

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

**INTRODUCED**

LLS NO. 15-0754.01 Christy Chase x2008

**HOUSE BILL 15-1191**

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**HOUSE SPONSORSHIP**

**Szabo and Pettersen,**

**SENATE SPONSORSHIP**

**Grantham,**

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**House Committees**

Health, Insurance, & Environment

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE ADDITION OF DENTISTS TO THE "PHYSICIAN**  
102      **DESIGNATION DISCLOSURE ACT".**

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**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>.)*

In 2008, the general assembly enacted SB08-138, establishing the "Physician Designation Disclosure Act" to impose certain standards and requirements on health care entities that assign designations to physicians as an assessment or measurement of the care or clinical performance of physicians.

The bill adds dentists to the act, thereby imposing those same

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.*

standards and requirements when health care entities assign designations to dentists, and changes the name of the act to the "Health Care Provider Designation Disclosure Act".

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 25-38-101 as  
3 follows:

4 **25-38-101. Short title.** This article shall be known and may be  
5 cited as the "~~Physician~~ HEALTH CARE PROVIDER Designation Disclosure  
6 Act".

7 **SECTION 2.** In Colorado Revised Statutes, 25-38-102, **amend**  
8 (1) (a), (1) (b), (1) (c), (1) (f), and (1) (g) as follows:

9 **25-38-102. Legislative declaration.** (1) The general assembly  
10 hereby finds, determines, and declares that:

11 (a) Health care entities have instituted or are instituting  
12 quantitative and qualitative designations of ~~physicians~~ HEALTH CARE  
13 PROVIDERS;

14 (b) ~~Physician~~ HEALTH CARE PROVIDER designations are disclosed  
15 and represented to consumers and others as part of marketing, sales, and  
16 other efforts, and such designations may be used by consumers in  
17 selecting the ~~physicians~~ HEALTH CARE PROVIDERS from whom they  
18 receive care;

19 (c) Designations are based on claims data, practice criteria or  
20 guidelines, and other criteria, not all of which are made known to  
21 consumers or to the ~~physicians~~ HEALTH CARE PROVIDERS designated;

22 (f) For the protection of consumers and ~~physicians~~ HEALTH CARE  
23 PROVIDERS and to avoid improper profiling of ~~physicians~~ HEALTH CARE  
24 PROVIDERS, health care entities must ensure that they are using

1 designations that are fair and accurate and must accord ~~physicians~~  
2 HEALTH CARE PROVIDERS the right to challenge and correct erroneous  
3 designations, data, and methodologies;

4 (g) Full disclosure of the data and methodologies by which  
5 ~~physicians~~ HEALTH CARE PROVIDERS are designated will encourage, to the  
6 fullest extent possible, the accuracy, fairness, and usefulness of such  
7 designations. Disclosures will help keep patients from being exposed to  
8 inaccurate, misleading, and incorrect information about the nature and  
9 quality of the care of ~~physicians~~ HEALTH CARE PROVIDERS. The disclosure  
10 required by this article will encourage the use of guidelines and criteria  
11 from well-recognized professional societies and groups using  
12 evidence-based and consensus practice recommendations. Disclosure will  
13 allow health care consumers and ~~physicians~~ HEALTH CARE PROVIDERS an  
14 opportunity to better understand the criteria, basis, and methods by which  
15 ~~physicians~~ HEALTH CARE PROVIDERS are evaluated, and disclosure will  
16 foster competition among health care entities to improve the way in which  
17 designations are used. Accordingly, the general assembly finds that  
18 requiring full disclosure of designation data and methodologies and  
19 setting certain minimum standards for making such designations will help  
20 improve the quality and efficiency of health care delivered in Colorado.

21 **SECTION 3.** In Colorado Revised Statutes, 25-38-103, **amend**  
22 (4) introductory portion and (4) (b); and **add** (3.5) and (5.5) as follows:

23 **25-38-103. Definitions.** As used in this article, unless the context  
24 otherwise requires:

25 (3.5) "DENTIST" MEANS A DENTIST LICENSED UNDER THE "DENTAL  
26 PRACTICE ACT", ARTICLE 35 OF TITLE 12, C.R.S.

27 (4) "Designation" means an award, assignment, characterization,

1 or representation of the cost efficiency, quality, or other assessment or  
2 measurement of the care or clinical performance of any ~~physician~~ HEALTH  
3 CARE PROVIDER that is disclosed or intended for disclosure to the public  
4 or persons actually or potentially covered by a health plan, by use of a  
5 grade, star, tier, rating, profile, or any other form of designation.

6 "Designation" does not include:

7 (b) Information for programs designed to assist health plan  
8 members with estimating a ~~physician's~~ HEALTH CARE PROVIDER'S routine  
9 fees or costs.

10 (5.5) "HEALTH CARE PROVIDER" MEANS A PHYSICIAN OR DENTIST.

11 **SECTION 4.** In Colorado Revised Statutes, 25-38-104, **amend**  
12 (1) introductory portion, (1) (d), (1) (e), (1) (f) (I), (1) (f) (II) (C), and (2)  
13 (a) as follows:

14 **25-38-104. Minimum requirements for designations -**  
15 **disclaimer required.** (1) Any designation of a ~~physician~~ HEALTH CARE  
16 PROVIDER shall include, at a minimum, the following:

17 (d) If claims data are used in the designation process, accurate  
18 claims data appropriately attributed to the ~~physician~~ HEALTH CARE  
19 PROVIDER. When reasonably available, the health care entity shall use  
20 aggregated data to supplement its own claims data.

21 (e) The ~~physician's~~ HEALTH CARE PROVIDER'S responsibility for  
22 health care decisions and the financial consequences of those decisions,  
23 which shall be fairly and accurately attributed to the ~~physician~~ HEALTH  
24 CARE PROVIDER;

25 (f) If practice guidelines or performance measures are used in the  
26 designation process:

27 (I) Practice guidelines or performance measures that are

1 promulgated or endorsed by nationally recognized health care  
2 organizations that establish or promote guidelines and performance  
3 measures emphasizing quality of health care, such as the national quality  
4 forum or the AQA alliance, or their successors, or other such national  
5 ~~physician~~ HEALTH CARE PROVIDER specialty organizations, or the  
6 Colorado clinical guidelines collaborative or its successor;

7 (II) Practice guidelines or performance measures that are:

8 (C) Pertinent to the area of practice, location, and characteristics  
9 of the patient population of the ~~physician~~ HEALTH CARE PROVIDER being  
10 designated.

11 (2) (a) Any disclosure of a designation to a ~~physician~~ HEALTH  
12 CARE PROVIDER or consumer shall be accompanied by a conspicuous  
13 disclaimer written in bold-faced type. The disclaimer shall state that  
14 designations are intended only as a guide to choosing a ~~physician~~ HEALTH  
15 CARE PROVIDER, that designations should not be the sole factor in  
16 selecting a ~~physician~~ HEALTH CARE PROVIDER, that designations have a  
17 risk of error, and that consumers should discuss designations with a  
18 ~~physician~~ HEALTH CARE PROVIDER before choosing him or her.

19 **SECTION 5.** In Colorado Revised Statutes, 25-38-105, **amend**  
20 (1) and (2) as follows:

21 **25-38-105. Disclosure required upon request - information not**  
22 **proprietary.** (1) Upon request by or on behalf of the designated  
23 ~~physician~~ HEALTH CARE PROVIDER or the commissioner, a health care  
24 entity shall disclose to the requesting person a description of the  
25 methodology upon which the health care entity's designation is based and  
26 all data upon which the designation was based within forty-five days ~~of~~  
27 AFTER receiving the request. The description shall be sufficiently detailed

1 to allow the designated ~~physician~~ HEALTH CARE PROVIDER or  
2 commissioner to determine the effect of the methodology on the data  
3 being reviewed. The disclosure of the data shall be made in a manner that  
4 is reasonably understandable and allows the ~~physician~~ HEALTH CARE  
5 PROVIDER or commissioner to verify the data against his or her records.  
6 Where law or the health care entity's contractual obligations with a bona  
7 fide third party prevents disclosure of any of the data required to be  
8 disclosed by this section, the health care entity shall nonetheless provide  
9 sufficient information to allow the ~~physician~~ HEALTH CARE PROVIDER to  
10 determine how the withheld data affected the ~~physician's~~ HEALTH CARE  
11 PROVIDER'S designation.

12 (2) After the disclosure of the description of the methodology  
13 provided for in subsection (1) of this section and upon further request by  
14 or on behalf of the designated ~~physician~~ HEALTH CARE PROVIDER or the  
15 commissioner, the health care entity shall provide the complete  
16 methodology within thirty days ~~of~~ AFTER such further request.

17 **SECTION 6.** In Colorado Revised Statutes, 25-38-106, **amend**  
18 (1) introductory portion and (2) (a) as follows:

19 **25-38-106. Notice of use or change of designation required -**  
20 **appeal process.** (1) At least forty-five days before using, changing, or  
21 declining to award a designation in an existing program of designation,  
22 a health care entity shall provide the ~~physician~~ HEALTH CARE PROVIDER  
23 with written notice of ~~such~~ THE designation decision. The written notice  
24 shall describe the procedures by which the ~~physician~~ HEALTH CARE  
25 PROVIDER may:

26 (2) (a) Any health care entity providing designations of ~~physicians~~  
27 HEALTH CARE PROVIDERS shall establish procedures for the designated

1 physician to appeal the designation, including a change in designation or  
2 a declination to award a designation in an existing program of  
3 designation. ~~Such~~ THE procedures, in addition to the written notice  
4 provided for in subsection (1) of this section, shall provide for the  
5 following:

6 (I) A reasonable method by which the designated ~~physician~~  
7 HEALTH CARE PROVIDER shall provide notice of his or her desire to  
8 appeal;

9 (II) If requested by the designated ~~physician~~ HEALTH CARE  
10 PROVIDER, disclosure of the methodology and data upon which the health  
11 care entity's decision is based;

12 (III) The name, title, qualifications, and relationship to the health  
13 care entity of the person or persons responsible for the appeal of the  
14 designated ~~physician~~ HEALTH CARE PROVIDER;

15 (IV) An opportunity to submit or have considered corrected data  
16 relevant to the designation decision and to have considered the  
17 applicability of the methodology used in the designation decision. If  
18 requested by the designated ~~physician~~, ~~such~~ HEALTH CARE PROVIDER, THE  
19 opportunity may be afforded by the health care entity in a face-to-face  
20 meeting with those responsible for the appeal decision at a location  
21 reasonably convenient to the ~~physician~~ HEALTH CARE PROVIDER or by  
22 teleconference. All data submitted to the entity by a designated ~~physician~~  
23 ~~shall be~~ HEALTH CARE PROVIDER IS presumed valid and accurate.  
24 However, this presumption ~~shall not be construed to~~ DOES NOT permit a  
25 health care entity to unreasonably withhold consideration of corrected or  
26 supplemented data pursuant to this subparagraph (IV).

27 (V) The right of the ~~physician~~ HEALTH CARE PROVIDER to be

1 assisted by a representative;

2 (VI) An opportunity, if so desired, to be considered as part of the  
3 appeal, an explanation of the designation decision ~~which~~ THAT is the  
4 subject of the appeal by a person or persons deemed by the health care  
5 entity as responsible for the designation decision;

6 (VII) A written decision regarding the ~~physician's~~ HEALTH CARE  
7 PROVIDER'S appeal that states the reasons for upholding, modifying, or  
8 rejecting the ~~physician's~~ HEALTH CARE PROVIDER'S appeal.

9 **SECTION 7.** In Colorado Revised Statutes, 25-38-107, **amend**  
10 (1) as follows:

11 **25-38-107. Enforcement.** (1) ~~No~~ A health care entity shall NOT  
12 limit, by contract or other means, the right of a ~~physician~~ HEALTH CARE  
13 PROVIDER to enforce this article.

14 **SECTION 8.** In Colorado Revised Statutes, 10-3-1104, **amend**  
15 (1) (ff) 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 (ff) Violation of the ~~"Physician~~ "HEALTH CARE PROVIDER  
21 Designation Disclosure Act", article 38 of title 25, C.R.S.;

22 **SECTION 9. Act subject to petition - effective date -**  
23 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
24 the expiration of the ninety-day period after final adjournment of the  
25 general assembly (August 5, 2015, if adjournment sine die is on May 6,  
26 2015); except that, if a referendum petition is filed pursuant to section 1  
27 (3) of article V of the state constitution against this act or an item, section,



1 or part of this act within such period, then the act, item, section, or part  
2 will not take effect unless approved by the people at the general election  
3 to be held in November 2016 and, in such case, will take effect on the  
4 date of the official declaration of the vote thereon by the governor.

5 (2) This act applies to dentist designations on or after the  
6 applicable effective date of this act.