

CHAPTER 227

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 96-1237

BY REPRESENTATIVES DeGette, Kaufman, George, Lamm, McPherson, Snyder, Acquafresca, Chlouber, Hagedorn, Knox, Leyba, Lyle, and Romero;
also SENATORS Matsunaka, Ament, Bishop, Hernandez, Johnson, Meiklejohn, Norton, Pascoe, L. Powers, R. Powers, and Wham.

AN ACT

CONCERNING A MANDATORY WAITING PERIOD BEFORE ANY PERSON MAY SOLICIT AN ACCIDENT VICTIM.

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

SECTION 1. Article 5 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

12-5-115.5. Solicitation of accident victims - waiting period. (1) EXCEPT AS PERMITTED BY SECTION 13-21-301 (3), 10-3-1104 (1) (h), OR 10-4-706, C.R.S., NO PERSON SHALL ENGAGE IN SOLICITATION FOR PROFESSIONAL EMPLOYMENT OR FOR ANY RELEASE OR COVENANT NOT TO SUE CONCERNING PERSONAL INJURY OR WRONGFUL DEATH FROM AN INDIVIDUAL WITH WHOM THE PERSON HAS NO FAMILY OR PRIOR PROFESSIONAL RELATIONSHIP UNLESS THE INCIDENT FOR WHICH EMPLOYMENT IS SOUGHT OCCURRED MORE THAN THIRTY DAYS PRIOR TO THE SOLICITATION.

(2) NO PERSON SHALL ACCEPT A REFERRAL FOR PROFESSIONAL EMPLOYMENT CONCERNING PERSONAL INJURY OR WRONGFUL DEATH FROM ANY PERSON WHO ENGAGED IN SOLICITATION OF AN INDIVIDUAL WITH WHOM THE PERSON HAD NO FAMILY OR PRIOR PROFESSIONAL RELATIONSHIP UNLESS THE INCIDENT FOR WHICH EMPLOYMENT IS SOUGHT OCCURRED MORE THAN THIRTY DAYS PRIOR TO THE SOLICITATION.

(3) AS USED IN THIS SECTION, "SOLICITATION" MEANS AN INITIAL CONTACT INITIATED IN PERSON, THROUGH ANY FORM OF WRITTEN COMMUNICATION, OR BY TELEPHONE, TELEGRAPH, OR FACSIMILE, ANY OF WHICH IS DIRECTED TO A SPECIFIC INDIVIDUAL, UNLESS REQUESTED BY THE INDIVIDUAL, A MEMBER OF THE INDIVIDUAL'S

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

FAMILY, OR THE AUTHORIZED REPRESENTATIVE OF THE INDIVIDUAL. "SOLICITATION" SHALL NOT INCLUDE RADIO, TELEVISION, NEWSPAPER, OR YELLOW PAGES ADVERTISEMENTS.

(4) ANY AGREEMENT MADE IN VIOLATION OF THIS SECTION IS VOIDABLE AT THE OPTION OF THE INDIVIDUAL SUFFERING THE PERSONAL INJURY OR DEATH OR SUCH INDIVIDUAL'S PERSONAL OR OTHER AUTHORIZED REPRESENTATIVE.

SECTION 2. 13-21-301 (1), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

13-21-301. Settlements, releases, and statements of injured persons. (1) If a person is injured as a result of an occurrence which might give rise to liability and said person is a patient under the care of a practitioner of the healing arts or is hospitalized, no person or agent of any person whose interest is adverse to the injured person ~~within fifteen days from the date of the occurrence causing the injury shall:~~

(a) WITHIN THIRTY DAYS AFTER THE DATE OF THE OCCURRENCE CAUSING THE INJURY, negotiate or attempt to negotiate a settlement with the injured patient;

(b) WITHIN THIRTY DAYS AFTER THE DATE OF THE OCCURRENCE CAUSING THE INJURY, obtain or attempt to obtain a general release of liability from the injured patient; or

(c) WITHIN FIFTEEN DAYS AFTER THE DATE OF THE OCCURRENCE CAUSING THE INJURY, obtain or attempt to obtain any statement, either written, oral, recorded, or otherwise, from the injured patient for use in negotiating a settlement or obtaining a release except as provided by the Colorado rules of civil procedure.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 1996, and shall apply to any causes of action accruing on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 1996