applicable.
- B. The reviewer shall comply with the following procedures:
  - 1. Obtain a signed release of information form from the injured worker;
  - 2. Negotiate with the hospital or medical facility on a starting date for the review;
  - 3. Assign staff members who are familiar with medical terminology, general hospital or medical facility charging, and medical documentation procedures or have a level of knowledge equivalent at least to that of an LPN;
  - 4. Establish a schedule for the review which shall include, at a minimum, the dates for the delivery of preliminary findings to the hospital or medical facility, a 14 day response period for the hospital or medical facility, the delivery of an itemized list of any discrepancies, and an exit conference upon completion of the review; and

5. Provide the payer and hospital or medical facility with a written summary of the review within 30 days of the exit conference.
- C. The hospital or medical facility shall comply with the following procedures:
1. Allow the review to begin within 30 days from the payer's notification;
  2. Upon receipt of the injured worker's signed release of information form, allow the reviewer access to all items identified on the form;
  3. Designate an individual to serve as the primary liaison between the hospital or medical facility and the reviewer, who will acquaint the reviewer with the documentation and charging practices of the hospital or medical facility;
  4. Provide a written response to each preliminary review finding within 14 days of receipt of those findings; and
  5. Participate in the exit conference in an effort to resolve any discrepancies.

## 16-12 DISPUTE RESOLUTION PROCESS

When seeking dispute resolution from the Division's Medical Dispute Resolution Unit, the requesting party must complete the Division's "Medical Dispute Resolution Intake Form" (WC 181) found on the Division's web page. The items listed on the bottom of the form must be provided at the time of submission. If necessary items are missing or if more information is required, the Division will forward a request for additional information and initiation of the process may be delayed.

When the request is properly made and the supporting documentation submitted, the Division will issue a confirmation of receipt. If, after reviewing the materials, the Division believes the dispute criteria have not been met, the Division will issue an explanation of those reasons. If the Division determines there is cause for facilitating the disputed items, the other party will be sent a request for a written response due in 14 days.

The Division will facilitate the dispute by reviewing the parties' compliance with Rules 11, 16, 17, and 18 within 30 days of receipt of the complete supporting documentation; or as soon thereafter as possible. In addition, the payer shall pay interest at the rate of eight percent per annum in accordance with § 8-43-410(2), upon all sums not paid timely and in accordance with the Division Rules. The interest shall be paid at the same time as any delinquent amount(s).

Upon review of all submitted documentation, disputes resulting from violation of Rules 11, 16, 17, and 18, as determined by the Director, may result in a Director's Order that cites the specific violation.

Evidence of compliance with the order shall be provided to the Director. If the party does not agree with the findings, it shall state with particularity and in writing its reasons for all disagreements by providing a response with all relevant legal authority, and/or other relevant proof in support of its position(s).

Failure to respond or cure violations may result in penalties in accordance with § 8-43-304. Daily fines up to \$1,000/day for each such offence will be assessed until the party complies with the Director's Order.

Resolution of disputes not pertaining to Rule violations will be facilitated by the Division to the extent possible. In the event both parties cannot reach an agreement, the parties will be provided additional information on pursuing resolution and adjudication procedures available through the Office of Administrative Courts. Use of the dispute resolution process does not extend the 12-month application period for hearing.