

CHAPTER 239

INSURANCE

SENATE BILL 16-135

BY SENATOR(S) Aguilar, Carroll, Crowder, Heath, Jahn, Johnston, Kefalas, Merrifield, Newell, Roberts, Steadman, Todd;
also REPRESENTATIVE(S) Ginal, Arndt, Court, Fields, Kagan, Lontine, Moreno, Pabon, Pettersen, Primavera, Priola, Rosenthal,
Ryden, Saine, Vigil, Hullinghorst.

AN ACT

CONCERNING A PHARMACIST'S PROVISION OF HEALTH CARE SERVICES THAT HAVE BEEN DELEGATED BY ANOTHER HEALTH CARE PROVIDER.

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

SECTION 1. In Colorado Revised Statutes, **add** 10-16-144 as follows:

10-16-144. Health care services provided by pharmacists. (1) ANY HEALTH BENEFIT PLAN, EXCEPT SUPPLEMENTAL POLICIES COVERING A SPECIFIED DISEASE OR OTHER LIMITED BENEFIT, THAT PROVIDES HOSPITAL, SURGICAL, OR MEDICAL EXPENSE INSURANCE MAY PROVIDE COVERAGE FOR HEALTH CARE SERVICES UNDER A SPECIFIC TREATMENT PROTOCOL PROVIDED BY A PHARMACIST IF:

(a) THE PHARMACIST MEETS THE REQUIREMENTS IN PART 6 OF ARTICLE 42.5 OF TITLE 12, C.R.S.;

(b) THE HEALTH BENEFIT PLAN PROVIDES COVERAGE FOR THE SAME SERVICE PROVIDED BY A LICENSED PHYSICIAN OR AN ADVANCED PRACTICE NURSE;

(c) THE PHARMACIST IS INCLUDED IN THE HEALTH BENEFIT PLAN'S NETWORK OF PARTICIPATING PROVIDERS; AND

(d) A REIMBURSEMENT RATE HAS BEEN SUCCESSFULLY NEGOTIATED IN GOOD FAITH BETWEEN THE PHARMACIST AND THE HEALTH PLAN.

SECTION 2. In Colorado Revised Statutes, **add** part 6 to article 42.5 of title 12 as follows:

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

PART 6
COLLABORATIVE PHARMACY PRACTICE

12-42.5-601. Definitions. AS USED IN THIS PART 6:

(1)(a) "COLLABORATIVE PHARMACY PRACTICE AGREEMENT" MEANS A WRITTEN AND SIGNED AGREEMENT ENTERED INTO VOLUNTARILY BETWEEN ONE OR MORE PHARMACISTS LICENSED PURSUANT TO THIS ARTICLE AND ONE OR MORE PHYSICIANS OR ADVANCED PRACTICE NURSES LICENSED IN THIS STATE, WHICH STATEMENT GRANTS AUTHORITY TO THE PHARMACIST OR PHARMACISTS TO PROVIDE EVIDENCE-BASED HEALTH CARE SERVICES TO ONE OR MORE PATIENTS PURSUANT TO A SPECIFIC TREATMENT PROTOCOL DELEGATED TO A PHARMACIST OR PHARMACISTS BY THE PHYSICIAN OR ADVANCED PRACTICE NURSE.

(b) A "COLLABORATIVE PHARMACY PRACTICE AGREEMENT" MAY ALSO MEAN A STATEWIDE DRUG THERAPY PROTOCOL DEVELOPED BY THE BOARD, THE COLORADO MEDICAL BOARD, AND THE STATE BOARD OF NURSING IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR PUBLIC HEALTH CARE SERVICES.

12-42.5-602. Collaborative pharmacy practice agreements - pharmacist requirements. (1) A PHARMACIST MAY ENTER INTO A COLLABORATIVE PHARMACY PRACTICE AGREEMENT WITH ONE OR MORE PHYSICIANS IF:

(a) THE PHARMACIST HOLDS A CURRENT LICENSE TO PRACTICE IN COLORADO;

(b) THE PHARMACIST IS ENGAGED IN THE PRACTICE OF PHARMACY;

(c) THE PHARMACIST HAS EARNED A DOCTORATE OF PHARMACY DEGREE OR COMPLETED AT LEAST FIVE YEARS OF EXPERIENCE AS A LICENSED PHARMACIST;

(d) THE PHARMACIST CARRIES ADEQUATE PROFESSIONAL LIABILITY INSURANCE AS DETERMINED BY THE BOARD;

(e) THE PHARMACIST AGREES TO DEVOTE A PORTION OF HIS OR HER PRACTICE TO COLLABORATIVE PHARMACY PRACTICE; AND

(f) THERE IS A PROCESS IN PLACE FOR THE PHYSICIAN OR ADVANCED PRACTICE NURSE AND THE PHARMACIST TO COMMUNICATE AND DOCUMENT CHANGES TO THE PATIENT'S MEDICAL RECORD.

(2) UNLESS A STATEWIDE PROTOCOL IS IN PLACE, A PHARMACIST MAY NOT ENTER INTO A COLLABORATIVE PHARMACY PRACTICE AGREEMENT WITH A PHYSICIAN OR ADVANCED PRACTICE NURSE IF THE PHYSICIAN OR ADVANCED PRACTICE NURSE DOES NOT HAVE AN ESTABLISHED RELATIONSHIP WITH THE PATIENT OR PATIENTS WHO WILL BE SERVED BY THE PHARMACIST UNDER THE COLLABORATIVE PHARMACY PRACTICE AGREEMENT.

(3) FOR A PHARMACIST TO PROVIDE HEALTHCARE SERVICES UNDER A STATEWIDE PROTOCOL, A PROCESS MUST BE IN PLACE FOR THE PHARMACIST TO COMMUNICATE WITH A PATIENT'S PRIMARY CARE PROVIDER AND DOCUMENT CHANGES TO THE

PATIENT'S MEDICAL RECORD. IF THE PATIENT DOES NOT HAVE A PRIMARY CARE PROVIDER, OR IS UNABLE TO PROVIDE CONTACT INFORMATION FOR HIS OR HER PRIMARY CARE PROVIDER, THE PHARMACIST SHALL PROVIDE THE PATIENT WITH A WRITTEN RECORD OF THE DRUGS OR DEVICES FURNISHED AND ADVISE THE PATIENT TO CONSULT AN APPROPRIATE HEALTH CARE PROFESSIONAL OF THE PATIENT'S CHOICE.

(4) A COLLABORATIVE PRACTICE AGREEMENT BETWEEN A PHYSICIAN AND A PHARMACIST, AS PERMITTED BY THIS ARTICLE, DOES NOT CHANGE THE EMPLOYMENT STATUS OF ANY PARTY TO THE AGREEMENT, DOES NOT CREATE AN EMPLOYER-EMPLOYEE RELATIONSHIP UNDER ANY CIRCUMSTANCE, AND MAY NOT BE USED TO CONFER UPON OR DENY TO ANY PERSON THE STATUS OF A PUBLIC EMPLOYEE AS DESCRIBED IN THE "COLORADO GOVERNMENTAL IMMUNITY ACT", CREATED IN ARTICLE 10 OF TITLE 24, C.R.S.

(5) A PHARMACIST OR PHARMACY SHALL NOT EMPLOY A PHYSICIAN OR ADVANCED PRACTICE NURSE FOR THE SOLE PURPOSE OF FORMING A COLLABORATIVE PRACTICE AGREEMENT.

12-42.5-603. Rules. THE BOARD, IN CONJUNCTION WITH THE COLORADO MEDICAL BOARD CREATED IN SECTION 12-36-103, AND THE STATE BOARD OF NURSING CREATED IN SECTION 12-38-104 SHALL PROMULGATE RULES TO IMPLEMENT THIS SECTION. THE RULES MUST INCLUDE THE HEALTH CARE SERVICES AND ANY STATEWIDE PROTOCOLS THAT ARE AUTHORIZED TO BE PART OF THE COLLABORATIVE PHARMACY PRACTICE AGREEMENTS.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2016