

Physician Designation Disclosure Act
Effective Date 9/1/08

SB 08-138 Legislative Declaration (I)(f) “...Health Care entities must ensure that they are using designations that are fair and accurate and must accord physicians the right to challenge and correct erroneous designations, data and methodologies.”

SB 138 Minimum Requirements of Designations:	Designation Program
<p>1. A Quality of Care component must be included, and a representation of the weight given to quality of care in comparison with other designation factors.</p> <p><i>C.R.S. 25-38-104(a)</i></p>	
<p>2. If practice guidelines or performance measures are used they should be:</p> <ul style="list-style-type: none"> ○ Promulgated or endorsed by nationally recognized health care organizations such as NQF, AQA, or other such national physician specialty organizations, or CCGC. ○ Evidence based (when possible); consensus based (when possible) and pertinent to area of practice, location and characteristics for the patient population seen by physician. <p><i>C.R.S. 25-38-104(1)(f)(I),(II)(A),(B),(C)</i></p>	
<p>3. If claims data is used in calculating the cost or efficiency designation factor, then it should be limited to only accurate data appropriately attributed to physician.</p> <p><i>C.R.S. 25-38-104(1)(d)</i></p>	
<p>4. Physician’s responsibility for health care decisions and financial consequences of those decisions shall be fairly and accurately attributed to physician.</p> <p><i>C.R.S. 25-38-104(1)(e)</i></p>	
<p>5. Statistical analysis that is accurate, valid and reliable and where reasonably possible; appropriately adjusts for patient population, case mix, patient condition, comorbidity, outlier events or other known statistical anomalies.</p> <p><i>C.R.S. 25-38-104(1)(b)</i></p>	
<p>6. Period of assessment for data that shall be updated at appropriate intervals</p> <p><i>C.R.S. 25-38-104(1)(c)</i></p>	
<p>7. A conspicuous disclaimer written in bold face type must accompany disclosure of any designation information. Disclaimer should state that information is: only a guide, should not be sole factor in choosing a physician, has a risk of error and</p>	

<p>should be discussed with physician before choosing him or her as a provider.</p> <p><i>C.R.S. 25-38-104(2)(a)</i></p> <p>Note: Failure to include disclaimer is a violation of this article</p> <p><i>C.R.S. 25-38-104(2)(b)</i></p>	
<p>Disclosure Requirements:</p>	
<p>1. The health care entity shall provide a description of the methodology and all data upon which the designation is based within 45 days of receiving the request. The description should be sufficiently detailed and reasonably understandable so as to allow the physician to verify the data against his or her own records.</p> <p><i>C.R.S. 25-38-105(1)</i></p>	
<p>2. After disclosure of the above description of methodology, the physician can request the complete methodology used and the health care entity shall provide it within 30 days of such further request.</p> <p><i>C.R.S. 25-38-105(2)</i></p> <p>Note: Information cannot be withheld by citing the Uniform Trade Secrets Act.</p> <p><i>C.R.S. 25-38-105(3)</i></p>	
<p>Notification & Appeal Process</p>	
<p>1. At least 45 day prior to using, changing or declining to award a designation, health care entity shall provide written notice of such designation decision. Such notice must include:</p> <ul style="list-style-type: none"> a. Procedure for obtaining information identified above; b. Procedure for requesting an appeal of designation (including opportunity for face-to-face meeting). <p><i>C.R.S. 25-38-106(1)(a)(b)</i></p>	
<p>2. Health care entity shall establish procedures for appeal of the designation that provide for:</p> <ul style="list-style-type: none"> I. Reasonable method by which physician provides notice of appeal; II. If requested by physician, disclosure of methodology and data upon which decision is based; III. The name, title, qualifications and relationship to health care entity of person responsible for the appeal; IV. Opportunity to submit or have considered corrected data. If requested by 	

<p>the physician such opportunity may be afforded in face-to-face meeting at a location convenient to the physician or by teleconference;</p> <p>V. Right of physician to be assisted by representative;</p> <p>VI. Right, if desired, to have an explanation of the appeal by the person deemed responsible by the health care entity; and</p> <p>VII. A written decision that states the reasons for upholding, modifying or rejecting the physician's appeal.</p> <p><i>C.R.S. 25-38-106(2)(a),(I),(II),(III),(IV),(V),(VI),(VII)</i></p>	
<p>3. Appeal must be made to person or persons with authority to make a determination regarding the physician's designation.</p> <p><i>C.R.S. 25-38-106(2)(b)</i></p>	
<p>4. Appeal process shall be completed within 45 days from the date the data and methodology are disclosed.</p> <p><i>C.R.S. 25-38-106(2)(c)</i></p>	
<p>5. No change or modification of designation that is the subject of an appeal shall be implemented until the appeal is final.</p> <p><i>C.R.S. 25-38-106(3)</i></p>	
<p>6. With respect to any designation previously disclosed publicly, health care entity shall update any changes to such designation within 30 days after the appeal is final.</p> <p><i>C.R.S. 25-38-106(4)</i></p>	
<p>Enforcement</p>	
<p>1. No health care entity can limit physician right to enforce this article by contract.</p> <p><i>C.R.S. 25-38-107(1)</i></p>	
<p>2. Article may be enforced in civil action and any other remedies of law.</p> <p><i>C.R.S. 25-38-107(2)</i></p>	
<p>3. Violation of this article constitutes unfair or deceptive act or practice under part 11 of Article 3 of Title 10, C.R.S.</p> <p><i>C.R.S. 25-38-107(3)</i></p>	