

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

SECOND-REREVISED

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

LLS NO. 07-0277.01 Kristen Forrestal

SENATE BILL 07-079

SENATE SPONSORSHIP

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Senate Committees

Health and Human Services

House Committees

Health and Human Services

HOUSE RC
Amended 3rd Reading
March 21, 2007

HOUSE
Amended 2nd Reading
March 7, 2007

A BILL FOR AN ACT

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

SENATE
3rd Reading Unamended
February 14, 2007

SENATE
Amended 2nd Reading
February 13, 2007

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;

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.

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, REPLACES THE MAXIMUM
25 ALLOWABLE COST LIST USED WITH A NEW AND DIFFERENT MAXIMUM
26 ALLOWABLE COST LIST BY A PERSON OR ENTITY FOR REIMBURSEMENT OF
27 GENERIC PRESCRIPTION DRUG CLAIMS, OR ADDS A NEW CATEGORY OF

1 COVERAGE. A MATERIAL CHANGE DOES NOT INCLUDE:

2 (A) A DECREASE IN PAYMENT OR COMPENSATION RESULTING
3 SOLELY FROM A CHANGE IN A PUBLISHED FEE SCHEDULE UPON WHICH THE
4 PAYMENT OR COMPENSATION IS BASED AND THE DATE OF APPLICABILITY
5 IS CLEARLY IDENTIFIED IN THE CONTRACT;

6 (B) A DECREASE IN PAYMENT OR COMPENSATION RESULTING FROM
7 A CHANGE IN THE FEE SCHEDULE SPECIFIED IN A CONTRACT FOR
8 PHARMACY SERVICES SUCH AS A CHANGE IN A FEE SCHEDULE BASED ON
9 AVERAGE WHOLESALE PRICE OR MAXIMUM ALLOWABLE COST.

10 (C) A DECREASE IN PAYMENT OR COMPENSATION THAT WAS
11 ANTICIPATED UNDER THE TERMS OF THE CONTRACT, IF THE AMOUNT AND
12 DATE OF APPLICABILITY OF THE DECREASE IS CLEARLY IDENTIFIED IN THE
13 CONTRACT;

14 (D) AN ADMINISTRATIVE CHANGE THAT MAY SIGNIFICANTLY
15 INCREASE THE PROVIDER'S ADMINISTRATIVE EXPENSE, THE SPECIFIC
16 APPLICABILITY OF WHICH IS CLEARLY IDENTIFIED IN THE CONTRACT;

17 (E) CHANGES TO AN EXISTING PRIOR AUTHORIZATION,
18 PRECERTIFICATION, NOTIFICATION, OR REFERRAL PROGRAM THAT DO NOT
19 SUBSTANTIALLY INCREASE THE PROVIDER'S ADMINISTRATIVE EXPENSE; OR

20 (F) CHANGES TO AN EDIT PROGRAM OR TO SPECIFIC EDITS;
21 HOWEVER, THE HEALTH CARE PROVIDER SHALL BE PROVIDED NOTICE OF
22 THE CHANGES PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (e),
23 AND THE NOTICE SHALL INCLUDE INFORMATION SUFFICIENT FOR THE
24 HEALTH CARE PROVIDER TO DETERMINE THE EFFECT OF THE CHANGE.

25 (II) IF A CHANGE TO THE CONTRACT IS ADMINISTRATIVE ONLY AND
26 IS NOT A MATERIAL CHANGE, THE CHANGE SHALL BE EFFECTIVE UPON AT
27 LEAST FIFTEEN DAYS' NOTICE TO THE HEALTH CARE PROVIDER. ALL OTHER

1 NOTICES SHALL BE PROVIDED PURSUANT TO THE CONTRACT.

2 (f) "PERSON OR ENTITY" MEANS A PERSON OR ENTITY THAT HAS A
3 PRIMARY BUSINESS PURPOSE OF CONTRACTING WITH HEALTH CARE
4 PROVIDERS FOR THE DELIVERY OF HEALTH CARE SERVICES.

5 (3) (a) EACH CONTRACT SHALL HAVE PROVIDED WITH IT A
6 SUMMARY DISCLOSURE FORM DISCLOSING, IN PLAIN LANGUAGE, THE
7 FOLLOWING:

8 (I) THE TERMS GOVERNING COMPENSATION AND PAYMENT;

9 (II) ANY CATEGORY OF COVERAGE FOR WHICH THE HEALTH CARE
10 PROVIDER IS TO PROVIDE SERVICE;

11 (III) THE DURATION OF THE CONTRACT AND HOW THE CONTRACT
12 MAY BE TERMINATED;

13 (IV) THE IDENTITY OF THE PERSON OR ENTITY RESPONSIBLE FOR
14 THE PROCESSING OF THE HEALTH CARE PROVIDER'S CLAIMS FOR
15 COMPENSATION OR PAYMENT;

16 (V) ANY INTERNAL MECHANISM REQUIRED BY THE PERSON OR
17 ENTITY TO RESOLVE DISPUTES THAT ARISE UNDER THE TERMS OR
18 CONDITIONS OF THE CONTRACT; AND

19 (VI) THE SUBJECT AND ORDER OF ADDENDA, IF ANY, TO THE
20 CONTRACT.

21 (b) THE SUMMARY DISCLOSURE FORM REQUIRED BY PARAGRAPH
22 (a) OF THIS SUBSECTION (3) SHALL BE FOR INFORMATIONAL PURPOSES
23 ONLY AND SHALL NOT BE A TERM OR CONDITION OF THE CONTRACT;
24 HOWEVER, SUCH DISCLOSURE SHALL REASONABLY SUMMARIZE THE
25 APPLICABLE CONTRACT PROVISIONS.

26 (c) IF THE CONTRACT PROVIDES FOR TERMINATION FOR CAUSE BY
27 EITHER PARTY, THE CONTRACT SHALL STATE THE REASONS THAT MAY BE

1 USED FOR TERMINATION FOR CAUSE, WHICH TERMS SHALL NOT BE
2 UNREASONABLE, AND THE CONTRACT SHALL STATE THE TIME BY WHICH
3 NOTICE OF TERMINATION FOR CAUSE SHALL BE PROVIDED AND TO WHOM
4 THE NOTICE SHALL BE GIVEN.

5 (d) THE PERSON OR ENTITY SHALL IDENTIFY ANY UTILIZATION
6 REVIEW OR MANAGEMENT, QUALITY IMPROVEMENT, OR SIMILAR PROGRAM
7 THE PERSON OR ENTITY USES TO REVIEW, MONITOR, EVALUATE, OR ASSESS
8 THE SERVICES PROVIDED PURSUANT TO A CONTRACT. THE POLICIES,
9 PROCEDURES, OR GUIDELINES OF SUCH PROGRAM APPLICABLE TO A
10 PROVIDER SHALL BE DISCLOSED UPON REQUEST OF THE HEALTH CARE
11 PROVIDER WITHIN FOURTEEN DAYS AFTER THE DATE OF THE REQUEST.

12 (4) (a) THE DISCLOSURE OF PAYMENT AND COMPENSATION TERMS
13 PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL INCLUDE
14 INFORMATION SUFFICIENT FOR THE HEALTH CARE PROVIDER TO DETERMINE
15 THE COMPENSATION OR PAYMENT FOR THE HEALTH CARE SERVICES AND
16 SHALL INCLUDE THE FOLLOWING:

17 (I) THE MANNER OF PAYMENT, SUCH AS FEE-FOR-SERVICE,
18 CAPITATION, OR RISK SHARING;

19 (II) (A) THE METHODOLOGY USED TO CALCULATE ANY FEE
20 SCHEDULE, SUCH AS RELATIVE VALUE UNIT SYSTEM AND CONVERSION
21 FACTOR, PERCENTAGE OF MEDICARE PAYMENT SYSTEM, OR PERCENTAGE
22 OF BILLED CHARGES. AS APPLICABLE, THE METHODOLOGY DISCLOSURE
23 SHALL INCLUDE THE NAME OF ANY RELATIVE VALUE SYSTEM; ITS VERSION,
24 EDITION, OR PUBLICATION DATE; ANY APPLICABLE CONVERSION OR
25 GEOGRAPHIC FACTOR; AND ANY DATE BY WHICH COMPENSATION OR FEE
26 SCHEDULES MAY BE CHANGED BY SUCH METHODOLOGY IF ALLOWED FOR
27 IN THE CONTRACT.

1 (B) THE FEE SCHEDULE FOR CODES REASONABLY EXPECTED TO BE
2 BILLED BY THE HEALTH CARE PROVIDER FOR SERVICES PROVIDED
3 PURSUANT TO THE CONTRACT, AND, UPON REQUEST, THE FEE SCHEDULE
4 FOR OTHER CODES USED BY OR WHICH MAY BE USED BY THE HEALTH CARE
5 PROVIDER. SUCH FEE SCHEDULE SHALL INCLUDE, AS MAY BE APPLICABLE,
6 SERVICE OR PROCEDURE CODES SUCH AS CURRENT PROCEDURAL
7 TERMINOLOGY (CPT) CODES OR HEALTH CARE COMMON PROCEDURE
8 CODING SYSTEM CODES AND THE ASSOCIATED PAYMENT OR
9 COMPENSATION FOR EACH SERVICE CODE.

10 (C) THE FEE SCHEDULE REQUIRED IN SUB-SUBPARAGRAPH (B) OF
11 THIS SUBPARAGRAPH (II) MAY BE PROVIDED ELECTRONICALLY.

12 (D) A FEE SCHEDULE FOR THE CODES DESCRIBED BY
13 SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II) SHALL BE PROVIDED
14 WHEN A MATERIAL CHANGE RELATED TO PAYMENT OR COMPENSATION
15 OCCURS. ADDITIONALLY, A HEALTH CARE PROVIDER MAY REQUEST THAT
16 A WRITTEN FEE SCHEDULE BE PROVIDED UP TO TWICE PER YEAR, AND THE
17 PERSON OR ENTITY MUST PROVIDE SUCH FEE SCHEDULE PROMPTLY.

18 (III) THE PERSON OR ENTITY SHALL STATE THE EFFECT OF EDITS,
19 IF ANY, ON PAYMENT OR COMPENSATION. A PERSON OR ENTITY MAY
20 SATISFY THIS REQUIREMENT BY PROVIDING A CLEARLY UNDERSTANDABLE,
21 READILY AVAILABLE MECHANISM, SUCH AS THROUGH A WEB SITE, THAT
22 ALLOWS A HEALTH CARE PROVIDER TO DETERMINE THE EFFECT OF EDITS
23 ON PAYMENT OR COMPENSATION BEFORE SERVICE IS PROVIDED OR A CLAIM
24 IS SUBMITTED.

25 (b) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (4) TO
26 THE CONTRARY, DISCLOSURE OF A FEE SCHEDULE OR THE METHODOLOGY
27 USED TO CALCULATE A FEE SCHEDULE IS NOT REQUIRED:

1 (I) FROM A PERSON OR ENTITY IF THE FEE SCHEDULE IS FOR A PLAN
2 FOR DENTAL SERVICES, ITS PROVIDERS INCLUDE LICENSED DENTISTS, THE
3 FEE SCHEDULE IS BASED UPON FEES FILED WITH THE PERSON OR ENTITY BY
4 DENTAL PROVIDERS, AND THE FEE SCHEDULE IS REVISED FROM TIME TO
5 TIME BASED UPON SUCH FILINGS. SPECIFIC NUMERICAL PARAMETERS ARE
6 NOT REQUIRED TO BE DISCLOSED.

7 (II) IF THE FEE SCHEDULE IS FOR PHARMACY SERVICES OR DRUGS
8 SUCH AS A FEE SCHEDULE BASED ON USE OF NATIONAL DRUG CODES.

9 (5) UPON COMPLETION OF PROCESSING OF A CLAIM, THE PERSON OR
10 ENTITY SHALL PROVIDE INFORMATION TO THE HEALTH CARE PROVIDER
11 STATING HOW THE CLAIM WAS ADJUDICATED AND THE RESPONSIBILITY FOR
12 ANY OUTSTANDING BALANCE OF ANY PARTY OTHER THAN THE PERSON OR
13 ENTITY.

14 (6) WHEN A PROPOSED CONTRACT IS PRESENTED BY A PERSON OR
15 ENTITY FOR CONSIDERATION BY A HEALTH CARE PROVIDER, THE PERSON
16 OR ENTITY SHALL PROVIDE IN WRITING OR MAKE REASONABLY AVAILABLE
17 THE INFORMATION REQUIRED IN SUBSECTION (4) OF THIS SECTION. IF THE
18 INFORMATION IS NOT DISCLOSED IN WRITING, IT SHALL BE DISCLOSED IN A
19 MANNER THAT ALLOWS THE HEALTH CARE PROVIDER TO TIMELY
20 EVALUATE THE PAYMENT OR COMPENSATION FOR SERVICES UNDER THE
21 PROPOSED CONTRACT. THE DISCLOSURE OBLIGATIONS IN THIS ARTICLE
22 SHALL NOT PREVENT A PERSON OR ENTITY FROM REQUIRING A
23 REASONABLE CONFIDENTIALITY AGREEMENT REGARDING THE TERMS OF
24 A PROPOSED CONTRACT.

25 (7) (a) A MATERIAL CHANGE TO A CONTRACT SHALL OCCUR ONLY
26 IF THE PERSON OR ENTITY PROVIDES IN WRITING TO THE HEALTH CARE
27 PROVIDER THE PROPOSED CHANGE AND GIVES NINETY DAYS' NOTICE

1 BEFORE THE EFFECTIVE DATE OF THE CHANGE. THE WRITING SHALL BE
2 CONSPICUOUSLY ENTITLED "NOTICE OF MATERIAL CHANGE TO CONTRACT".

3 (b) IF THE HEALTH CARE PROVIDER OBJECTS IN WRITING TO THE
4 MATERIAL CHANGE WITHIN FIFTEEN DAYS AND THERE IS NO RESOLUTION
5 OF THE OBJECTION, EITHER PARTY MAY TERMINATE THE CONTRACT UPON
6 WRITTEN NOTICE OF TERMINATION PROVIDED TO THE OTHER PARTY NOT
7 LATER THAN SIXTY DAYS BEFORE THE EFFECTIVE DATE OF THE MATERIAL
8 CHANGE.

9 (c) IF THE HEALTH CARE PROVIDER DOES NOT OBJECT TO THE
10 MATERIAL CHANGE PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (7),
11 THE CHANGE SHALL BE EFFECTIVE AS SPECIFIED IN THE NOTICE OF
12 MATERIAL CHANGE TO THE CONTRACT.

13 (d) IF A MATERIAL CHANGE IS THE ADDITION OF A NEW CATEGORY
14 OF COVERAGE AND THE HEALTH CARE PROVIDER OBJECTS, THE ADDITION
15 SHALL NOT BE EFFECTIVE AS TO THE HEALTH CARE PROVIDER, AND THE
16 OBJECTION SHALL NOT BE A BASIS UPON WHICH THE PERSON OR ENTITY
17 MAY TERMINATE THE CONTRACT.

18 (8) NOTWITHSTANDING SUBSECTION (6) OF THIS SECTION, A
19 CONTRACT MAY BE MODIFIED BY OPERATION OF LAW AS REQUIRED BY ANY
20 APPLICABLE STATE OR FEDERAL LAW OR REGULATION, AND THE PERSON OR
21 ENTITY MAY DISCLOSE THIS CHANGE BY ANY REASONABLE MEANS.

22 (9) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE
23 THE RENEGOTIATION OF A CONTRACT IN EXISTENCE BEFORE THE
24 APPLICABLE COMPLIANCE DATE IN THIS ARTICLE, AND ANY DISCLOSURE
25 REQUIRED BY THIS ARTICLE FOR SUCH CONTRACTS MAY BE BY NOTICE TO
26 THE HEALTH CARE PROVIDER.

27 (10) A PERSON OR ENTITY SHALL NOT ASSIGN, ALLOW ACCESS TO,

1 SELL, RENT, OR GIVE THE PERSON'S OR ENTITY'S RIGHTS TO THE HEALTH
2 CARE PROVIDER'S SERVICES PURSUANT TO THE PERSON'S OR ENTITY'S
3 CONTRACT UNLESS HE OR SHE COMPLIES WITH PARAGRAPH (a), (b), OR (c)
4 OF THIS SUBSECTION (10) AND ALSO COMPLIES WITH PARAGRAPHS (d) AND
5 (e) OF THIS SUBSECTION (10) AS FOLLOWS:

6 (a) THE THIRD PARTY ACCESSING THE HEALTH CARE PROVIDER'S
7 SERVICES UNDER THE CONTRACT IS AN EMPLOYER OR OTHER ENTITY
8 PROVIDING COVERAGE FOR HEALTH CARE SERVICES TO ITS EMPLOYEES OR
9 MEMBERS AND SUCH EMPLOYER OR ENTITY HAS, WITH THE PERSON OR
10 ENTITY CONTRACTING WITH THE HEALTH CARE PROVIDER, A CONTRACT
11 FOR THE ADMINISTRATION OR PROCESSING OF CLAIMS FOR PAYMENT OR
12 SERVICE PROVIDED PURSUANT TO THE CONTRACT WITH THE HEALTH CARE
13 PROVIDER;

14 (b) THE THIRD PARTY ACCESSING THE HEALTH CARE PROVIDER'S
15 SERVICES UNDER THE CONTRACT IS AN AFFILIATE OF, SUBSIDIARY OF, OR
16 IS UNDER COMMON OWNERSHIP OR CONTROL WITH THE PERSON OR ENTITY;
17 OR, IS PROVIDING OR RECEIVING ADMINISTRATIVE SERVICES FROM THE
18 PERSON OR ENTITY OR AN AFFILIATE OF, OR SUBSIDIARY OF, OR IS UNDER
19 COMMON OWNERSHIP OR CONTROL WITH THE PERSON OR ENTITY;

20 (c) THE HEALTH CARE CONTRACT SPECIFICALLY PROVIDES THAT IT
21 APPLIES TO NETWORK RENTAL ARRANGEMENTS AND STATES THAT IT IS FOR
22 THE PURPOSE OF ASSIGNING, ALLOWING ACCESS TO, SELLING, RENTING, OR
23 GIVING THE PERSON'S OR ENTITY'S RIGHTS TO THE HEALTH CARE
24 PROVIDER'S SERVICES;

25 (d) THE INDIVIDUALS RECEIVING SERVICES UNDER THE HEALTH
26 CARE PROVIDER'S CONTRACT ARE PROVIDED WITH APPROPRIATE
27 IDENTIFICATION STATING WHERE CLAIMS SHOULD BE SENT AND WHERE

1 INQUIRIES SHOULD BE DIRECTED; AND

2 (e) THE THIRD PARTY ACCESSING THE HEALTH CARE PROVIDER'S
3 SERVICES THROUGH THE HEALTH CARE PROVIDER'S CONTRACT IS
4 OBLIGATED TO COMPLY WITH ALL APPLICABLE TERMS AND CONDITIONS OF
5 THE CONTRACT; EXCEPT THAT A SELF-FUNDED PLAN RECEIVING
6 ADMINISTRATIVE SERVICES FROM THE PERSON OR ENTITY OR ITS
7 AFFILIATES SHALL BE SOLELY RESPONSIBLE FOR PAYMENT TO THE
8 PROVIDER.

9 (11) EXCEPT AS PERMITTED BY THIS ARTICLE, A PERSON OR ENTITY
10 SHALL NOT REQUIRE, AS A CONDITION OF CONTRACTING, THAT A HEALTH
11 CARE PROVIDER WAIVE OR FOREGO ANY RIGHT OR BENEFIT TO WHICH THE
12 HEALTH CARE PROVIDER MAY BE ENTITLED UNDER STATE OR FEDERAL LAW
13 OR REGULATION THAT PROVIDES LEGAL PROTECTIONS TO A PERSON
14 SOLELY BASED ON THE PERSON'S STATUS AS A HEALTH CARE PROVIDER
15 PROVIDING SERVICES IN THIS STATE.

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

25 (13) A TERM FOR COMPENSATION OR PAYMENT SHALL NOT
26 SURVIVE THE TERMINATION OF A CONTRACT, EXCEPT FOR A CONTINUATION
27 OF COVERAGE REQUIRED BY LAW OR WITH THE AGREEMENT OF THE

1 HEALTH CARE PROVIDER.

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

7 (15) IN ADDITION TO THE PROVISIONS OF PARAGRAPH (e) OF
8 SUBSECTION (2) OF THIS SECTION, A CONTRACT WITH A DURATION OF LESS
9 THAN TWO YEARS SHALL PROVIDE TO EACH PARTY A RIGHT TO TERMINATE
10 THE CONTRACT WITHOUT CAUSE, WHICH TERMINATION SHALL OCCUR WITH
11 AT LEAST NINETY DAYS' WRITTEN NOTICE. FOR CONTRACTS WITH A
12 DURATION OF TWO OR MORE YEARS, TERMINATION WITHOUT CAUSE MAY
13 BE AS SPECIFIED IN THE CONTRACT.

14 (16) THIS ARTICLE SHALL NOT APPLY TO:

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

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

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

26 (d) A CONTRACT BETWEEN A HEALTH CARE PROVIDER AND THE
27 STATE OR FEDERAL GOVERNMENT OR THEIR AGENCIES FOR HEALTH CARE

1 SERVICES PROVIDED THROUGH A PROGRAM FOR WORKERS' COMPENSATION,
2 MEDICAID, MEDICARE, THE CHILDREN'S BASIC HEALTH PLAN PROVIDED FOR
3 IN ARTICLE 8 OF TITLE 25.5, C.R.S., OR THE COLORADO INDIGENT CARE
4 PROGRAM CREATED IN PART 1 OF ARTICLE 3 OF TITLE 25.5, C.R.S.;

5 (e) CONTRACTS FOR PHARMACY BENEFIT MANAGEMENT, SUCH AS
6 WITH A PHARMACY BENEFIT MANAGEMENT FIRM AS DEFINED IN SECTION
7 10-16-102, C.R.S.; EXCEPT THAT THIS EXCLUSION SHALL NOT APPLY TO A
8 CONTRACT FOR HEALTH CARE SERVICES BETWEEN A PERSON OR ENTITY
9 AND A PHARMACY, A PHARMACIST, OR A PROFESSIONAL CORPORATION OR
10 CORPORATE ENTITY CONSISTING OF PHARMACIES OR PHARMACISTS AS
11 PERMITTED BY THE LAWS OF THIS STATE; OR

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

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

24 (18) NOTWITHSTANDING THE APPLICABLE COMPLIANCE DATE
25 REQUIREMENT IN SUBSECTION (1) OF THIS SECTION, A DOMESTIC
26 NONPROFIT HEALTH PLAN SHALL COMPLY WITH THIS ARTICLE WITHIN
27 TWELVE MONTHS AFTER THE APPLICABLE COMPLIANCE DATE.

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

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

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

6 (II) EQUITABLE RELIEF, INCLUDING INJUNCTIVE RELIEF;

7 (III) REASONABLE ATTORNEY FEES WHEN THE HEALTH CARE
8 PROVIDER IS THE PREVAILING PARTY IN AN ACTION TO ENFORCE THIS
9 ARTICLE, EXCEPT TO THE EXTENT THAT THE VIOLATION OF THIS ARTICLE
10 CONSISTED OF A MERE FAILURE TO MAKE PAYMENT PURSUANT TO A
11 CONTRACT;

12 (IV) THE OPTION TO INTRODUCE AS PERSUASIVE AUTHORITY PRIOR
13 ARBITRATION AWARDS REGARDING A VIOLATION OF THIS ARTICLE.

14 (b) ARBITRATION AWARDS RELATED TO THE ENFORCEMENT OF
15 THIS ARTICLE MAY BE DISCLOSED TO THOSE WHO HAVE A BONA FIDE
16 INTEREST IN THE ARBITRATION.

17 (21) NO PROVISION OF THIS ARTICLE SHALL BE USED TO JUSTIFY
18 ANY ACT OR OMISSION BY A HEALTH CARE PROVIDER THAT IS PROHIBITED
19 BY ANY APPLICABLE PROFESSIONAL CODE OF ETHICS OR STATE OR FEDERAL
20 LAW PROHIBITING DISCRIMINATION AGAINST ANY PERSON.

21 **SECTION 2. Effective date.** This act shall take effect at 12:01
22 a.m. on the day following the expiration of the ninety-day period after
23 final adjournment of the general assembly that is allowed for submitting
24 a referendum petition pursuant to article V, section 1 (3) of the state
25 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);
26 except that, if a referendum petition is filed against this act or an item,
27 section, or part of this act within such period, then the act, item, section,

- 1 or part, if approved by the people, shall take effect on the date of the
- 2 official declaration of the vote thereon by proclamation of the governor.