NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

SENATE BILL 23-093

BY SENATOR(S) Cutter and Jaquez Lewis, Buckner, Exum, Kolker, Marchman, Moreno, Priola, Winter F., Fenberg;
also REPRESENTATIVE(S) Weissman and Brown, Amabile, Bacon, Bird, Boesenecker, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Martinez, Mauro, McCormick, McLachlan, Ortiz, Ricks, Sirota, Snyder, Story, Titone, Valdez, Velasco, Vigil, Willford, Woodrow, Young, McCluskie.

CONCERNING INCREASING CONSUMER PROTECTIONS IN VARIOUS MEDICAL TRANSACTIONS.

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

SECTION 1. In Colorado Revised Statutes, 5-12-102, **add** (5) as follows:

5-12-102. Statutory interest - definition. (5) (a) THE MAXIMUM RATE OF INTEREST ON MEDICAL DEBT IS THREE PERCENT PER ANNUM.

(b) AS USED IN THIS SUBSECTION (5), "MEDICAL DEBT" HAS THE MEANING SET FORTH IN SECTION 5-16-103 (10.5).

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Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SECTION 2. In Colorado Revised Statutes, 5-16-103, **add** (10.5) as follows:

5-16-103. Definitions. As used in this article 16, unless the context otherwise requires:

(10.5) "MEDICAL DEBT" MEANS DEBT ARISING FROM HEALTH-CARE SERVICES, AS DEFINED IN SECTION 10-16-102 (33), OR HEALTH-CARE GOODS, INCLUDING PRODUCTS, DEVICES, DURABLE MEDICAL EQUIPMENT, AND PRESCRIPTION DRUGS. "MEDICAL DEBT" DOES NOT INCLUDE DEBT CHARGED TO A CREDIT CARD.

SECTION 3. In Colorado Revised Statutes, 5-16-109, **amend** (1)(c); and **add** (5) as follows:

5-16-109. Validation of debts. (1) Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector or collection agency shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice with the disclosures specified in subsections (1)(a) to (1)(e) of this section. If the disclosures are placed on the back of the notice, the front of the notice shall contain a statement notifying consumers of that fact. The disclosures shall state:

(c) That, unless the consumer ~~within thirty days after receipt of the notice,~~ disputes the validity of the debt or any portion ~~thereof~~ OF THE DEBT WITHIN THIRTY DAYS AFTER THE CONSUMER'S RECEIPT OF THE NOTICE, the debt will be assumed to be valid by the debt collector or collection agency;

(5) UPON WRITTEN REQUEST BY THE CONSUMER AND WITHOUT FEE TO A CONSUMER, A DEBT COLLECTOR OR COLLECTION AGENCY COLLECTING ON A MEDICAL DEBT SHALL CEASE COLLECTION UNTIL IT CAN PROVIDE AN ITEMIZED STATEMENT TO THE CONSUMER AFTER THE REQUEST IS RECEIVED. THE ITEMIZED STATEMENT MUST INCLUDE:

(a) THE NAME AND ADDRESS OF THE MEDICAL CREDITOR;

(b) THE DATE OR DATES OF SERVICE;

(c) THE DATE OR DATES THE MEDICAL DEBT WAS INCURRED;

(d) A DETAILED LIST OF THE SPECIFIC HEALTH-CARE SERVICES AND MEDICAL PRODUCTS OR DEVICES, IF ANY, PROVIDED TO THE CONSUMER;

(e) THE NAME OF THE FACILITY WHERE HEALTH-CARE SERVICES WERE PROVIDED OR THE NAME OF THE MERCHANT WHERE THE CONSUMER PURCHASED MEDICAL PRODUCTS, DEVICES, OR DURABLE MEDICAL GOODS;

(f) THE AMOUNT OF THE PRINCIPAL FOR ANY MEDICAL DEBT INCURRED;

(g) AN ITEMIZATION OF THE CURRENT AMOUNT OF THE DEBT DUE AT THE TIME THE ITEMIZED STATEMENT IS GENERATED, REFLECTING INTEREST, FEES, PAYMENTS, AND CREDITS SINCE THE DATES DESCRIBED IN SUBSECTIONS (5)(b) AND (5)(c) OF THIS SECTION, AND INCLUDING NEGOTIATED INSURANCE RATES, FINANCIAL ASSISTANCE APPLIED, OR OTHER DISCOUNTS;

(h) FOR MEDICAL DEBT FROM A HEALTH-CARE FACILITY, AS DEFINED IN SECTION 25.5-3-501 (1), WHETHER THE CONSUMER WAS SCREENED FOR FINANCIAL ASSISTANCE; AND

(i) FOR MEDICAL DEBT FROM A HEALTH-CARE FACILITY, AS DEFINED IN SECTION 25.5-3-501 (1), WHETHER THE CONSUMER WAS FOUND ELIGIBLE FOR FINANCIAL ASSISTANCE AND, IF SO, THE AMOUNT DUE AFTER ALL FINANCIAL ASSISTANCE IS APPLIED TO THE ITEMIZED STATEMENT.

SECTION 4. In Colorado Revised Statutes, **add** 5-16-109.5 as follows:

5-16-109.5. Medical debt - requirements related to payment plans - collection prohibited during health insurance appeals - definition. (1) (a) A DEBT COLLECTOR OR COLLECTION AGENCY COLLECTING ON A MEDICAL DEBT THAT AGREES TO A PAYMENT PLAN WITH A CONSUMER FOR THE MEDICAL DEBT THAT IS PAYABLE IN FOUR OR MORE INSTALLMENTS SHALL PROVIDE A WRITTEN COPY OF THE PAYMENT PLAN TO THE CONSUMER WITHIN SEVEN DAYS AFTER ENTERING INTO THE PAYMENT PLAN. THE PAYMENT PLAN MUST PROMINENTLY DISCLOSE THE RATE OR RATES OF INTEREST AND THE DATE BY WHICH THE ACCOUNT WILL BE PAID IN FULL IF PAYMENTS SET BY THE SCHEDULE IN THE PAYMENT PLAN ARE MADE

WITHOUT INTERRUPTION OR THAT THE PLAN IS A TEMPORARY ARRANGEMENT THAT WILL NOT PAY OFF THE DEBT IN FULL.

(b) BEFORE ACCELERATING OR DECLARING THE PAYMENT PLAN NO LONGER OPERATIVE, IF THE CONSUMER HAS NOT INVOKED THE RIGHT TO CEASE COMMUNICATION, THE DEBT COLLECTOR OR COLLECTION AGENCY COLLECTING ON A MEDICAL DEBT SHALL:

(I) MAKE AT LEAST TWO REASONABLE ATTEMPTS TO CONTACT THE CONSUMER; AND

(II) PROVIDE NOTICE TO THE CONSUMER IN WRITING THAT THE PAYMENT PLAN MAY BE ACCELERATED OR BECOME INOPERATIVE.

(c) FOR PURPOSES OF THIS SECTION, THE NOTICE TO THE CONSUMER PURSUANT TO SUBSECTION (1)(b)(II) OF THIS SECTION MUST BE TO THE LAST-KNOWN ADDRESS OF THE CONSUMER.

(2) (a) A DEBT COLLECTOR OR COLLECTION AGENCY COLLECTING ON A MEDICAL DEBT THAT KNOWS OR REASONABLY SHOULD KNOW ABOUT AN INTERNAL REVIEW, EXTERNAL REVIEW, OR OTHER APPEAL PROCEEDING OF A HEALTH INSURANCE DECISION THAT IS PENDING OR WAS PENDING WITHIN THE PREVIOUS SIXTY-THREE DAYS SHALL NOT:

(I) PROVIDE INFORMATION RELATING TO A CONSUMER'S UNPAID CHARGES FOR HEALTH-CARE SERVICES TO A CONSUMER REPORTING AGENCY;

(II) COMMUNICATE WITH THE CONSUMER REGARDING THE UNPAID CHARGES FOR HEALTH-CARE SERVICES IN AN ATTEMPT TO COLLECT ON THE CHARGES, UNLESS REQUESTED BY THE CONSUMER;

(III) INITIATE A CIVIL ACTION OR ARBITRATION PROCEEDING AGAINST THE CONSUMER TO COLLECT OR ATTEMPT TO COLLECT THE UNPAID CHARGES FOR HEALTH-CARE SERVICES; OR

(IV) SELL THE MEDICAL DEBT TO A DEBT BUYER.

(b) IF A MEDICAL DEBT HAS ALREADY BEEN REPORTED TO A CONSUMER REPORTING AGENCY OR A LEGAL ACTION OR ARBITRATION PROCEEDING HAS ALREADY BEEN INITIATED, AND THE DEBT COLLECTOR OR

COLLECTION AGENCY COLLECTING ON THE MEDICAL DEBT THAT REPORTED THE INFORMATION LEARNS THAT AN INTERNAL REVIEW, EXTERNAL REVIEW, OR OTHER APPEAL PROCEEDING OF A HEALTH INSURANCE DECISION IS PENDING OR WAS PENDING WITHIN THE PREVIOUS SIXTY-THREE DAYS, THAT PERSON SHALL INSTRUCT THE CONSUMER REPORTING AGENCY TO DELETE THE INFORMATION ABOUT THE MEDICAL DEBT.

(c) AS USED IN THIS SECTION, "HEALTH-CARE SERVICES" MEANS HEALTH-CARE SERVICES OR MEDICAL PRODUCTS OR DEVICES.

SECTION 5. In Colorado Revised Statutes, 5-16-111, **add** (5) and (6) as follows:

5-16-111. Legal actions by collection agencies. (5) A CREDITOR, OR A DEBT COLLECTOR OR COLLECTION AGENCY OPERATING ON BEHALF OF THE CREDITOR, THAT BRINGS A LEGAL ACTION ON A MEDICAL DEBT SHALL ATTACH TO THE COMPLAINT OR APPLICABLE FORM A COPY OF A REDACTED ITEMIZATION OF THE CHARGES THAT ARE THE BASIS FOR THE MEDICAL DEBT.

(6) (a) PRIOR TO ENTRY OF A DEFAULT JUDGMENT AGAINST A CONSUMER IN A LEGAL ACTION ON A MEDICAL DEBT, THE PLAINTIFF SHALL FILE WITH THE COURT EVIDENCE THAT SATISFIES THE REQUIREMENTS OF RULES 803(6) AND 902(11) OF THE COLORADO RULES OF EVIDENCE OR THAT OTHERWISE, AS AUTHORIZED BY LAW OR RULE, ESTABLISHES THE AMOUNT AND NATURE OF THE MEDICAL DEBT AND INCLUDES:

(I) THE ORIGINAL ACCOUNT NUMBER AT CHARGE-OFF;

(II) THE ORIGINAL CREDITOR AT CHARGE-OFF;

(III) THE AMOUNT DUE AT CHARGE-OFF OR, IF THE BALANCE HAS NOT BEEN CHARGED OFF, AN ITEMIZATION OF THE AMOUNT CLAIMED TO BE OWED, INCLUDING THE PRINCIPAL, INTEREST, FEES, AND OTHER CHARGES OR REDUCTIONS FROM PAYMENT MADE OR OTHER CREDITS;

(IV) AN ITEMIZATION OF POST CHARGE-OFF ADDITIONS, IF ANY;

(V) THE DATE OF THE LAST PAYMENT, IF APPLICABLE, OR THE DATE OF THE LAST TRANSACTION; AND

(VI) THE DATE THE DEBT WAS INCURRED.

(b) IF AN AFFIDAVIT DOES NOT INCLUDE THE EVIDENCE REQUIRED IN SUBSECTION (5) OF THIS SECTION AND THIS SUBSECTION (6), THE AFFIDAVIT DOES NOT SATISFY THE REQUIREMENTS OF SAID SUBSECTIONS.

SECTION 6. In Colorado Revised Statutes, 6-1-105, **add** (1)(xxx) and (1)(yyy) as follows:

6-1-105. Unfair or deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(xxx) VIOLATES SECTION 12-30-112, 12-30-113, 25-3-121, OR 25-3-122; OR

(yyy) VIOLATES SECTION 25-49-106.

SECTION 7. In Colorado Revised Statutes, 25-49-102, **add** (11) as follows:

25-49-102. Definitions. As used in this article 49, unless the context otherwise requires:

(11) "SELF-PAY" MEANS PAYMENT WITHOUT THE ASSISTANCE OF A PUBLIC OR PRIVATE THIRD PARTY.

SECTION 8. In Colorado Revised Statutes, **add** 25-49-106 as follows:

25-49-106. Required disclosure to self-pay recipients - estimate of total cost of health-care services upon request - deceptive trade practice - definition. (1) (a) UPON THE REQUEST OF A PERSON SEEKING A HEALTH-CARE SERVICE WHO INTENDS TO SELF-PAY FOR THE SERVICE, DESIGNATED BILLING OR PATIENT SERVICES PERSONNEL REPRESENTING A HEALTH-CARE PROVIDER OR A HEALTH-CARE FACILITY SHALL PROVIDE, PRIOR TO THE PROVISION OF THE HEALTH-CARE SERVICE, A SELF-PAY ESTIMATE, PURSUANT TO SUBSECTION (3) OF THIS SECTION, OF THE TOTAL ESTIMATED COST TO THE RECIPIENT OF THE ANTICIPATED HEALTH-CARE SERVICE, EXCEPT AS PROHIBITED BY 42 U.S.C. SEC. 1395dd.

(b) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(b)(II) OF THIS SECTION, THE FINAL COST OF THE HEALTH-CARE SERVICE FOR WHICH THE SELF-PAY ESTIMATE WAS MADE MUST BE NO MORE THAN FIFTEEN PERCENT HIGHER THAN THE TOTAL ESTIMATED COST INDICATED IN THE SELF-PAY ESTIMATE OR FOUR HUNDRED DOLLARS, WHICHEVER IS LESS.

(II) THE FINAL COST OF THE HEALTH-CARE SERVICE FOR WHICH THE SELF-PAY ESTIMATE WAS MADE MAY BE MORE THAN FIFTEEN PERCENT HIGHER THAN THE SELF-PAY ESTIMATE OR FOUR HUNDRED DOLLARS IF A MEDICAL EMERGENCY OCCURS THAT IS ASSOCIATED WITH THE HEALTH-CARE SERVICE OR IF AN ADDITIONAL, UNFORESEEN, MEDICALLY NECESSARY HEALTH-CARE SERVICE IS REQUIRED DURING THE PROVISION OF THE HEALTH-CARE SERVICE. THE HEALTH-CARE PROVIDER OR HEALTH-CARE FACILITY SHALL MAKE ALL REASONABLE EFFORTS TO OBTAIN THE CONSENT OF THE RECIPIENT OR, IF THE RECIPIENT IS INCAPACITATED, THE RECIPIENT'S AUTHORIZED AGENT PRIOR TO PROVIDING ANY EMERGENCY OR UNFORESEEN, MEDICALLY NECESSARY HEALTH-CARE SERVICE THAT WILL INCREASE BY MORE THAN FIFTEEN PERCENT THE TOTAL COST INDICATED IN THE SELF-PAY ESTIMATE OR FOUR HUNDRED DOLLARS, WHICHEVER IS LESS.

(2) THE RIGHT OF A PERSON TO REQUEST A SELF-PAY ESTIMATE PRIOR TO THE RECEIPT OF A HEALTH-CARE SERVICE MUST BE CLEARLY AND CONSPICUOUSLY STATED BY THE HEALTH-CARE PROVIDER AND POSTED AT THE HEALTH-CARE FACILITY IN A MANNER, IN A LOCATION, AND AT A TIME REASONABLY CALCULATED TO INFORM THE PERSON OF THE RIGHT.

(3) THE SELF-PAY ESTIMATE MUST:

(a) BE IN WRITING OR, IF THE HEALTH-CARE PROVIDER OR HEALTH-CARE FACILITY IS UNABLE TO PROVIDE A WRITTEN SELF-PAY ESTIMATE, THE SELF-PAY ESTIMATE AND THE FOLLOWING INFORMATION MUST BE STATED IN A RECORDED TELEPHONE CALL:

(I) THE DATE AND TIME OF THE TELEPHONE CALL;

(II) THE TELEPHONE NUMBER OF THE CONSUMER RECEIVING THE SELF-PAY ESTIMATE;

(III) THE MANNER IN WHICH CONSENT FOR THE SELF-PAY ESTIMATE AMOUNT MUST BE PROVIDED BY THE INTENDED RECIPIENT;

(IV) THE NAME OF THE INTENDED RECIPIENT OF THE HEALTH-CARE SERVICE;

(V) THE NAME OF THE HEALTH-CARE PROVIDER OR HEALTH-CARE FACILITY EMPLOYEE PROVIDING THE SELF-PAY ESTIMATE; AND

(VI) ANY OTHER INFORMATION MATERIAL TO THE DETERMINATION OF THE SELF-PAY ESTIMATE;

(b) INCLUDE THE TOTAL ESTIMATED COST OF THE HEALTH-CARE SERVICE, INCLUDING AN ITEMIZATION OF ALL NECESSARY COMPONENTS OF THE SERVICE, WHICH COMPONENTS MAY INCLUDE A FACILITY FEE AND THE COST OF PERSONNEL, IMAGING, MEDICAL TOOLS OR DEVICES, AND MEDICINE;

(c) BE EASY TO UNDERSTAND BY A PERSON WITHOUT KNOWLEDGE OF MEDICAL OR TECHNICAL JARGON AND WITH LIMITED PROFICIENCY IN MATH, SCIENCE, AND WRITTEN AND ORAL COMMUNICATION SKILLS;

(d) BE PROVIDED IN ENGLISH OR SPANISH, IF REQUESTED BY THE CONSUMER; AND

(e) BE PROVIDED WITHIN THE FOLLOWING TIME FRAMES:

(I) NOT LATER THAN ONE BUSINESS DAY AFTER THE DATE THE PRIMARY ITEM OR SERVICE IS SCHEDULED IF A PRIMARY ITEM OR SERVICE IS SCHEDULED AT LEAST THREE DAYS BEFORE THE PRIMARY ITEM OR SERVICE IS PROVIDED;

(II) NOT LATER THAN THREE BUSINESS DAYS AFTER THE DATE THE PRIMARY ITEM OR SERVICE IS SCHEDULED IF THE PRIMARY ITEM OR SERVICE IS SCHEDULED AT LEAST TEN BUSINESS DAYS BEFORE THE PRIMARY ITEM OR SERVICE IS PROVIDED; OR

(III) NOT LATER THAN THREE DAYS AFTER A REQUEST FOR A SELF-PAY ESTIMATE.

(4) A PROVIDER OR HEALTH-CARE FACILITY THAT IS IN COMPLIANCE WITH SECTION 112 OF TITLE I OF DIVISION BB OF THE FEDERAL "NO SURPRISES ACT", AND RULES PROMULGATED AND DETERMINED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES UNDER THAT ACT

IN 45 CFR 149.610, OR ANY SUCCESSOR LAWS AND REGULATIONS, IS IN COMPLIANCE WITH THIS SECTION.

(5) A VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION 6-1-105 (1)(yyy).

(6) AS USED IN THIS SECTION, "FEDERAL 'NO SURPRISES ACT'" MEANS THE FEDERAL "NO SURPRISES ACT", PUB.L. 116-260, AS AMENDED.

SECTION 9. In Colorado Revised Statutes, 12-30-112, **add** (6) as follows:

12-30-112. Health-care providers - required disclosures - balance billing - deceptive trade practice - rules - definitions. (6) A VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION 6-1-105 (1)(xxx).

SECTION 10. In Colorado Revised Statutes, 12-30-113, **add** (6) as follows:

12-30-113. Out-of-network health-care providers - out-of-network services - billing - payment - deceptive trade practice. (6) A VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION 6-1-105 (1)(xxx).

SECTION 11. In Colorado Revised Statutes, 25-3-121, **add** (3.7) as follows:

25-3-121. Health-care facilities - emergency and nonemergency services - required disclosures - balance billing - deceptive trade practice - rules - definitions. (3.7) A VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION 6-1-105 (1)(xxx).

SECTION 12. In Colorado Revised Statutes, 25-3-122, **add** (6) as follows:

25-3-122. Out-of-network facilities - emergency medical services - billing - payment - deceptive trade practice. (6) A VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION 6-1-105 (1)(xxx).

SECTION 13. Applicability. This act applies to contracts entered into after the effective date of this act.

SECTION 14. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Steve Fenberg PRESIDENT OF THE SENATE	Julie McCluskie SPEAKER OF THE HOUSE OF REPRESENTATIVES
Cindi L. Markwell SECRETARY OF THE SENATE	Robin Jones CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____
(Date and Time)

_____
Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO