

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0528.01 Brita Darling x2241

SENATE BILL 23-093

SENATE SPONSORSHIP

Cutter and Jaquez Lewis,

HOUSE SPONSORSHIP

Weissman,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASING CONSUMER PROTECTIONS IN VARIOUS**
102 **MEDICAL TRANSACTIONS.**

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://leg.colorado.gov>.)

The bill:

- Caps the rate of interest on medical debt at 3% per annum;
- Defines "medical debt", for purposes of a statutory cap on interest rates and fair debt collection practices, to include debt arising from the receipt of health-care services or medical products or devices;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

- Requires a debt collector or collection agency collecting on a medical debt to provide to the consumer, upon the consumer's written or oral request, an itemized statement concerning the debt and allows the consumer to dispute the validity of the debt after receipt of the itemized statement;
- Establishes requirements relating to payment plans for medical debt, including written documentation of the payment plan between the consumer and the creditor, debt collector, or debt collection agency; notice to the consumer if the payment plan will be accelerated or declared in default or inoperative due to nonpayment; and the opportunity to renegotiate the payment plan;
- Prohibits collection on the debt during any appeal proceedings and prohibits reporting the debt to a consumer reporting agency until a certain amount of time after the payment plan becomes inoperative;
- Requires a debt collector or collection agency that files a legal action to collect medical debt to include an itemization of the charges and, prior to the entry of a default judgment against the creditor, provide evidence of the debt;
- Makes it a deceptive trade practice to violate provisions relating to billing practices, surprise billing, and balance billing laws; and
- Requires a health-care provider or health-care facility to provide, upon request of a prospective patient, an estimate of the total cost of a health-care service (service) to a person who intends to self-pay for the service (self-pay estimate). The bill includes requirements for the self-pay estimate and caps the amount by which the final, total cost of the service may exceed the self-pay estimate, with exceptions for emergency or unforeseen, medically necessary services required during the service. The bill makes it a deceptive trade practice to violate provisions relating to the self-pay estimate.

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

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

4 **5-12-102. Statutory interest - definition.** (5) (a) THE MAXIMUM
 5 RATE OF INTEREST ON MEDICAL DEBT IS THREE PERCENT PER ANNUM.

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

3 **SECTION 2.** In Colorado Revised Statutes, 5-16-103, **add** (10.3)
4 and (10.5) as follows:

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

7 (10.3) "MEDICAL CREDITOR" HAS THE MEANING SET FORTH IN
8 SECTION 6-20-201 (6).

9 (10.5) "MEDICAL DEBT" MEANS DEBT, OTHER THAN A
10 HEALTH-CARE LOAN, ARISING DIRECTLY FROM THE RECEIPT OF
11 HEALTH-CARE SERVICES OR OF MEDICAL PRODUCTS OR DEVICES.

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

14 **5-16-109. Validation of debts.** (1) Within five days after the
15 initial communication with a consumer in connection with the collection
16 of any debt, a debt collector or collection agency shall, unless the
17 following information is contained in the initial communication or the
18 consumer has paid the debt, send the consumer a written notice with the
19 disclosures specified in subsections (1)(a) to (1)(e) of this section. If the
20 disclosures are placed on the back of the notice, the front of the notice
21 shall contain a statement notifying consumers of that fact. The disclosures
22 shall state:

23 (c) That, unless the consumer ~~within thirty days after receipt of the~~
24 ~~notice~~, disputes the validity of the debt or any portion ~~thereof~~ OF THE DEBT
25 WITHIN THIRTY DAYS AFTER THE CONSUMER'S RECEIPT OF THE NOTICE OR
26 WITHIN THIRTY DAYS AFTER THE CONSUMER'S RECEIPT OF THE ITEMIZED
27 STATEMENT, IF REQUESTED PURSUANT TO SUBSECTION (5) OF THIS SECTION,

1 the debt will be assumed to be valid by the debt collector or collection
2 agency;

3 (5) UPON WRITTEN OR ORAL REQUEST BY AND WITHOUT FEE TO A
4 CONSUMER, A DEBT COLLECTOR OR COLLECTION AGENCY COLLECTING ON
5 A MEDICAL DEBT SHALL PROVIDE AN ITEMIZED STATEMENT TO THE
6 CONSUMER WITHIN THIRTY DAYS AFTER THE REQUEST IS RECEIVED. THE
7 ITEMIZED STATEMENT MUST INCLUDE:

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

9 (b) THE DATE OR DATES OF SERVICE;

10 (c) THE DATE OR DATES THE MEDICAL DEBT WAS INCURRED, IF
11 DIFFERENT FROM THE DATE OF SERVICE;

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

14 (e) A LIST OF ALL HEALTH-CARE PROFESSIONALS WHO TREATED THE
15 CONSUMER;

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

18 (g) ANY ADJUSTMENT TO THE BILL, INCLUDING NEGOTIATED
19 INSURANCE RATES OR OTHER DISCOUNTS;

20 (h) THE AMOUNT OF ANY PAYMENTS RECEIVED BY THE TIME THE
21 ITEMIZED STATEMENT IS GENERATED, WHETHER FROM THE CONSUMER OR
22 ANY OTHER PERSON, AND THE DATES THE PAYMENTS WERE MADE;

23 (i) ANY INTEREST OR FEES INCURRED BY THE TIME THE ITEMIZED
24 STATEMENT IS GENERATED;

25 (j) WHETHER THE CONSUMER WAS SCREENED FOR FINANCIAL
26 ASSISTANCE; AND

27 (k) WHETHER THE CONSUMER WAS FOUND ELIGIBLE FOR FINANCIAL

1 ASSISTANCE AND, IF SO, THE AMOUNT DUE AFTER ALL FINANCIAL
2 ASSISTANCE IS APPLIED TO THE ITEMIZED STATEMENT.

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

5 **5-16-109.5. Medical debt - requirements related to payment**
6 **plans - collection prohibited during health insurance appeals -**

7 **definition.** (1) (a) A MEDICAL CREDITOR, DEBT COLLECTOR, OR
8 COLLECTION AGENCY COLLECTING ON A MEDICAL DEBT THAT AGREES TO
9 A PAYMENT PLAN FOR THE MEDICAL DEBT SHALL PROVIDE A WRITTEN COPY
10 OF THE PAYMENT PLAN TO THE CONSUMER WITHIN SEVEN DAYS AFTER
11 ENTERING INTO THE PAYMENT PLAN. THE PAYMENT PLAN MUST
12 PROMINENTLY DISCLOSE THE RATE OF INTEREST AND THE DATE BY WHICH
13 THE ACCOUNT WILL BE PAID IN FULL IF PAYMENTS SET BY THE SCHEDULE
14 IN THE PAYMENT PLAN ARE MADE WITHOUT INTERRUPTION.

15 (b) (I) A MEDICAL DEBT PAYMENT PLAN MAY BE ACCELERATED OR
16 DECLARED IN DEFAULT OR NO LONGER OPERATIVE DUE TO NONPAYMENT
17 ONLY AFTER THE CONSUMER FAILS TO MAKE SCHEDULED PAYMENTS
18 PURSUANT TO THE PAYMENT PLAN FOR AT LEAST THREE CONSECUTIVE
19 MONTHS.

20 (II) BEFORE ACCELERATING OR DECLARING THE PAYMENT PLAN NO
21 LONGER OPERATIVE, THE MEDICAL CREDITOR, DEBT COLLECTOR, OR
22 COLLECTION AGENCY COLLECTING ON A MEDICAL DEBT SHALL:

23 (A) MAKE AT LEAST THREE REASONABLE ATTEMPTS TO CONTACT
24 THE CONSUMER BY TELEPHONE OR OTHER METHOD PREFERRED BY THE
25 CONSUMER; AND

26 (B) PROVIDE NOTICE TO THE CONSUMER IN WRITING THAT THE
27 PAYMENT PLAN MAY BE ACCELERATED OR BECOME INOPERATIVE AND

1 INFORM THE CONSUMER OF THE OPPORTUNITY TO RENEGOTIATE THE
2 PAYMENT PLAN.

3 (c) THE MEDICAL CREDITOR, DEBT COLLECTOR, OR COLLECTION
4 AGENCY COLLECTING ON A MEDICAL DEBT:

5 (I) SHALL ATTEMPT, IF REQUESTED BY THE CONSUMER, TO
6 RENEGOTIATE THE TERMS OF THE DEFAULTED PAYMENT PLAN PRIOR TO
7 ACCELERATING THE PAYMENT PLAN OR DECLARING THE PAYMENT PLAN
8 INOPERATIVE; AND

9 (II) SHALL NOT REPORT ADVERSE INFORMATION TO A CONSUMER
10 REPORTING AGENCY OR COMMENCE A CIVIL ACTION AGAINST THE
11 CONSUMER OR THE PERSON RESPONSIBLE FOR NONPAYMENT UNTIL AT
12 LEAST SIXTY-THREE DAYS AFTER THE PAYMENT PLAN IS ACCELERATED OR
13 DECLARED TO BE NO LONGER OPERATIVE.

14 (d) FOR PURPOSES OF THIS SECTION, THE NOTICE AND TELEPHONE
15 CALLS TO THE CONSUMER MUST BE TO THE LAST-KNOWN ADDRESS AND
16 TELEPHONE NUMBER OF THE CONSUMER.

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

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

26 (II) COMMUNICATE WITH THE CONSUMER REGARDING THE UNPAID
27 CHARGES FOR HEALTH-CARE SERVICES IN AN ATTEMPT TO COLLECT ON THE

1 CHARGES;

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

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

6 (b) IF A MEDICAL DEBT HAS ALREADY BEEN REPORTED TO A
7 CONSUMER REPORTING AGENCY AND THE MEDICAL CREDITOR, DEBT
8 COLLECTOR, OR COLLECTION AGENCY COLLECTING ON THE MEDICAL DEBT
9 THAT REPORTED THE INFORMATION LEARNS THAT AN INTERNAL REVIEW,
10 EXTERNAL REVIEW, OR OTHER APPEAL PROCEEDING OF A HEALTH
11 INSURANCE DECISION IS PENDING OR WAS PENDING WITHIN THE PREVIOUS
12 SIXTY-THREE DAYS, THAT PERSON SHALL INSTRUCT THE CONSUMER
13 REPORTING AGENCY TO DELETE THE INFORMATION ABOUT THE MEDICAL
14 DEBT.

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

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

19 **5-16-111. Legal actions by collection agencies.** (5) (a) A
20 CREDITOR, OR A DEBT COLLECTOR OR COLLECTION AGENCY OPERATING ON
21 BEHALF OF THE CREDITOR, THAT BRINGS A LEGAL ACTION ON A MEDICAL
22 DEBT SHALL ATTACH TO THE COMPLAINT OR APPLICABLE FORM A COPY OF
23 A REDACTED ITEMIZATION OF THE CHARGES THAT ARE THE BASIS FOR THE
24 MEDICAL DEBT.

25 (b) THE CREDITOR MUST BE THE NAMED PLAINTIFF IN A LEGAL
26 ACTION ON A MEDICAL DEBT WHETHER THE CREDITOR BRINGS THE ACTION
27 ON ITS OWN BEHALF OR WHETHER THE DEBT COLLECTOR OR COLLECTION

1 AGENCY THAT HAS TAKEN ASSIGNMENT ONLY FOR COLLECTION PURPOSES
2 BRINGS THE ACTION ON BEHALF OF THE CREDITOR.

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

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

10 (II) THE ORIGINAL CREDITOR AT CHARGE-OFF;

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

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

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

18 (VI) THE DATE THE DEBT WAS INCURRED.

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

22 **SECTION 6.** In Colorado Revised Statutes, 6-1-105, **add** (1)(uuu)
23 and (1)(vvv) as follows:

24 **6-1-105. Unfair or deceptive trade practices.** (1) A person
25 engages in a deceptive trade practice when, in the course of the person's
26 business, vocation, or occupation, the person:

27 (uuu) VIOLATES SECTION 12-30-112, 12-30-113, 25-3-121, OR

1 25-3-122; OR

2 (vvv) VIOLATES SECTION 25-49-106.

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

5 **25-49-102. Definitions.** As used in this article 49, unless the
6 context otherwise requires:

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

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

11 **25-49-106. Required disclosure to self-pay recipients - estimate**
12 **of total cost of health-care services upon request - deceptive trade**
13 **practice.** (1) (a) UPON THE REQUEST OF A PERSON SEEKING A
14 HEALTH-CARE SERVICE WHO INTENDS TO SELF-PAY FOR THE SERVICE, A
15 HEALTH-CARE PROVIDER OR A HEALTH-CARE FACILITY SHALL PROVIDE,
16 PRIOR TO THE PROVISION OF THE HEALTH-CARE SERVICE, A SELF-PAY
17 ESTIMATE, PURSUANT TO SUBSECTION (3) OF THIS SECTION, OF THE TOTAL
18 ESTIMATED COST TO THE RECIPIENT OF THE ANTICIPATED HEALTH-CARE
19 SERVICE.

20 (b) (I) EXCEPT AS PROVIDED IN SUBSECTION (1)(b)(II) OF THIS
21 SECTION, THE FINAL COST OF THE HEALTH-CARE SERVICE FOR WHICH THE
22 SELF-PAY ESTIMATE WAS MADE MUST BE NO MORE THAN FIFTEEN PERCENT
23 HIGHER THAN THE TOTAL ESTIMATED COST INDICATED IN THE SELF-PAY
24 ESTIMATE.

25 (II) THE FINAL COST OF THE HEALTH-CARE SERVICE FOR WHICH THE
26 SELF-PAY ESTIMATE WAS MADE MAY BE MORE THAN FIFTEEN PERCENT
27 HIGHER THAN THE SELF-PAY ESTIMATE IF A MEDICAL EMERGENCY OCCURS

1 THAT IS ASSOCIATED WITH THE HEALTH-CARE SERVICE OR IF AN
2 ADDITIONAL, UNFORESEEN, MEDICALLY NECESSARY HEALTH-CARE SERVICE
3 IS REQUIRED DURING THE PROVISION OF THE HEALTH-CARE SERVICE. THE
4 HEALTH-CARE PROVIDER OR HEALTH-CARE FACILITY SHALL MAKE ALL
5 REASONABLE EFFORTS TO OBTAIN THE CONSENT OF THE RECIPIENT OR, IF
6 THE RECIPIENT IS INCAPACITATED, THE RECIPIENT'S AUTHORIZED AGENT
7 PRIOR TO PROVIDING ANY EMERGENCY OR UNFORESEEN, MEDICALLY
8 NECESSARY HEALTH-CARE SERVICE THAT WILL INCREASE BY MORE THAN
9 FIFTEEN PERCENT THE TOTAL COST INDICATED IN THE SELF-PAY ESTIMATE.

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

15 (3) THE SELF-PAY ESTIMATE MUST:

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

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

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

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

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

27 (V) THE NAME OF THE HEALTH-CARE PROVIDER OR HEALTH-CARE

1 FACILITY EMPLOYEE PROVIDING THE SELF-PAY ESTIMATE; AND
2 (VI) ANY OTHER INFORMATION MATERIAL TO THE DETERMINATION
3 OF THE SELF-PAY ESTIMATE;
4 (b) INCLUDE THE TOTAL ESTIMATED COST OF THE HEALTH-CARE
5 SERVICE, INCLUDING AN ITEMIZATION OF ALL NECESSARY COMPONENTS OF
6 THE SERVICE, WHICH COMPONENTS MAY INCLUDE A FACILITY FEE AND THE
7 COST OF PERSONNEL, IMAGING, MEDICAL TOOLS OR DEVICES, AND
8 MEDICINE; AND
9 (c) BE EASY TO UNDERSTAND BY A PERSON WITHOUT KNOWLEDGE
10 OF MEDICAL OR TECHNICAL JARGON AND WITH LIMITED PROFICIENCY IN
11 MATH, SCIENCE, AND WRITTEN AND ORAL COMMUNICATION SKILLS.

12 (4) A VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE
13 PURSUANT TO SECTION 6-1-105 (1)(vvv).

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

16 **12-30-112. Health-care providers - required disclosures -**
17 **balance billing - deceptive trade practice - rules - definitions.** (6) A
18 VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE PURSUANT
19 TO SECTION 6-1-105 (1)(uuu).

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

22 **12-30-113. Out-of-network health-care providers -**
23 **out-of-network services - billing - payment - deceptive trade practice.**
24 (6) A VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE
25 PURSUANT TO SECTION 6-1-105 (1)(uuu).

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

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

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

7 **25-3-122. Out-of-network facilities - emergency medical**
8 **services - billing - payment - deceptive trade practice.** (6) A VIOLATION
9 OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE PURSUANT TO SECTION
10 6-1-105 (1)(uuu).

11 **SECTION 13. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.