

## CHAPTER 125

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**INSURANCE**

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**HOUSE BILL 97-1104**

BY REPRESENTATIVES Faatz, Morrison, Bacon, Clarke, Entz, Grossman, Kaufman, Keller, Lawrence, Leyba, Mace, Reeser, and Tate;  
also SENATORS Wattenberg, Hernandez, Hopper, J. Johnson, Linkhart, Norton, Phillips, Rizzuto, Rupert, Weddig, and Wham.

**AN ACT**

CONCERNING THE SCOPE OF INSURANCE PROVISIONS REGARDING THE TREATMENT OF PAIN.

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

**SECTION 1.** 10-16-107, Colorado Revised Statutes, 1994 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**10-16-107. Rate regulation - approval of policy forms - benefit certificates - evidences of coverage - loss ratio guarantees - disclosures on treatment of intractable pain.** (7) (a) A SERVICE OR INDEMNITY CONTRACT ISSUED OR RENEWED ON OR AFTER JANUARY 1, 1998, BY ANY ENTITY SUBJECT TO PART 2, 3, OR 4 OF THIS ARTICLE SHALL DISCLOSE IN THE CONTRACT AND IN INFORMATION ON COVERAGE PRESENTED TO CONSUMERS WHETHER THE HEALTH COVERAGE PLAN OR MANAGED CARE PLAN PROVIDES COVERAGE FOR TREATMENT OF INTRACTABLE PAIN. IF THE CONTRACT IS SILENT ON COVERAGE OF INTRACTABLE PAIN, THEN THE CONTRACT SHALL BE PRESUMED TO OFFER COVERAGE FOR THE TREATMENT OF INTRACTABLE PAIN. IF THE CONTRACT IS SILENT OR IF THE PLAN SPECIFICALLY INCLUDES COVERAGE FOR THE TREATMENT OF INTRACTABLE PAIN, THE PLAN SHALL PROVIDE ACCESS TO SUCH TREATMENT FOR ANY INDIVIDUAL COVERED BY THE PLAN EITHER:

(I) BY A PRIMARY CARE PHYSICIAN WITH DEMONSTRATED INTEREST AND DOCUMENTED EXPERIENCE IN PAIN MANAGEMENT WHOSE PRACTICE INCLUDES UP-TO-DATE PAIN TREATMENT;

(II) BY PROVIDING DIRECT ACCESS TO A PAIN MANAGEMENT SPECIALIST LOCATED

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

WITHIN THIS STATE AND PARTICIPATING IN AND AVAILABLE UNDER THE PLAN; OR

(III) BY HAVING PROCEDURES IN PLACE THAT ENSURE THAT, IF THE INDIVIDUAL REQUESTS A TIMELY REFERRAL FOR INTRACTABLE PAIN MANAGEMENT TO A PAIN MANAGEMENT SPECIALIST PARTICIPATING IN AND AVAILABLE UNDER THE PLAN, THE REQUEST FOR REFERRAL SHALL NOT BE UNREASONABLY DENIED BY THE PLAN. THE COMMISSIONER SHALL PROMULGATE RULES PURSUANT TO THIS SUBPARAGRAPH (III) THAT INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING ISSUES:

(A) WHAT CONSTITUTES A TIMELY REFERRAL;

(B) CIRCUMSTANCES, PRACTICES, POLICIES, CONTRACT PROVISIONS, OR ACTIONS THAT CONSTITUTE AN UNDUE OR UNREASONABLE INTERFERENCE WITH THE ABILITY OF AN INDIVIDUAL TO SECURE A REFERRAL OR REAUTHORIZATION FOR CONTINUING CARE;

(C) THE PROCESS FOR ISSUING A DENIAL OF A REQUEST, INCLUDING THE MEANS BY WHICH AN INDIVIDUAL MAY RECEIVE NOTICE OF A DENIAL AND THE REASONS THEREFOR IN WRITING;

(D) ACTIONS THAT CONSTITUTE IMPROPER PENALTIES IMPOSED UPON PRIMARY CARE PHYSICIANS AS A RESULT OF REFERRALS MADE PURSUANT TO THIS SUBSECTION (7); AND

(E) SUCH OTHER ISSUES AS THE COMMISSIONER DEEMS NECESSARY.

(b) FOR PURPOSES OF THIS SUBSECTION (7), "INTRACTABLE PAIN" MEANS A PAIN STATE IN WHICH THE CAUSE OF THE PAIN CANNOT BE REMOVED AND WHICH IN THE GENERALLY ACCEPTED COURSE OF MEDICAL PRACTICE NO RELIEF OR CURE OF THE CAUSE OF THE PAIN IS POSSIBLE OR NONE HAS BEEN FOUND AFTER REASONABLE EFFORTS INCLUDING, BUT NOT LIMITED TO, EVALUATION BY THE ATTENDING PHYSICIAN AND ONE OR MORE PHYSICIANS SPECIALIZING IN THE TREATMENT OF THE AREA, SYSTEM, OR ORGAN OF THE BODY PERCEIVED AS THE SOURCE OF THE PAIN.

**SECTION 2. 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: April 24, 1997