

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0010.03 Christy Chase x2008

HOUSE BILL 17-1318

HOUSE SPONSORSHIP

Ginal, Jackson, Becker K., Buckner, Esgar, Hooton, Kennedy, Lontine

SENATE SPONSORSHIP

Coram and Kefalas,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN ANNUAL REPORT ON PHARMACEUTICAL COSTS.**

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>.)

By March 31, 2018, and by each March 31 thereafter through March 31, 2020, the bill requires health insurers to submit to the commissioner of insurance (commissioner) information regarding pharmaceuticals covered under individual and group health insurance plans in prior years. Carriers are to report the following information, separately stated with regard to individual and group market segments:

! The total pharmaceutical costs, including cost-sharing amounts paid by insured persons, and the net

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.

pharmaceuticals costs, after negotiated rebates and discounts;

! The net cost of pharmaceuticals, expressed as a percentage of total medical costs; and

! A list of the drug classes of the 10 pharmaceuticals that were most dispensed and had the highest aggregate cost.

The bill also requires carriers providing or administering state group benefit plans for state employees to report the pharmaceutical cost data.

The commissioner is directed to aggregate and analyze the data and submit an annual report to the governor and specified legislative committees on trends in pharmaceutical costs in the insurance market, including most-prescribed and highest-cost pharmaceuticals.

The commissioner is authorized to adopt rules as necessary to implement the requirements of the bill. The reporting requirements are repealed on January 31, 2021.

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

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

4 (a) A principal purpose of health insurance is to protect
5 individuals from the high costs of health care;

6 (b) Health care costs and health insurance premiums have
7 increased significantly over the past decade;

8 (c) While increasing health care costs contribute to increases in
9 health insurance premiums, the main focus of increasing costs has been
10 directed at health insurers;

11 (d) A component of health care costs that drives health insurance
12 premiums is the cost of prescription medications;

13 (e) Information reported by America's Health Insurance Plans
14 indicates that the dramatic increases in prescription drug costs are
15 contributing to higher insurance premiums, deductibles, and cost-sharing
16 amounts;

1 (f) Large price increases in frequently prescribed medications are
2 having a significant impact on consumers, particularly on patients who
3 have been taking certain brand or generic drugs for years and are now
4 finding that their necessary medications are unaffordable; and

5 (g) Health insurance plans cannot absorb the increasing
6 prescription drug costs without making adjustments to premiums and
7 cost-sharing requirements.

8 (2) Therefore, the general assembly declares that the intent of this
9 act is to provide:

10 (a) Pharmaceutical costs data collected by the division of
11 insurance from health insurers to policymakers as a first step in helping
12 identify policy solutions to address the rising costs of prescription drugs
13 while still promoting and encouraging innovation and the development
14 of new therapies in health care; and

15 (b) Health insurers and pharmaceutical companies with more
16 transparency in order to achieve more sustainable pricing of prescription
17 drugs for patients.

18 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-145 as
19 follows:

20 **10-16-145. Annual reports on pharmaceutical costs - rules -**
21 **repeal.** (1) (a) BY MARCH 31, 2018, AND BY EACH MARCH 31
22 THEREAFTER THROUGH MARCH 31, 2020, A CARRIER SUBJECT TO PART 2,
23 3, OR 4 OF THIS ARTICLE 16 THAT IS OFFERING HEALTH BENEFIT PLANS IN
24 COLORADO SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSIONER
25 CONTAINING THE INFORMATION SPECIFIED IN SUBSECTION (2) OF THIS
26 SECTION REGARDING PHARMACEUTICAL COSTS INCURRED IN THE
27 IMMEDIATELY PRECEDING CALENDAR YEAR EXCEPT AS OTHERWISE

1 PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION.

2 (b) A CARRIER SHALL REPORT THE DATA SPECIFIED IN SUBSECTION
3 (2) OF THIS SECTION SEPARATELY FOR THE INDIVIDUAL AND GROUP
4 MARKET SEGMENTS.

5 (c) FOR THE INITIAL REPORT SUBMITTED BY A CARRIER IN 2018,
6 THE CARRIER SHALL INCLUDE THE DATA SPECIFIED IN SUBSECTION (2) OF
7 THIS SECTION FOR THE 2015, 2016, AND 2017 CALENDAR YEARS.

8 (d) A CARRIER THAT PROVIDES OR ADMINISTERS A GROUP BENEFIT
9 PLAN FOR STATE EMPLOYEES PURSUANT TO PART 6 OF ARTICLE 50 OF TITLE
10 24 SHALL REPORT THE INFORMATION SPECIFIED IN SUBSECTION (2) OF THIS
11 SECTION TO THE COMMISSIONER ANNUALLY IN THE SAME MANNER AND BY
12 THE SAME DATES SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION.

13 (2) A CARRIER SUBJECT TO THIS SECTION SHALL REPORT THE
14 FOLLOWING INFORMATION TO THE COMMISSIONER:

15 (a) THE TOTAL PHARMACEUTICAL COSTS INCURRED, INCLUDING
16 CONSUMER DEDUCTIBLE, COPAYMENT, AND COINSURANCE AMOUNTS, AND
17 THE AGGREGATE NET PHARMACEUTICAL COSTS INCURRED AFTER ALL
18 NEGOTIATED DISCOUNTS AND REBATES;

19 (b) THE NET COST OF PHARMACEUTICALS AS A PERCENTAGE OF ALL
20 MEDICAL COSTS;

21 (c) A LIST OF THE DRUG CLASSES OF THE TEN MOST-DISPENSED
22 PHARMACEUTICALS IN EACH OF THE FOLLOWING CATEGORIES, SPECIFYING
23 FOR EACH CATEGORY THE TOTAL NUMBER OF PRESCRIPTIONS, THE
24 AGGREGATE GROSS SPENDING, THE AGGREGATE NET SPENDING, AND THE
25 NUMBER OF UNIQUE COVERED PERSONS RECEIVING THE PHARMACEUTICAL:

26 (I) BRAND-NAME DRUGS;

27 (II) GENERIC DRUGS;

1 (III) BIOLOGICAL PRODUCTS, AS DEFINED IN SECTION 12-42.5-102
2 (3.7); AND

3 (IV) INTERCHANGEABLE BIOLOGICAL PRODUCTS, AS DESCRIBED IN
4 SECTION 12-42.5-102 (16.5); AND

5 (d) A LIST OF THE DRUG CLASSES OF THE TEN PHARMACEUTICALS
6 THAT HAD THE HIGHEST GROSS SPENDING, SPECIFYING FOR EACH DRUG
7 CLASS THE TOTAL NUMBER OF PRESCRIPTIONS, THE AGGREGATE GROSS
8 SPENDING, THE AGGREGATE NET SPENDING, THE NUMBER OF UNIQUE
9 COVERED PERSONS WHO RECEIVED A PHARMACEUTICAL ON THE LIST,
10 AND THE MEDICAL CONDITION EACH PHARMACEUTICAL WAS PRESCRIBED
11 TO TREAT.

12 (3) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, THE
13 COMMISSIONER SHALL MAINTAIN CONFIDENTIALITY OF THE INFORMATION
14 REPORTED UNDER THIS SECTION, AND THE INFORMATION IS NOT SUBJECT
15 TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE
16 24.

17 (4) THE COMMISSIONER MAY ADOPT RULES AS NECESSARY TO
18 IMPLEMENT THIS SECTION.

19 (5) (a) (I) BY DECEMBER 1, 2018, AND BY EACH DECEMBER 1
20 THEREAFTER THROUGH DECEMBER 1, 2020, THE COMMISSIONER SHALL
21 SUBMIT A REPORT, IN AN AGGREGATED FORMAT, TO THE GOVERNOR, THE
22 SENATE HEALTH AND HUMAN SERVICES COMMITTEE, AND THE HEALTH,
23 INSURANCE, AND ENVIRONMENT AND THE PUBLIC HEALTH CARE AND
24 HUMAN SERVICES COMMITTEES OF THE HOUSE OF REPRESENTATIVES, OR
25 THEIR SUCCESSOR COMMITTEES, THAT ANALYZES PRIVATE INSURANCE
26 MARKET TRENDS IN PHARMACEUTICAL DRUG COSTS, INCLUDING THE
27 MOST-PRESCRIBED AND THE HIGHEST-COST PHARMACEUTICALS.

1 (II) IN THE REPORT, THE COMMISSIONER SHALL:

2 (A) AGGREGATE COST INFORMATION ACROSS ALL CARRIERS AND
3 ONLY DISCLOSE THE AGGREGATE GROSS SPENDING PER DRUG CLASS,
4 THE AGGREGATE NET SPENDING PER DRUG CLASS, AND THE RANGE OF
5 AGGREGATE GROSS AND NET SPENDING ACROSS THE DRUGS IN A GIVEN
6 CLASS WHEN THERE ARE MORE THAN TWO PHARMACEUTICALS IN THE
7 DRUG CLASS AND ABOUT WHICH AT LEAST THREE CARRIERS REPORTED
8 DATA UNDER SUBSECTION (2) OF THIS SECTION;

9 (B) NOT DISCLOSE PRODUCT-SPECIFIC NET PRICE INFORMATION
10 THAT IS SPECIFIC TO AN INDIVIDUAL CARRIER, HEALTH BENEFIT PLAN, OR
11 PRODUCT MANUFACTURER; AND

12 (C) NOT DISCLOSE THE NAMES OF INDIVIDUAL PHARMACEUTICAL
13 PRODUCTS, BUT SHALL IDENTIFY PHARMACEUTICALS BY THEIR DRUG
14 CLASS.

15 (III) IN DEVELOPING THE REPORT, THE COMMISSIONER SHALL
16 CONSIDER THE RELATIVE POSITIVE EFFECTS DRUG ADHERENCE HAS ON THE
17 HEALTH OF COLORADANS.

18 (b) THE COMMISSIONER SHALL NOT DISCLOSE ANY INDIVIDUAL
19 CARRIER OR PHARMACEUTICAL COMPANY NAMES IN THE REPORT
20 SUBMITTED UNDER THIS SUBSECTION (5).

21 (c) BEGINNING IN 2018, AND EVERY YEAR THEREAFTER THROUGH
22 2020, THE COMMISSIONER SHALL PRESENT THE REPORT REQUIRED BY THIS
23 SUBSECTION (5) AS PART OF THE DEPARTMENT OF REGULATORY AGENCIES'
24 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
25 TRANSPARENT (SMART) GOVERNMENT ACT" HEARING REQUIRED BY
26 SECTION 2-7-203.

27 (6) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 31, 2021.

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