

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 15-0369.01 Yelana Love x2295

HOUSE BILL 15-1297

HOUSE SPONSORSHIP

Ginal and Joshi,

SENATE SPONSORSHIP

Aguilar and Lundberg,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING UNFAIR BUSINESS PRACTICES WITHIN VISION INSURANCE**
102 **PLANS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill prohibits carriers who offer health coverage plans or managed care plans for optometric services from engaging in certain activities, such as:

- ! Establishing or limiting the fee an optometrist may charge for certain eye care services or corrective lenses;
- ! Requiring an optometrist to provide discounts on corrective

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.*

lenses that are not covered under the health coverage plan or managed care plan;

- ! Requiring an optometrist to participate in the carrier's other plans or networks or in another carrier's network;
- ! Requiring an optometrist to participate in credentialing standards that are different from those that apply to other health care professionals; or
- ! Requiring specific sources of corrective lenses or optical laboratory services from which an optometrist may recommend.

Violation of the prohibitions constitutes an unfair or deceptive act or practice in the business of insurance and subjects a carrier to penalties authorized under the law.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-139, **add** (2)
3 (b.5), (2) (d) (III), (2) (d) (IV), (2) (d) (V), (2) (e), and (2) (f) as follows:

4 **10-16-139. Access to care - rules. (2) Eye care services.**

5 (b.5) IN ADDITION TO THE REQUIREMENTS IN PARAGRAPH (b) OF THIS
6 SUBSECTION (2), A CARRIER SHALL NOT:

7 (I) ESTABLISH, LIMIT, OR REQUIRE DISCOUNTS ON THE FEE AN
8 OPTOMETRIST MAY CHARGE FOR EYE CARE SERVICES, ROUTINE VISION
9 EXAMINATIONS, OR CORRECTIVE LENSES THAT ARE NOT COVERED VISION
10 SERVICES. FOR PURPOSES OF THIS SUBSECTION (2), "COVERED VISION
11 SERVICES" MEANS AN EYE CARE SERVICE, HEALTH CARE SERVICE
12 RENDERED IN CONJUNCTION WITH A ROUTINE VISION EXAMINATION, OR
13 THE FILLING OF A PRESCRIPTION FOR CORRECTIVE LENSES FOR WHICH
14 PAYMENT OR REIMBURSEMENT, SUBJECT TO CONTRACTUAL LIMITATIONS,
15 DEDUCTIBLES, COPAYMENT, COINSURANCE, WAITING PERIODS, ANNUAL OR
16 LIFETIME MAXIMUMS, FREQUENCY LIMITATIONS, ALTERNATIVE BENEFIT
17 PAYMENTS, OR ANY OTHER LAWFUL LIMITATION, IS AVAILABLE UNDER THE
18 VISION PLAN IN WHICH THE OPTOMETRIST HAS AGREED TO PARTICIPATE.

1 FOR PURPOSES OF THIS SUBPARAGRAPH (I), PAYMENT OR REIMBURSEMENT
2 DOES NOT INCLUDE NOMINAL OR DE MINIMIS AMOUNTS OFFERED TO AN
3 OPTOMETRIST AS A PARTICIPATING PROVIDER IN A VISION PLAN.

4 (II) REQUIRE, AS A CONDITION OF PARTICIPATION IN ONE OF THE
5 CARRIER'S HEALTH COVERAGE PLANS, MANAGED CARE PLANS, OR
6 NETWORKS, THAT AN OPTOMETRIST PARTICIPATE IN ANY VISION PLAN
7 OFFERED OR ADMINISTERED BY ANOTHER CARRIER OR ENTITY;

8 (III) DELEGATE OR ASSIGN BY ANY MEANS ALL OR ANY PORTION
9 OF THE CARRIER'S CREDENTIALING PROCESS TO A VISION PLAN THAT
10 REQUIRES AN OPTOMETRIST TO CONTRACT WITH OR OTHERWISE BECOME
11 A PARTICIPATING PROVIDER IN THAT VISION PLAN AS A CONDITION OF
12 BEING CREDENTIALLED; OR

13 (IV) REQUIRE THAT AN OPTOMETRIST USE OR RECOMMEND A
14 SPECIFIC SOURCE OF CORRECTIVE LENSES OR OPTICAL LABORATORY
15 SERVICES FOR PURPOSES OF TREATING A COVERED PERSON.

16 (d) As used in this subsection (2), unless the context otherwise
17 requires:

18 (III) "CARRIER" HAS THE MEANING SET FORTH IN SECTION
19 10-16-102 AND INCLUDES A THIRD PARTY ADMINISTRATOR OR OTHER
20 ENTITY CONTRACTED TO PROVIDE OR ADMINISTER A VISION PLAN.

21 (IV) "CORRECTIVE LENSES" MEANS LENSES, DEVICES CONTAINING
22 LENSES, ARTIFICIAL INTRAOCULAR LENSES, OPHTHALMIC FRAMES AND
23 OTHER LENS MOUNTING APPARATUS, PRISMS, LENS TREATMENTS, LENS
24 COATINGS, PROSTHETIC DEVICES TO CORRECT, RELIEVE, OR TREAT
25 DEFECTS OR ABNORMAL CONDITIONS OF THE HUMAN EYE OR ITS ADNEXA
26 THAT ARE CONSISTENT WITH AN OPTOMETRIST'S SCOPE OF PRACTICE
27 UNDER ARTICLE 40 OF TITLE 12, C.R.S., AND CONTACT LENSES PROVIDED

1 BY AN OPTOMETRIST LICENSED TO PRACTICE OPTOMETRY PURSUANT TO
2 ARTICLE 40 OF TITLE 12, C.R.S.

3 (V) "VISION PLAN" MEANS A POLICY, CONTRACT, CERTIFICATE, OR
4 AGREEMENT ENTERED INTO, OFFERED, OR ISSUED BY A CARRIER TO
5 PROVIDE, DELIVER, ARRANGE FOR, PAY FOR, OR REIMBURSE ANY OF THE
6 COSTS OF ROUTINE VISION EXAMINATIONS AND THE FILLING OF
7 PRESCRIPTIONS FOR CORRECTIVE LENSES.

8 (e) THE COMMISSIONER MAY PROMULGATE RULES NECESSARY TO
9 CARRY OUT THE REQUIREMENTS OF THIS SECTION.

10 (f) AN OPTOMETRIST SHALL NOT CHARGE MORE THAN A USUAL
11 AND CUSTOMARY FEE FOR PROVIDING SERVICES THAT ARE NOT COVERED
12 SERVICES TO A PERSON COVERED BY A HEALTH COVERAGE PLAN OR
13 MANAGED CARE PLAN.

14 **SECTION 2.** In Colorado Revised Statutes, 10-3-1104, **amend**
15 (1) (qq); and **add** (1) (ss) as follows:

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

20 (qq) Failure to pay a final, nonappealable judgment award for
21 failure to return or repay collateral received to secure a bond; ~~or~~

22 (ss) VIOLATING SECTION 10-16-139 (2) (b.5).

23 **SECTION 3. Effective date - applicability.** This act takes effect
24 January 1, 2016, and applies to contracts issued, renewed, amended, or
25 extended in this state on or after said date.

26 **SECTION 4. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly (August
2 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
3 referendum petition is filed pursuant to section 1 (3) of article V of the
4 state constitution against this act or an item, section, or part of this act
5 within such period, then the act, item, section, or part will not take effect
6 unless approved by the people at the general election to be held in
7 November 2016 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.