

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0906.01 Kristen Forrestal x4217

SENATE BILL 17-190

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SENATE SPONSORSHIP

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Gray, Buckner, Ginal

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Senate Committees  
Health & Human Services

House Committees

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A BILL FOR AN ACT

101 CONCERNING PROHIBITING A CARRIER FROM SETTING FEES FOR A  
102 DENTAL SERVICE THAT IS NOT PAID FOR BY THE CARRIER.

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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://leg.colorado.gov>.)*

The bill prohibits a contract between a carrier and a dentist from requiring a dentist to provide services to a covered person at a fee set by, or subject to the approval of, the carrier unless:

- ! The services are covered services under the person's policy;
- and
- ! The carrier provides payment for the service under the

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.*

person's policy in an amount that is reasonable and not nominal or de minimis.

The bill authorizes a dentist to charge a covered person for noncovered items or services in any amount determined by the dentist and agreed to by the patient if the amount is equal to, or less than, the usual and customary amount that the dentist charges individuals who are not enrolled for such items and services.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) Consumers in the health care market are best served when  
5 contracts between health care providers and insurance carriers are fair and  
6 equitable.

7 (b) The use of contract provisions to control prices for which the  
8 carrier assumes no risk is an unfair marketing practice that results in  
9 inequitable and distorted markets. It is a basic business principle that  
10 inequitable contracting results in cost shifting and drives up costs for the  
11 uninsured, who are often least able to access the care they need.

12 (c) It is important public policy of this state to ensure fair and  
13 equitable contracts between dentists and health insurance carriers by  
14 prohibiting insurance carriers from setting fees for services that are not  
15 covered by the insurance carrier.

16 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-121.5 as  
17 follows:

18 **10-16-121.5. Prohibited contract provisions in contracts**  
19 **between carriers and providers for dental services - definition.** (1) A  
20 CONTRACT BETWEEN A CARRIER AND A DENTIST LICENSED TO PRACTICE  
21 UNDER ARTICLE 35 OF TITLE 12 MUST NOT REQUIRE, DIRECTLY OR  
22 INDIRECTLY, THAT A DENTIST WHO IS A PARTICIPATING PROVIDER PROVIDE

1 SERVICES TO A COVERED PERSON AT A FEE SET BY, OR SUBJECT TO THE  
2 APPROVAL OF, THE CARRIER UNLESS:

3 (a) THE SERVICES ARE COVERED SERVICES UNDER THE PERSON'S  
4 POLICY; AND

5 (b) THE CARRIER PROVIDES PAYMENT FOR THE SERVICES UNDER  
6 THE PERSON'S POLICY IN AN AMOUNT THAT IS REASONABLE AND NOT  
7 NOMINAL OR DE MINIMIS.

8 (2) THE DENTIST MAY CHARGE THE COVERED PERSON FOR  
9 NONCOVERED ITEMS OR SERVICES IN ANY AMOUNT DETERMINED BY THE  
10 DENTIST AND AGREED TO BY THE PATIENT THAT IS EQUAL TO, OR LESS  
11 THAN, THE USUAL AND CUSTOMARY AMOUNT THAT THE DENTIST CHARGES  
12 INDIVIDUALS WHO DO NOT HAVE COVERAGE FOR SUCH ITEMS AND  
13 SERVICES.

14 (3) FOR PURPOSES OF THIS SECTION, "COVERED SERVICES" MEANS  
15 DENTAL CARE SERVICES FOR WHICH REIMBURSEMENT IS AVAILABLE UNDER  
16 A COVERED PERSON'S PLAN CONTRACT, OR FOR WHICH A REIMBURSEMENT  
17 WOULD BE AVAILABLE BUT FOR THE APPLICATION OF CONTRACTUAL  
18 LIMITATIONS SUCH AS DEDUCTIBLES, COPAYMENTS, COINSURANCE,  
19 WAITING PERIODS, ANNUAL OR LIFETIME MAXIMUMS, FREQUENCY  
20 LIMITATIONS, ALTERNATIVE BENEFIT PAYMENTS, OR ANY OTHER  
21 CONTRACTUAL LIMITATIONS.

22 **SECTION 3.** In Colorado Revised Statutes, 10-3-1104, **amend**  
23 (1)(qq); and **add** (1)(ss) as follows:

24 **10-3-1104. Unfair methods of competition - unfair or deceptive**  
25 **acts or practices.** (1) The following are defined as unfair methods of  
26 competition and unfair or deceptive acts or practices in the business of  
27 insurance:

1 (qq) Failure to pay a final, nonappealable judgment award for  
2 failure to return or repay collateral received to secure a bond; or

3 (ss) VIOLATING SECTION 10-16-121.5.

4 **SECTION 4. Act subject to petition - effective date -**  
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
6 the expiration of the ninety-day period after final adjournment of the  
7 general assembly (August 9, 2017, if adjournment sine die is on May 10,  
8 2017); except that, if a referendum petition is filed pursuant to section 1  
9 (3) of article V of the state constitution against this act or an item, section,  
10 or part of this act within such period, then the act, item, section, or part  
11 will not take effect unless approved by the people at the general election  
12 to be held in November 2018 and, in such case, will take effect on the  
13 date of the official declaration of the vote thereon by the governor.

14 (2) This act applies to contracts entered into on or after the  
15 applicable effective date of this act.