

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0690.01 Brita Darling x2241

SENATE BILL 15-137

SENATE SPONSORSHIP

Balmer,

HOUSE SPONSORSHIP

DelGrosso and Ginal, Kraft-Tharp

Senate Committees

Business, Labor, & Technology

House Committees

Business Affairs and Labor

A BILL FOR AN ACT

101 **CONCERNING BUSINESS ENTITIES PERMITTED TO PROVIDE THE**
102 **PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, nonprofit organizations are authorized to offer the program of all-inclusive care for the elderly (PACE program). If permitted by federal law, the bill authorizes public, private, and for-profit entities, in addition to nonprofit entities, to provide the PACE program.

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

SENATE
3rd Reading Unamended
March 11, 2015

SENATE
Amended 2nd Reading
March 10, 2015

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-5-412, **amend**
3 (1) (a), (2) (b), and (8); and **add** (14) as follows:

4 **25.5-5-412. Program of all-inclusive care for the elderly -**
5 **legislative declaration - services - eligibility - rules.** (1) (a) The general
6 assembly hereby finds and declares that it is the intent of this section to
7 replicate the ON LOK program in San Francisco, California, that has
8 proven to be cost-effective at both the state and federal levels. The PACE
9 program is part of a national replication project authorized in section
10 9412(b)(2) of the federal "Omnibus Budget Reconciliation Act of 1986",
11 as amended. ~~which instructs the secretary of the federal department of~~
12 ~~health and human services to grant medicare and medicaid waivers to~~
13 ~~permit not more than ten public or nonprofit private community-based~~
14 ~~organizations in the country to provide comprehensive health care~~
15 ~~services on a capitated basis to frail elderly who are at risk of~~
16 ~~institutionalization.~~ The general assembly finds that, by coordinating an
17 extensive array of medical and nonmedical services, the needs of the
18 participants will be met primarily in an outpatient environment in an adult
19 day health center, in their homes, or in an institutional setting. The
20 general assembly finds that such a service delivery system will enhance
21 the quality of life for the participant and offers the potential to reduce and
22 cap the costs to Colorado of the medical needs of the participants,
23 including hospital and nursing home admissions.

24 (2) The general assembly has determined on the recommendation
25 of the state department that the PACE program is cost-effective. As a
26 result of such determination and after consultation with the joint budget
27 committee of the general assembly, application has been made to and

1 waivers have been obtained from the federal health care financing
2 administration to implement the PACE program as provided in this
3 section. The general assembly, therefore, authorizes the state department
4 to implement the PACE program in accordance with this section. In
5 connection with the implementation of the program, the state department
6 shall:

7 (b) Develop and implement a contract with any ~~nonprofit~~
8 ~~organization~~ PUBLIC, PRIVATE, NONPROFIT, OR FOR-PROFIT ENTITY
9 providing the PACE program, AS PERMITTED BY FEDERAL LAW, that sets
10 forth contractual obligations for the PACE program AS REQUIRED BY THE
11 STATE DEPARTMENT, including but not limited to reporting and
12 monitoring of utilization of services and of the costs of the program, as
13 required by the state department QUALITY OF CARE, AND A
14 COMPREHENSIVE ASSESSMENT OF THE PROVIDER'S FISCAL SOUNDNESS;

15 (8) Using a risk-based financing model, any ~~nonprofit~~
16 ~~organization~~ PUBLIC, PRIVATE, NONPROFIT, OR FOR-PROFIT ENTITY
17 providing the PACE program, AS PERMITTED BY FEDERAL LAW, shall
18 assume responsibility for all costs generated by PACE program
19 participants, and shall create and maintain a risk reserve fund that will
20 cover any cost overages for any participant. The PACE program is
21 responsible for the entire range of services in the consolidated service
22 model, including hospital and nursing home care, according to participant
23 need as determined by the multidisciplinary team. Any ~~nonprofit~~
24 ~~organization~~ PUBLIC, PRIVATE, NONPROFIT, OR FOR-PROFIT ENTITY
25 providing the PACE program, AS PERMITTED BY FEDERAL LAW, is
26 responsible for the full financial risk at the conclusion of the
27 demonstration period and when permanent waivers from the federal

1 health care financing administration are granted. Specific arrangements
2 of the risk-based financing model shall be adopted and negotiated by the
3 federal health care financing administration, any ~~nonprofit organization~~
4 PUBLIC, PRIVATE, NONPROFIT, OR FOR-PROFIT ENTITY providing the PACE
5 program, AS PERMITTED BY FEDERAL LAW, and the state department.

6 (14) (a) NO LATER THAN SIXTY DAYS PRIOR TO THE CLOSING OR
7 EFFECTIVE DATE OF A CONVERSION OF A NONPROFIT PACE PROVIDER TO
8 A FOR-PROFIT PACE PROVIDER, THE NONPROFIT PACE PROVIDER SHALL:

9 (I) TRANSMIT A CONVERSION PLAN AND WRITTEN NOTICE OF THE
10 CONVERSION TO THE ATTORNEY GENERAL, WHICH CONVERSION PLAN MUST
11 INCLUDE, AT A MINIMUM:

12 (A) A COPY OF THE RESULTS OF AN INDEPENDENT VALUATION OF
13 THE FAIR MARKET VALUE OF THE BUSINESS THAT PROPOSES TO CONVERT;

14 (B) A DETAILED EXPLANATION OF THE PLANS FOR DISTRIBUTION
15 OF THE PROCEEDS OF THE CONVERSION, INCLUDING WHETHER THE
16 PROCEEDS WILL BE DISTRIBUTED TO A NEW NONPROFIT ENTITY OR TO AN
17 EXISTING ORGANIZATION AND, IF TO AN EXISTING NONPROFIT
18 ORGANIZATION, WHICH ORGANIZATION AND THE REASONS FOR SELECTING
19 THAT ORGANIZATION, OR, IF TO A NEW NONPROFIT ORGANIZATION, HOW
20 THE INITIAL BOARD OF DIRECTORS WILL BE SELECTED;

21 (C) INFORMATION ABOUT ANY COMPENSATION, BONUS, OR
22 INDUCEMENT TO ANY OFFICERS OR DIRECTORS OF THE CONVERTING ENTITY
23 RESULTING FROM THE CONVERSION; AND

24 (D) THE PACE ORGANIZATION'S AUDITED FINANCIAL STATEMENTS
25 FOR ITS THREE MOST RECENT FISCAL YEARS FOR COLORADO, AND
26 SEPARATELY, FOR THOSE OPERATIONS OUTSIDE OF COLORADO, FOR ANY
27 SUCH OPERATIONS THAT MAY BE RELATED TO THE CONVERSION; AND

1 (II) BEAR ALL COSTS ASSOCIATED WITH PUBLIC OVERSIGHT AND
2 REVIEW BY THE ATTORNEY GENERAL OF THE CONVERSION, INCLUDING THE
3 RETENTION OF OUTSIDE EXPERTS, IF ANY.

4 (b) WITHIN TEN DAYS AFTER THE RECEIPT OF THE CONVERSION
5 PLAN, THE ATTORNEY GENERAL SHALL POST THE COMPLETE CONVERSION
6 PLAN ON ITS WEB SITE AND RECEIVE PUBLIC COMMENTS ABOUT THE PLAN,
7 WHICH SHALL ALSO BE POSTED AS SOON AS PRACTICABLE TO THE
8 ATTORNEY GENERAL'S WEB SITE. PUBLIC COMMENT SHALL BE RECEIVED
9 FOR A MINIMUM OF THIRTY DAYS AND AVAILABLE ON THE WEB SITE FOR AT
10 LEAST THE DURATION OF THE COMMENT PERIOD.

11 (c) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT
12 THE COMMON LAW AUTHORITY OF THE ATTORNEY GENERAL.

13 **SECTION 2.** In Colorado Revised Statutes, **repeal** 25.5-5-412 (1)
14 (b).

15 **SECTION 3. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2016 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.