

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0863.01 Brita Darling x2241

HOUSE BILL 26-1336

HOUSE SPONSORSHIP

Lindsay and Winter T.,

SENATE SPONSORSHIP

Pelton R.,

House Committees
Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO INCREASE ACCESS TO PHARMACY
102 SERVICES.

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>.)

Under current law, a pharmacist may receive reimbursement under a health benefit plan and under the medical assistance program (medicaid) for health-care services provided pursuant to a collaborative pharmacy practice agreement. If certain conditions are met, the bill requires health benefit plans that provide hospital, surgical, or medical expense insurance to provide coverage for health-care services provided by a pharmacist that

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

are within the pharmacist's scope of practice. Similarly, under medicaid, the bill authorizes reimbursement for services that are within a pharmacist's scope of practice and not duplicative of other pharmacist services or programs reimbursed by medicaid.

Further, solely on the basis of the type of license or certification, a health benefit plan or health insurance carrier shall not discriminate against a pharmacist who is acting within the scope of the pharmacist's license or certification under state law, with respect to participation, referral, reimbursement of covered services, or indemnification, or prohibit a pharmacist from membership in a provider's network.

The bill makes changes to the definitions in the pharmacy practice statutes to include a definition for "final product verification", which is defined as a physical verification process for drug, device, or product orders filled through a pharmacy's electronic system after initial fill by a technician or other automated technology. Final product verification may be delegated by a supervising pharmacist to a certified pharmacy technician or pharmacy intern. The process requires a pharmacy or other outlet to have a continuous quality assessment system in place to periodically verify the accuracy of the final drug, device, or product. A pharmacy intending to implement a final product verification program shall create a plan for final product verification, including how pharmacists' hours will be maintained to provide direct patient care. The state board of pharmacy is required to adopt rules relating to final product verification.

Under current law, a pharmacist has independent prescriptive authority for drugs that are not controlled substances, drug categories, or devices that are prescribed to patients who are at least 12 years old, if certain conditions are met. The bill also adds to the definition of the "practice of pharmacy" to include independent prescriptive authority for drugs that are not controlled substances, drug categories, or devices that are prescribed to patients younger than 12 years old for conditions that do not require a new diagnosis, that are minor and self-limiting, or that have a test that guides diagnosis and are not medications that may only be prescribed pursuant to a certified education program and a limited distribution network.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-144, **amend**
3 (1) introductory portion, (1)(a), and (2) as follows:

4 **10-16-144. Health-care services provided by pharmacists.**

5 (1) ~~Any~~ A health benefit plan, except supplemental policies

1 covering a specified disease or other limited benefit, that provides
2 hospital, surgical, or medical expense insurance ~~may~~ MUST provide
3 coverage for health-care services ~~under a specific treatment protocol~~
4 provided by a pharmacist if:

5 (a) The pharmacist ~~meets the requirements in part 6 of article 280~~
6 ~~of title 12~~ IS PROVIDING SERVICES THAT ARE WITHIN THE PHARMACIST'S
7 SCOPE OF PRACTICE UNDER ARTICLE 280 OF TITLE 12;

8 (2) ~~(a) A health benefit plan described in subsection (1) of this~~
9 ~~section shall provide coverage for health-care services provided by a~~
10 ~~pharmacist within a health professional shortage area, as defined in 42~~
11 ~~U.S.C. sec. 254e, if the conditions specified in subsection (1) of this~~
12 ~~section are met.~~

13 ~~(b) (a) This subsection (2) does not require a carrier to contract~~
14 ~~with~~ IF a ~~pharmacy or~~ pharmacist IS willing to abide by the terms and
15 conditions for participation established by the health benefit plan or
16 carrier, A HEALTH BENEFIT PLAN OR CARRIER SHALL NOT DISCRIMINATE,
17 WITH RESPECT TO PARTICIPATION, REFERRAL, OR REIMBURSEMENT OF
18 COVERED SERVICES OR INDEMNIFICATION AS TO PHARMACISTS WHO ARE
19 ACTING WITHIN THE SCOPE OF THEIR LICENSE UNDER STATE LAW, SOLELY
20 ON THE BASIS OF THE TYPE OF LICENSURE. IN SELECTING PROVIDERS OF
21 HEALTH-CARE SERVICES FOR MEMBERSHIP IN A PROVIDER NETWORK, A
22 HEALTH BENEFIT PLAN OR CARRIER SHALL NOT DISCRIMINATE AGAINST
23 PHARMACISTS WHO PROVIDE SERVICES THAT ARE COVERED BY THE PLAN
24 BY PROHIBITING PHARMACISTS FROM MEMBERSHIP IN A PROVIDER
25 NETWORK.

26 (b) SUBSECTION (2)(a) OF THIS SECTION SHALL NOT BE CONSTRUED
27 AS:

1 (I) PROHIBITING A HEALTH BENEFIT PLAN OR CARRIER FROM
2 INCLUDING PROVIDERS IN A PROVIDER NETWORK ONLY TO THE EXTENT
3 NECESSARY TO MEET THE NEEDS OF THE HEALTH BENEFIT PLAN AND ITS
4 ENROLLEES OR FROM LIMITING REFERRALS OR ESTABLISHING ANY OTHER
5 MEASURE DESIGNED TO MAINTAIN QUALITY AND CONTROL COSTS
6 CONSISTENT WITH THE PROVISIONS OF THE HEALTH BENEFIT PLAN; OR

7 (II) REQUIRING COVERAGE FOR ANY SERVICE THAT IS NOT
8 OTHERWISE COVERED UNDER THE TERMS OF A HEALTH BENEFIT PLAN.

9 **SECTION 2.** In Colorado Revised Statutes, 12-280-103, **amend**
10 (38.5)(a)(X), (38.5)(a)(XI), (39)(g)(IV) introductory portion,
11 (39)(g)(IV)(C), and (39)(g)(V); and **add** (17.5), (38.5)(a)(XII), and
12 (39)(g)(VI) as follows:

13 **12-280-103. Definitions - rules.**

14 As used in this article 280, unless the context otherwise requires
15 or the term is otherwise defined in another part of this article 280:

16 (17.5) "FINAL PRODUCT VERIFICATION" MEANS, AFTER
17 PRESCRIPTION OR ORDER INFORMATION IS ENTERED INTO A PHARMACY'S
18 ELECTRONIC SYSTEM AND REVIEWED BY A PHARMACIST FOR ACCURACY,
19 THERAPEUTIC APPROPRIATENESS, AND OTHER ASPECTS OF DRUG REGIMEN
20 REVIEW, A PHYSICAL VERIFICATION THAT THE DRUG, DEVICE, OR PRODUCT
21 SELECTED FROM THE PHARMACY'S INVENTORY IS THE CORRECT DRUG,
22 DRUG STRENGTH, DRUG FORMULATION, DEVICE, OR PRODUCT FOR THE
23 PRESCRIPTION OR ORDER.

24 (38.5) (a) "Practice as a pharmacy technician" means engaging in
25 any of the following activities involved in the practice of pharmacy, under
26 the supervision and delegation of a supervising pharmacist:

27 (X) Redispensing a prescription drug pursuant to section

1 12-280-141 (9)(b) and (9)(c); ~~and~~

2 (XI) Requesting refill authorization from the prescriber or
3 prescriber's agent and receiving clarifying prescription information from
4 the prescriber or prescriber's agent; AND

5 (XII) FINAL PRODUCT VERIFICATION FOR A DRUG, DEVICE, OR
6 PRODUCT THAT IS NOT A CONTROLLED SUBSTANCE.

7 (39) "Practice of pharmacy" means:

8 (g) Exercising independent prescriptive authority:

9 (IV) For drugs that are not controlled substances, drug categories,
10 or devices that are prescribed in accordance with the product's
11 FDA-approved labeling and to patients who are at least twelve years ~~of~~
12 ~~age~~ OLD and that are limited to conditions that:

13 (C) Have a test that is used to guide diagnosis or clinical
14 decision-making and is waived under the federal "Clinical Laboratory
15 Improvement Amendments of 1988", Pub.L. 100-578, as amended; ~~or~~

16 (V) For any FDA-approved product indicated for opioid use
17 disorder in accordance with federal law and regulations, including
18 medications for opioid use disorder, if authorized pursuant to part 6 of
19 this article 280; OR

20 (VI) FOR DRUGS THAT ARE NOT CONTROLLED SUBSTANCES, DRUG
21 CATEGORIES, OR DEVICES THAT ARE PRESCRIBED IN ACCORDANCE WITH
22 THE PRODUCT'S FDA-APPROVED LABELING AND TO PATIENTS WHO ARE
23 YOUNGER THAN TWELVE YEARS OLD AND THAT ARE LIMITED TO
24 CONDITIONS THAT:

25 (A) DO NOT REQUIRE A NEW DIAGNOSIS;

26 (B) ARE MINOR AND GENERALLY SELF-LIMITING; OR

27 (C) HAVE A TEST THAT IS USED TO GUIDE DIAGNOSIS OR CLINICAL

1 DECISION-MAKING AND IS WAIVED UNDER THE FEDERAL "CLINICAL
2 LABORATORY IMPROVEMENT AMENDMENTS OF 1988", PUB.L. 100-578,
3 AS AMENDED, AND DO NOT REQUIRE MEDICATIONS THAT ARE ONLY
4 PRESCRIBED PURSUANT TO A CERTIFIED EDUCATION PROGRAM AND A
5 LIMITED DISTRIBUTION NETWORK;

6 **SECTION 3.** In Colorado Revised Statutes, 12-280-122, **add** (5)
7 as follows:

8 **12-280-122. Limited authority to delegate activities**
9 **constituting practice of pharmacy to pharmacy interns or pharmacy**
10 **technicians - supervision ratio - final product verification - rules -**
11 **definition.**

12 (5) (a) A SUPERVISING PHARMACIST MAY DELEGATE, AND A
13 PHARMACY TECHNICIAN OR AN INTERN MAY PERFORM UNDER THE
14 SUPERVISION OF THE SUPERVISING PHARMACIST, TASKS ASSOCIATED WITH
15 THE PHYSICAL PREPARATION AND PROCESSING OF DRUG, DEVICE, OR
16 PRODUCT ORDERS.

17 (b) FINAL PRODUCT VERIFICATION TASKS THAT MAY BE
18 DELEGATED BY THE SUPERVISING PHARMACIST INCLUDE:

19 (I) VERIFICATION OF THE PRESCRIPTION OR DRUG, DEVICE, OR
20 PRODUCT BY A SECOND PHARMACY TECHNICIAN OR INTERN CONCERNING
21 THE WORK OF THE FIRST PHARMACY TECHNICIAN OR INTERN;

22 (II) USE OF BARCODE OR OTHER TECHNOLOGY TO VERIFY EACH
23 DRUG, DEVICE, OR PRODUCT PRIOR TO ADMINISTRATION TO AN INDIVIDUAL
24 BY A HEALTH-CARE PROVIDER;

25 (III) VERIFICATION BY A SECOND PHARMACY TECHNICIAN OR
26 INTERN CONCERNING THE WORK OF THE FIRST PHARMACY TECHNICIAN OR
27 INTERN IN THE REPACKAGING OF DRUGS FROM BULK TO UNIT DOSE; OR

1 (IV) OTHER ACTIVITIES AS AUTHORIZED BY THE BOARD BY RULE.

2 (c) IN DELEGATING FINAL PRODUCT VERIFICATION TASKS, A
3 SUPERVISING PHARMACIST SHALL USE THE PHARMACIST'S REASONABLE
4 PROFESSIONAL JUDGMENT AND SHALL ENSURE THAT AUTHORIZED TASKS
5 DO NOT REQUIRE THE EXERCISE OF DISCRETION OR CLINICAL JUDGMENT BY
6 A PHARMACY TECHNICIAN.

7 (d) A PHARMACY OR OTHER OUTLET SHALL HAVE A CONTINUOUS
8 QUALITY ASSESSMENT SYSTEM IN PLACE TO PERIODICALLY VERIFY THE
9 ACCURACY OF A FINAL DRUG, DEVICE, OR PRODUCT, WHICH INCLUDES A
10 PROCESS FOR THE RECORDING AND EVALUATION OF ERRORS THAT OCCUR
11 AND POTENTIAL ERRORS, EVEN IF THE ERRORS DO NOT REACH THE
12 PATIENT.

13 (e) A PHARMACY INTENDING TO IMPLEMENT A FINAL PRODUCT
14 VERIFICATION PROGRAM SHALL CREATE AND MAINTAIN A PROGRAM PLAN,
15 INCLUDING HOW PHARMACISTS' HOURS WILL BE MAINTAINED AND
16 REDIRECTED FOR PROVIDING DIRECT PATIENT CARE ACTIVITIES.

17 (f) THE BOARD SHALL ADOPT RULES CONCERNING FINAL PRODUCT
18 VERIFICATION BY A PHARMACY TECHNICIAN OR INTERN. THE BOARD'S
19 RULES MUST INCLUDE:

20 (I) TRAINING REQUIREMENTS;

21 (II) EXCLUDED MEDICATIONS;

22 (III) LIABILITY ISSUES; AND

23 (IV) ANY OTHER RULES THE BOARD DEEMS APPROPRIATE.

24 **SECTION 4.** In Colorado Revised Statutes, 25.5-5-511, **amend**
25 (2)(a) as follows:

26 **25.5-5-511. Reimbursement for pharmacists' services -**
27 **legislative declaration.**

1 (2)(a) A pharmacist is eligible to receive reimbursement under the
2 medical assistance program for medically necessary services ~~authorized~~
3 ~~in part 6 of~~ THAT ARE WITHIN THE PHARMACIST'S SCOPE OF PRACTICE
4 PURSUANT TO article 280 of title 12 AND that are not duplicative of other
5 pharmacist services or programs reimbursed under the medical assistance
6 program.

7 **SECTION 5. Act subject to petition - effective date.** This act
8 takes effect at 12:01 a.m. on the day following the expiration of the
9 ninety-day period after final adjournment of the general assembly (August
10 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a
11 referendum petition is filed pursuant to section 1 (3) of article V of the
12 state constitution against this act or an item, section, or part of this act
13 within such period, then the act, item, section, or part will not take effect
14 unless approved by the people at the general election to be held in
15 November 2026 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.