

CHAPTER 310

INSURANCE

SENATE BILL 01-239

BY SENATOR(S) Phillips, Matsunaka, Entz, and Tupa;
also REPRESENTATIVE(S) Spradley, Bacon, Boyd, Daniel, Groff, Hoppe, Jahn, Kester, Larson, Plant, Ragsdale, Sanchez,
Swenson, Tapia, and Weddig.

AN ACT

CONCERNING THE PROHIBITION OF UNAUTHORIZED TRANSFERS OF ACCOUNTS OF PRESCRIPTION DRUG CUSTOMERS.

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

SECTION 1. 10-16-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

10-16-102. Definitions. As used in this article, unless the context otherwise requires:

(29.5) "PHARMACY BENEFIT MANAGEMENT FIRM" MEANS ANY ENTITY DOING BUSINESS IN THIS STATE THAT CONTRACTS TO ADMINISTER OR MANAGE PRESCRIPTION DRUG BENEFITS ON BEHALF OF ANY CARRIER THAT PROVIDES PRESCRIPTION DRUG BENEFITS TO RESIDENTS OF THIS STATE.

SECTION 2. 10-16-122, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

10-16-122. Access to prescription drugs. (4) (a) NO PHARMACY BENEFIT MANAGER OR CARRIER OFFERING A MANAGED CARE PLAN SHALL TRANSFER OR REQUEST THAT A PHARMACY PROVIDER TRANSFER THE PRESCRIPTION OR PRESCRIPTIONS OF A COVERED PERSON OR SUBSCRIBER, WHOLLY OR IN PART, TO A DIFFERENT PARTICIPATING PHARMACY PROVIDER THAN THE PROVIDER SELECTED BY THE COVERED PERSON OR SUBSCRIBER UNLESS ONE OR MORE OF THE FOLLOWING CONDITIONS HAVE BEEN MET:

(I) THE PARTICIPATING PHARMACY PROVIDER TO WHOM THE COVERED PERSON OR

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

SUBSCRIBER'S PRESCRIPTION IS TO BE TRANSFERRED OR THE CARRIER OR PHARMACY BENEFIT MANAGER HAS OBTAINED A DOCUMENT, SIGNED BY THE COVERED PERSON OR SUBSCRIBER, THAT CONTAINS A CLEAR, CONSPICUOUS, AND UNEQUIVOCAL REQUEST BY THE COVERED PERSON OR SUBSCRIBER FOR A CHANGE OF PROVIDER;

(II) THE PARTICIPATING PHARMACY PROVIDER CARRIER OR PHARMACY BENEFIT MANAGER TO WHOM THE COVERED PERSON OR SUBSCRIBER'S PRESCRIPTION IS TO BE TRANSFERRED HAS OBTAINED THE COVERED PERSON OR SUBSCRIBER'S ORAL AUTHORIZATION FOR THE TRANSFER AND IS ABLE TO FURNISH PROOF OF SUCH AUTHORIZATION THROUGH VERIFICATION BY AN INDEPENDENT THIRD PARTY OR AN ELECTRONIC RECORD; OR

(III) THE PHARMACY PROVIDER'S PARTICIPATION IN THE PHARMACY NETWORK OF THE CARRIER OR PHARMACY BENEFIT MANAGER HAS CHANGED AND THE PHARMACY PROVIDER SELECTED BY THE COVERED PERSON OR SUBSCRIBER IS NO LONGER A PARTICIPATING PROVIDER IN THE NETWORK, PROVIDED THAT THE COVERED PERSON OR SUBSCRIBER HAS BEEN NOTIFIED OF THE PROPOSED TRANSFER OF PHARMACEUTICAL CARE SERVICES AND IS GIVEN AN OPPORTUNITY TO AFFIRMATIVELY SELECT A PARTICIPATING PHARMACY PROVIDER OTHER THAN THE PROPOSED TRANSFEREE.

(b) NOTHING IN THIS SUBSECTION (4) SHALL REQUIRE A CARRIER OFFERING A MANAGED CARE PLAN OR A PHARMACY BENEFIT MANAGER TO PAY FOR PHARMACEUTICAL BENEFITS RECEIVED FROM A NONPARTICIPATING PROVIDER.

SECTION 3. 10-3-1104 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

(cc) VIOLATION OF THE PROVISIONS OF SECTION 10-16-122 (4) CONCERNING UNAUTHORIZED TRANSFER OF A COVERED PERSON OR SUBSCRIBER'S PRESCRIPTION.

SECTION 4. Effective date - applicability. (1) This act shall take effect January 1, 2002, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to all contracts for pricing and terms for the administration of a prescription drug benefit negotiated, renegotiated, or renewed by insurers subject to article 16 of title 10, Colorado Revised Statutes, on or after the effective date of this act.

Approved: June 5, 2001