HOUSE BILL 20-1061

A BILL FOR AN ACT

Concerning pharmacists' ability to provide HIV infection prevention medications to patients, and, in connection therewith, making an appropriation.

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.)

With regard to coverage under a health benefit plan for HIV infection prevention medications, the bill:

! Prevents a health insurance carrier from requiring a covered person to undergo step therapy or to receive prior authorization before receiving HIV infection prevention

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.
Requires carriers to cover HIV infection prevention drugs prescribed or dispensed by a pharmacist and to provide an adequate consultative fee to those pharmacists; and

Allows a pharmacist to prescribe and dispense HIV infection prevention drugs if the pharmacist fulfills specific requirements.

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

SECTION 1. In Colorado Revised Statutes, 10-16-102, add (27.5), (38.5), (50.5), and (50.7) as follows:

10-16-102. Definitions. As used in this article 16, unless the context otherwise requires:

(27.5) "FDA" MEANS THE FOOD AND DRUG ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR ANY SUCCESSOR ENTITY.

(38.5) "HIV INFECTION PREVENTION DRUG" MEANS PREEXPOSURE PROPHYLAXIS, POST-EXPOSURE PROPHYLAXIS, OR OTHER DRUGS APPROVED BY THE FDA FOR THE PREVENTION OF HIV INFECTION.

(50.5) "POST-EXPOSURE PROPHYLAXIS" MEANS A DRUG OR DRUG COMBINATION THAT MEETS THE SAME CLINICAL ELIGIBILITY RECOMMENDATIONS PROVIDED IN CDC GUIDELINES, AS DEFINED IN SECTION 12-280-125.7.

(50.7) "PREEXPOSURE PROPHYLAXIS" MEANS A DRUG OR DRUG COMBINATION THAT MEETS THE SAME CLINICAL ELIGIBILITY RECOMMENDATIONS PROVIDED IN CDC GUIDELINES, AS DEFINED IN SECTION 12-280-125.7.

SECTION 2. In Colorado Revised Statutes, 10-16-104, add (18)(e) as follows:

10-16-104. Mandatory coverage provisions - definitions -
rules. (18) Preventive health care services. (e) (I) All individual and group health benefit plans must provide coverage for HIV infection prevention drugs that are prescribed and dispensed pursuant to Section 12-280-125.7.

(II) A carrier shall reimburse a pharmacist employed by an in-network pharmacy for prescribing and dispensing HIV infection prevention drugs to a covered person. A carrier shall provide a pharmacist who prescribes and dispenses HIV infection prevention drugs pursuant to Section 12-280-125.7 an adequate consultative fee, or, if medical billing is not available, an enhanced dispensing fee, that is equivalent or that is provided to a physician or advanced practice nurse.

(III) This subsection (18)(e) does not apply to an integrated health care delivery system that dispenses a majority of prescription drugs through integrated pharmacies.

SECTION 3. In Colorado Revised Statutes, add 10-16-152 as follows:

10-16-152. HIV prevention medication - limitations on carriers - step therapy - prior authorization. A carrier shall not require a covered person to undergo step therapy or to receive prior authorization before a pharmacist may, pursuant to Section 12-280-125.7, prescribe and dispense an HIV infection prevention drug.

SECTION 4. In Colorado Revised Statutes, 12-280-103, amend (39)(c)(II)(C) and (39)(d); and add (39)(e) as follows:

12-280-103. Definitions - rules. As used in this article 280, unless the context otherwise requires or the term is otherwise defined in another
part of this article 280:

(39) "Practice of pharmacy" means:

(c) The provision of a therapeutic interchange selection or a therapeutically equivalent selection to a patient if, during the patient's stay at a nursing care facility or a long-term acute care hospital licensed under part 1 of article 3 of title 25, the selection has been approved for the patient:

(II) By one of the following health care providers:

(C) An advanced practice nurse prescriber licensed as a professional nurse under section 12-255-110, registered as an advanced practice nurse under section 12-255-111, and authorized to prescribe controlled substances or prescription drugs pursuant to section 12-255-112, if the advanced practice nurse prescriber has developed an articulated plan to maintain ongoing collaboration with physicians and other health care professionals; and

(d) The dispensing of chronic maintenance drugs pursuant to section 12-280-125.5 and board rules adopted in accordance with that section; AND

(e) PURSUANT TO A STANDING ORDER OR TO A STATEWIDE DRUG THERAPY PROTOCOL DEVELOPED PURSUANT TO SECTION 12-280-125.7, THE PRESCRIBING AND DISPENSING OF POST-EXPOSURE PROPHYLAXIS, AS DEFINED IN SECTION 12-280-125.7 (1)(d), FOR NONOCCUPATIONAL EXPOSURE TO HIV INFECTION AND PREEXPOSURE PROPHYLAXIS, AS DEFINED IN SECTION 12-280-125.7 (1)(e), AND THE ORDERING OF LAB TESTS IN CONJUNCTION WITH PRESCRIBING OR DISPENSING THE DRUGS.

SECTION 5. In Colorado Revised Statutes, add 12-280-125.7 as follows:
12-280-125.7. Pharmacists’ authority to prescribe and dispense HIV infection prevention drugs - definitions - rules. (1) As used in this section:

(a) "CDC" means the Federal Centers for Disease Control and Prevention in the United States Department of Health and Human Services, or any successor entity.

(b) "CDC Guidelines" means the CDC Guidelines for Preexposure Prophylaxis for the Prevention of HIV Infection and the "Updated Guidelines for Antiretroviral Post-exposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV", and any analogous subsequent guidelines published by the CDC.

(c) "HIV Infection Prevention Drug" means Preexposure Prophylaxis, Post-exposure Prophylaxis, or other drugs approved by the FDA for the prevention of HIV infection.

(d) "Post-exposure Prophylaxis" means a drug or drug combination that meets the same clinical eligibility recommendations provided in CDC guidelines.

(e) "Preexposure Prophylaxis" means a drug or drug combination that meets the same clinical eligibility recommendations provided in CDC guidelines.

(f) "Prescriber" means:

(I) A physician or physician assistant licensed pursuant to Article 240 of this title 12; or

(II) An advanced practice nurse, as defined in section 12-255-104 (1), with prescriptive authority pursuant to section 12-255-112.
"STANDING ORDER" MEANS A PRESCRIPTION ORDER WRITTEN BY A PRESCRIBER THAT IS NOT SPECIFIC TO AND DOES NOT IDENTIFY A PARTICULAR PATIENT.

(2) A PHARMACIST MAY PRESCRIBE AND DISPENSE HIV INFECTION PREVENTION DRUGS IN ACCORDANCE WITH A STANDING ORDER PURSUANT TO SECTION 25-1-130 OR A STATEWIDE DRUG THERAPY PROTOCOL DEVELOPED PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(3) BEFORE PRESCRIBING OR DISPENSING HIV INFECTION PREVENTION DRUGS TO A PATIENT, A PHARMACIST MUST:
   (a) HOLD A CURRENT LICENSE TO PRACTICE IN COLORADO;
   (b) BE ENGAGED IN THE PRACTICE OF PHARMACY;
   (c) HAVE EARNED A DOCTORATE OF PHARMACY DEGREE OR COMPLETED AT LEAST FIVE YEARS OF EXPERIENCE AS A LICENSED PHARMACIST;
   (d) CARRY ADEQUATE PROFESSIONAL LIABILITY INSURANCE AS DETERMINED BY THE BOARD; AND
   (e) COMPLETE A TRAINING PROGRAM ACCREDITED BY THE ACCREDITATION COUNCIL FOR PHARMACY EDUCATION, OR ITS SUCCESSOR ENTITY, PURSUANT TO THE PROTOCOL DEVELOPED BY THE BOARD.

(4) THE BOARD SHALL PROMULGATE RULES NECESSARY TO IMPLEMENT THIS SECTION, INCLUDING RULES THAT ESTABLISH PROTOCOLS FOR PRESCRIBING AND DISPENSING PREEXPOSURE PROPHYLAXIS AND POST-EXPOSURE PROPHYLAXIS.

(5) (a) ON OR BEFORE SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE STATE BOARD OF PHARMACY, THE COLORADO MEDICAL BOARD, AND THE STATE BOARD OF NURSING SHALL, IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND AS
DESCRIBED IN SECTION 12-280-601 (1)(b), DEVELOP STATEWIDE DRUG
THERAPY PROTOCOLS FOR PHARMACISTS TO PRESCRIBE AND DISPENSE HIV
INFECTION PREVENTION DRUGS.

(b) IF THE STATE BOARD OF PHARMACY, THE COLORADO MEDICAL
BOARD, AND THE STATE BOARD OF NURSING ARE NOT ABLE TO AGREE IN
THE TIME PERIOD REQUIRED BY SUBSECTION (5)(a) OF THIS SECTION TO
STATEWIDE DRUG THERAPY PROTOCOLS FOR PHARMACISTS TO PRESCRIBE
AND DISPENSE HIV INFECTION PREVENTION DRUGS, THE STATE BOARD OF
PHARMACY SHALL COLLABORATE WITH THE DEPARTMENT OF PUBLIC
HEALTH AND ENVIRONMENT TO DEVELOP AND IMPLEMENT STATEWIDE
DRUG THERAPY PROTOCOLS BY JANUARY 1, 2021.

(c) IN DEVELOPING THE STATEWIDE DRUG THERAPY PROTOCOLS,
THE APPLICABLE BOARDS AND THE DEPARTMENT OF PUBLIC HEALTH AND
ENVIRONMENT SHALL CONSIDER PHYSICIAN REFERRALS; LAB TESTING,
INCLUDING PREEXPOSURE AND POST-EXPOSURE PRESCRIBING TESTS, AND
APPROPRIATE REFERRALS PURSUANT TO CDC GUIDELINES; COUNSELING
PURSUANT TO CDC GUIDELINES; AND PATIENT FOLLOW-UP CARE AND
COUNSELING.

SECTION 6. In Colorado Revised Statutes, add 25-1-130 as
follows:

25-1-130. Standing order - post-exposure prophylaxis -
definition. (1) ON OR BEFORE JUNE 1, 2020, AND UNTIL A STATEWIDE
DRUG THERAPY PROTOCOL IS IMPLEMENTED PURSUANT TO SECTION
12-280-125.7, THE DEPARTMENT SHALL IMPLEMENT AND MAINTAIN A
STANDING ORDER FOR POST-EXPOSURE PROPHYLAXIS SO THAT
PHARMACISTS MAY PRESCRIBE AND DISPENSE POST-EXPOSURE
PROPHYLAXIS PURSUANT TO SECTION 12-280-125.7.
(2) AS USED IN THIS SECTION "POST-EXPOSURE PROPHYLAXIS" HAS THE SAME MEANING AS SET FORTH IN SECTION 12-280-125.7.

SECTION 7. Appropriation. For the 2020-21 state fiscal year, $13,347 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S., and is based on an assumption that the division will require an additional 0.2 FTE. To implement this act, the division may use this appropriation for personal services.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.