

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

SECOND ENGROSSED

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

LLS NO. 20-0100.01 Kristen Forrestal x4217

HOUSE BILL 20-1061

HOUSE SPONSORSHIP

Valdez A. and Herod,

SENATE SPONSORSHIP

Moreno,

House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PHARMACISTS' ABILITY TO PROVIDE HIV INFECTION**
102 **PREVENTION MEDICATIONS TO PATIENTS, AND, IN CONNECTION**
103 **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.*

HOUSE
Amended 2nd Reading
March 4, 2020

HOUSE
Amended 2nd Reading
March 2, 2020

- ! drugs;
- ! 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.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-102, **add**
3 (27.5), (38.5), (50.5), and (50.7) as follows:

4 **10-16-102. Definitions.** As used in this article 16, unless the
5 context otherwise requires:

6 (27.5) "FDA" MEANS THE FOOD AND DRUG ADMINISTRATION IN
7 THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR
8 ANY SUCCESSOR ENTITY.

9 (38.5) "HIV INFECTION PREVENTION DRUG" MEANS PREEXPOSURE
10 PROPHYLAXIS, POST-EXPOSURE PROPHYLAXIS, OR OTHER DRUGS APPROVED
11 BY THE FDA FOR THE PREVENTION OF HIV INFECTION.

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

16 (50.7) "PREEXPOSURE PROPHYLAXIS" MEANS A DRUG OR DRUG
17 COMBINATION THAT MEETS THE SAME CLINICAL ELIGIBILITY
18 RECOMMENDATIONS PROVIDED IN CDC GUIDELINES, AS DEFINED IN
19 SECTION 12-280-125.7.

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

22 **10-16-104. Mandatory coverage provisions - definitions -**

1 **rules. (18) Preventive health care services. (e) (I)** ALL INDIVIDUAL
2 AND GROUP HEALTH BENEFIT PLANS MUST PROVIDE COVERAGE FOR HIV
3 INFECTION PREVENTION DRUGS THAT ARE PRESCRIBED AND DISPENSED
4 PURSUANT TO SECTION 12-280-125.7.

5 (II) A CARRIER SHALL REIMBURSE A PHARMACIST EMPLOYED BY
6 AN IN-NETWORK PHARMACY FOR PRESCRIBING AND DISPENSING HIV
7 INFECTION PREVENTION DRUGS TO A COVERED PERSON. A CARRIER SHALL
8 PROVIDE A PHARMACIST WHO PRESCRIBES AND DISPENSES HIV INFECTION
9 PREVENTION DRUGS PURSUANT TO SECTION 12-280-125.7 AN ADEQUATE
10 CONSULTATIVE FEE, OR, IF MEDICAL BILLING IS NOT AVAILABLE, AN
11 ENHANCED DISPENSING FEE, THAT IS EQUIVALENT OR THAT IS PROVIDED TO
12 A PHYSICIAN OR ADVANCED PRACTICE NURSE.

13 (III) THIS SUBSECTION (18)(e) DOES NOT APPLY TO AN INTEGRATED
14 HEALTH CARE DELIVERY SYSTEM THAT DISPENSES A MAJORITY OF
15 PRESCRIPTION DRUGS THROUGH INTEGRATED PHARMACIES.

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

18 **10-16-152. HIV prevention medication - limitations on**
19 **carriers - step therapy - prior authorization.** A CARRIER SHALL NOT
20 REQUIRE A COVERED PERSON TO UNDERGO STEP THERAPY OR TO RECEIVE
21 PRIOR AUTHORIZATION BEFORE A PHARMACIST MAY, PURSUANT TO
22 SECTION 12-280-125.7, PRESCRIBE AND DISPENSE AN HIV INFECTION
23 PREVENTION DRUG.

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

26 **12-280-103. Definitions - rules.** As used in this article 280, unless
27 the context otherwise requires or the term is otherwise defined in another

1 part of this article 280:

2 (39) "Practice of pharmacy" means:

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

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

9 (C) An advanced practice nurse prescriber licensed as a
10 professional nurse under section 12-255-110, registered as an advanced
11 practice nurse under section 12-255-111, and authorized to prescribe
12 controlled substances or prescription drugs pursuant to section
13 12-255-112, if the advanced practice nurse prescriber has developed an
14 articulated plan to maintain ongoing collaboration with physicians and
15 other health care professionals; ~~and~~

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

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

26 **SECTION 5.** In Colorado Revised Statutes, **add** 12-280-125.7 as
27 follows:

1 **12-280-125.7. Pharmacists' authority to prescribe and**
2 **dispense HIV infection prevention drugs - definitions - rules.** (1) AS
3 USED IN THIS SECTION:

4 (a) "CDC" MEANS THE FEDERAL CENTERS FOR DISEASE CONTROL
5 AND PREVENTION IN THE UNITED STATES DEPARTMENT OF HEALTH AND
6 HUMAN SERVICES, OR ANY SUCCESSOR ENTITY.

7 (b) "CDC GUIDELINES" MEANS THE CDC GUIDELINES FOR
8 PREEXPOSURE PROPHYLAXIS FOR THE PREVENTION OF HIV INFECTION AND
9 THE "UPDATED GUIDELINES FOR ANTIRETROVIRAL POST-EXPOSURE
10 PROPHYLAXIS AFTER SEXUAL, INJECTION DRUG USE, OR OTHER
11 NONOCCUPATIONAL EXPOSURE TO HIV", AND ANY ANALOGOUS
12 SUBSEQUENT GUIDELINES PUBLISHED BY THE CDC.

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

16 (d) "POST-EXPOSURE PROPHYLAXIS" MEANS A DRUG OR DRUG
17 COMBINATION THAT MEETS THE SAME CLINICAL ELIGIBILITY
18 RECOMMENDATIONS PROVIDED IN CDC GUIDELINES.

19 (e) "PREEXPOSURE PROPHYLAXIS" MEANS A DRUG OR DRUG
20 COMBINATION THAT MEETS THE SAME CLINICAL ELIGIBILITY
21 RECOMMENDATIONS PROVIDED IN CDC GUIDELINES.

22 (f) "PRESCRIBER" MEANS:

23 (I) A PHYSICIAN OR PHYSICIAN ASSISTANT LICENSED PURSUANT TO
24 ARTICLE 240 OF THIS TITLE 12; OR

25 (II) AN ADVANCED PRACTICE NURSE, AS DEFINED IN SECTION
26 12-255-104 (1), WITH PRESCRIPTIVE AUTHORITY PURSUANT TO SECTION
27 12-255-112.

1 (g) "STANDING ORDER" MEANS A PRESCRIPTION ORDER WRITTEN
2 BY A PRESCRIBER THAT IS NOT SPECIFIC TO AND DOES NOT IDENTIFY A
3 PARTICULAR PATIENT.

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

8 (3) BEFORE PRESCRIBING OR DISPENSING HIV INFECTION
9 PREVENTION DRUGS TO A PATIENT, A PHARMACIST MUST:

10 (a) HOLD A CURRENT LICENSE TO PRACTICE IN COLORADO;

11 (b) BE ENGAGED IN THE PRACTICE OF PHARMACY;

12 (c) HAVE EARNED A DOCTORATE OF PHARMACY DEGREE OR
13 COMPLETED AT LEAST FIVE YEARS OF EXPERIENCE AS A LICENSED
14 PHARMACIST;

15 (d) CARRY ADEQUATE PROFESSIONAL LIABILITY INSURANCE AS
16 DETERMINED BY THE BOARD; AND

17 (e) COMPLETE A TRAINING PROGRAM ACCREDITED BY THE
18 ACCREDITATION COUNCIL FOR PHARMACY EDUCATION, OR ITS SUCCESSOR
19 ENTITY, PURSUANT TO THE PROTOCOL DEVELOPED BY THE BOARD.

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

24 (5) (a) ON OR BEFORE SIX MONTHS AFTER THE EFFECTIVE DATE OF
25 THIS SECTION, THE STATE BOARD OF PHARMACY, THE COLORADO MEDICAL
26 BOARD, AND THE STATE BOARD OF NURSING SHALL, IN COLLABORATION
27 WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND AS

1 DESCRIBED IN SECTION 12-280-601 (1)(b), DEVELOP STATEWIDE DRUG
2 THERAPY PROTOCOLS FOR PHARMACISTS TO PRESCRIBE AND DISPENSE HIV
3 INFECTION PREVENTION DRUGS.

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

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

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

21 **25-1-130. Standing order - post-exposure prophylaxis -**
22 **definition.** (1) ON OR BEFORE JUNE 1, 2020, AND UNTIL A STATEWIDE
23 DRUG THERAPY PROTOCOL IS IMPLEMENTED PURSUANT TO SECTION
24 12-280-125.7, THE DEPARTMENT SHALL IMPLEMENT AND MAINTAIN A
25 STANDING ORDER FOR POST-EXPOSURE PROPHYLAXIS SO THAT
26 PHARMACISTS MAY PRESCRIBE AND DISPENSE POST-EXPOSURE
27 PROPHYLAXIS PURSUANT TO SECTION 12-280-125.7.

1 (2) AS USED IN THIS SECTION "POST-EXPOSURE PROPHYLAXIS" HAS
2 THE SAME MEANING AS SET FORTH IN SECTION 12-280-125.7.

3 **SECTION 7. Appropriation.** For the 2020-21 state fiscal year,
4 \$13,347 is appropriated to the department of regulatory agencies for use
5 by the division of insurance. This appropriation is from the division of
6 insurance cash fund created in section 10-1-103 (3), C.R.S., and is based
7 on an assumption that the division will require an additional 0.2 FTE. To
8 implement this act, the division may use this appropriation for personal
9 services.

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