First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REENGROSSED

This Version Includes All Amendments
Adopted in the House of Introduction

LLS NO. 07-0277.01 Kristen Forrestal **SENATE BILL 07-079**

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Senate Committees
Health and Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING CONTRACTUAL AGREEMENTS WITH HEALTH CARE**
102 **PROVIDERS FOR HEALTH CARE SERVICES.**

Bill Summary

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

Requires any person or entity contracting with a health care provider on or after January 1, 2008, to use a standard form contract (contract). Requires each contract to include a summary disclosure form that contains:

Compensation and payment terms that are sufficient for the health care provider to identify the compensation for health care that is provided that shall include a fee schedule;

SENATE
3rd Reading Unamended
February 14, 2007

SENATE
Amended 2nd Reading
February 13, 2007

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.

The duration of the contract and reasonable termination terms;

The identity of the claims processors;

Dispute resolution terms; and

The subject and order of an addenda, if applicable.

Requires the person or entity to identify a program used to review, monitor, evaluate, or assess the health care services provided.

Exempts a person or entity from providing a fee schedule to a provider if the fee schedule is for dental services whose providers include licensed dentists, and the fee schedule is based on fees filed by the dental provider and is revised periodically.

Requires the person or entity to state how a completed claim was adjudicated and any outstanding balance owed. Requires the payment and compensation terms to be disclosed in writing when a contract is proposed by the person or entity.

Allows a material change to a contract only if the change is provided in writing 90 days prior to the change. Allows a contract to be terminated by either party if there is written objection to the change, unless the objection is to an addition of a new category of coverage.

Prohibits a person or entity from assigning, allowing access to, selling, renting, or giving the rights to the provider's services unless specific conditions are met. Prohibits a contract from requiring a waiver of the provider's legal rights as a condition of entering into the contract.

Allows a health care provider to decline services to new patients upon 60 days' notice. Allows for termination of a contract without cause by either party if the contract is for less than 2 years, otherwise requires the termination without cause terms to be specified in the contract.

Exempts certain entities from the requirement of using the contract.

Allows a contract to include an agreement for binding arbitration. Requires the availability of private rights of action, equitable relief, reasonable attorney fees when the provider is the prevailing party in an action, and the option to introduce prior arbitration awards regarding a violation.

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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 36**

5 **Contracts With Health Care Providers**

1 **25-36-101. Health care contracts - required provisions -**
2 **definitions.** (1) EFFECTIVE JANUARY 1, 2008, A PERSON OR ENTITY THAT
3 CONTRACTS WITH A HEALTH CARE PROVIDER SHALL COMPLY WITH THIS
4 ARTICLE AND SHALL INCLUDE THE PROVISIONS REQUIRED BY THIS ARTICLE
5 IN THE CONTRACT. A CONTRACT IN EXISTENCE PRIOR TO JANUARY 1,
6 2008, THAT IS RENEWED OR RENEWS BY ITS TERMS SHALL COMPLY WITH
7 THIS ARTICLE NO LATER THAN DECEMBER 31, 2008.
8 (2) AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:
10 (a) "CATEGORY OF COVERAGE" MEANS ONE OF THE FOLLOWING
11 TYPES OF COVERAGE OFFERED BY A PERSON OR ENTITY:
12 (I) HEALTH MAINTENANCE ORGANIZATION PLANS;
13 (II) ANY OTHER COMMERCIAL PLAN OR CONTRACT THAT IS NOT A
14 HEALTH MAINTENANCE ORGANIZATION PLAN;
15 (III) MEDICARE;
16 (IV) MEDICAID; OR
17 (V) WORKERS' COMPENSATION.
18 (b) "EDIT" MEANS A PRACTICE OR PROCEDURE PURSUANT TO
19 WHICH ONE OR MORE ADJUSTMENTS ARE MADE REGARDING PROCEDURE
20 CODES, INCLUDING THE AMERICAN MEDICAL ASSOCIATION'S CURRENT
21 PROCEDURAL TERMINOLOGY CODE, ALSO KNOWN AS A "CPT CODE", AND
22 THE CENTERS FOR MEDICARE AND MEDICAID SERVICES HEALTH CARE
23 COMMON PROCEDURE CODING SYSTEM, ALSO KNOWN AS "HCPCS", THAT
24 RESULTS IN:
25 (I) PAYMENT FOR SOME, BUT NOT ALL, OF THE CODES;
26 (II) PAYMENT FOR A DIFFERENT CODE;
27 (III) A REDUCED PAYMENT AS A RESULT OF SERVICES PROVIDED TO

1 A PATIENT THAT ARE CLAIMED UNDER MORE THAN ONE CODE ON THE SAME
2 SERVICE DATE;
3 (IV) A REDUCED PAYMENT RELATED TO A MODIFIER USED WITH A
4 PROCEDURE CODE; OR
5 (V) A REDUCED PAYMENT BASED ON MULTIPLE UNITS OF THE SAME
6 CODE BILLED FOR A SINGLE DATE OF SERVICE.
7 (c) "HEALTH CARE CONTRACT" OR "CONTRACT" MEANS A
8 CONTRACT ENTERED INTO OR RENEWED BETWEEN A PERSON OR ENTITY
9 AND A HEALTH CARE PROVIDER FOR THE DELIVERY OF HEALTH CARE
10 SERVICES TO OTHERS.
11 (d) "HEALTH CARE PROVIDER" MEANS A PERSON LICENSED OR
12 CERTIFIED IN THIS STATE TO PRACTICE MEDICINE, PHARMACY,
13 CHIROPRACTIC, NURSING, PHYSICAL THERAPY, PODIATRY, DENTISTRY,
14 OPTOMETRY, OCCUPATIONAL THERAPY, OR OTHER HEALING ARTS.
15 "HEALTH CARE PROVIDER" ALSO MEANS AN AMBULATORY SURGICAL
16 CENTER, A LICENSED PHARMACY OR PROVIDER OF PHARMACY SERVICES,
17 AND A PROFESSIONAL CORPORATION OR OTHER CORPORATE ENTITY
18 CONSISTING OF LICENSED HEALTH CARE PROVIDERS AS PERMITTED BY THE
19 LAWS OF THIS STATE.
20 (e) (I) "MATERIAL CHANGE" MEANS A CHANGE TO A CONTRACT
21 THAT DECREASES THE HEALTH CARE PROVIDER'S PAYMENT OR
22 COMPENSATION, CHANGES THE ADMINISTRATIVE PROCEDURES IN A WAY
23 THAT MAY REASONABLY BE EXPECTED TO SIGNIFICANTLY INCREASE THE
24 PROVIDER'S ADMINISTRATIVE EXPENSE, OR ADDS A NEW CATEGORY OF
25 COVERAGE. A MATERIAL CHANGE DOES NOT INCLUDE:
26 (A) A DECREASE IN PAYMENT OR COMPENSATION RESULTING
27 SOLELY FROM A CHANGE IN A PUBLISHED FEE SCHEDULE UPON WHICH THE

1 PAYMENT OR COMPENSATION IS BASED AND THE DATE OF APPLICABILITY
2 IS CLEARLY IDENTIFIED IN THE CONTRACT;
3 (B) A DECREASE IN PAYMENT OR COMPENSATION THAT WAS
4 ANTICIPATED UNDER THE TERMS OF THE CONTRACT, IF THE AMOUNT AND
5 DATE OF APPLICABILITY OF THE DECREASE IS CLEARLY IDENTIFIED IN THE
6 CONTRACT;
7 (C) AN ADMINISTRATIVE CHANGE THAT MAY SIGNIFICANTLY
8 INCREASE THE PROVIDER'S ADMINISTRATIVE EXPENSE, THE SPECIFIC
9 APPLICABILITY OF WHICH IS CLEARLY IDENTIFIED IN THE CONTRACT;
10 (D) CHANGES TO AN EXISTING PRIOR AUTHORIZATION,
11 PRECERTIFICATION, NOTIFICATION, OR REFERRAL PROGRAM THAT DO NOT
12 SUBSTANTIALLY INCREASE THE PROVIDER'S ADMINISTRATIVE EXPENSE; OR
13 (E) CHANGES TO AN EDIT PROGRAM OR TO SPECIFIC EDITS;
14 HOWEVER, THE HEALTH CARE PROVIDER SHALL BE PROVIDED NOTICE OF
15 THE CHANGES PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (e),
16 AND THE NOTICE SHALL INCLUDE INFORMATION SUFFICIENT FOR THE
17 HEALTH CARE PROVIDER TO DETERMINE THE EFFECT OF THE CHANGE.
18 (II) IF A CHANGE TO THE CONTRACT IS ADMINISTRATIVE ONLY AND
19 IS NOT A MATERIAL CHANGE, THE CHANGE SHALL BE EFFECTIVE UPON AT
20 LEAST FIFTEEN DAYS' NOTICE TO THE HEALTH CARE PROVIDER. ALL OTHER
21 NOTICES SHALL BE PROVIDED PURSUANT TO THE CONTRACT.
22 (f) "PERSON OR ENTITY" MEANS A PERSON OR ENTITY THAT HAS A
23 PRIMARY BUSINESS PURPOSE OF CONTRACTING WITH HEALTH CARE
24 PROVIDERS FOR THE DELIVERY OF HEALTH CARE SERVICES.
25 (3) (a) EACH CONTRACT SHALL HAVE PROVIDED WITH IT A
26 SUMMARY DISCLOSURE FORM DISCLOSING, IN PLAIN LANGUAGE, THE
27 FOLLOWING:

1 (I) THE TERMS GOVERNING COMPENSATION AND PAYMENT;
2 (II) ANY CATEGORY OF COVERAGE FOR WHICH THE HEALTH CARE
3 PROVIDER IS TO PROVIDE SERVICE;
4 (III) THE DURATION OF THE CONTRACT AND HOW THE CONTRACT
5 MAY BE TERMINATED;
6 (IV) THE IDENTITY OF THE PERSON OR ENTITY RESPONSIBLE FOR
7 THE PROCESSING OF THE HEALTH CARE PROVIDER'S CLAIMS FOR
8 COMPENSATION OR PAYMENT;
9 (V) ANY INTERNAL MECHANISM REQUIRED BY THE PERSON OR
10 ENTITY TO RESOLVE DISPUTES THAT ARISE UNDER THE TERMS OR
11 CONDITIONS OF THE CONTRACT; AND
12 (VI) THE SUBJECT AND ORDER OF ADDENDA, IF ANY, TO THE
13 CONTRACT.
14 (b) THE SUMMARY DISCLOSURE FORM REQUIRED BY PARAGRAPH
15 (a) OF THIS SUBSECTION (3) SHALL BE FOR INFORMATIONAL PURPOSES
16 ONLY AND SHALL NOT BE A TERM OR CONDITION OF THE CONTRACT;
17 HOWEVER, SUCH DISCLOSURE SHALL REASONABLY SUMMARIZE THE
18 APPLICABLE CONTRACT PROVISIONS.
19 (c) IF THE CONTRACT PROVIDES FOR TERMINATION FOR CAUSE BY
20 EITHER PARTY, THE CONTRACT SHALL STATE THE REASONS THAT MAY BE
21 USED FOR TERMINATION FOR CAUSE, WHICH TERMS SHALL NOT BE
22 UNREASONABLE, AND THE CONTRACT SHALL STATE THE TIME BY WHICH
23 NOTICE OF TERMINATION FOR CAUSE SHALL BE PROVIDED AND TO WHOM
24 THE NOTICE SHALL BE GIVEN.
25 (d) THE PERSON OR ENTITY SHALL IDENTIFY ANY UTILIZATION
26 REVIEW OR MANAGEMENT, QUALITY IMPROVEMENT, OR SIMILAR PROGRAM
27 THE PERSON OR ENTITY USES TO REVIEW, MONITOR, EVALUATE, OR ASSESS

1 THE SERVICES PROVIDED PURSUANT TO A CONTRACT. THE POLICIES,
2 PROCEDURES, OR GUIDELINES OF SUCH PROGRAM APPLICABLE TO A
3 PROVIDER SHALL BE DISCLOSED UPON REQUEST OF THE HEALTH CARE
4 PROVIDER WITHIN FOURTEEN DAYS AFTER THE DATE OF THE REQUEST.
5 (4) (a) THE DISCLOSURE OF PAYMENT AND COMPENSATION TERMS
6 PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL INCLUDE
7 INFORMATION SUFFICIENT FOR THE HEALTH CARE PROVIDER TO DETERMINE
8 THE COMPENSATION OR PAYMENT FOR THE HEALTH CARE SERVICES AND
9 SHALL INCLUDE THE FOLLOWING:
10 (I) THE MANNER OF PAYMENT, SUCH AS FEE-FOR-SERVICE,
11 CAPITATION, OR RISK SHARING;
12 (II) (A) THE METHODOLOGY USED TO CALCULATE ANY FEE
13 SCHEDULE, SUCH AS RELATIVE VALUE UNIT SYSTEM AND CONVERSION
14 FACTOR, PERCENTAGE OF MEDICARE PAYMENT SYSTEM, OR PERCENTAGE
15 OF BILLED CHARGES. AS APPLICABLE, THE METHODOLOGY DISCLOSURE
16 SHALL INCLUDE THE NAME OF ANY RELATIVE VALUE SYSTEM; ITS VERSION,
17 EDITION, OR PUBLICATION DATE; ANY APPLICABLE CONVERSION OR
18 GEOGRAPHIC FACTOR; AND ANY DATE BY WHICH COMPENSATION OR FEE
19 SCHEDULES MAY BE CHANGED BY SUCH METHODOLOGY IF ALLOWED FOR
20 IN THE CONTRACT.
21 (B) THE FEE SCHEDULE FOR CODES REASONABLY EXPECTED TO BE
22 BILLED BY THE HEALTH CARE PROVIDER FOR SERVICES PROVIDED
23 PURSUANT TO THE CONTRACT, AND, UPON REQUEST, THE FEE SCHEDULE
24 FOR OTHER CODES USED BY OR WHICH MAY BE USED BY THE HEALTH CARE
25 PROVIDER. SUCH FEE SCHEDULE SHALL INCLUDE, AS MAY BE APPLICABLE,
26 SERVICE OR PROCEDURE CODES SUCH AS CURRENT PROCEDURAL
27 TERMINOLOGY (CPT) CODES OR HEALTH CARE COMMON PROCEDURE

1 CODING SYSTEM CODES AND THE ASSOCIATED PAYMENT OR
2 COMPENSATION FOR EACH SERVICE CODE.
3 (C) THE FEE SCHEDULE REQUIRED IN SUB-SUBPARAGRAPH (B) OF
4 THIS SUBPARAGRAPH (II) MAY BE PROVIDED ELECTRONICALLY.
5 (D) A FEE SCHEDULE FOR THE CODES DESCRIBED BY
6 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II) SHALL BE PROVIDED
7 WHEN A MATERIAL CHANGE RELATED TO PAYMENT OR COMPENSATION
8 OCCURS. ADDITIONALLY, A HEALTH CARE PROVIDER MAY REQUEST THAT
9 A WRITTEN FEE SCHEDULE BE PROVIDED UP TO TWICE PER YEAR, AND THE
10 PERSON OR ENTITY MUST PROVIDE SUCH FEE SCHEDULE PROMPTLY.
11 (III) THE PERSON OR ENTITY SHALL STATE THE EFFECT OF EDITS,
12 IF ANY, ON PAYMENT OR COMPENSATION. A PERSON OR ENTITY MAY
13 SATISFY THIS REQUIREMENT BY PROVIDING A CLEARLY UNDERSTANDABLE,
14 READILY AVAILABLE MECHANISM, SUCH AS THROUGH A WEB SITE, THAT
15 ALLOWS A HEALTH CARE PROVIDER TO DETERMINE THE EFFECT OF EDITS
16 ON PAYMENT OR COMPENSATION BEFORE SERVICE IS PROVIDED OR A CLAIM
17 IS SUBMITTED.
18 (b) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (4) TO
19 THE CONTRARY, DISCLOSURE OF A FEE SCHEDULE IS NOT REQUIRED FROM
20 A PERSON OR ENTITY IF THE FEE SCHEDULE IS FOR A PLAN FOR DENTAL
21 SERVICES, ITS PROVIDERS INCLUDE LICENSED DENTISTS, THE FEE SCHEDULE
22 IS BASED UPON FEES FILED WITH THE PERSON OR ENTITY BY DENTAL
23 PROVIDERS, AND THE FEE SCHEDULE IS REVISED FROM TIME TO TIME BASED
24 UPON SUCH FILINGS. SPECIFIC NUMERICAL PARAMETERS ARE NOT
25 REQUIRED TO BE DISCLOSED.
26 (5) UPON COMPLETION OF PROCESSING OF A CLAIM, THE PERSON OR
27 ENTITY SHALL PROVIDE INFORMATION TO THE HEALTH CARE PROVIDER

1 STATING HOW THE CLAIM WAS ADJUDICATED AND THE RESPONSIBILITY FOR
2 ANY OUTSTANDING BALANCE OF ANY PARTY OTHER THAN THE PERSON OR
3 ENTITY.
4 (6) WHEN A PROPOSED CONTRACT IS PRESENTED BY A PERSON OR
5 ENTITY FOR CONSIDERATION BY A HEALTH CARE PROVIDER, THE PERSON
6 OR ENTITY SHALL PROVIDE IN WRITING OR MAKE REASONABLY AVAILABLE
7 THE INFORMATION REQUIRED IN SUBSECTION (4) OF THIS SECTION. IF THE
8 INFORMATION IS NOT DISCLOSED IN WRITING, IT SHALL BE DISCLOSED IN A
9 MANNER THAT ALLOWS THE HEALTH CARE PROVIDER TO TIMELY
10 EVALUATE THE PAYMENT OR COMPENSATION FOR SERVICES UNDER THE
11 PROPOSED CONTRACT. THE DISCLOSURE OBLIGATIONS IN THIS ARTICLE
12 SHALL NOT PREVENT A PERSON OR ENTITY FROM REQUIRING A
13 REASONABLE CONFIDENTIALITY AGREEMENT REGARDING THE TERMS OF
14 A PROPOSED CONTRACT.
15 (7) (a) A MATERIAL CHANGE TO A CONTRACT SHALL OCCUR ONLY
16 IF THE PERSON OR ENTITY PROVIDES IN WRITING TO THE HEALTH CARE
17 PROVIDER THE PROPOSED CHANGE AND GIVES NINETY DAYS' NOTICE
18 BEFORE THE EFFECTIVE DATE OF THE CHANGE. THE WRITING SHALL BE
19 CONSPICUOUSLY ENTITLED "NOTICE OF MATERIAL CHANGE TO CONTRACT".
20 (b) IF THE HEALTH CARE PROVIDER OBJECTS IN WRITING TO THE
21 MATERIAL CHANGE WITHIN FIFTEEN DAYS AND THERE IS NO RESOLUTION
22 OF THE OBJECTION, EITHER PARTY MAY TERMINATE THE CONTRACT UPON
23 WRITTEN NOTICE OF TERMINATION PROVIDED TO THE OTHER PARTY NOT
24 LATER THAN SIXTY DAYS BEFORE THE EFFECTIVE DATE OF THE MATERIAL
25 CHANGE.
26 (c) IF THE HEALTH CARE PROVIDER DOES NOT OBJECT TO THE
27 MATERIAL CHANGE PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (7),

1 THE CHANGE SHALL BE EFFECTIVE AS SPECIFIED IN THE NOTICE OF
2 MATERIAL CHANGE TO THE CONTRACT.
3 (d) IF A MATERIAL CHANGE IS THE ADDITION OF A NEW CATEGORY
4 OF COVERAGE AND THE HEALTH CARE PROVIDER OBJECTS, THE ADDITION
5 SHALL NOT BE EFFECTIVE AS TO THE HEALTH CARE PROVIDER, AND THE
6 OBJECTION SHALL NOT BE A BASIS UPON WHICH THE PERSON OR ENTITY
7 MAY TERMINATE THE CONTRACT.
8 (8) NOTWITHSTANDING SUBSECTION (6) OF THIS SECTION, A
9 CONTRACT MAY BE MODIFIED BY OPERATION OF LAW AS REQUIRED BY ANY
10 APPLICABLE STATE OR FEDERAL LAW OR REGULATION, AND THE PERSON OR
11 ENTITY MAY DISCLOSE THIS CHANGE BY ANY REASONABLE MEANS.
12 (9) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE
13 THE RENEGOTIATION OF A CONTRACT IN EXISTENCE BEFORE THE
14 APPLICABLE COMPLIANCE DATE IN THIS ARTICLE, AND ANY DISCLOSURE
15 REQUIRED BY THIS ARTICLE FOR SUCH CONTRACTS MAY BE BY NOTICE TO
16 THE HEALTH CARE PROVIDER.
17 (10) A PERSON OR ENTITY SHALL NOT ASSIGN, ALLOW ACCESS TO,
18 SELL, RENT, OR GIVE THE PERSON'S OR ENTITY'S RIGHTS TO THE HEALTH
19 CARE PROVIDER'S SERVICES PURSUANT TO THE PERSON'S OR ENTITY'S
20 CONTRACT UNLESS HE OR SHE COMPLIES WITH PARAGRAPH (a), (b), OR (c)
21 OF THIS SUBSECTION (10) AND ALSO COMPLIES WITH PARAGRAPHS (d) AND
22 (e) OF THIS SUBSECTION (10) AS FOLLOWS:
23 (a) THE THIRD PARTY ACCESSING THE HEALTH CARE PROVIDER'S
24 SERVICES UNDER THE CONTRACT IS AN EMPLOYER OR OTHER ENTITY
25 PROVIDING COVERAGE FOR HEALTH CARE SERVICES TO ITS EMPLOYEES OR
26 MEMBERS AND SUCH EMPLOYER OR ENTITY HAS, WITH THE PERSON OR
27 ENTITY CONTRACTING WITH THE HEALTH CARE PROVIDER, A CONTRACT

1 FOR THE ADMINISTRATION OR PROCESSING OF CLAIMS FOR PAYMENT OR
2 SERVICE PROVIDED PURSUANT TO THE CONTRACT WITH THE HEALTH CARE
3 PROVIDER;
4 (b) THE THIRD PARTY ACCESSING THE HEALTH CARE PROVIDER'S
5 SERVICES UNDER THE CONTRACT IS AN AFFILIATE OF, SUBSIDIARY OF, OR
6 IS UNDER COMMON OWNERSHIP OR CONTROL WITH THE PERSON OR ENTITY;
7 OR, IS PROVIDING OR RECEIVING ADMINISTRATIVE SERVICES FROM THE
8 PERSON OR ENTITY OR AN AFFILIATE OF, OR SUBSIDIARY OF, OR IS UNDER
9 COMMON OWNERSHIP OR CONTROL WITH THE PERSON OR ENTITY;
10 (c) THE HEALTH CARE CONTRACT SPECIFICALLY PROVIDES THAT IT
11 APPLIES TO NETWORK RENTAL ARRANGEMENTS AND STATES THAT IT IS FOR
12 THE PURPOSE OF ASSIGNING, ALLOWING ACCESS TO, SELLING, RENTING, OR
13 GIVING THE PERSON'S OR ENTITY'S RIGHTS TO THE HEALTH CARE
14 PROVIDER'S SERVICES;
15 (d) THE INDIVIDUALS RECEIVING SERVICES UNDER THE HEALTH
16 CARE PROVIDER'S CONTRACT ARE PROVIDED WITH APPROPRIATE
17 IDENTIFICATION STATING WHERE CLAIMS SHOULD BE SENT AND WHERE
18 INQUIRIES SHOULD BE DIRECTED; AND
19 (e) THE THIRD PARTY ACCESSING THE HEALTH CARE PROVIDER'S
20 SERVICES THROUGH THE HEALTH CARE PROVIDER'S CONTRACT IS
21 OBLIGATED TO COMPLY WITH ALL APPLICABLE TERMS AND CONDITIONS OF
22 THE CONTRACT; EXCEPT THAT A SELF-FUNDED PLAN RECEIVING
23 ADMINISTRATIVE SERVICES FROM THE PERSON OR ENTITY OR ITS
24 AFFILIATES SHALL BE SOLELY RESPONSIBLE FOR PAYMENT TO THE
25 PROVIDER.
26 (11) EXCEPT AS PERMITTED BY THIS ARTICLE, A PERSON OR ENTITY
27 SHALL NOT REQUIRE, AS A CONDITION OF CONTRACTING, THAT A HEALTH

CARE PROVIDER WAIVE OR FOREGO ANY RIGHT OR BENEFIT TO WHICH THE HEALTH CARE PROVIDER MAY BE ENTITLED UNDER STATE OR FEDERAL LAW OR REGULATION THAT PROVIDES LEGAL PROTECTIONS TO A PERSON SOLELY BASED ON THE PERSON'S STATUS AS A HEALTH CARE PROVIDER PROVIDING SERVICES IN THIS STATE.

(12) UPON SIXTY DAYS' NOTICE, A HEALTH CARE PROVIDER MAY DECLINE TO PROVIDE SERVICE PURSUANT TO A CONTRACT TO NEW PATIENTS COVERED BY THE PERSON OR ENTITY. THE NOTICE SHALL STATE THE REASON OR REASONS FOR THIS ACTION. FOR THE PURPOSES OF THIS SUBSECTION (12), "NEW PATIENTS" MEANS THOSE PATIENTS WHO HAVE NOT RECEIVED SERVICES FROM THE HEALTH CARE PROVIDER IN THE IMMEDIATELY PRECEDING THREE YEARS. A PATIENT SHALL NOT BECOME A "NEW PATIENT" SOLELY BY CHANGING COVERAGE FROM ONE PERSON OR ENTITY TO ANOTHER PERSON OR ENTITY.

(13) A TERM FOR COMPENSATION OR PAYMENT SHALL NOT SURVIVE THE TERMINATION OF A CONTRACT, EXCEPT FOR A CONTINUATION OF COVERAGE REQUIRED BY LAW OR WITH THE AGREEMENT OF THE HEALTH CARE PROVIDER.

(14) A CONTRACT SHALL NOT PRECLUDE ITS USE OR DISCLOSURE TO A THIRD PARTY FOR THE PURPOSE OF ENFORCING THE PROVISIONS OF THIS ARTICLE OR ENFORCING OTHER STATE OR FEDERAL LAW. THE THIRD PARTY SHALL BE BOUND BY THE CONFIDENTIALITY REQUIREMENTS SET FORTH IN THE CONTRACT OR OTHERWISE.

(15) IN ADDITION TO THE PROVISIONS OF PARAGRAPH (e) OF SUBSECTION (2) OF THIS SECTION, A CONTRACT WITH A DURATION OF LESS THAN TWO YEARS SHALL PROVIDE TO EACH PARTY A RIGHT TO TERMINATE THE CONTRACT WITHOUT CAUSE, WHICH TERMINATION SHALL OCCUR WITH

AT LEAST NINETY DAYS' WRITTEN NOTICE. FOR CONTRACTS WITH A DURATION OF TWO OR MORE YEARS, TERMINATION WITHOUT CAUSE MAY BE AS SPECIFIED IN THE CONTRACT.

(16) THIS ARTICLE SHALL NOT APPLY TO:

(a) AN EXCLUSIVE CONTRACT WITH A SINGLE MEDICAL GROUP IN A SPECIFIC GEOGRAPHIC AREA TO PROVIDE OR ARRANGE FOR HEALTH CARE SERVICES; HOWEVER, THIS ARTICLE SHALL APPLY TO CONTRACTS FOR HEALTH CARE SERVICES BETWEEN THE MEDICAL GROUP AND OTHER MEDICAL GROUPS;

(b) A CONTRACT OR AGREEMENT FOR THE EMPLOYMENT OF A HEALTH CARE PROVIDER OR A CONTRACT OR AGREEMENT BETWEEN HEALTH CARE PROVIDERS.

(c) A CONTRACT OR ARRANGEMENT ENTERED INTO BY A HOSPITAL OR HEALTH CARE FACILITY THAT IS LICENSED OR CERTIFIED PURSUANT TO SECTION 25-3-101;

(d) A CONTRACT BETWEEN A HEALTH CARE PROVIDER AND THE STATE OR FEDERAL GOVERNMENT OR THEIR AGENCIES FOR HEALTH CARE SERVICES PROVIDED THROUGH A PROGRAM FOR WORKERS' COMPENSATION, MEDICAID, MEDICARE, THE CHILDREN'S BASIC HEALTH PLAN PROVIDED FOR IN ARTICLE 8 OF TITLE 25.5, C.R.S., OR THE COLORADO INDIGENT CARE PROGRAM CREATED IN PART 1 OF ARTICLE 3 OF TITLE 25.5, C.R.S.;

(e) CONTRACTS FOR PHARMACY BENEFIT MANAGEMENT, SUCH AS WITH A PHARMACY BENEFIT MANAGEMENT FIRM AS DEFINED IN SECTION 10-16-102, C.R.S.; EXCEPT THAT THIS EXCLUSION SHALL NOT APPLY TO A CONTRACT FOR HEALTH CARE SERVICES BETWEEN A PERSON OR ENTITY AND A PHARMACY, A PHARMACIST, OR A PROFESSIONAL CORPORATION OR CORPORATE ENTITY CONSISTING OF PHARMACIES OR PHARMACISTS AS

1 PERMITTED BY THE LAWS OF THIS STATE; OR

2 (f) A CONTRACT OR ARRANGEMENT ENTERED INTO BY A HOSPITAL
3 OR HEALTH CARE FACILITY THAT IS LICENSED OR CERTIFIED PURSUANT TO
4 SECTION 25-3-101, OR ANY OUTPATIENT SERVICE PROVIDER THAT HAS
5 ENTERED INTO A JOINT VENTURE WITH THE HOSPITAL OR IS OWNED BY THE
6 HOSPITAL OR HEALTH CARE FACILITY.

7 (17) A CONTRACT BETWEEN A PHARMACIST OR A PHARMACY AND
8 A PHARMACY BENEFIT MANAGER, SUCH AS A PHARMACY BENEFIT
9 MANAGEMENT FIRM AS DEFINED IN SECTION 10-16-102, C.R.S., SHALL BE
10 TERMINATED IF THE FEDERAL DRUG ENFORCEMENT AGENCY OR OTHER
11 FEDERAL LAW ENFORCEMENT AGENCY CEASES THE OPERATIONS OF THE
12 PHARMACIST OR PHARMACY DUE TO ALLEGED OR ACTUAL CRIMINAL
13 ACTIVITY.

14 (18) NOTWITHSTANDING THE APPLICABLE COMPLIANCE DATE
15 REQUIREMENT IN SUBSECTION (1) OF THIS SECTION, A HEALTH
16 MAINTENANCE ORGANIZATION HAVING FEWER THAN FIFTEEN THOUSAND
17 ENROLLEES ON THE EFFECTIVE DATE SHALL COMPLY WITH THIS ARTICLE
18 WITHIN TWELVE MONTHS AFTER THE APPLICABLE COMPLIANCE DATE.

19 (19) A CONTRACT SUBJECT TO THIS ARTICLE MAY INCLUDE AN
20 AGREEMENT FOR BINDING ARBITRATION.

21 (20) (a) WITH RESPECT TO THE ENFORCEMENT OF THIS ARTICLE,
22 INCLUDING ARBITRATION, THERE SHALL BE AVAILABLE:

23 (I) PRIVATE RIGHTS OF ACTION AT LAW AND IN EQUITY;

24 (II) EQUITABLE RELIEF, INCLUDING INJUNCTIVE RELIEF;

25 (III) REASONABLE ATTORNEY FEES WHEN THE HEALTH CARE
26 PROVIDER IS THE PREVAILING PARTY IN AN ACTION TO ENFORCE THIS
27 ARTICLE, EXCEPT TO THE EXTENT THAT THE VIOLATION OF THIS ARTICLE

1 CONSISTED OF A MERE FAILURE TO MAKE PAYMENT PURSUANT TO A
2 CONTRACT;
3 (IV) THE OPTION TO INTRODUCE AS PERSUASIVE AUTHORITY PRIOR
4 ARBITRATION AWARDS REGARDING A VIOLATION OF THIS ARTICLE.
5 (b) ARBITRATION AWARDS RELATED TO THE ENFORCEMENT OF
6 THIS ARTICLE MAY BE DISCLOSED TO THOSE WHO HAVE A BONA FIDE
7 INTEREST IN THE ARBITRATION.
8 (21) NO PROVISION OF THIS ARTICLE SHALL BE USED TO JUSTIFY
9 ANY ACT OR OMISSION BY A HEALTH CARE PROVIDER THAT IS PROHIBITED
10 BY ANY APPLICABLE PROFESSIONAL CODE OF ETHICS OR STATE OR FEDERAL
11 LAW PROHIBITING DISCRIMINATION AGAINST ANY PERSON.
12 **SECTION 2. Effective date.** This act shall take effect at 12:01
13 a.m. on the day following the expiration of the ninety-day period after
14 final adjournment of the general assembly that is allowed for submitting
15 a referendum petition pursuant to article V, section 1 (3) of the state
16 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);
17 except that, if a referendum petition is filed against this act or an item,
18 section, or part of this act within such period, then the act, item, section,
19 or part, if approved by the people, shall take effect on the date of the
20 official declaration of the vote thereon by proclamation of the governor.