

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 19-0116.01 Kristen Forrestal x4217

SENATE BILL 19-081

SENATE SPONSORSHIP

Zenzinger, Moreno, Crowder, Gardner, Ginal, Pettersen, Priola, Smallwood, Story, Todd

HOUSE SPONSORSHIP

Hooton, Arndt

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE "COLORADO CANCER DRUG**
102 **REPOSITORY ACT".**

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/>.)

Statutory Revision Committee. The bill repeals the "Colorado Cancer Drug Repository Act".

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

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.

SENATE
3rd Reading Unamended
January 29, 2019

SENATE
2nd Reading Unamended
January 28, 2019

1 (7) "Medical device" means an instrument, apparatus, implement,
2 machine, contrivance, implant, in vitro reagent, or other similar or related
3 article, including a component, part, or accessory that is:

4 (a) Recognized in the official national formulary, or the United
5 States pharmacopoeia, or any supplement;

6 (b) ~~Intended for use in the diagnosis of disease or other~~
7 ~~conditions, or in the cure, mitigation, treatment, or prevention of disease,~~
8 ~~in humans or animals; or~~

9 (c) ~~Intended to affect the structure or any function of the human~~
10 ~~body or animals, that does not achieve any of its primary intended~~
11 ~~purposes through chemical action within or on the human body or~~
12 ~~animals, and that is not dependent upon being metabolized for the~~
13 ~~achievement of any of its primary intended purposes.~~

14 (8) ~~"Pharmacist" means an individual licensed by this state~~
15 ~~pursuant to article 42.5 of title 12, C.R.S., to engage in the practice of~~
16 ~~pharmacy.~~

17 (9) ~~"Program" means the Colorado cancer drug repository~~
18 ~~program created in section 25-35-103.~~

19 (10) ~~"State board" means the state board of health.~~

20 **25-35-103. Cancer drug repository - administration - donation**
21 **- dispensing - cancer drugs - medical devices.** (1) ~~There is hereby~~
22 ~~established the Colorado cancer drug repository program for the purpose~~
23 ~~of allowing a cancer patient or the patient's family to donate unused~~
24 ~~cancer drugs and medical devices to uninsured and underinsured cancer~~
25 ~~patients in the state of Colorado. The program shall be administered by~~
26 ~~the department.~~

27 (2) The program shall allow a cancer patient or the patient's family

1 to donate unused cancer drugs or medical devices to a health care facility,
2 medical clinic, or pharmacy that elects to participate in the program. A
3 health care facility, medical clinic, or pharmacy that receives a donated
4 cancer drug or medical device under the program may distribute the
5 cancer drug to another eligible health care facility, medical clinic, or
6 pharmacy for use under the program.

7 (3) A pharmacist may accept and dispense cancer drugs and
8 medical devices donated under the program to eligible patients if all of
9 the following requirements are met:

10 (a) (I) The cancer drug or medical device is in its original,
11 unopened, sealed, and tamper-evident packaging or, if packaged in
12 single-unit doses, the single-unit-dose packaging is unopened; or

13 (II) The pharmacist has determined that the cancer drug or
14 medical device is safe for redistribution;

15 (b) The cancer drug bears an expiration date that has not expired;

16 (c) The cancer drug or medical device is not adulterated or
17 misbranded, as determined by a pharmacist; and

18 (d) The cancer drug or medical device is prescribed by a
19 practitioner, as defined in section 12-42.5-102 (32), C.R.S., for use by an
20 eligible patient and is dispensed by a pharmacist.

21 (4) A cancer drug or medical device donated under the program
22 may not be resold. A health care facility, medical clinic, or pharmacy may
23 charge an eligible patient a handling fee to receive a donated cancer drug
24 or medical device, which fee may not exceed the amount specified in rule
25 by the state board.

26 (5) Nothing in this section requires a health care facility, medical
27 clinic, or pharmacy to participate in the program.

1 ~~(6) A health care facility, medical clinic, or pharmacy that elects~~
2 ~~to participate in the program shall establish eligibility criteria for~~
3 ~~individuals to receive donated cancer drugs or medical devices.~~
4 ~~Dispensation shall be prioritized to cancer patients who are uninsured or~~
5 ~~underinsured. Dispensation to other cancer patients shall be permitted if~~
6 ~~an uninsured or underinsured cancer patient is not available.~~

7 ~~**25-35-104. Rules.** (1) The state board, in consultation with the~~
8 ~~state board of pharmacy, shall promulgate any rules necessary for the~~
9 ~~implementation and administration of the program. The rules shall~~
10 ~~include, at a minimum:~~

11 ~~(a) Requirements for health care facilities, medical clinics, and~~
12 ~~pharmacies to accept and dispense donated cancer drugs and medical~~
13 ~~devices under the program, including but not limited to:~~

14 ~~(I) Eligibility criteria; and~~

15 ~~(H) Standards and procedures for a health care facility, medical~~
16 ~~clinic, or pharmacy to accept, safely store, and dispense donated cancer~~
17 ~~drugs and medical devices.~~

18 ~~(b) and (c) Repealed.~~

19 ~~(d) The maximum handling fee that a health care facility, medical~~
20 ~~clinic, or pharmacy may charge for distributing or dispensing donated~~
21 ~~cancer drugs or medical devices.~~

22 ~~(e) Repealed.~~

23 ~~**25-35-105. Liability - prescription drug manufacturers.**~~

24 ~~Nothing in this article shall be construed to create or abrogate any liability~~
25 ~~on behalf of a prescription drug manufacturer for the storage, donation,~~
26 ~~acceptance, or dispensing of a cancer drug or medical device, or to create~~
27 ~~any civil cause of action against a prescription drug manufacturer, in~~

1 ~~addition to that which is available under applicable law.~~

2 **SECTION 3. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2020 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.