Second Regular Session
Sixty-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 02-0126.01 Julie Hoerner **HOUSE BILL** 02-1060

HOUSE SPONSORSHIP

Williams T., Miller, and Spradley

SENATE SPONSORSHIP

Hillman

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

CONCERNING THE LIMITATION OF CONTINGENCY FEE AGREEMENTS IN MEDICAL MALPRACTICE ACTIONS.

Bill Summary

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

Task Force to Evaluate Health Care Needs. Limits the amount that an attorney may charge on a contingency fee agreement for medical malpractice actions to 20%. Does not allow an attorney to recover any contingency amount on medical expenses that have been paid in the past, are being paid, or may be paid in the future.

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.

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

SECTION 1. Article 64 of title 13, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 6

LIMITATIONS ON MEDICAL MALPRACTICE ACTIONS

13-64-601. Attorney fees for medical malpractice cases - breach of fiduciary duty. (1) **Attorney fees.** FOR ANY MEDICAL MALPRACTICE ACTION FILED ON OR AFTER AUGUST 15, 2002, A CONTINGENT FEE EXCEEDING TWENTY PERCENT OF THE AMOUNT OF ANY SETTLEMENT OR AWARD SHALL BE PRESUMED TO BE UNREASONABLE. IN DETERMINING THE AMOUNT OF DAMAGES SUBJECT TO THE TWENTY PERCENT CONTINGENCY FEE, DAMAGES RECEIVED FOR PAST MEDICAL EXPENSES, MEDICAL EXPENSES BEING PAID, AND FUTURE MEDICAL EXPENSES TO BE PAID SHALL NOT BE INCLUDED. IF THE COURT FINDS THAT AN ATTORNEY REASONABLY DEVOTED AN EXTRAORDINARY AMOUNT OF TIME TO THE CASE, THE COURT MAY AWARD OR APPROVE A CONTINGENT FEE OR OTHER FEE IN A PERCENTAGE OR AMOUNT THAT EXCEEDS TWENTY PERCENT OF ANY SETTLEMENT OR JUDGMENT.

(2) ANY ATTORNEY WHO REPRESENTS ANY PARTY IN A MEDICAL MALPRACTICE CASE SHALL PROVIDE THE PARTY WITH A WRITTEN FEE AGREEMENT THAT SETS FORTH, IN FULL, THE ATTORNEY'S SPECIFIC FEE ARRANGEMENT, INCLUDING THE CRITERIA UPON WHICH THE ATTORNEY BASES HIS OR HER HOURLY OR SET FEE AND THE CIRCUMSTANCES IN WHICH ANY MODIFICATIONS OR ADJUSTMENTS TO SUCH FEE WILL BE MADE, AND SPECIFYING WHETHER THE CLIENT WILL BE CHARGED FOR THE ATTORNEY'S EXPENSES OR ADVANCES MADE BY THE ATTORNEY ON BEHALF OF THE PARTY, INCLUDING WITHOUT LIMITATION COSTS OF COPYING, RESEARCH,

TELEPHONE CALLS, POSTAGE, AND ANY OTHER EXPENSES INCIDENT TO THE LITIGATION THAT THE ATTORNEY MAY BE ETHICALLY BOUND TO UNDERTAKE ON BEHALF OF THE PARTY PURSUANT TO LAW OR PURSUANT TO ANY COURT RULE INCLUDING THE CODE OF PROFESSIONAL RESPONSIBILITY AS ADOPTED BY THE SUPREME COURT OF COLORADO. CONTINGENT FEE AGREEMENTS SHALL BE IN CONFORMITY WITH ALL APPLICABLE PROVISIONS OF THE SAID CODE OR OF RULES OF THE SUPREME COURT, AND, IN ADDITION, SUCH AGREEMENTS SHALL SET FORTH THE PROVISIONS OF THIS SECTION IN EASY TO UNDERSTAND LANGUAGE IN AT LEAST TEN-POINT BOLD-FACED TYPE. NO SUCH FEE AGREEMENT MAY BE ENFORCED AGAINST ANY PARTY UNLESS IT COMPLIES WITH THE REQUIREMENTS OF THIS SECTION AND IS SIGNED BY BOTH PARTIES.

SECTION 2. Effective date - applicability. (1) This act shall take effect August 15, 2002, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to all actions alleging medical malpractice that are filed on or after the applicable effective date of this act.