

## Initiative #146 Transparency in Health Care Billing

1    **Proposition \_\_ proposes amending the Colorado statutes to:**

- 2        ♦    require every health care provider and facility to publish its complete fee  
3            schedule and billing policies, to give patients an itemized detailed bill, and to  
4            notify patients if services are covered by the patients' health care insurance;
- 5        ♦    require every pharmacy to publish its retail drug prices; and
- 6        ♦    require health insurers to publish contract terms with health care providers and  
7            facilities, patient cost-sharing obligations, and prescription drug negotiated rates.

### 8    **Summary and Analysis**

9        Proposition \_\_ requires health care providers and facilities, pharmacies, and health  
10       insurers regulated by the state to make detailed price and billing information accessible  
11       to patients in Colorado's health care system starting June 1, 2019.

12        **Overview of health care billing and payments.** Private insurance companies,  
13       employers, and government programs, such as Medicare and Medicaid, cover a portion  
14       of health care costs for most patients. Patients often incur some out-of-pocket costs for  
15       care through cost-sharing obligations, such as deductibles, co-pays, and co-insurance.  
16       Covered health care services are specified in the insurance policy purchased by the  
17       patient. Health insurers enter into contracts with health care providers and facilities to  
18       create provider networks. In-network providers agree to serve insured patients and  
19       accept a negotiated payment rate for each covered service. These payments are often  
20       less than the charge listed on the provider's standard fee schedule. After the delivery of  
21       health care services to a patient, the health care provider or facility submits an itemized  
22       bill to the insurer. Providers identify each service listed on the bill by standardized billing  
23       codes. The insurer then determines if the billed service is a covered service and if it was  
24       medically necessary prior to reimbursing the health care provider or facility. Once the  
25       insurer reimburses the provider, the health care provider or facility bills the patient for  
26       any outstanding cost-sharing obligations. For patients without health insurance, the  
27       hospital or provider will bill them directly and may offer a discounted price compared to  
28       what is listed in the fee schedule.

29        **Current health care price disclosure requirements.** Current Colorado law  
30       requires most health care providers and facilities to publish on their website a list of the  
31       charges for the most common health care services they offer. Colorado law also  
32       requires hospitals and other health care facilities to notify patients of their right to receive  
33       information about the average charges for frequently performed inpatient procedures. If  
34       the patient requests the average charge information for his or her treatment, the hospital  
35       or facility must provide the information prior to the patient's admission.

36        **Current health care price data and public reports.** The Colorado Hospital Price  
37       Report, published by the Colorado Division of Insurance, provides information about  
38       hospital charges and average reimbursement rates paid by health insurers. Hospitals  
39       and health insurers submit data on the 25 most common inpatient medical services and

surgical procedures performed by hospitals for the report. In addition, Colorado established the Colorado All-Payer Health Claims Database to collect claims information from insurers and other payers of health care services. The data collected is used to create publicly available reports about the cost, quality, and utilization of health care services.

***New fee disclosure requirements for health care providers and facilities.***

Proposition \_\_ repeals and replaces the existing requirements that health care providers and facilities disclose the charges for their most common procedures performed. Under the measure, health care providers and facilities instead must publish their complete fee schedule on their website, if one exists, and have a printed copy available in their office. The fee schedule must include the standardized billing codes, health care service description, and the maximum price charged for each health care service offered. Along with the fee schedule, health care providers and facilities must also publish their billing and payment policies, including discounts available to patients. Health care providers and facilities must update their fee schedule at least annually and maintain a record of changes to the published fee schedule. The measure specifies that if a health care provider or facility has not published its fee schedule as required, then it cannot bill the patient or insurer, and the patient or insurer is not required to pay the charges. The measure applies to all licensed health care facilities such as hospitals and surgery centers, as well as all health care providers licensed, certified, or registered by the state.

***New billing and other disclosure requirements by health care providers and facilities.*** Proposition \_\_ specifies that health care providers and facilities must itemize patient billing statements to list detail about each service provided, including the amount charged and any insurance adjustments or payments applied for each service. When a patient provides insurance information to a health care provider or facility it must let the patient know whether it participates in the health insurance plan. Further, an in-network provider or facility must notify patients if an out-of-network provider will provide any services and of any special payment terms associated with those services. Lastly, the measure requires every health facility to publish a list of all health care providers that practice in the facility and their relationship to the facility.

***New requirements for pharmacies.*** Proposition \_\_ requires every pharmacy to publish a list of its retail drug prices, which must be available at the pharmacy's physical location and on its website, if one exists. Each pharmacy must update the information promptly when prices change and maintain a record of all changes to the price list. The State Board of Pharmacy may suspended or revoked a pharmacy's license and assess civil penalties if the pharmacy fails to provide drug price information.

***New requirements for health insurers.*** The measure requires every health insurer regulated by the state insurance law to post on its website the following information for all health plans it offers:

- the terms of contracts with health care providers and facilities, including the negotiated rates paid to a health care provider or facility for a specific service;
- a patient's cost-sharing obligation, such as a required deductible, co-payment, or co-insurance;
- the rate the insurer has agreed to pay for prescription drugs to health care providers and facilities, pharmacies, and distributors; and
- the types of rebates and other incentives received.

Contracts between health care providers and facilities and insurers may not include any provision that limits access to the information made available under the measure. The Commissioner of Insurance may suspend or revoke the license of an insurer and impose a civil penalty if the insurer fails to comply with the requirements of the measure.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

## Arguments For

- 1) Requiring transparency in billing practices for services across the health care sector helps create a more affordable, fair, and transparent marketplace. The health care market is much less transparent than the markets for other goods and services because prices are not easily accessible and vary greatly depending on the facility where the service is provided, insurance contract terms, and use of various rebates and discounts. Greater price transparency may result in increased competition and lower health care prices.
- 2) Greater access to information on health care charges under Proposition \_ is especially useful and timely because many patients today have high-deductible health plans and must pay out-of-pocket for many services. The current health care billing system is confusing for patients, who often incur unexpected costs after receiving care. Disclosing detailed information on health care charges and negotiated insurance rates in advance of care allows patients to plan for the cost, make informed decisions, and, if necessary, find a more affordable provider or insurer.

## Arguments Against

- 1) Proposition \_\_ is unnecessary and results in the disclosure of billing information that is difficult for patients to understand and use. The measure requires pharmacies and health care providers and facilities to disclose the maximum potential charge for drugs and services, which patients rarely pay. The actual cost to a patient is dependent on a variety of factors, including negotiated prices, deductibles and cost-sharing rates, manufacturer rebates, and discounts. Patients may be reluctant to seek care after reviewing the posted charges if they do not understand that the actual charge may be lower or that their insurance benefits may cover some or all of the cost. In addition, many health insurers currently offer tools to covered patients that let them accurately estimate health care charges, cost-sharing obligations, and drug prices prior to receiving care.
- 2) The measure may increase costs for patients by reducing competition and increasing administrative requirements in the health care sector. The measure undermines the confidential negotiation process between insurers and health care providers by publishing the contract terms between them, which results in

1 health care providers having access to negotiated rates paid to other providers.  
2 This information gives providers an advantage when negotiating with insurers  
3 since insurers must maintain a sufficient provider network to ensure that patients  
4 have timely access to all covered services. As a result, providers may demand  
5 the highest known rate for services, which in turn may increase the overall cost of  
6 health insurance to patients.

### 7 **Estimate of Fiscal Impact**

8 Proposition \_\_\_ increases state expenditures by about \$160,000 in FY 2018-19 and  
9 \$320,000 in FY 2019-20. These costs are primarily for staff in the Department of Public  
10 Health and Environment and the Department of Regulatory Agencies to develop rules  
11 concerning health care billing disclosures; communicate disclosure requirements to  
12 health care facilities, providers, pharmacies, and health insurers; address consumer  
13 complaints; and monitor compliance with the measure's disclosure requirements.