

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

PREAMENDED

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

LLS NO. 22-0947.01 Brita Darling x2241

SENATE BILL 22-173

SENATE SPONSORSHIP

Rodriguez and Smallwood, Buckner, Coram, Ginal, Gonzales, Pettersen, Priola, Rankin,
Simpson, Winter, Woodward

HOUSE SPONSORSHIP

Bird and McKean,

Senate Committees

Business, Labor, & Technology
Finance
Appropriations

House Committees

Public & Behavioral Health & Human Services
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING CRITERIA RELATING TO THE OPERATION OF**
102 **TELEPHARMACY OUTLETS, AND, IN CONNECTION THEREWITH,**
103 **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>.)

Currently, a "telepharmacy outlet" must be located more than 20 miles from the nearest prescription drug outlet or other telepharmacy outlet. The bill removes this geographic restriction on the operation of telepharmacy outlets.

The bill authorizes the state board of pharmacy (board) to adopt

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
April 27, 2022

SENATE
Amended 2nd Reading
April 26, 2022

limited rules concerning telepharmacy outlets.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-280-103, **amend**
3 (32)(a)(II), (32)(b)(II), (36), (43), and (50); and **repeal** (32)(c) as follows:

4 **12-280-103. Definitions - rules.** As used in this article 280, unless
5 the context otherwise requires or the term is otherwise defined in another
6 part of this article 280:

7 (32) "Other outlet" means:

8 (a) A hospital that does not operate a registered pharmacy, a rural
9 health clinic, a federally qualified health center, as defined in the federal
10 "Social Security Act", 42 U.S.C. sec. 1395x (aa)(4), a family planning
11 clinic, an acute treatment unit licensed by the department of public health
12 and environment, a school, a jail, a county or district public health
13 agency, a community health clinic, a community mental health clinic, a
14 behavioral health entity, an approved treatment facility, a university, or
15 a college that:

16 (II) Engages in the compounding, dispensing, and delivery of
17 drugs or devices; OR

18 (b) An ambulatory surgical center, a hospice, or a convalescent
19 center, each of which is licensed pursuant to part 1 of article 3 of title 25,
20 or a medical clinic operated by a hospital, each of which:

21 (II) Engages in the compounding, dispensing, and delivery of
22 drugs or devices for administration to patients while being treated in the
23 facility. ~~or~~

24 (c) ~~A telepharmacy outlet.~~

25 (36) "Pharmacist manager" means an individual, licensed in this

1 state as a pharmacist, who has direct control of the pharmaceutical affairs
2 of a prescription drug outlet and who, EXCEPT AS PROVIDED IN SECTION
3 12-280-118 (1)(a), is not the manager of any other prescription drug
4 outlet.

5 (43) "Prescription drug outlet" or "pharmacy" means any
6 pharmacy outlet registered pursuant to this article 280 where prescriptions
7 are compounded and dispensed. "Prescription drug outlet" includes,
8 without limitation, a specialized prescription drug outlet registered
9 pursuant to section 12-280-119 (11) AND A TELEPHARMACY OUTLET.

10 (50)(a) "Telepharmacy outlet" means a remote pharmacy site that:

11 (I) Is registered as ~~an other~~ A PRESCRIPTION DRUG outlet OR
12 PHARMACY under this article 280;

13 (II) At the time of registration, is located more than twenty miles
14 from the nearest prescription drug outlet and from any other telepharmacy
15 outlet registered under this article 280 IN AN AREA OF NEED;

16 (III) Is connected via computer link, video link, and audio link, or
17 via other functionally equivalent telecommunication equipment, with a
18 central pharmacy LOCATED IN THIS STATE that is registered under this
19 article 280; and

20 (IV) Has a pharmacy technician on site who, under the remote
21 supervision of a licensed pharmacist located at the central pharmacy IN
22 THIS STATE, performs the tasks described in subsection (38.5)(a) of this
23 section.

24 (b) ~~The board may adopt rules as necessary to specify additional~~
25 ~~criteria for a telepharmacy outlet that the board deems necessary.~~

26 (c) AS USED IN THIS SUBSECTION (50):

27 (I) "AREA OF NEED" MEANS:

1 (A) ANY HEALTH FACILITY LICENSED OR CERTIFIED BY THE
2 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO
3 SECTION 25-1.5-103 (1); OR

4 (B) ANY AREA WHERE A DEMONSTRATION OF NEED IS APPROVED
5 BY THE BOARD.

6 (II) "CENTRAL PHARMACY" MEANS A REGISTERED PHARMACY
7 OUTLET RESPONSIBLE FOR OVERSEEING THE OPERATION OF A
8 TELEPHARMACY OUTLET.

9
10 ==

11 **SECTION 2.** In Colorado Revised Statutes, 12-280-107, **add** (3)
12 as follows:

13 **12-280-107. Rules.** (3) THE BOARD MAY ADOPT RULES TO SPECIFY
14 ADDITIONAL CRITERIA NECESSARY TO FACILITATE THE OPERATION OF
15 TELEPHARMACY OUTLETS. THE BOARD'S ADDITIONAL RULES FOR A
16 TELEPHARMACY OUTLET ARE LIMITED TO RULES CONCERNING THE
17 FOLLOWING:

- 18 (a) APPLICATION REQUIREMENTS;
- 19 (b) STRUCTURAL AND EQUIPMENT REQUIREMENTS;
- 20 (c) STAFFING AND TRAINING REQUIREMENTS;
- 21 (d) PHARMACIST MANAGER VISITATION REQUIREMENTS;
- 22 (e) INVENTORY RECORD-KEEPING AND STORAGE REQUIREMENTS;
- 23 (f) ESTABLISHING POLICIES AND PROCEDURES RELATING TO
24 TELEPHARMACY OPERATIONS; AND
- 25 (g) THE NUMBER OF TELEPHARMACY OUTLETS THAT MAY BE
26 OPERATED BY A CENTRAL PHARMACY.

27 **SECTION 3.** In Colorado Revised Statutes, 12-280-118, **amend**

1 (1)(a) and **add** (3)(c) as follows:

2 **12-280-118. Prescription drug outlet under charge of**
3 **pharmacist - rules.** (1) (a) A prescription drug outlet must be under the
4 direct charge of a pharmacist manager. A proprietor who is not a
5 pharmacist shall comply with this requirement and shall provide a
6 manager who is a pharmacist. NOTHING IN THIS ARTICLE 280 OR RULES
7 IMPLEMENTING THIS ARTICLE 280 SHALL PROHIBIT THE PHARMACIST
8 MANAGER OF A CENTRAL PHARMACY FROM SIMULTANEOUSLY SERVING AS
9 THE PHARMACIST MANAGER OF A TELEPHARMACY OUTLET.

10 (3) (c) A TELEPHARMACY OUTLET IS REQUIRED TO HAVE A
11 PHARMACIST MANAGER. A TELEPHARMACY OUTLET IS CONSIDERED TO BE
12 UNDER THE DIRECT CHARGE OR CONTROL OF THE PHARMACIST MANAGER,
13 OR THE LICENSED PHARMACIST DELEGATE, WHO PROVIDES REMOTE
14 SUPERVISION TO THE TELEPHARMACY OUTLET.

15 **SECTION 4.** In Colorado Revised Statutes, 12-280-402, **amend**
16 (3) as follows:

17 **12-280-402. Definitions.** As used in this part 4, unless the context
18 otherwise requires:

19 (3) "Prescription drug outlet" or "pharmacy" means:

20 (a) Any resident or nonresident pharmacy outlet registered or
21 licensed pursuant to this article 280 where prescriptions are compounded
22 and dispensed; **and**

23 (b) Any federally owned and operated pharmacy registered with
24 the federal drug enforcement administration; **AND**

25 (c) A TELEPHARMACY OUTLET.

26 **SECTION 5. Appropriation.** (1) For the 2022-23 state fiscal
27 year, \$505,819 is appropriated to the department of regulatory agencies.

1 This appropriation is from the division of professions and occupations
2 cash fund created in section 12-20-105 (3), C.R.S. To implement this act,
3 the department may use this appropriation as follows:

4 (a) \$383,823 for use by the division of professions and
5 occupations for personal services, which amount is based on an
6 assumption that the division will require an additional 4.4 FTE;

7 (b) \$43,140 for use by the division of professions and occupations
8 for operating expenses; and

9 (c) \$78,856 for the purchase of legal services.

10 (2) For the 2022-23 state fiscal year, \$78,856 is appropriated to
11 the department of law. This appropriation is from reappropriated funds
12 received from the department of regulatory agencies under subsection
13 (1)(c) of this section and is based on an assumption that the department
14 of law will require an additional 0.4 FTE. To implement this act, the
15 department of law may use this appropriation to provide legal services for
16 the department of regulatory agencies.

17 **SECTION 6. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly; except
20 that, if a referendum petition is filed pursuant to section 1 (3) of article V
21 of the state constitution against this act or an item, section, or part of this
22 act within such period, then the act, item, section, or part will not take
23 effect unless approved by the people at the general election to be held in
24 November 2022 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.