

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0856.02 Kristen Forrestal

SENATE BILL 06-198

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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 TO PROVIDE 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) as directed by the commissioner of insurance (commissioner). Creates an advisory panel, whose members shall be appointed by the speaker of the house of representatives, the president of the senate, and the governor, to advise the commissioner regarding the adoption of a contract. Requires the commissioner to adopt the standard contract by

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.

July 1, 2007. Specifies certain terms to be included in the contract. Allows a health care provider to choose an alternative to the standard contract. Prohibits retaliation or discrimination against a health care provider who chooses not to use the standard contract, and makes such retaliation or discrimination a violation of the "Unfair Practices Act".

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 **10-16-121.5. Standard form contract - contract advisory panel**

6 **- repeal.** (1) (a) ANY PERSON OR ENTITY CONTRACTING WITH A HEALTH
7 CARE PROVIDER TO PROVIDE HEALTH CARE SERVICES SHALL USE A
8 STANDARD FORM CONTRACT AS DIRECTED BY THE COMMISSIONER; EXCEPT
9 THAT THE HEALTH CARE PROVIDER MAY ELECT TO USE A CONTRACT THAT
10 IS DIFFERENT FROM THE STANDARD FORM CONTRACT. THE STANDARD
11 FORM CONTRACT SHALL BE PROMULGATED BY THE COMMISSIONER, AFTER
12 CONSULTATION WITH THE CONTRACT ADVISORY PANEL DESCRIBED IN
13 SUBSECTION (5) OF THIS SECTION, NO LATER THAN JULY 1, 2007.

14 (b) THE STANDARD FORM CONTRACT SHALL BE USED FOR ALL
15 CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2008, UNLESS
16 A HEALTH CARE PROVIDER EXERCISES ITS OPTION TO USE A DIFFERENT
17 CONTRACT.

18 (2) FOR PURPOSES OF THIS SECTION, "HEALTH CARE PROVIDER"
19 SHALL HAVE THE SAME MEANING AS "HEALTH CARE PROFESSIONAL", SET
20 FORTH IN SECTION 13-80-102.5, C.R.S.

21 (3) THE STANDARD FORM CONTRACT SHALL:

22 (a) IDENTIFY ALL PAYORS AND PRODUCTS UNDER THE CONTRACT;

23 (b) IDENTIFY ALL PERSONS OR ENTITIES RESPONSIBLE TO MAKE

1 PAYMENT TO THE HEALTH CARE PROVIDER;

2 (c) DISCLOSE THE DURATION OF THE CONTRACT;

3 (d) BE TERMINABLE BY EITHER PARTY AFTER NINETY DAYS'

4 WRITTEN NOTICE TO THE OTHER PARTY;

5 (e) STATE THE AMOUNT OF, OR THE FEE SCHEDULE FOR,

6 COMPENSATION TO BE PAID TO THE HEALTH CARE PROVIDER AND STATE

7 CLEARLY ANY METHODOLOGY, CALCULATION, OR POLICY AFFECTING THE

8 FINAL, NET, OR ACTUAL COMPENSATION;

9 (f) NOT BE MODIFIED BY ANY AGREEMENT, EXHIBIT, ATTACHMENT,

10 FEE SCHEDULE, MANUAL, POLICY, OR OTHER DOCUMENT THAT THE HEALTH

11 CARE PROVIDER DOES NOT AGREE TO IN WRITING AT LEAST THIRTY DAYS

12 PRIOR TO THE MODIFICATION;

13 (g) DISCLOSE THE MECHANISM FOR THE RESOLUTION OF PAYMENT

14 OR OTHER DISPUTES ARISING UNDER THE CONTRACT, INCLUDING THE TIME

15 BY WHICH A DISPUTE SHALL BE FILED AND THE TIME REQUIRED FOR THE

16 RESOLUTION OF THE DISPUTE; AND

17 (h) INCLUDE A PROVISION FOR THE RESOLUTION OF DISPUTES

18 PURSUANT TO THE UNIFORM ARBITRATION ACT, PART 2 OF ARTICLE 22 OF

19 TITLE 13, C.R.S.

20 (4) ANY MODIFICATION, EXTENSION, OR RENEWAL OF THE

21 STANDARD FORM CONTRACT SHALL BE IN WRITING AND SIGNED BY BOTH

22 PARTIES.

23 (5) (a) THERE IS HEREBY CREATED A STANDARD FORM CONTRACT

24 ADVISORY PANEL TO ADVISE THE COMMISSIONER AND MAKE

25 RECOMMENDATIONS REGARDING THE ADOPTION OF A STANDARD FORM

26 CONTRACT. THE PANEL SHALL CONSIST OF NINE MEMBERS, APPOINTED AS

27 FOLLOWS:

1 (I) TWO PHYSICIANS ACTIVELY ENGAGED IN THE INDEPENDENT
2 PRACTICE OF MEDICINE IN COLORADO, ONE OF WHOM SHALL SERVE AS
3 CHAIR OF THE PANEL AND BE APPOINTED BY THE SPEAKER OF THE HOUSE
4 OF REPRESENTATIVES AND ONE OF WHOM SHALL BE APPOINTED BY THE
5 PRESIDENT OF THE SENATE;

6 (II) TWO ATTORNEYS WHO PRIMARILY REPRESENT ACTIVELY
7 PRACTICING HEALTH CARE PROVIDERS, ONE OF WHOM SHALL BE
8 APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE
9 OF WHOM SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE;

10 (III) TWO ATTORNEYS WHO PRIMARILY REPRESENT INSURERS,
11 HEALTH MAINTENANCE ORGANIZATIONS, OR HEALTH BENEFIT PLANS, WHO
12 SHALL BE APPOINTED BY THE GOVERNOR;

13 (IV) ONE PERSON WHO SERVES AS A MANAGER OF INDEPENDENTLY
14 PRACTICING PHYSICIANS, WHO SHALL BE APPOINTED BY THE SPEAKER OF
15 THE HOUSE OF REPRESENTATIVES;

16 (V) ONE PERSON WHO SERVES AS A PROVIDER RELATIONS
17 DIRECTOR OR CONTRACT MANAGER OF AN INSURER, HEALTH
18 MAINTENANCE ORGANIZATION, OR HEALTH PLAN, WHO SHALL BE
19 APPOINTED BY THE GOVERNOR; AND

20 (VI) ONE PERSON WHO REPRESENTS PATIENTS, WHO SHALL BE
21 APPOINTED BY THE PRESIDENT OF THE SENATE.

22 (b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JANUARY 1,
23 2008.

24 (6) (a) NO PERSON OR ENTITY SHALL:

25 (I) DISCRIMINATE OR RETALIATE AGAINST A HEALTH CARE
26 PROVIDER FOR USING THE STANDARD FORM CONTRACT OR FOR ASSERTING
27 OR ENFORCING THE RIGHTS AND OBLIGATIONS PROVIDED IN THIS SECTION

1 OR IN THE CONTRACT. DISCRIMINATION OR RETALIATION SHALL INCLUDE,
2 BUT SHALL NOT BE LIMITED TO, OFFERING OR PROVIDING ANY FINANCIAL
3 OR OTHER BENEFIT FOR NOT USING THE CONTRACT.

4 (II) REQUIRE THE HEALTH CARE PROVIDER TO WAIVE ANY RIGHTS
5 PROVIDED IN THIS SECTION OR ANY RIGHTS PROVIDED BY FEDERAL OR
6 STATE LAW AS A CONDITION OF ENTERING INTO A CONTRACT WITH A
7 PERSON OR ENTITY SUBJECT TO SUBSECTION (1) OF THIS SECTION.

8 (b) A VIOLATION OF THIS SUBSECTION (6) SHALL CONSTITUTE A
9 VIOLATION OF THE "UNFAIR PRACTICES ACT", PART 1 OF ARTICLE 2 OF
10 TITLE 6, C.R.S., AND SHALL BE SUBJECT TO THE PENALTIES PROVIDED FOR
11 IN SECTION 6-2-116, C.R.S, IN ADDITION TO ANY OTHER PENALTY OR
12 REMEDY.

13 (7) THIS SECTION SHALL NOT APPLY:

14 (a) TO A HEALTH MAINTENANCE ORGANIZATION THAT
15 EXCLUSIVELY CONTRACTS WITH A SINGLE MEDICAL GROUP IN A SPECIFIC
16 GEOGRAPHIC AREA TO PROVIDE OR ARRANGE FOR HEALTH CARE SERVICES
17 FOR ITS ENROLLEES; OR

18 (b) TO EMPLOYMENT CONTRACTS OR ARRANGEMENTS BETWEEN AN
19 INDIVIDUAL HEALTH CARE PROVIDER AND OTHER HEALTH CARE PROVIDERS
20 OR BETWEEN AN INDIVIDUAL HEALTH CARE PROVIDER AND A BUSINESS
21 ENTITY CONSISTING OF HEALTH CARE PROVIDERS.

22 **SECTION 2.** Article 2 of title 6, Colorado Revised Statutes, is
23 amended BY THE ADDITION OF A NEW SECTION to read:

24 **6-2-108.5. Retaliation or discrimination against health care**
25 **providers prohibited.** RETALIATION OR DISCRIMINATION AGAINST A
26 HEALTH CARE PROVIDER WHO CHOOSES NOT TO USE A STANDARD FORM
27 CONTRACT PURSUANT TO SECTION 10-16-121.5, C.R.S., IS AN UNFAIR

1 TRADE PRACTICE.

2 **SECTION 3.** 6-2-116, Colorado Revised Statutes, is amended to
3 read:

4 **6-2-116. Penalty.** Any person, firm, or corporation, whether as
5 principal, agent, officer, or director, for himself, HERSELF, or itself, or for
6 another person, or for any firm or corporation who violates any of the
7 provisions of sections 6-2-103 to ~~6-2-108~~ 6-2-108.5 or section 6-2-110,
8 is guilty of a misdemeanor for each single violation and, upon conviction
9 thereof, shall be punished by a fine of not less than one hundred dollars
10 nor more than one thousand dollars, or by imprisonment for not more than
11 six months, or by both such fine and imprisonment.

12 **SECTION 4. 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 9, 2006, if adjournment sine die is on May 10,
17 2006); except that, if a referendum petition is filed against this act or an
18 item, section, or part of this act within such period, then the act, item,
19 section, or part, if approved by the people, shall take effect on the date of
20 the official declaration of the vote thereon by proclamation of the
21 governor.