

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0639.01 Yelana Love x2295

HOUSE BILL 18-1097

HOUSE SPONSORSHIP

Catlin and Danielson,

SENATE SPONSORSHIP

Coram and Todd,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ABILITY OF A PERSON ELIGIBLE FOR PRESCRIPTION
102 DRUG BENEFITS TO CHOOSE THE PHARMACY AT WHICH TO FILL
103 A PRESCRIPTION DRUG ORDER.

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 carrier that offers or issues a health benefit plan that covers pharmaceutical services, including prescription drug coverage, or a pharmacy benefit management firm managing those benefits for a carrier, from:

! Limiting or restricting a covered person's ability to select a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

pharmacy or pharmacist of the covered person's choice if certain conditions are met;

- ! Imposing a copayment, fee, or other cost-sharing requirement for selecting a pharmacy of the covered person's choosing;
- ! Imposing other conditions on a covered person, pharmacist, or pharmacy that limit or restrict a covered person's ability to use a pharmacy of the covered person's choosing; or
- ! Denying a pharmacy or pharmacist the right to participate in any of its pharmacy network contracts in this state or as a contracting provider in this state if the pharmacy or pharmacist has a valid license in Colorado and the pharmacy or pharmacist agrees to specified conditions.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-144.5 as
3 follows:

4 **10-16-144.5. Patient choice of pharmacy.** (1) A CARRIER THAT
5 OFFERS OR ISSUES A HEALTH BENEFIT PLAN THAT COVERS PHARMACY
6 SERVICES, INCLUDING PRESCRIPTION DRUG COVERAGE, OR A PHARMACY
7 BENEFIT MANAGEMENT FIRM ADMINISTERING PRESCRIPTION DRUG
8 BENEFITS ON BEHALF OF A CARRIER, SHALL NOT:

9 (a) LIMIT OR RESTRICT A COVERED PERSON'S ABILITY TO SELECT A
10 PHARMACY OR PHARMACIST OF THE COVERED PERSON'S CHOICE IF THE
11 PHARMACY OR PHARMACIST IS LICENSED UNDER ARTICLE 42.5 OF TITLE 12,
12 AND THE PHARMACY OR PHARMACIST HAS AGREED TO THE TERMS OF THE
13 CONTRACT WITH THE CARRIER OR PHARMACY BENEFIT MANAGEMENT
14 FIRM;

15 (b) IMPOSE A COPAYMENT, FEE, OR OTHER COST-SHARING
16 REQUIREMENT ON A COVERED PERSON, A PHARMACIST, OR A PHARMACY
17 FOR THE COVERED PERSON'S SELECTION OF A PHARMACY UNLESS THE
18 PROVIDER NETWORK CONTRACT OF THE CARRIER OR PHARMACY BENEFIT

1 MANAGEMENT FIRM IMPOSES THE SAME COPAYMENT, FEE, OR OTHER
2 COST-SHARING REQUIREMENT ON ALL COVERED PERSONS, PHARMACISTS,
3 OR PHARMACIES WITHIN THIS STATE;

4 (c) IMPOSE OTHER CONDITIONS ON A COVERED PERSON,
5 PHARMACIST, OR PHARMACY THAT LIMIT OR RESTRICT A COVERED
6 PERSON'S ABILITY TO USE A PHARMACY OF THE COVERED PERSON'S
7 CHOOSING; OR

8 (d) ONCE A COVERED PERSON HAS CHOSEN A PHARMACY OR
9 PHARMACIST, DENY THE CHOSEN PHARMACY OR PHARMACIST THE RIGHT
10 TO PARTICIPATE IN ANY OF ITS PHARMACY NETWORK CONTRACTS IN THIS
11 STATE OR AS A CONTRACTING PROVIDER IN THIS STATE IF THE PHARMACY
12 OR PHARMACIST HAS A VALID LICENSE UNDER ARTICLE 42.5 OF TITLE 12,
13 AND THE PHARMACY OR PHARMACIST AGREES TO:

14 (I) ACCEPT THE TERMS AND CONDITIONS OFFERED BY THE CARRIER
15 OR PHARMACY BENEFIT MANAGEMENT FIRM; AND

16 (II) PROVIDE PHARMACY SERVICES THAT MEET STATE AND
17 FEDERAL LAWS AND REGULATIONS.

18 (2) THIS SECTION DOES NOT APPLY TO:

19 (a) PHARMACY SERVICES ADMINISTERED TO AN INDIVIDUAL
20 RECEIVING INPATIENT OR EMERGENCY MEDICAL CARE IN A LICENSED OR
21 CERTIFIED HEALTH FACILITY SUBJECT TO THE REQUIREMENTS OF SECTION
22 25-1.5-103;

23 (b) A CARRIER THAT OFFERS MANAGED CARE PLANS AND PROVIDES
24 A MAJORITY OF COVERED PROFESSIONAL SERVICES THROUGH PHYSICIANS
25 EMPLOYED BY THE CARRIER OR THROUGH A SINGLE CONTRACTED MEDICAL
26 GROUP;

27 (c) A SELF-FUNDED PLAN THAT IS EXEMPT FROM STATE

1 REGULATION PURSUANT TO ERISA; OR

2 (d) A PLAN ISSUED FOR COVERAGE FOR STATE OR FEDERAL
3 EMPLOYEES.

4 **SECTION 2. 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 8, 2018, if adjournment sine die is on May 9,
8 2018); 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 health benefit plans issued, delivered, or
15 renewed on or after January 1, 2020.