

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 30, 2006
Date

Committee on Health and Human Services.

After consideration on the merits, the Committee recommends the following:

SB06-198 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute the following:

3 "SECTION 1. Part 1 of article 16 of title 10, Colorado Revised
4 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
5 read:

6 **10-16-121.5. Health care contract headnotes - contract**
7 **provisions - definitions.** (1) (a) ON AND AFTER JANUARY 1, 2007, A
8 HEALTH CARE CONTRACT SHALL INCLUDE, IN THE ORDER SPECIFIED IN
9 SUBSECTION (3) OF THIS SECTION, THE HEADNOTES STATED IN SUBSECTION
10 (3) OF THIS SECTION, UNLESS THE HEALTH CARE PROFESSIONAL CHOOSES
11 TO USE A DIFFERENT CONTRACT.

12 (b) FOR THE PURPOSES OF THIS SECTION:

13 (I) "HEADNOTES" MEANS WORDS OR PHRASES THAT ARE PRINTED
14 IN BOLD, UNDERLINED, OR OTHER CONTRASTING TYPE AND THAT BEGIN A
15 NEW PARAGRAPH OR CLAUSE CONTAINING CONTRACTUAL TERMS
16 CONSISTENT WITH THE SUBJECT MATTER OF THE HEADNOTE.

17 (II) "HEALTH CARE CONTRACT" OR "CONTRACT" MEANS A
18 CONTRACT THAT IS ENTERED INTO OR RENEWED BETWEEN A HEALTH CARE
19 PROFESSIONAL AND A PERSON OR ENTITY WHO, IN THE NORMAL COURSE OF
20 BUSINESS, ENTERS INTO CONTRACTS FOR THE DELIVERY OF HEALTH CARE

1 SERVICES.

2 (III) "HEALTH CARE PROFESSIONAL" MEANS A PERSON OR ENTITY
3 LICENSED IN THIS STATE TO PRACTICE MEDICINE, CHIROPRACTIC, NURSING,
4 PHYSICAL THERAPY, PODIATRY, DENTISTRY, OPTOMETRY, OR OTHER
5 HEALING ARTS. "HEALTH CARE PROFESSIONAL" INCLUDES A
6 PROFESSIONAL CORPORATION OR OTHER PROFESSIONAL ENTITY
7 COMPRISING SUCH HEALTH CARE PROFESSIONALS AS PERMITTED BY LAWS
8 OF THIS STATE; EXCEPT THAT "HEALTH CARE PROFESSIONAL" DOES NOT
9 INCLUDE A PHARMACIST, PHARMACY, OR PROVIDER OF PHARMACY
10 SERVICES.

11 (2) A CONTRACT SHALL BE WRITTEN IN PLAIN LANGUAGE.

12 (3) A CONTRACT'S HEADNOTES SHALL APPEAR IN THE FOLLOWING
13 ORDER AND SHALL INDICATE THE FOLLOWING PROVISIONS:

14 (a) THE NAME AND ADDRESS OF EACH PARTY ENTERING INTO OR
15 RENEWING THE CONTRACT;

16 (b) FACTUAL RECITALS;

17 (c) THE TERMS OF THE CONTRACT, WHICH TERMS SHALL INCLUDE
18 THE EFFECTIVE DATE AND DURATION OF THE CONTRACT AND THE SPECIFIC
19 PRODUCTS OR SERVICES TO BE PROVIDED BY THE PERSON OR ENTITY
20 ENTERING INTO THE CONTRACT WITH THE HEALTH CARE PROFESSIONAL;

21 (d) TERMINATION PROVISIONS, WHICH SHALL INCLUDE:

22 (I) THAT THE CONTRACT MAY BE TERMINATED BY EITHER PARTY
23 AFTER NINETY DAYS' WRITTEN NOTICE TO THE OTHER PARTY; AND

24 (II) THE CIRCUMSTANCES JUSTIFYING TERMINATION FOR CAUSE;

25 (e) THE ORDER OF PRECEDENCE OF DOCUMENTS CONTAINED IN THE
26 CONTRACT;

27 (f) THE SCOPE OF WORK COVERED UNDER THE CONTRACT,
28 INCLUDING:

29 (I) THE PRODUCTS AND SERVICES TO BE PROVIDED BY THE HEALTH
30 CARE PROFESSIONAL; AND

1 (II) THE PERSONS OR ENTITIES RESPONSIBLE FOR MAKING PAYMENT
2 TO THE HEALTH CARE PROFESSIONAL;

3 (g) RESPONSIBILITIES OF THE PERSON OR ENTITY AND THE HEALTH
4 CARE PROFESSIONAL, INCLUDING:

5 (I) A PROHIBITION AGAINST INTERFERING WITH THE HEALTH CARE
6 PROFESSIONAL'S RIGHT TO DETERMINE AND SET THE PAYOR MIX RATIO OF
7 THE PRACTICE;

8 (II) A NONDISCRIMINATION PROVISION STATING THAT THE HEALTH
9 CARE PROFESSIONAL SHALL NOT DISCRIMINATE OR DIFFERENTIATE IN THE
10 TIMING, MANNER, OR PROVISION OF HEALTH CARE PRODUCTS OR SERVICES
11 BECAUSE OF A PERSON'S RACE, COLOR, ETHNICITY, NATIONAL ORIGIN,
12 RELIGION, SEX, MARITAL STATUS, SEXUAL ORIENTATION, INCOME,
13 DISABILITY, OR AGE; AND

14 (III) A PROVISION IDENTIFYING THE LICENSURE OR CERTIFICATION
15 REQUIREMENTS OF THE HEALTH CARE PROFESSIONAL;

16 (h) CONSIDERATION OR PAYMENT TERMS, INCLUDING:

17 (I) THE METHODS USED FOR THE CALCULATION OF COMPENSATION,
18 INCLUDING ANY METHODOLOGY, CALCULATION, OR POLICY AFFECTING THE
19 FINAL, NET, OR ACTUAL COMPENSATION, AND THE APPLICABLE VERSION,
20 ALONG WITH ANY GEOGRAPHIC ADJUSTMENTS, CONVERSION FACTORS, OR
21 UNIT VALUES;

22 (II) THE FEE SCHEDULE, UPON REQUEST OF THE HEALTH CARE
23 PROFESSIONAL; AND

24 (III) A DESCRIPTION OF THE PERSON'S OR ENTITY'S CODING
25 METHODOLOGY AND ANY EXCEPTIONS TO STANDARD CPT METHODOLOGY;

26 (i) DISPUTE RESOLUTION PROCEDURES, INCLUDING A PROVISION
27 THAT ALLOWS FOR THE HEALTH CARE PROFESSIONAL TO RESOLVE A
28 DISPUTE THROUGH THE "UNIFORM ARBITRATION ACT", AS SET FORTH AND
29 AMENDED BY THE NATIONAL CONFERENCE OF COMMISSIONERS ON
30 UNIFORM STATE LAWS;

31 (j) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ANY PARTY
32 TO BE NOTIFIED OF A DISPUTE REGARDING OR AMENDMENT TO THE

1 CONTRACT;

2 (k) THE ASSIGNMENT OF DUTIES UNDER, AND SUCCESSORS TO, THE
3 CONTRACT, INCLUDING A PROVISION THAT PROHIBITS ANY ASSIGNMENT
4 WITHOUT NOTICE ACCORDING TO PARAGRAPH (m) OF THIS SUBSECTION (3);

5 (l) SEVERABILITY PROVISIONS;

6 (m) THE ENTIRE UNDERSTANDING OF AND PROCESS FOR
7 AMENDMENTS, INCLUDING:

8 (I) A PROVISION STATING THAT AMENDMENTS CONSTITUTING A
9 MATERIAL ADVERSE CHANGE IN THE TERMS OF THE CONTRACT SHALL
10 ONLY OCCUR IN CONJUNCTION WITH THE ANNIVERSARY DATE ON WHICH
11 THE CONTRACT WAS ENTERED INTO AND THAT THE PERSON OR ENTITY
12 SHALL PROVIDE THE HEALTH CARE PROFESSIONAL WITH WRITTEN NOTICE
13 OF THE CHANGES AT LEAST NINETY DAYS PRIOR TO SUCH ANNIVERSARY
14 DATE, EXCEPT WHEN A SHORTER NOTICE PERIOD IS REQUIRED TO COMPLY
15 WITH CHANGES IN APPLICABLE LAW. THE PROVISION SHALL ALSO STATE
16 THAT, WITHIN THIRTY DAYS THEREAFTER, THE PARTIES SHALL AGREE TO
17 THE NEW TERMS AND, IF THEY ARE UNABLE TO AGREE, THE HEALTH CARE
18 PROFESSIONAL MAY TERMINATE THE CONTRACT BY PROVIDING NOTICE TO
19 THE CONTRACTING PERSON OR ENTITY.

20 (II) A PROVISION THAT STATES THE PERSON OR ENTITY SHALL
21 NOTIFY THE HEALTH CARE PROFESSIONAL IN WRITING OF AMENDMENTS
22 FOR CLERICAL MATTERS THAT DO NOT AFFECT SUBSTANTIVE RIGHTS OR
23 PAYMENTS UNDER THE CONTRACT FOR AT LEAST SIXTY DAYS PRIOR TO THE
24 EFFECTIVE DATE OF THE CHANGES, EXCEPT WHEN A SHORTER NOTICE
25 PERIOD IS REQUIRED TO COMPLY WITH CHANGES IN APPLICABLE LAW; AND

26 (III) A PROVISION THAT SPECIFIES THAT CHANGES IN TERMS WITH
27 REGARD TO PARAGRAPHS (f) AND (h) OF THIS SUBSECTION (3) SHALL NOT
28 BE MADE EXCEPT IN ACCORDANCE WITH THIS PARAGRAPH (m);

29 (n) SURVIVAL OF THE TERMS, INCLUDING THE PROHIBITION OF ANY
30 OBLIGATIONS BEYOND THE TERM OF THE CONTRACT;

31 (o) CHANGES TO THE CONTRACT TO COINCIDE WITH CHANGES IN
32 THE LAW;

33 (p) REMEDIES, INCLUDING A PROVISION THAT REQUIRES THE

1 ALLOWANCE FOR ALL AVAILABLE STATUTORY AND COMMON LAW
2 REMEDIES; AND

3 (q) ANY OTHER PROVISIONS AGREED UPON BY BOTH PARTIES TO
4 THE CONTRACT.

5 (4) A CONTRACT SHALL NOT REQUIRE A HEALTH CARE
6 PROFESSIONAL TO CONTRACT FOR ALL PRODUCTS AND SERVICES OFFERED
7 BY THE PERSON OR ENTITY WITH WHOM THE HEALTH CARE PROFESSIONAL
8 IS CONTRACTING.

9 (5) IF A CONTRACT REFERS TO ADDENDA, THE ADDENDA SHALL
10 APPEAR IN THE FOLLOWING ORDER:

11 (a) THE IDENTITY OF THE PRODUCTS OR SERVICES COVERED UNDER
12 THE CONTRACT AND ALL THE PERSONS OR ENTITIES RESPONSIBLE TO MAKE
13 PAYMENT TO THE HEALTH CARE PROFESSIONAL;

14 (b) A FEE SCHEDULE FOR COMPENSATION AND COMPENSATION TO
15 BE PAID; THE METHODS USED FOR THE CALCULATION OF COMPENSATION;
16 ANY METHODOLOGY, CALCULATION, POLICY AFFECTING THE FINAL NET OR
17 ACTUAL COMPENSATION, THE APPLICABLE VERSION, ANY GEOGRAPHIC
18 ADJUSTMENT, CONVERSION FACTORS, OR UNIT VALUES;

19 (c) THE PERSON'S OR ENTITY'S CODING STANDARDS AND
20 REQUIREMENTS, ADMINISTRATIVE CONSIDERATIONS, AND DISPUTE
21 RESOLUTION PROCEDURES, AND A CLEARLY DEFINED DESCRIPTION OF THE
22 GRIEVANCE PROCEDURES; AND

23 (d) CLEARLY DEFINED UTILIZATION REVIEW AND QUALITY
24 IMPROVEMENT PROGRAMS.

25 (6) A PERSON OR ENTITY SHALL NOT DISCRIMINATE OR RETALIATE
26 AGAINST A HEALTH CARE PROFESSIONAL FOR REQUIRING THE USE OF THE
27 STANDARD CONTRACT HEADNOTES AND PROVISIONS PURSUANT TO THIS
28 SECTION OR FOR ASSERTING OR ENFORCING THE RIGHTS AND OBLIGATIONS
29 IN THIS SECTION. "DISCRIMINATION" SHALL INCLUDE, BUT NOT BE LIMITED
30 TO, OFFERING OR PROVIDING ANY FINANCIAL OR OTHER BENEFIT FOR NOT
31 USING THE CONTRACT HEADNOTES AND PROVISIONS.

32 (7) A PERSON OR ENTITY SHALL NOT REQUIRE A HEALTH CARE
33 PROFESSIONAL TO WAIVE ANY PROVISION OF STATE OR FEDERAL LAW

1 UNDER A CONTRACT.

2 (8) A CONTRACT MAY BE MODIFIED TO THE EXTENT NECESSARY TO
3 COMPLY WITH STANDARDS SET FORTH IN STATE-FUNDED OR
4 FEDERALLY-FUNDED PROGRAM REQUIREMENTS.

5 (9) NOTHING IN THIS SECTION SHALL PROHIBIT THE USE OR
6 DISCLOSURE OF A CONTRACT FOR PURPOSES OF ENSURING COMPLIANCE
7 WITH STATE OR FEDERAL LAW.

8 (10) THIS SECTION SHALL NOT APPLY TO:

9 (a) ORGANIZATIONS THAT EXCLUSIVELY CONTRACT WITH A SINGLE
10 MEDICAL GROUP IN A SPECIFIC GEOGRAPHIC AREA TO PROVIDE OR
11 ARRANGE FOR HEALTH CARE SERVICES;

12 (b) EMPLOYMENT CONTRACTS OR ARRANGEMENTS BETWEEN AN
13 INDIVIDUAL HEALTH CARE PROFESSIONAL OR FACILITY AND OTHER HEALTH
14 CARE PROFESSIONALS OR BETWEEN AN INDIVIDUAL HEALTH CARE
15 PROFESSIONAL AND A BUSINESS ENTITY CONSISTING OF HEALTH CARE
16 PROVIDERS;

17 (c) CONTRACTS BETWEEN A HEALTH CARE FACILITY LICENSED
18 UNDER 25-3-101, C.R.S., AND A HEALTH CARE PROVIDER; OR

19 (d) CONTRACTS FOR THE PROVISION OF PRODUCTS OR SERVICES
20 THROUGH A WORKERS' COMPENSATION PROGRAM, A MEDICAID OR
21 MEDICARE PROGRAM, THE CHILDREN'S BASIC HEALTH PLAN AS DESCRIBED
22 IN ARTICLE 19 OF TITLE 26, C.R.S., OR THE COLORADO INDIGENT CARE
23 PROGRAM CREATED IN PART 1 OF ARTICLE 15 OF TITLE 26, C.R.S.

24 **SECTION 2. Effective date.** This act shall take effect at 12:01
25 a.m. on the day following the expiration of the ninety-day period after
26 final adjournment of the general assembly that is allowed for submitting
27 a referendum petition pursuant to article V, section 1 (3) of the state
28 constitution (August 9, 2006, if adjournment sine die is on May 10,
29 2006); except that, if a referendum petition is filed against this act or an
30 item, section, or part of this act within such period, then the act, item,
31 section, or part, if approved by the people, shall take effect on the date of
32 the official declaration of the vote thereon by proclamation of the
33 governor."

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