TITLE 24. GOVERNMENT - STATE
PRINCIPAL DEPARTMENTS
ARTICLE 34. DEPARTMENT OF REGULATORY AGENCIES
PART 1. ORGANIZATION

C.R.S. 24-34-104.1 (2012)

24-34-104.1. General assembly sunrise review of new regulation of occupations and professions

(1) The general assembly finds that regulation should be imposed on an occupation or profession only when necessary for the protection of the public interest. The general assembly further finds that establishing a system for reviewing the necessity of regulating an occupation or profession prior to enacting laws for such regulation will better enable it to evaluate the need for the regulation and to determine the least restrictive regulatory alternative consistent with the public interest.

(2) (a) For proposals submitted on or after July 1, 2012, any professional or occupational group or organization, any individual, or any other interested party that proposes the regulation of any unregulated professional or occupational group shall submit the following information to the department of regulatory agencies no later than December 1 of any year for analysis and evaluation during the following year:

(I) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, and an estimate of the number of practitioners in each group;

(II) A definition of the problem or problems to be solved by regulation and the reasons why regulation is necessary;

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

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

(V) The benefit to the public that would result from the proposed regulation; and

(VI) The cost of the proposed regulation.

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

(3) (a) Except as provided in paragraph (b) or (c) of this subsection (3), the department of regulatory agencies shall conduct an analysis and evaluation of any proposed regulation submitted on or after July 1, 2012. The analysis and evaluation must be based upon the criteria listed in paragraph (b) of subsection (4) of this section. The department of regulatory agencies shall submit a report to the proponents of the regulation and to the general assembly no later than October 15 of the year following the year in which the proposed regulation was submitted.

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

(A) Previously conducted an analysis and evaluation of the proposed regulation of the same professional or occupational group;

(B) Issued a report not more than thirty-six months prior to the submission of the current proposal to regulate the same professional or occupational group; and

(C) Finds that no new information has been submitted that would cause the department to alter or modify the recommendations made in its earlier report on the proposed regulation of the professional or occupational group.

(II) If the department of regulatory agencies declines to conduct an analysis and evaluation pursuant to this paragraph (b), the department shall reissue its earlier report on the proposed regulation to the proponents of the regulation and the general assembly no later than October 15 of the year following the year in which the proposed regulation was submitted.

(c) If the department receives a proposal to regulate a professional or occupational group indicating, based on documentation verified by the department, that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, the department shall promptly notify the proponents of the proposed regulation and the legislative council of the general assembly of the imminent threat and shall submit to the legislative council the documentation on which it bases its finding of imminent threat. Within thirty days after receipt of the notice and documentation from the department, the legislative council shall conduct a hearing to examine the documentation and determine whether it concurs with the department's finding that an imminent threat exists. In conducting its examination, the legislative council shall consider whether regulation of the professional or occupational group without first obtaining an analysis and evaluation pursuant to paragraph (a) of this subsection (3) will substantially alter the impact on public health, safety, or welfare. The department may forego the analysis and evaluation only if the legislative council notifies the department that the legislative council concurs with the department's finding of imminent threat to public health, safety, and welfare.

(4) (a) (Deleted by amendment, L. 96, p. 796, § 7, effective May 23, 1996.)

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

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

(II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence; and

(III) Whether the public can be adequately protected by other means in a more cost-effective manner.

(c) (Deleted by amendment, L. 96, p. 796, § 7, effective May 23, 1996.)

(5) Repealed.

(6) (a) Except as provided in paragraph (b) of this subsection (6), the supporters of regulation of a professional or occupational group may request members of the general assembly to present appropriate legislation to the general assembly during each of the two regular sessions that immediately succeed the date of the report required pursuant to subsection (3) of this section without the supporters having to comply again with the provisions of subsections (2), (3), and (4) of this section. Bills introduced pursuant to this subsection (6) shall count against the number of bills to which members of the general assembly are limited by any joint rule of the senate and the house of representatives.

(b) If, pursuant to paragraph (b) or (c) of subsection (3) of this section, the department of regulatory agencies declines to conduct an analysis and evaluation of the proposed regulation of a professional or occupational group and reissues a prior report on the proposed regulation of the same professional or occupational group or finds that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, as confirmed by the legislative council of the general assembly, the supporters of the regulation of the professional or occupational group may request that members of the general assembly present appropriate legislation to the general assembly during each of the next two regular sessions that begin after the date the department reissues its original report on the proposed regulation or the date on which the legislative council notifies the department that it concurs in a finding of imminent threat pursuant to paragraph (c) of subsection (3) of this section, whichever is applicable.

(7) This section is exempt from the provisions of section 24-1-136 (11), and the periodic reporting requirement of this section shall remain in effect until changed by the general assembly acting by bill.

HISTORY: Source:. L. 85: Entire section added, p. 280, § 3, effective May 23.L. 90: IP(2) and (3) amended, p. 332, § 11, effective April 3.L. 94: IP(2) amended and (6) added, p. 1456, § 5, effective May 25.L. 96: (2), (3), (4)(a), (4)(c), and (6) amended, p. 796, § 7, effective May 23.L. 2000: (7) added, p. 1549, § 18, effective August 2.L. 2006: IP(2) amended, p. 245, § 1, effective July 1.L. 2007: IP(2), (3), and (6) amended, p. 1464, § 1, effective May 30.L. 2012: (2), (3), and (6)(b) amended, (HB 12-1015), ch. 17, p. 45, § 1, effective March 15.

Editor's note: (1) Subsection (5)(b) provided for the repeal of subsection (5), effective February 1, 1986. (See L. 85, p. 280.)

(2) Section 2 of chapter 17, Session Laws of Colorado 2012, provides that the act amending subsections (2), (3), and (6)(b) applies to proposals to regulate a professional or occupational group submitted to the department of regulatory agencies on or after July 1, 2012.

Cross references: For establishment of the sunrise and sunset review committee, see § 2-3-1201.