

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

**PREAMENDED**

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

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**

Finance

---

**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.*

HOUSE  
Amended 3rd Reading  
April 28, 2008

HOUSE  
Amended 2nd Reading  
April 25, 2008

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 EVIDENCE-BASED MEDICALLY NECESSARY APPROPRIATE  
12 SERVICES TO 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, INCLUDING, BUT NOT LIMITED TO, CAPITATION PAYMENTS OR  
16 SHARED-RISK ARRANGEMENTS THAT ARE NOT TIED TO A SPECIFIC MEDICAL  
17 DECISION INVOLVING A SPECIFIC COVERED PERSON; PAY FOR  
18 PERFORMANCE PROGRAMS; OR OTHER EVIDENCE-BASED MEDICAL  
19 INTERVENTIONS. THE PAYMENTS MADE TO A HEALTH CARE PROVIDER  
20 PURSUANT TO THIS SUBSECTION (3) SHALL BE DEEMED 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 ==  
25 (b) "EVIDENCE-BASED" MEANS THE CONSCIENTIOUS, EXPLICIT, AND  
26 JUDICIOUS USE OF CURRENT BEST EVIDENCE IN MAKING DECISIONS ABOUT  
27 THE CARE OF INDIVIDUAL PATIENTS.

1           (c) "HEALTHCARE PROVIDER" SHALL HAVE THE SAME MEANING AS  
2           SET FORTH IN 25-37-101, C.R.S.; EXCEPT THAT "HEALTH CARE  
3           PROVIDER" SHALL NOT MEAN A PERSON OR ENTITY LICENSED TO PRACTICE  
4           PHARMACY.

5           (d) "PAY FOR PERFORMANCE" MEANS A PROGRAM THAT REWARDS  
6           A HEALTH CARE PROVIDER FOR CARE DELIVERY THAT ENCOURAGES  
7           ONGOING IMPROVEMENTS IN PATIENT CARE AND EFFORTS TO IMPROVE  
8           PATIENT OUTCOMES.

9           (e) "PERSON OR ENTITY" MEANS A PERSON OR ENTITY THAT HAS A  
10           PRIMARY BUSINESS PURPOSE OF CONTRACTING WITH HEALTH CARE  
11           PROVIDERS FOR THE DELIVERY OF HEALTH CARE SERVICES.

12           (5) A VIOLATION OF THIS SECTION CONSTITUTES AN UNFAIR  
13           METHOD OF COMPETITION AND UNFAIR OR DECEPTIVE ACT OR PRACTICE IN  
14           THE BUSINESS OF INSURANCE PURSUANT TO SECTION 10-3-1104.

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

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

21           (ff) VIOLATION OF SECTION 10-16-133 CONCERNING UNLAWFUL  
22           REMUNERATION AS AN INDUCEMENT OR REWARD TO DENY, REDUCE, LIMIT,  
23           OR DELAY SPECIFIC MEDICALLY NECESSARY AND APPROPRIATE SERVICES  
24           TO A COVERED PERSON IN A HEALTH COVERAGE PLAN.

25           **SECTION 3. Effective date.** This act shall take effect at 12:01  
26           a.m. on the day following the expiration of the ninety-day period after  
27           final adjournment of the general assembly that is allowed for submitting

1 a referendum petition pursuant to article V, section 1 (3) of the state  
2 constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008);  
3 except that, if a referendum petition is filed against this act or an item,  
4 section, or part of this act within such period, then the act, item, section,  
5 or part, if approved by the people, shall take effect on the date of the  
6 official declaration of the vote thereon by proclamation of the governor.