

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-1151.03 Kristen Forrestal

HOUSE BILL 08-1411

HOUSE SPONSORSHIP

Marshall, Stafford, Frangas, Massey, Borodkin, Carroll T., Liston, Madden, Primavera, and Stephens

SENATE SPONSORSHIP

Sandoval,

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PROHIBITION OF INCENTIVES TO LIMIT THE
102 PROVISION OF MEDICALLY APPROPRIATE HEALTH CARE
103 SERVICES TO A COVERED PERSON.

Bill Summary

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

Prohibits a person or entity from providing remuneration to health care providers as an inducement to deny, reduce, limit, or delay specific medically necessary and appropriate services to a covered person.

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.

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

2 **SECTION 1.** Part 1 of article 16 of title 10, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **10-16-133. Prohibited incentives for health care providers -**
6 **short title - definitions.** (1) THIS SECTION SHALL BE KNOWN AND MAY
7 BE CITED AS THE "COLORADO HEALTH CARE ANTI-KICKBACK ACT".

8 (2) IT IS UNLAWFUL FOR A PERSON OR ENTITY TO PROVIDE
9 REMUNERATION DIRECTLY, IN ANY TYPE OR FORM, TO A HEALTH CARE
10 PROVIDER AS AN INDUCEMENT OR REWARD TO DENY, REDUCE, LIMIT, OR
11 DELAY SPECIFIC MEDICALLY NECESSARY AND APPROPRIATE SERVICES TO
12 A COVERED PERSON IN A HEALTH COVERAGE PLAN.

13 (3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT
14 INCENTIVE PLANS FOR HEALTH CARE PROVIDERS THAT INVOLVE GENERAL
15 PAYMENTS, SUCH AS CAPITATION PAYMENTS OR SHARED-RISK
16 ARRANGEMENTS, THAT ARE NOT TIED TO SPECIFIC MEDICAL DECISIONS
17 INVOLVING SPECIFIC COVERED PERSONS OR GROUPS OF COVERED PERSONS
18 WITH SIMILAR MEDICAL CONDITIONS. THE PAYMENTS MADE TO A HEALTH
19 CARE PROVIDER PURSUANT TO THIS SUBSECTION (3) SHALL BE DEEMED
20 CONFIDENTIAL.

21 (4) FOR THE PURPOSES OF THIS SECTION:

22 (a) "COVERED PERSON" AND "HEALTH COVERAGE PLAN" SHALL
23 HAVE THE SAME MEANINGS AS SET FORTH IN SECTION 10-16-102.

24 (b) "PERSON OR ENTITY" MEANS A PERSON OR ENTITY THAT HAS A
25 PRIMARY BUSINESS PURPOSE OF CONTRACTING WITH HEALTH CARE
26 PROVIDERS FOR THE DELIVERY OF HEALTH CARE SERVICES.

27 (5) A VIOLATION OF THIS SECTION CONSTITUTES A DECEPTIVE

1 TRADE PRACTICE UNDER THE "COLORADO CONSUMER PROTECTION ACT",
2 ARTICLE 1 OF TITLE 6, C.R.S.

3 **SECTION 2.** 6-1-105 (1), Colorado Revised Statutes, is amended
4 BY THE ADDITION OF A NEW PARAGRAPH to read:

5 **6-1-105. Deceptive trade practices.** (1) A person engages in a
6 deceptive trade practice when, in the course of such person's business,
7 vocation, or occupation, such person:

8 (ccc) VIOLATES SECTION 10-16-133, C.R.S.

9 **SECTION 3. Effective date.** This act shall take effect at 12:01
10 a.m. on the day following the expiration of the ninety-day period after
11 final adjournment of the general assembly that is allowed for submitting
12 a referendum petition pursuant to article V, section 1 (3) of the state
13 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);
14 except that, if a referendum petition is filed against this act or an item,
15 section, or part of this act within such period, then the act, item, section,
16 or part, if approved by the people, shall take effect on the date of the
17 official declaration of the vote thereon by proclamation of the governor.