

First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 19-0116.01 Kristen Forrestal x4217

**SENATE BILL 19-081**

**SENATE SPONSORSHIP**

**Zenzinger**, Moreno, Crowder, Gardner, Ginal, Pettersen, Priola, Smallwood, Story, Todd

**HOUSE SPONSORSHIP**

**Hooton**, Arndt, Buentello, Kraft-Tharp, Michaelson Jenet, Snyder

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**Senate Committees**

Health & Human Services

**House Committees**

Public Health Care & Human Services

HOUSE  
3rd Reading Unamended  
February 28, 2019

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**A BILL FOR AN ACT**  
101     **CONCERNING THE REPEAL OF THE "COLORADO CANCER DRUG**  
102     **REPOSITORY ACT".**

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**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/>.)*

HOUSE  
2nd Reading Unamended  
February 26, 2019

SENATE  
3rd Reading Unamended  
January 29, 2019

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

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  
2nd Reading Unamended  
January 28, 2019

1                   **SECTION 1. Legislative declaration.** The general assembly  
2 declares that the purpose of this act is to repeal statutory provisions that  
3 are duplicative of another program within the Colorado department of  
4 public health and environment. The general assembly further declares that  
5 repealing these statutory provisions does not alter the scope or  
6 applicability of the remaining statutes.

7                   **SECTION 2.** In Colorado Revised Statutes, **repeal** article 35 of  
8 title 25 as follows:

## ARTICLE 35

## Colorado Cancer Drug Repository Program

11           **25-35-101. Short title.** This article shall be known and may be  
12           cited as the "Colorado Cancer Drug Repository Act".

13                   **25-35-102. Definitions.** As used in this article, unless the context  
14                   otherwise requires:

15 (1) "Cancer drug" means a prescription drug that is used to treat  
16 cancer or the side effects of cancer.

17 (2) "Department" means the department of public health and  
18 environment.

19 (3) "Dispense" shall have the same meaning as set forth in section  
20 12-42.5-102 (11) C.R.S.

21 (4) "Eligible patient" means an uninsured or underinsured cancer  
22 patient who meets the eligibility criteria established in rule by the state  
23 board.

24 (5) "Health care facility" means a hospital, hospice, or hospital  
25 unit that is required to be licensed pursuant to section 25-3-101

(6) "Medical clinic" means a community health clinic required to be licensed or certified by the department pursuant to section 25-1-5-103.

(7) "Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component, part, or accessory that is:

4 (a) Recognized in the official national formulary, or the United  
5 States pharmacopoeia, or any supplement;

6 (b) Intended for use in the diagnosis of disease or other  
7 conditions, or in the cure, mitigation, treatment, or prevention of disease,  
8 in humans or animals; or

9 (c) Intended to affect the structure or any function of the human  
10 body or animals, that does not achieve any of its primary intended  
11 purposes through chemical action within or on the human body or  
12 animals, and that is not dependent upon being metabolized for the  
13 achievement of any of its primary intended purposes.

14 (8) "Pharmacist" means an individual licensed by this state  
15 pursuant to article 42.5 of title 12, C.R.S., to engage in the practice of  
16 pharmacy.

17 (9) "Program" means the Colorado cancer drug repository  
18 program created in section 25-35-103.

19 (10) "State board" means the state board of health.

## 25-35-103. Cancer drug repository - administration - donation

21 - dispensing - cancer drugs - medical devices. (1) There is hereby  
22 established the Colorado cancer drug repository program for the purpose  
23 of allowing a cancer patient or the patient's family to donate unused  
24 cancer drugs and medical devices to uninsured and underinsured cancer  
25 patients in the state of Colorado. The program shall be administered by  
26 the department.

27 (2) The program shall allow a cancer patient or the patient's family

1 to donate unused cancer drugs or medical devices to a health care facility,  
2 medical clinic, or pharmacy that elects to participate in the program. A  
3 health care facility, medical clinic, or pharmacy that receives a donated  
4 cancer drug or medical device under the program may distribute the  
5 cancer drug to another eligible health care facility, medical clinic, or  
6 pharmacy for use under the program.

7 (3) A pharmacist may accept and dispense cancer drugs and  
8 medical devices donated under the program to eligible patients if all of  
9 the following requirements are met:

10 (a) (I) The cancer drug or medical device is in its original,  
11 unopened, sealed, and tamper-evident packaging or, if packaged in  
12 single-unit doses, the single-unit-dose packaging is unopened; or

13 (II) The pharmacist has determined that the cancer drug or  
14 medical device is safe for redistribution;

15 (b) The cancer drug bears an expiration date that has not expired;

16 (c) The cancer drug or medical device is not adulterated or  
17 misbranded, as determined by a pharmacist; and

18 (d) The cancer drug or medical device is prescribed by a  
19 practitioner, as defined in section 12-42.5-102 (32), C.R.S., for use by an  
20 eligible patient and is dispensed by a pharmacist.

21 (4) A cancer drug or medical device donated under the program  
22 may not be resold. A health care facility, medical clinic, or pharmacy may  
23 charge an eligible patient a handling fee to receive a donated cancer drug  
24 or medical device, which fee may not exceed the amount specified in rule  
25 by the state board.

26 (5) Nothing in this section requires a health care facility, medical  
27 clinic, or pharmacy to participate in the program.

7                   **25-35-104. Rules.** (1) The state board, in consultation with the  
8 state board of pharmacy, shall promulgate any rules necessary for the  
9 implementation and administration of the program. The rules shall  
10 include, at a minimum:

11 (a) Requirements for health care facilities, medical clinics, and  
12 pharmacies to accept and dispense donated cancer drugs and medical  
13 devices under the program, including but not limited to:

#### 14 (I) Eligibility criteria; and

15 (H) Standards and procedures for a health care facility, medical  
16 clinic, or pharmacy to accept, safely store, and dispense donated cancer  
17 drugs and medical devices.

18 (b) and (c) Repealed.

19 (d) The maximum handling fee that a health care facility, medical  
20 clinic, or pharmacy may charge for distributing or dispensing donated  
21 cancer drugs or medical devices.

22 (e) Repealed.

23           **25-35-105. Liability - prescription drug manufacturers.**

Nothing in this article shall be construed to create or abrogate any liability on behalf of a prescription drug manufacturer for the storage, donation, acceptance, or dispensing of a cancer drug or medical device, or to create any civil cause of action against a prescription drug manufacturer, in

1        ~~in addition to that which is available under applicable law.~~

2            **SECTION 3. Act subject to petition - effective date.** This act  
3        takes effect at 12:01 a.m. on the day following the expiration of the  
4        ninety-day period after final adjournment of the general assembly (August  
5        2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
6        referendum petition is filed pursuant to section 1 (3) of article V of the  
7        state constitution against this act or an item, section, or part of this act  
8        within such period, then the act, item, section, or part will not take effect  
9        unless approved by the people at the general election to be held in  
10       November 2020 and, in such case, will take effect on the date of the  
11       official declaration of the vote thereon by the governor.