

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 26-1336

BY REPRESENTATIVE(S) Lindsay and Winter T., Boesenecker, Brown, Clifford, Duran, Goldstein, Gonzalez R., Johnson, Marshall, McCormick, Nguyen, Rydin, Smith, Stewart K., McCluskie, Bacon, Barron, Caldwell, Mauro, Paschal, Rutinel, Soper;
also SENATOR(S) Pelton R. and Cutter, Ball, Bright, Carson, Catlin, Exum, Gonzales J., Jodeh, Kipp, Kolker, Marchman, Roberts, Snyder, Wallace, Weissman, Coleman.

CONCERNING MEASURES TO INCREASE ACCESS TO PHARMACY SERVICES.

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

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

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

(1) ~~Any~~ A health benefit plan, except supplemental policies covering a specified disease or other limited benefit, that provides hospital, surgical, or medical expense insurance ~~may~~ **MUST** provide coverage for health-care services ~~under a specific treatment protocol~~ provided by a pharmacist if:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

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

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

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

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

(II) REQUIRING A HEALTH BENEFIT PLAN OR CARRIER TO CONTRACT WITH ANY PROVIDER WILLING TO ABIDE BY THE TERMS AND CONDITIONS FOR PARTICIPATION ESTABLISHED BY THE HEALTH BENEFIT PLAN OR CARRIER; OR

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

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

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

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

(X) Redispensing a prescription drug pursuant to section 12-280-141 (9)(b) and (9)(c); and

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

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

(39) "Practice of pharmacy" means:

(g) Exercising independent prescriptive authority:

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

OLD and that are limited to conditions that:

(C) Have a test that is used to guide diagnosis or clinical decision-making and is waived under the federal "Clinical Laboratory Improvement Amendments of 1988", Pub.L. 100-578, as amended, ~~or~~ AND, IF TESTING OR TREATMENT OCCURS, FOR A PATIENT TWELVE YEARS OLD OR OLDER BUT UNDER EIGHTEEN YEARS OLD, THE PATIENT'S PRIMARY CARE PROVIDER IS NOTIFIED AS SOON AS PRACTICABLE CONSISTENT WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, OR, IF THE PATIENT DOES NOT HAVE OR DISCLOSE A PRIMARY CARE PROVIDER, THE PATIENT'S PHARMACIST REFERS THE PATIENT TO A PRIMARY CARE PROVIDER FOR FURTHER CARE;

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

(VII) FOR DRUGS THAT ARE NOT CONTROLLED SUBSTANCES, DRUG CATEGORIES, OR DEVICES THAT ARE PRESCRIBED IN ACCORDANCE WITH THE PRODUCT'S FDA-APPROVED LABELING AND TO PATIENTS WHO ARE FIVE YEARS OLD OR OLDER BUT UNDER TWELVE YEARS OLD AND THAT ARE LIMITED TO CONDITIONS THAT:

(A) DO NOT REQUIRE A NEW DIAGNOSIS;

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

(C) HAVE A TEST THAT IS USED TO GUIDE DIAGNOSIS OR CLINICAL DECISION-MAKING FOR INFLUENZA, SARS-CoV-2, GROUP A STREPTOCOCCUS, OR RESPIRATORY SYNCYTIAL VIRUS THAT IS WAIVED UNDER THE FEDERAL "CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF 1988", PUB.L. 100-578, AS AMENDED; DO NOT REQUIRE MEDICATIONS THAT ARE ONLY PRESCRIBED PURSUANT TO A CERTIFIED EDUCATION PROGRAM AND A LIMITED DISTRIBUTION NETWORK; AND, IF TESTING OR TREATMENT OCCURS, THE PATIENT'S PRIMARY CARE PROVIDER IS NOTIFIED AS SOON AS PRACTICABLE CONSISTENT WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, OR, IF THE PATIENT DOES NOT HAVE OR DISCLOSE A PRIMARY CARE PROVIDER, THE PATIENT'S PHARMACIST REFERS THE PATIENT TO A PRIMARY CARE PROVIDER FOR FURTHER CARE;

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

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

(5) (a) A SUPERVISING PHARMACIST MAY DELEGATE, AND A PHARMACY TECHNICIAN OR AN INTERN MAY PERFORM UNDER THE SUPERVISION OF THE SUPERVISING PHARMACIST, TASKS ASSOCIATED WITH THE PHYSICAL PREPARATION AND PROCESSING OF DRUG, DEVICE, OR PRODUCT ORDERS THAT ARE NOT FOR CONTROLLED SUBSTANCES.

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

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

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

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

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

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

(d) A PHARMACY OR OTHER OUTLET SHALL HAVE A CONTINUOUS QUALITY ASSESSMENT SYSTEM IN PLACE TO PERIODICALLY VERIFY THE ACCURACY OF A FINAL DRUG, DEVICE, OR PRODUCT, WHICH INCLUDES A PROCESS FOR THE RECORDING AND EVALUATION OF ERRORS THAT OCCUR

AND POTENTIAL ERRORS, EVEN IF THE ERRORS DO NOT REACH THE PATIENT.

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

(f) NO LATER THAN DECEMBER 31, 2026, THE BOARD SHALL ADOPT RULES CONCERNING FINAL PRODUCT VERIFICATION BY A PHARMACY TECHNICIAN OR INTERN PURSUANT TO THIS SUBSECTION (5). THE BOARD'S RULES MUST INCLUDE:

(I) TRAINING REQUIREMENTS;

(II) EXCLUDED MEDICATIONS;

(III) LIABILITY ISSUES; AND

(IV) ANY OTHER RULES THE BOARD DEEMS APPROPRIATE.

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

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

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

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO