

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 15-0754.01 Christy Chase x2008

**HOUSE BILL 15-1191**

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**HOUSE SPONSORSHIP**

**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.*

HOUSE  
3rd Reading Unamended  
March 9, 2015

HOUSE  
Amended 2nd Reading  
March 6, 2015

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 AND DENTIST Designation Disclosure Act".

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

8 **25-38-102. Legislative declaration.** (1) The general assembly  
9 hereby finds, determines, and declares that:

10 (a) Health care entities have instituted or are instituting  
11 quantitative and qualitative designations of physicians AND DENTISTS;

12 (b) Physician AND DENTIST designations are disclosed and  
13 represented to consumers and others as part of marketing, sales, and other  
14 efforts, and such designations may be used by consumers in selecting the  
15 physicians AND DENTISTS from whom they receive care;

16 (c) Designations are based on claims data, practice criteria or  
17 guidelines, and other criteria, not all of which are made known to  
18 consumers or to the physicians AND DENTISTS designated;

19  
20 (f) For the protection of consumers, and physicians, AND DENTISTS  
21 and to avoid improper profiling of physicians AND DENTISTS, health care  
22 entities must ensure that they are using designations that are fair and  
23 accurate and must accord physicians AND DENTISTS the right to challenge  
24 and correct erroneous designations, data, and methodologies;

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

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

20 **25-38-103. Definitions.** As used in this article, unless the context  
21 otherwise requires:

22 (3.5) "DENTIST" MEANS A DENTIST LICENSED UNDER THE "DENTAL  
23 PRACTICE ACT", ARTICLE 35 OF TITLE 12, C.R.S.

24 (4) "Designation" means an award, assignment, characterization,  
25 or representation of the cost efficiency, quality, or other assessment or  
26 measurement of the care or clinical performance of any physician OR  
27 DENTIST that is disclosed or intended for disclosure to the public or

1 persons actually or potentially covered by a health plan, by use of a grade,  
2 star, tier, rating, profile, or any other form of designation. "Designation"  
3 does not include:

4 (b) Information for programs designed to assist health plan  
5 members with estimating a physician's OR DENTIST'S routine fees or costs.

6

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

10 **25-38-104. Minimum requirements for designations -**  
11 **disclaimer required.** (1) Any designation of a physician OR DENTIST  
12 shall include, at a minimum, the following:

13 (d) If claims data are used in the designation process, accurate  
14 claims data appropriately attributed to the physician OR DENTIST. When  
15 reasonably available, the health care entity shall use aggregated data to  
16 supplement its own claims data.

17 (e) The physician's OR DENTIST'S responsibility for health care  
18 decisions and the financial consequences of those decisions, which shall  
19 be fairly and accurately attributed to the physician OR DENTIST;

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

22 (I) Practice guidelines or performance measures that are  
23 promulgated or endorsed by nationally recognized health care  
24 organizations that establish or promote guidelines and performance  
25 measures emphasizing quality of health care, such as the national quality  
26 forum or the AQA alliance, or their successors, or other such national  
27 physician OR DENTIST specialty organizations, or the Colorado clinical

1 guidelines collaborative or its successor;

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

3 (C) Pertinent to the area of practice, location, and characteristics  
4 of the patient population of the **physician OR DENTIST** being designated.

5 (2) (a) Any disclosure of a designation to a **physician, DENTIST,** or  
6 consumer shall be accompanied by a conspicuous disclaimer written in  
7 bold-faced type. The disclaimer shall state that designations are intended  
8 only as a guide to choosing a **physician OR DENTIST,** that designations  
9 should not be the sole factor in selecting a **physician OR DENTIST,** that  
10 designations have a risk of error, and that consumers should discuss  
11 designations with a **physician OR DENTIST** before choosing him or her.

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

14 **25-38-105. Disclosure required upon request - information not**  
15 **proprietary.** (1) Upon request by or on behalf of the designated  
16 **physician OR DENTIST** or the commissioner, a health care entity shall  
17 disclose to the requesting person a description of the methodology upon  
18 which the health care entity's designation is based and all data upon  
19 which the designation was based within forty-five days ~~of~~ AFTER  
20 receiving the request. The description shall be sufficiently detailed to  
21 allow the designated **physician OR DENTIST** or **THE** commissioner to  
22 determine the effect of the methodology on the data being reviewed. The  
23 disclosure of the data shall be made in a manner that is reasonably  
24 understandable and allows the **physician, DENTIST,** or commissioner to  
25 verify the data against his or her records. Where law or the health care  
26 entity's contractual obligations with a bona fide third party prevents  
27 disclosure of any of the data required to be disclosed by this section, the

1 health care entity shall nonetheless provide sufficient information to  
2 allow the **physician OR DENTIST** to determine how the withheld data  
3 affected the **physician's OR DENTIST'S** designation.

4 (2) After the disclosure of the description of the methodology  
5 provided for in subsection (1) of this section and upon further request by  
6 or on behalf of the designated **physician OR DENTIST** or the commissioner,  
7 the health care entity shall provide the complete methodology within  
8 thirty days ~~of~~ AFTER such further request.

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

11 **25-38-106. Notice of use or change of designation required -**  
12 **appeal process.** (1) At least forty-five days before using, changing, or  
13 declining to award a designation in an existing program of designation,  
14 a health care entity shall provide the **physician OR DENTIST** with written  
15 notice of ~~such~~ THE designation decision. The written notice shall describe  
16 the procedures by which the **physician OR DENTIST** may:

17 (2) (a) Any health care entity providing designations of **physicians**  
18 **OR DENTISTS** shall establish procedures for the designated **physician OR**  
19 **DENTIST** to appeal the designation, including a change in designation or  
20 a declination to award a designation in an existing program of  
21 designation. ~~Such~~ THE procedures, in addition to the written notice  
22 provided for in subsection (1) of this section, shall provide for the  
23 following:

24 (I) A reasonable method by which the designated **physician OR**  
25 **DENTIST** shall provide notice of his or her desire to appeal;

26 (II) If requested by the designated **physician OR DENTIST**,  
27 disclosure of the methodology and data upon which the health care

1 entity's decision is based;

2 (III) The name, title, qualifications, and relationship to the health  
3 care entity of the person or persons responsible for the appeal of the  
4 designated ~~physician OR DENTIST~~;

5 (IV) An opportunity to submit or have considered corrected data  
6 relevant to the designation decision and to have considered the  
7 applicability of the methodology used in the designation decision. If  
8 requested by the designated ~~physician such~~ OR DENTIST, THE opportunity  
9 may be afforded by the health care entity in a face-to-face meeting with  
10 those responsible for the appeal decision at a location reasonably  
11 convenient to the ~~physician OR DENTIST~~ or by teleconference. All data  
12 submitted to the entity by a designated ~~physician shall be~~ OR DENTIST IS  
13 presumed valid and accurate. However, this presumption ~~shall not be~~  
14 ~~construed to~~ DOES NOT permit a health care entity to unreasonably  
15 withhold consideration of corrected or supplemented data pursuant to this  
16 subparagraph (IV).

17 (V) The right of the ~~physician OR DENTIST~~ to be assisted by a  
18 representative;

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

23 (VII) A written decision regarding the ~~physician's OR DENTIST'S~~  
24 appeal that states the reasons for upholding, modifying, or rejecting the  
25 ~~physician's OR DENTIST'S~~ appeal.

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

1           **25-38-107. Enforcement.** (1) ~~No~~ A health care entity shall NOT  
2 limit, by contract or other means, the right of a **physician OR DENTIST** to  
3 enforce this article.

4           **SECTION 8.** In Colorado Revised Statutes, 10-3-1104, **amend**  
5 (1) (ff) as follows:

6           **10-3-1104. Unfair methods of competition - unfair or deceptive**  
7 **acts or practices - repeal.** (1) The following are defined as unfair  
8 methods of competition and unfair or deceptive acts or practices in the  
9 business of insurance:

10           (ff) Violation of the **"Physician AND DENTIST** Designation  
11 Disclosure Act", article 38 of title 25, C.R.S.;

12           **SECTION 9. Act subject to petition - effective date -**  
13 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
14 the expiration of the ninety-day period after final adjournment of the  
15 general assembly (August 5, 2015, if adjournment sine die is on May 6,  
16 2015); except that, if a referendum petition is filed pursuant to section 1  
17 (3) of article V of the state constitution against this act or an item, section,  
18 or part of this act within such period, then the act, item, section, or part  
19 will not take effect unless approved by the people at the general election  
20 to be held in November 2016 and, in such case, will take effect on the  
21 date of the official declaration of the vote thereon by the governor.

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