

**Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 08-0834.01 Kate Meyer

SENATE BILL 08-138

SENATE SPONSORSHIP

Johnson, Bacon, Boyd, Keller, Kester, Penry, Tapia, Tochtrop, Williams, and Windels

HOUSE SPONSORSHIP

McGihon, Borodkin, Carroll M., Casso, Fischer, Frangas, Hodge, Kefalas, Labuda, Levy, McNulty, Peniston, Roberts, Solano, Soper, Todd, and White

Senate Committees

Health and Human Services

House Committees

Health and Human Services

A BILL FOR AN ACT

101 **CONCERNING FULL DISCLOSURE OF PHYSICIAN DESIGNATIONS MADE BY**
102 **HEALTH CARE ENTITIES.**

Bill Summary

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

Creates the "Physician Designation Disclosure Act" to address the practice of health care entities (entities) making physician designations. Describes acceptable criteria for entities to use in making physician designations and requires a disclaimer to accompany any designation. Mandates that entities disclose all data and methodologies used in formulating designations if such information is requested by the designated physician or the commissioner of insurance. Entitles

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.

HOUSE
Am ended 2nd Reading
March 10, 2008

SENATE
3rd Reading Unam ended
February 20, 2008

SENATE
Am ended 2nd Reading
February 19, 2008

physicians to challenge designations and describes the processes by which physicians may challenge designations.

Makes violations of the act unfair and deceptive trade practices under insurance laws. Authorizes private rights of action as an enforcement mechanism.

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

2 **SECTION 1.** Title 25, Colorado Revised Statutes, is amended BY
3 **THE ADDITION OF A NEW ARTICLE** to read:

4 **ARTICLE 38**

5 **Physician Designation and Disclosure**

6 **25-38-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 **BE CITED AS THE "PHYSICIAN DESIGNATION DISCLOSURE ACT".**

8 **25-38-102. Legislative declaration.** (1) **THE GENERAL**
9 **ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:**

10 **(a) HEALTH CARE ENTITIES HAVE INSTITUTED OR ARE INSTITUTING**
11 **QUANTITATIVE AND QUALITATIVE DESIGNATIONS OF PHYSICIANS;**

12 **(b) PHYSICIAN DESIGNATIONS ARE DISCLOSED AND REPRESENTED**
13 **TO CONSUMERS AND OTHERS AS PART OF MARKETING, SALES, AND OTHER**
14 **EFFORTS, AND SUCH DESIGNATIONS MAY BE USED BY CONSUMERS IN**
15 **SELECTING THE PHYSICIANS FROM WHOM THEY RECEIVE CARE;**

16 **(c) DESIGNATIONS ARE BASED ON CLAIMS DATA, PRACTICE**
17 **CRITERIA OR GUIDELINES, AND OTHER CRITERIA, NOT ALL OF WHICH ARE**
18 **MADE KNOWN TO CONSUMERS OR TO THE PHYSICIANS DESIGNATED;**

19 **(d) HEALTH CARE ENTITIES DIFFER IN THE EXTENT TO WHICH THEY**
20 **PROVIDE ACCESS TO SOME OR ALL OF THE DATA, CRITERIA, AND**
21 **METHODOLOGIES;**

22 **(e) REGULATORY AGENCIES IN OTHER STATES HAVE TAKEN ACTION**
23 **AGAINST HEALTH CARE ENTITIES TO REQUIRE DISCLOSURE OF DESIGNATION**

1 INFORMATION AND TO SET CERTAIN CRITERIA BY WHICH DESIGNATIONS
2 MAY BE USED;

3 (f) FOR THE PROTECTION OF CONSUMERS AND PHYSICIANS AND TO
4 AVOID IMPROPER PROFILING OF PHYSICIANS, HEALTH CARE ENTITIES MUST
5 ENSURE THAT THEY ARE USING DESIGNATIONS THAT ARE FAIR AND
6 ACCURATE AND MUST ACCORD PHYSICIANS THE RIGHT TO CHALLENGE AND
7 CORRECT ERRONEOUS DESIGNATIONS, DATA, AND METHODOLOGIES;

8 (g) FULL DISCLOSURE OF THE DATA AND METHODOLOGIES BY
9 WHICH PHYSICIANS ARE DESIGNATED WILL ENCOURAGE, TO THE FULLEST
10 EXTENT POSSIBLE, THE ACCURACY, FAIRNESS, AND USEFULNESS OF SUCH
11 DESIGNATIONS. DISCLOSURES WILL HELP KEEP PATIENTS FROM BEING
12 EXPOSED TO INACCURATE, MISLEADING, AND INCORRECT INFORMATION
13 ABOUT THE NATURE AND QUALITY OF THE CARE OF PHYSICIANS. THE
14 DISCLOSURE REQUIRED BY THIS ARTICLE WILL ENCOURAGE THE USE OF
15 GUIDELINES AND CRITERIA FROM WELL-RECOGNIZED PROFESSIONAL
16 SOCIETIES AND GROUPS USING EVIDENCE-BASED AND CONSENSUS
17 PRACTICE RECOMMENDATIONS. DISCLOSURE WILL ALLOW HEALTH CARE
18 CONSUMERS AND PHYSICIANS AN OPPORTUNITY TO BETTER UNDERSTAND
19 THE CRITERIA, BASIS, AND METHODS BY WHICH PHYSICIANS ARE
20 EVALUATED, AND DISCLOSURE WILL FOSTER COMPETITION AMONG HEALTH
21 CARE ENTITIES TO IMPROVE THE WAY IN WHICH DESIGNATIONS ARE USED.
22 ACCORDINGLY, THE GENERAL ASSEMBLY FINDS THAT REQUIRING FULL
23 DISCLOSURE OF DESIGNATION DATA AND METHODOLOGIES, AND SETTING
24 CERTAIN MINIMUM STANDARDS FOR MAKING SUCH DESIGNATIONS, WILL
25 HELP IMPROVE THE QUALITY AND EFFICIENCY OF HEALTH CARE DELIVERED
26 IN COLORADO.

27 (h) THE GENERAL ASSEMBLY INTENDS THIS ARTICLE TO SERVE AS

1 THE INITIAL STAGE OF A MULTIPART PROCESS TO INCREASE TRANSPARENCY
2 OF INFORMATION ABOUT HEALTH CARE QUALITY AND COSTS IN
3 COLORADO. FUTURE ACTIONS MAY INCLUDE, BUT ARE NOT LIMITED TO,
4 CREATION OF A MULTISTAKEHOLDER WORK GROUP, COMPRISED OF HEALTH
5 CARE ENTITIES, HEALTH PLANS, BUSINESSES, CONSUMER GROUPS, AND
6 OTHERS AS IDENTIFIED, TO DEVELOP A SYSTEM FOR AGGREGATING COST
7 AND QUALITY INFORMATION ACROSS HEALTH CARE ENTITIES AND
8 CONSUMERS. THE ULTIMATE GOAL IS TO DEVELOP STANDARDIZED
9 QUALITY REPORTING ARRANGEMENTS, CONSISTENT WITH NATIONAL
10 STANDARDS AND SUBJECT TO EVALUATION BY AN INDEPENDENT ENTITY,
11 THAT ARE ACCESSIBLE AND MEANINGFUL TO CONSUMERS AND OTHER
12 STAKEHOLDERS.

13 **25-38-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (1) "CARRIER" SHALL HAVE THE SAME MEANING AS SET FORTH IN
16 SECTION 10-16-102.

17 (2) "COMMISSIONER" MEANS THE COMMISSIONER OF INSURANCE.

18 (3) "CONSUMER" INCLUDES MEMBERS OF THE PUBLIC, HEALTH
19 CARE CONSUMERS AND POTENTIAL HEALTH CARE CONSUMERS,
20 PURCHASERS OF HEALTH INSURANCE PLANS, OR PATIENTS.

21 (4) "DESIGNATION" MEANS AN AWARD, ASSIGNMENT,
22 CHARACTERIZATION, OR REPRESENTATION OF THE COST EFFICIENCY,
23 QUALITY, OR OTHER ASSESSMENT OR MEASUREMENT OF THE CARE OR
24 CLINICAL PERFORMANCE OF ANY PHYSICIAN THAT IS DISCLOSED OR
25 INTENDED FOR DISCLOSURE TO THE PUBLIC OR PERSONS ACTUALLY OR
26 POTENTIALLY COVERED BY A HEALTH PLAN, BY USE OF A GRADE, STAR,
27 TIER, RATING, PROFILE, OR ANY OTHER FORM OF DESIGNATION.

1 "DESIGNATION" DOES NOT INCLUDE:

2 (a) INFORMATION THAT IS DERIVED SOLELY FROM HEALTH PLAN
3 MEMBER FEEDBACK SUCH AS SATISFACTION RATINGS; OR

4 (b) INFORMATION FOR PROGRAMS DESIGNED TO ASSIST HEALTH
5 PLAN MEMBERS WITH ESTIMATING A PHYSICIAN'S ROUTINE FEES OR COSTS.

6 (5) "HEALTH CARE ENTITY" MEANS ANY CARRIER OR OTHER
7 ENTITY THAT PROVIDES A PLAN OF HEALTH CARE COVERAGE TO
8 BENEFICIARIES UNDER A PLAN.

9 (6) "METHODOLOGY" MEANS THE METHOD BY WHICH A
10 DESIGNATION IS DETERMINED, INCLUDING, BUT NOT LIMITED TO, THE USE
11 OF ALGORITHMS OR STUDIES, EVALUATION OF DATA, APPLICATION OF
12 GUIDELINES, OR PERFORMANCE MEASURES.

13 (7) "PHYSICIAN" MEANS ANY PHYSICIAN LICENSED UNDER THE
14 "COLORADO MEDICAL PRACTICE ACT", ARTICLE 36 OF TITLE 12, C.R.S.

15 **25-38-104. Minimum requirements for designations -**
16 **disclaimer required.** (1) ANY DESIGNATION OF A PHYSICIAN SHALL
17 INCLUDE, AT A MINIMUM, THE FOLLOWING:

18 (a) A QUALITY OF CARE COMPONENT THAT MAY BE SATISFIED BY
19 INCORPORATING A PRACTICE GUIDELINE OR PERFORMANCE MEASURE
20 PURSUANT TO PARAGRAPH (f) OF THIS SUBSECTION (1), AND A CLEAR
21 REPRESENTATION OF THE WEIGHT GIVEN TO QUALITY OF CARE IN
22 COMPARISON WITH OTHER DESIGNATION FACTORS;

23 (b) STATISTICAL ANALYSES THAT ARE ACCURATE, VALID, AND
24 RELIABLE AND, WHERE REASONABLY POSSIBLE, THAT APPROPRIATELY
25 ADJUST FOR PATIENT POPULATION, CASE MIX, SEVERITY OF PATIENT
26 CONDITION, COMORBIDITY, OUTLIER EVENTS, OR OTHER KNOWN
27 STATISTICAL ANOMALIES;

1 (c) A PERIOD OF ASSESSMENT OF DATA, PERTINENT TO THE
2 DESIGNATION, THAT SHALL BE UPDATED BY THE HEALTH CARE ENTITY AT
3 APPROPRIATE INTERVALS;

4 (d) IF CLAIMS DATA ARE USED IN THE DESIGNATION PROCESS,
5 ACCURATE CLAIMS DATA APPROPRIATELY ATTRIBUTED TO THE PHYSICIAN.
6 WHEN REASONABLY AVAILABLE, THE HEALTH CARE ENTITY SHALL USE
7 AGGREGATED DATA TO SUPPLEMENT ITS OWN CLAIMS DATA.

8 (e) THE PHYSICIAN'S RESPONSIBILITY FOR HEALTH CARE DECISIONS
9 AND THE FINANCIAL CONSEQUENCES OF THOSE DECISIONS, WHICH SHALL
10 BE FAIRLY AND ACCURATELY ATTRIBUTED TO THE PHYSICIAN;

11 (f) IF PRACTICE GUIDELINES OR PERFORMANCE MEASURES ARE
12 USED IN THE DESIGNATION PROCESS:

13 (I) PRACTICE GUIDELINES OR PERFORMANCE MEASURES THAT ARE
14 PROMULGATED OR ENDORSED BY NATIONALLY RECOGNIZED HEALTH CARE
15 ORGANIZATIONS THAT ESTABLISH OR PROMOTE GUIDELINES AND
16 PERFORMANCE MEASURES EMPHASIZING QUALITY OF HEALTH CARE, SUCH
17 AS THE NATIONAL QUALITY FORUM OR THE AQA ALLIANCE, OR THEIR
18 SUCCESSORS, OR OTHER SUCH NATIONAL PHYSICIAN SPECIALTY
19 ORGANIZATIONS, OR THE COLORADO CLINICAL GUIDELINES
20 COLLABORATIVE OR ITS SUCCESSOR;

21 (II) PRACTICE GUIDELINES OR PERFORMANCE MEASURES THAT ARE:

22 (A) EVIDENCE-BASED, WHENEVER POSSIBLE;

23 (B) CONSENSUS-BASED, WHENEVER POSSIBLE; AND

24 (C) PERTINENT TO THE AREA OF PRACTICE, LOCATION, AND
25 CHARACTERISTICS OF THE PATIENT POPULATION OF THE PHYSICIAN BEING
26 DESIGNATED.

27 (2) (a) ANY DISCLOSURE OF A DESIGNATION TO A PHYSICIAN OR

1 CONSUMER SHALL BE ACCOMPANIED BY A CONSPICUOUS DISCLAIMER
2 WRITTEN IN BOLD-FACED TYPE. THE DISCLAIMER SHALL STATE THAT
3 DESIGNATIONS ARE INTENDED ONLY AS A GUIDE TO CHOOSING A
4 PHYSICIAN, THAT DESIGNATIONS SHOULD NOT BE THE SOLE FACTOR IN
5 SELECTING A PHYSICIAN, THAT DESIGNATIONS HAVE A RISK OF ERROR, AND
6 THAT CONSUMERS SHOULD DISCUSS DESIGNATIONS WITH A PHYSICIAN
7 BEFORE CHOOSING HIM OR HER.

8 (b) FAILURE TO INCLUDE THE DISCLAIMER MAKES THE USE OF THE
9 DESIGNATION A VIOLATION OF THIS ARTICLE.

10 **25-38-105. Disclosure required upon request - information not**
11 **proprietary.** (1) UPON REQUEST BY OR ON BEHALF OF THE DESIGNATED
12 PHYSICIAN OR THE COMMISSIONER, A HEALTH CARE ENTITY SHALL
13 DISCLOSE TO THE REQUESTING PERSON A DESCRIPTION OF THE
14 METHODOLOGY UPON WHICH THE HEALTHCARE ENTITY'S DESIGNATION IS
15 BASED AND ALL DATA UPON WHICH THE DESIGNATION WAS BASED WITHIN
16 FORTY-FIVE DAYS OF RECEIVING THE REQUEST. THE DESCRIPTION SHALL
17 BE SUFFICIENTLY DETAILED TO ALLOW THE DESIGNATED PHYSICIAN OR
18 COMMISSIONER TO DETERMINE THE EFFECT OF THE METHODOLOGY ON THE
19 DATA BEING REVIEWED. THE DISCLOSURE OF THE DATA SHALL BE MADE
20 IN A MANNER THAT IS REASONABLY UNDERSTANDABLE AND ALLOWS THE
21 PHYSICIAN OR COMMISSIONER TO VERIFY THE DATA AGAINST HIS OR HER
22 RECORDS. WHERE LAW OR THE HEALTH CARE ENTITY'S CONTRACTUAL
23 OBLIGATIONS WITH AN INDEPENDENT THIRD PARTY PREVENTS DISCLOSURE
24 OF ANY OF THE DATA REQUIRED TO BE DISCLOSED BY THIS SECTION, THE
25 HEALTH CARE ENTITY SHALL NONETHELESS PROVIDE SUFFICIENT
26 INFORMATION TO ALLOW THE PHYSICIAN TO DETERMINE HOW THE
27 WITHHELD DATA AFFECTED THE PHYSICIAN'S DESIGNATION. FOR

1 PURPOSES OF THIS SUBSECTION (1), "INDEPENDENT THIRD PARTY" MEANS
2 A PARTY TO A CONTRACT THAT IS NOT AFFILIATED WITH, ASSOCIATED
3 WITH, OWNED, OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE
4 HEALTH CARE ENTITY WITH WHICH IT CONTRACTS.

5 (2) AFTER THE DISCLOSURE OF THE DESCRIPTION OF THE
6 METHODOLOGY PROVIDED FOR IN SUBSECTION (1) OF THIS SECTION AND
7 UPON FURTHER REQUEST BY OR ON BEHALF OF THE DESIGNATED PHYSICIAN
8 OR THE COMMISSIONER, THE HEALTH CARE ENTITY SHALL PROVIDE THE
9 COMPLETE METHODOLOGY WITHIN THIRTY DAYS OF SUCH FURTHER
10 REQUEST.

11 (3) THE "UNIFORM TRADE SECRETS ACT", ARTICLE 74 OF TITLE 7,
12 C.R.S., SHALL NOT BE USED BY A HEALTH CARE ENTITY TO PREVENT IT
13 FROM COMPLYING WITH THIS SECTION.

14 **25-38-106. Notice of use or change of designation required -**
15 **appeal process.** (1) AT LEAST FORTY-FIVE DAYS BEFORE USING,
16 CHANGING, OR DECLINING TO AWARD A DESIGNATION IN AN EXISTING
17 PROGRAM OF DESIGNATION, A HEALTH CARE ENTITY SHALL PROVIDE THE
18 PHYSICIAN WITH WRITTEN NOTICE OF SUCH DESIGNATION DECISION. THE
19 WRITTEN NOTICE SHALL DESCRIBE THE PROCEDURES BY WHICH THE
20 PHYSICIAN MAY:

21 (a) OBTAIN THE INFORMATION PURSUANT TO SECTION 25-38-105,
22 INCLUDING ALL OF THE DATA UPON WHICH THE DESIGNATION WAS BASED
23 OR DECLINED; AND

24 (b) REQUEST AN APPEAL OF THE DESIGNATION DECISION,
25 INCLUDING THE OPPORTUNITY FOR A FACE-TO-FACE MEETING PURSUANT
26 TO SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS
27 SECTION.

1 (2) (a) ANY HEALTH CARE ENTITY PROVIDING DESIGNATIONS OF
2 PHYSICIANS SHALL ESTABLISH PROCEDURES FOR THE DESIGNATED
3 PHYSICIAN TO APPEAL THE DESIGNATION, INCLUDING A CHANGE IN
4 DESIGNATION OR A DECLINATION TO AWARD A DESIGNATION IN AN
5 EXISTING PROGRAM OF DESIGNATION. SUCH PROCEDURES, IN ADDITION TO
6 THE WRITTEN NOTICE PROVIDED FOR IN SUBSECTION (1) OF THIS SECTION,
7 SHALL PROVIDE FOR THE FOLLOWING:

8 (I) A REASONABLE METHOD BY WHICH THE DESIGNATED PHYSICIAN
9 SHALL PROVIDE NOTICE OF HIS OR HER DESIRE TO APPEAL;

10 (II) IF REQUESTED BY THE DESIGNATED PHYSICIAN, DISCLOSURE OF
11 THE METHODOLOGY AND DATA UPON WHICH THE HEALTH CARE ENTITY'S
12 DECISION IS BASED;

13 (III) THE NAME, TITLE, QUALIFICATIONS, AND RELATIONSHIP TO
14 THE HEALTH CARE ENTITY OF THE PERSON OR PERSONS RESPONSIBLE FOR
15 THE APPEAL OF THE DESIGNATED PHYSICIAN;

16 (IV) AN OPPORTUNITY TO SUBMIT OR HAVE CONSIDERED
17 CORRECTED DATA RELEVANT TO THE DESIGNATION DECISION AND TO HAVE
18 CONSIDERED THE APPLICABILITY OF THE METHODOLOGY USED IN THE
19 DESIGNATION DECISION. IF REQUESTED BY THE DESIGNATED PHYSICIAN,
20 SUCH OPPORTUNITY MAY BE AFFORDED BY THE HEALTH CARE ENTITY IN A
21 FACE-TO-FACE MEETING WITH THOSE RESPONSIBLE FOR THE APPEAL
22 DECISION AT A LOCATION REASONABLY CONVENIENT TO THE PHYSICIAN
23 OR BY TELECONFERENCE. ALL DATA SUBMITTED TO THE ENTITY BY A
24 DESIGNATED PHYSICIAN SHALL BE PRESUMED VALID AND ACCURATE.
25 HOWEVER, THIS PRESUMPTION SHALL NOT BE CONSTRUED TO PERMIT A
26 HEALTH CARE ENTITY TO UNREASONABLY WITHHOLD CONSIDERATION OF
27 CORRECTED OR SUPPLEMENTED DATA PURSUANT TO SECTION 25-38-106

1 (2) (a) (IV).

2 (V) THE RIGHT OF THE PHYSICIAN TO BE ASSISTED BY A
3 REPRESENTATIVE;

4 (VI) AN OPPORTUNITY, IF SO DESIRED, TO BE CONSIDERED AS PART
5 OF THE APPEAL, AN EXPLANATION OF THE DESIGNATION DECISION WHICH
6 IS THE SUBJECT OF THE APPEAL BY A PERSON OR PERSONS DEEMED BY THE
7 HEALTH CARE ENTITY AS RESPONSIBLE FOR THE DESIGNATION DECISION;

8 (VII) A WRITTEN DECISION REGARDING THE PHYSICIAN'S APPEAL
9 THAT STATES THE REASONS FOR UPHOLDING, MODIFYING, OR REJECTING
10 THE PHYSICIAN'S APPEAL.

11 (b) THE APPEAL SHALL BE MADE TO A PERSON OR PERSONS WITH
12 THE AUTHORITY GRANTED BY THE DESIGNATING HEALTH CARE ENTITY TO
13 UPHOLD, MODIFY, OR REJECT THE DESIGNATION DECISION OR TO REQUIRE
14 ADDITIONAL ACTION TO ENSURE THAT THE DESIGNATION IS FAIR,
15 REASONABLE, AND ACCURATE.

16 (c) THE APPEAL PROCESS SHALL BE COMPLETE WITHIN FORTY-FIVE
17 DAYS FROM THE DATE UPON WHICH THE DATA AND METHODOLOGY ARE
18 DISCLOSED UNLESS OTHERWISE AGREED TO BY THE PARTIES TO THE
19 APPEAL.

20 (3) NO CHANGE OR MODIFICATION OF A DESIGNATION THAT IS THE
21 SUBJECT OF AN APPEAL SHALL BE IMPLEMENTED OR USED BY THE HEALTH
22 CARE ENTITY UNTIL THE APPEAL IS FINAL.

23 (4) WITH RESPECT TO ANY DESIGNATION PREVIOUSLY DISCLOSED
24 PUBLICLY, THE HEALTH CARE ENTITY SHALL UPDATE ANY CHANGES TO
25 SUCH DESIGNATION WITHIN THIRTY DAYS AFTER THE APPEAL IS FINAL.

26 **25-38-107. Enforcement.** (1) NO HEALTH CARE ENTITY SHALL
27 LIMIT, BY CONTRACT OR OTHER MEANS, THE RIGHT OF A PHYSICIAN TO

1 ENFORCE THIS ARTICLE.

2 (2) THIS ARTICLE MAY BE ENFORCED IN A CIVIL ACTION, AND ANY
3 REMEDIES AT LAW AND IN EQUITY SHALL BE AVAILABLE.

4 (3) A VIOLATION OF THIS ARTICLE BY A HEALTH CARE ENTITY
5 SHALL CONSTITUTE AN UNFAIR OR DECEPTIVE ACT OR PRACTICE UNDER
6 PART 11 OF ARTICLE 3 OF TITLE 10, C.R.S.

7 **25-38-108. Severability.** IF ANY PROVISION OF THIS ARTICLE OR
8 ITS APPLICATION TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, THE
9 INVALIDITY DOES NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF
10 THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID
11 PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS
12 ARTICLE ARE SEVERABLE.

13 **SECTION 2.** 10-3-1104 (1), Colorado Revised Statutes, is
14 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

15 **10-3-1104. Unfair methods of competition and unfair or**
16 **deceptive acts or practices.** (1) The following are defined as unfair
17 methods of competition and unfair or deceptive acts or practices in the
18 business of insurance:

19 (ff) VIOLATION OF THE "PHYSICIAN DESIGNATION DISCLOSURE
20 ACT", ARTICLE 38 OF TITLE 25, C.R.S.

21 **SECTION 3. Effective date - applicability.** (1) This act shall
22 take effect September 1, 2008.

23 (2) However, if a referendum petition is filed against this act or
24 an item, section, or part of this act during the 90-day period after final
25 adjournment of the general assembly that is allowed for submitting a
26 referendum petition pursuant to article V, section 1 (3) of the state
27 constitution, then the act, item, section, or part, shall not take effect unless

1 approved by the people at a biennial regular general election and shall
2 take effect on the date specified in subsection (1) or on the date of the
3 official declaration of the vote thereon by proclamation of the governor,
4 whichever is later.

5 (3) The provisions of this act shall apply to physician designations
6 on or after the applicable effective date of this act.