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SENATE BILL 17-065

BY SENATOR(S) Lundberg, Aguilar, Cooke, Crowder, Donovan, Gardner, Guzman, Hill, Holbert, Jahn, Jones, Kefalas, Lambert, Marble, Martinez Humenik, Merrifield, Moreno, Neville T., Priola, Scott, Smallwood, Sonnenberg, Tate, Todd, Grantham; also REPRESENTATIVE(S) Lentine, Arndt, Becker K., Buckner, Coleman, Danielson, Esgar, Exum, Garnett, Ginal, Gray, Hamner, Herod, Hooton, Kennedy, Kraft-Tharp, Lee, McLachlan, Melton, Michaelson Jenet, Mitsch Bush, Neville P., Pabon, Pettersen, Rosenthal, Salazar, Singer, Valdez, Van Winkle, Weissman, Winter, Wist, Young, Duran.

CONCERNING A REQUIREMENT THAT HEALTH CARE PROVIDERS DISCLOSE THE CHARGES THEY IMPOSE FOR COMMON HEALTH CARE SERVICES WHEN PAYMENT IS MADE DIRECTLY RATHER THAN BY A THIRD PARTY.

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

SECTION 1. In Colorado Revised Statutes, **add** article 49 to title 25 as follows:

ARTICLE 49
Transparency in Health Care Prices

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

25-49-101. Short title. THE SHORT TITLE OF THIS ARTICLE 49 IS THE "TRANSPARENCY IN HEALTH CARE PRICES ACT".

25-49-102. Definitions. AS USED IN THIS ARTICLE 49, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AGENCY" MEANS A GOVERNMENT DEPARTMENT OR AGENCY OR A GOVERNMENT-CREATED ENTITY.

(2) "CPT CODE" MEANS THE CURRENT PROCEDURAL TERMINOLOGY CODE, OR ITS SUCCESSOR CODE, AS DEVELOPED AND COPYRIGHTED BY THE AMERICAN MEDICAL ASSOCIATION OR ITS SUCCESSOR ENTITY.

(3) "HEALTH CARE FACILITY" MEANS A FACILITY LICENSED OR CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-1.5-103. THE TERM DOES NOT INCLUDE A NURSING CARE FACILITY, ASSISTED LIVING RESIDENCE, OR HOME CARE AGENCY.

(4) (a) "HEALTH CARE PRICE" MEANS THE PRICE, BEFORE NEGOTIATING ANY DISCOUNTS, THAT A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY WILL CHARGE A RECIPIENT FOR HEALTH CARE SERVICES THAT WILL BE RENDERED. "HEALTH CARE PRICE" IS THE PRICE CHARGED FOR THE STANDARD SERVICE FOR THE PARTICULAR DIAGNOSIS AND DOES NOT INCLUDE ANY AMOUNT THAT MAY BE CHARGED FOR COMPLICATIONS OR EXCEPTIONAL TREATMENT. THE HEALTH CARE PRICE FOR A SPECIFIC HEALTH CARE SERVICE MAY BE DETERMINED FROM ANY OF THE FOLLOWING:

(I) THE PRICE CHARGED MOST FREQUENTLY FOR THE HEALTH CARE SERVICE DURING THE PREVIOUS TWELVE MONTHS;

(II) THE HIGHEST CHARGE FROM THE LOWEST HALF OF ALL CHARGES FOR THE HEALTH CARE SERVICE DURING THE PREVIOUS TWELVE MONTHS; OR

(III) A RANGE THAT INCLUDES THE MIDDLE FIFTY PERCENT OF ALL CHARGES FOR THE HEALTH CARE SERVICE DURING THE PREVIOUS TWELVE MONTHS.

(b) "HEALTH CARE PRICE" DOES NOT MEAN THE AMOUNT CHARGED

IF A PUBLIC OR PRIVATE THIRD PARTY WILL BE PAYING OR REIMBURSING THE HEALTH CARE PROVIDER OR HEALTH CARE FACILITY FOR ANY PORTION OF THE COST OF SERVICES RENDERED.

(5) "HEALTH CARE PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED, OR REGISTERED BY THIS STATE TO PROVIDE HEALTH CARE SERVICES OR A MEDICAL GROUP, INDEPENDENT PRACTICE ASSOCIATION, OR PROFESSIONAL CORPORATION PROVIDING HEALTH CARE SERVICES.

(6) (a) "HEALTH CARE SERVICES" OR "SERVICES" MEANS SERVICES INCLUDED IN, OR INCIDENTAL TO, FURNISHING TO AN INDIVIDUAL:

(I) MEDICAL, MENTAL, DENTAL, OR OPTOMETRIC CARE OR HOSPITALIZATION; OR

(II) OTHER SERVICES FOR THE PURPOSE OF PREVENTING, ALLEVIATING, CURING, OR HEALING A PHYSICAL OR MENTAL ILLNESS OR INJURY.

(b) "HEALTH CARE SERVICES" INCLUDES SERVICES RENDERED THROUGH THE USE OF TELEMEDICINE.

(7) "HEALTH INSURER" MEANS A CARRIER, AS DEFINED IN SECTION 10-16-102 (8), DISABILITY INSURER, GROUP DISABILITY INSURER, OR BLANKET DISABILITY INSURER.

(8) (a) "PUBLIC OR PRIVATE THIRD PARTY" MEANS A HEALTH INSURER, SELF-INSURED EMPLOYER, OR OTHER THIRD PARTY, INCLUDING A THIRD-PARTY ADMINISTRATOR OR INTERMEDIARY, RESPONSIBLE FOR PAYING ALL OR A PORTION OF THE CHARGES FOR HEALTH CARE SERVICES.

(b) "PUBLIC OR PRIVATE THIRD PARTY" DOES NOT MEAN:

(I) AN EMPLOYER OF THE RECIPIENT OF THE HEALTH CARE SERVICES THAT IS NOT RESPONSIBLE FOR PAYING THE CHARGES FOR THE HEALTH CARE SERVICES PROVIDED TO THE RECIPIENT;

(II) A PERSON PAYING MONEY FROM A HEALTH SAVINGS ACCOUNT, FLEXIBLE SPENDING ACCOUNT, OR SIMILAR ACCOUNT; OR

(III) A FAMILY MEMBER, CHARITABLE ORGANIZATION, OR OTHER PERSON WHO IS NOT RESPONSIBLE FOR, BUT PAYS CHARGES FOR, HEALTH CARE SERVICES ON BEHALF OF THE RECIPIENT OF THE SERVICES.

(9) "PUNISH" MEANS TO IMPOSE A PENALTY, SURCHARGE, FEE, OR OTHER ADDITIONAL COST OR MEASURE THAT HAS THE SAME EFFECT AS A PENALTY OR THAT DISCOURAGES THE EXERCISE OF RIGHTS UNDER THIS ARTICLE 49.

(10) "RECIPIENT" MEANS AN INDIVIDUAL WHO RECEIVES HEALTH CARE SERVICES FROM A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY.

25-49-103. Transparency - charges for services rendered by health care providers. (1) (a) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(II) OR (1)(a)(III) OF THIS SECTION, A HEALTH CARE PROVIDER SHALL MAKE AVAILABLE TO THE PUBLIC, IN A SINGLE DOCUMENT, EITHER ELECTRONICALLY OR BY POSTING CONSPICUOUSLY ON THE PROVIDER'S WEBSITE IF ONE EXISTS, THE HEALTH CARE PRICES FOR AT LEAST THE FIFTEEN MOST COMMON HEALTH CARE SERVICES THE HEALTH CARE PROVIDER PROVIDES. IF THE HEALTH CARE PROVIDER, IN THE NORMAL COURSE OF HIS OR HER PRACTICE, REGULARLY PROVIDES FEWER THAN FIFTEEN HEALTH CARE SERVICES, THE HEALTH CARE PROVIDER SHALL MAKE AVAILABLE THE HEALTH CARE PRICES FOR THE HEALTH CARE SERVICES THE PROVIDER MOST COMMONLY PROVIDES.

(II) A HEALTH CARE PROVIDER PRACTICING IN A SOLO PRACTICE OR IN A MEDICAL GROUP, INDEPENDENT PRACTICE ASSOCIATION, OR PROFESSIONAL CORPORATION COMPRISED OF NOT MORE THAN SIX INDIVIDUAL HEALTH CARE PROVIDERS WITH THE SAME LICENSE TYPE MAY COMPLY WITH THE REQUIREMENTS OF THIS SECTION BY MAKING THE HEALTH CARE PRICES DESCRIBED IN SUBSECTION (1)(a)(I) OF THIS SECTION AVAILABLE IN PATIENT WAITING AREAS.

(III) A HEALTH CARE PROVIDER WHO IS A MEMBER OF A PROFESSIONAL CORPORATION THAT CONTRACTS WITH A SINGLE HEALTH MAINTENANCE ORGANIZATION, AS DEFINED IN SECTION 10-16-102 (35), COMPLIES WITH THIS SECTION IF THE PROFESSIONAL CORPORATION OR ITS CONTRACTING HEALTH MAINTENANCE ORGANIZATION MAKES AVAILABLE TO THE PUBLIC, IN A SINGLE DOCUMENT, EITHER ELECTRONICALLY OR BY POSTING CONSPICUOUSLY ON ITS WEBSITE, THE HEALTH CARE PRICES FOR AT

LEAST THE FIFTEEN MOST COMMON HEALTH CARE SERVICES THAT THE HEALTH CARE PROVIDER OR HEALTH MAINTENANCE ORGANIZATION WOULD CHARGE INDIVIDUALS WHO ARE NOT MEMBERS OF THE HEALTH MAINTENANCE ORGANIZATION.

(b) THE HEALTH CARE PROVIDER SHALL IDENTIFY THE SERVICES BY:

(I) A COMMON PROCEDURAL TERMINOLOGY CODE OR OTHER CODING SYSTEM COMMONLY USED BY THE HEALTH CARE PROVIDER AND ACCEPTED AS A NATIONAL STANDARD FOR BILLING; AND

(II) A PLAIN ENGLISH DESCRIPTION.

(c) THE HEALTH CARE PROVIDER SHALL UPDATE THE DOCUMENT AS FREQUENTLY AS THE HEALTH CARE PROVIDER DEEMS APPROPRIATE, BUT AT LEAST ANNUALLY.

(2) THE HEALTH CARE PROVIDER SHALL INCLUDE:

(a) A DISCLOSURE SPECIFYING THAT THE HEALTH CARE PRICE FOR ANY GIVEN HEALTH CARE SERVICE IS AN ESTIMATE AND THAT THE ACTUAL CHARGES FOR THE HEALTH CARE SERVICE ARE DEPENDENT ON THE CIRCUMSTANCES AT THE TIME THE SERVICE IS RENDERED; AND

(b) THE FOLLOWING STATEMENT OR A STATEMENT CONTAINING SUBSTANTIALLY SIMILAR INFORMATION:

IF YOU ARE COVERED BY HEALTH INSURANCE, YOU ARE STRONGLY ENCOURAGED TO CONSULT WITH YOUR HEALTH INSURER TO DETERMINE ACCURATE INFORMATION ABOUT YOUR FINANCIAL RESPONSIBILITY FOR A PARTICULAR HEALTH CARE SERVICE PROVIDED BY A HEALTH CARE PROVIDER AT THIS OFFICE. IF YOU ARE NOT COVERED BY HEALTH INSURANCE, YOU ARE STRONGLY ENCOURAGED TO CONTACT OUR BILLING OFFICE AT (INSERT TELEPHONE NUMBER) TO DISCUSS PAYMENT OPTIONS PRIOR TO RECEIVING A HEALTH CARE SERVICE FROM A HEALTH CARE PROVIDER AT THIS OFFICE SINCE POSTED HEALTH CARE PRICES MAY NOT REFLECT THE ACTUAL AMOUNT OF YOUR FINANCIAL RESPONSIBILITY.

(3) A HOSPITAL-BASED HEALTH CARE PROVIDER THAT IS NOT AN EMPLOYEE OF THE HOSPITAL WHERE THE SERVICES ARE BEING DELIVERED IS NOT REQUIRED TO PROVIDE HEALTH CARE PRICES IN THE MANNER SPECIFIED IN THIS SECTION FOR THE HEALTH CARE SERVICES THE HEALTH CARE PROVIDER RENDERS IN THE HOSPITAL SETTING.

(4) NOTHING IN THIS SECTION PRECLUDES A HEALTH CARE PROVIDER FROM INFORMING A CURRENT OR POTENTIAL PATIENT, UPON REQUEST OF THE PATIENT, OF THE HEALTH CARE PRICE FOR A HEALTH CARE SERVICE THAT THE HEALTH CARE PROVIDER RENDERS.

25-49-104. Transparency - health care facility charges. (1) (a) A HEALTH CARE FACILITY SHALL MAKE AVAILABLE TO THE PUBLIC, IN A SINGLE DOCUMENT, EITHER ELECTRONICALLY OR BY POSTING CONSPICUOUSLY ON ITS WEBSITE IF ONE EXISTS, THE HEALTH CARE PRICES FOR AT LEAST:

(I) THE FIFTY MOST USED, DIAGNOSIS-RELATED GROUP CODES OR OTHER CODES FOR IN-PATIENT HEALTH CARE SERVICES USED BY THE HEALTH CARE FACILITY FOR BILLING OR, IF THOSE CODES ARE NOT USED, THE CODES UNDER ANOTHER CODING SYSTEM FOR IN-PATIENT HEALTH CARE SERVICES COMMONLY USED BY THE FACILITY AND ACCEPTED AS A NATIONAL STANDARD FOR BILLING; AND

(II) THE TWENTY-FIVE MOST USED OUT-PATIENT CPT CODES OR HEALTH CARE SERVICES PROCEDURE CODES USED FOR BILLING OR, IF THOSE CODES ARE NOT USED, THE CODES UNDER ANOTHER CODING SYSTEM FOR OUT-PATIENT HEALTH CARE SERVICES COMMONLY USED BY THE FACILITY AND ACCEPTED AS A NATIONAL STANDARD FOR BILLING.

(b) IF A HEALTH CARE FACILITY DID NOT USE FIFTY CODES FOR IN-PATIENT HEALTH CARE SERVICES AT LEAST ELEVEN TIMES IN THE PREVIOUS TWELVE MONTHS OR DID NOT USE TWENTY-FIVE CODES FOR OUT-PATIENT HEALTH CARE SERVICES AT LEAST ELEVEN TIMES IN THE PREVIOUS TWELVE MONTHS, THE HEALTH CARE FACILITY SHALL MAKE AVAILABLE THE HEALTH CARE PRICE FOR ONLY THOSE MOST COMMON IN-PATIENT AND OUT-PATIENT HEALTH CARE SERVICES OR PROCEDURE CODES THAT THE HEALTH CARE FACILITY USED AT LEAST ELEVEN TIMES IN THE PREVIOUS TWELVE MONTHS.

(c) A HEALTH CARE FACILITY SHALL INCLUDE WITH THE HEALTH CARE PRICE PROVIDED PURSUANT TO THIS SUBSECTION (1) A PLAIN ENGLISH DESCRIPTION OF THE SERVICE FOR WHICH THE HEALTH CARE PRICE IS PROVIDED.

(d) THE HEALTH CARE FACILITY SHALL UPDATE THE DOCUMENT AS FREQUENTLY AS IT DEEMS APPROPRIATE, BUT AT LEAST ANNUALLY.

(2) THE HEALTH CARE FACILITY SHALL INCLUDE:

(a) A DISCLOSURE SPECIFYING THAT THE HEALTH CARE PRICE FOR ANY GIVEN HEALTH CARE SERVICE IS AN ESTIMATE AND THAT THE ACTUAL CHARGES FOR THE HEALTH CARE SERVICE ARE DEPENDENT ON THE CIRCUMSTANCES AT THE TIME THE SERVICE IS RENDERED; AND

(b) THE FOLLOWING STATEMENT OR A STATEMENT CONTAINING SUBSTANTIALLY SIMILAR INFORMATION:

IF YOU ARE COVERED BY HEALTH INSURANCE, YOU ARE STRONGLY ENCOURAGED TO CONSULT WITH YOUR HEALTH INSURER TO DETERMINE ACCURATE INFORMATION ABOUT YOUR FINANCIAL RESPONSIBILITY FOR A PARTICULAR HEALTH CARE SERVICE PROVIDED AT THIS HEALTH CARE FACILITY. IF YOU ARE NOT COVERED BY HEALTH INSURANCE, YOU ARE STRONGLY ENCOURAGED TO CONTACT (INSERT OFFICE NAME AND TELEPHONE NUMBER) TO DISCUSS PAYMENT OPTIONS PRIOR TO RECEIVING A HEALTH CARE SERVICE FROM THIS HEALTH CARE FACILITY SINCE POSTED HEALTH CARE PRICES MAY NOT REFLECT THE ACTUAL AMOUNT OF YOUR FINANCIAL RESPONSIBILITY.

(3) A HEALTH CARE FACILITY MAY DISCLOSE THE BASIS FOR ITS HEALTH CARE PRICES AND MAY TAKE INTO CONSIDERATION ALL PAYER SOURCES WHEN DETERMINING A HEALTH CARE PRICE.

25-49-105. No review of health care prices - no punishment for exercising rights - no impairment of contracts. (1) NOTHING IN THIS ARTICLE 49 REQUIRES A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER TO REPORT ITS HEALTH CARE PRICES TO ANY AGENCY FOR REVIEW, FILING, OR OTHER PURPOSES, EXCEPT AS REQUIRED BY SECTION 25-3-112, OR FOR

APPLICATIONS FOR HEALTH CARE PROFESSIONAL LOAN REPAYMENT SUBMITTED PURSUANT TO SECTION 25-1.5-503. THIS ARTICLE 49 DOES NOT GRANT ANY AGENCY THE AUTHORITY TO APPROVE, DISAPPROVE, OR LIMIT A HEALTH CARE FACILITY'S OR HEALTH CARE PROVIDER'S HEALTH CARE PRICES OR CHANGES TO ITS HEALTH CARE PRICES. THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT IS NOT AUTHORIZED TO TAKE ANY ACTION REGARDING OR PURSUANT TO THIS ARTICLE 49.

(2) THIS ARTICLE 49 IS INTENDED TO MAKE HEALTH CARE PRICES AND PAYMENTS, AND PARTICIPATION IN OR EXERCISING RIGHTS UNDER THIS ARTICLE 49, FREE FROM PAPERWORK, PUNISHMENT, REPORTING, AND REGULATION TO THE FULL EXTENT PERMISSIBLE UNDER THE STATE CONSTITUTION AND STATE AND FEDERAL LAW. A PERSON, ENTITY, AGENCY, OR HEALTH INSURER SHALL NOT PUNISH A RECIPIENT, HEALTH CARE PROVIDER, HEALTH CARE FACILITY, PERSON, ENTITY, OR EMPLOYER FOR PARTICIPATING DIRECTLY IN, EXERCISING RIGHTS UNDER, OR COMPLYING WITH THIS ARTICLE 49. THE HEALTH CARE PRICE FOR A GIVEN HEALTH CARE SERVICE THAT A HEALTH CARE PROVIDER OR HEALTH CARE FACILITY MAKES AVAILABLE TO THE PUBLIC PURSUANT TO THIS ARTICLE 49 SHALL NOT BE USED AS THE BASIS FOR DETERMINING PAYMENT RATES FROM A PUBLIC OR PRIVATE THIRD PARTY FOR THAT HEALTH CARE SERVICE.

(3) NOTHING IN THIS ARTICLE 49 IMPAIRS CONTRACTS BETWEEN PRIVATE PARTIES.

SECTION 2. Act subject to petition - effective date. This act takes effect January 1, 2018; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general

election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO