

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 16-1044.01 Yelana Love x2295

HOUSE BILL 16-1361

HOUSE SPONSORSHIP

Primavera and Becker J., Arndt, Coram, Joshi, Ryden, Salazar, Tyler, Windholz

SENATE SPONSORSHIP

Sonnenberg and Newell,

Public Health Care & Human Services

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF A PERSON ELIGIBLE FOR PRESCRIPTION**
102 **DRUG BENEFITS TO CHOOSE THE PHARMACY AT WHICH TO FILL**
103 **A PRESCRIPTION DRUG ORDER.**

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://www.leg.state.co.us/billsummaries>.)

The bill prohibits a health benefit plan or pharmacy benefit management firm that covers pharmaceutical services, including prescription drug coverage, from:

! Limiting or restricting a covered person's ability to select a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
April 14, 2016

HOUSE
Amended 2nd Reading
April 7, 2016

pharmacy or pharmacist of the covered person's choice if certain conditions are met;

- ! Imposing a co-payment, fee, or other cost-sharing requirement for selecting a pharmacy of the covered person's choosing;
- ! Imposing other conditions on a covered person, pharmacist, or pharmacy that limit or restrict a covered person's ability to use a pharmacy of the covered person's choosing; or
- ! Denying a pharmacy or pharmacist the right to participate in any of its pharmacy network contracts in this state or as a contracting provider in this state if the pharmacy or pharmacist has a valid license in Colorado and the pharmacy or pharmacist agrees to specified conditions.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-143 as
3 follows:

4 **10-16-143. Patient choice of pharmacy.** (1) A HEALTH BENEFIT
5 PLAN OR PHARMACY BENEFIT MANAGEMENT FIRM THAT COVERS
6 PHARMACY SERVICES, INCLUDING PRESCRIPTION DRUG COVERAGE, SHALL
7 NOT:

8 (a) LIMIT OR RESTRICT A COVERED PERSON'S ABILITY TO SELECT A
9 PHARMACY OR PHARMACIST OF THE COVERED PERSON'S CHOICE IF THE
10 PHARMACY OR PHARMACIST IS LICENSED UNDER ARTICLE 42.5 OF TITLE 12,
11 C.R.S., AND THE PHARMACY OR PHARMACIST HAS AGREED TO THE TERMS
12 OF THE CONTRACT OF THE HEALTH PLAN COMPANY OR PHARMACY BENEFIT
13 PROVIDER;

14 (b) IMPOSE A CO-PAYMENT, FEE, OR OTHER COST-SHARING
15 REQUIREMENT ON A COVERED PERSON, A PHARMACIST, OR A PHARMACY
16 FOR THE COVERED PERSON'S SELECTION OF A PHARMACY UNLESS THE
17 PROVIDER NETWORK CONTRACT OF THE HEALTH PLAN COMPANY OR
18 PHARMACY BENEFIT MANAGER IMPOSES THE SAME CO-PAYMENT, FEE, OR

1 OTHER COST-SHARING REQUIREMENT ON ALL COVERED PERSONS,
2 PHARMACISTS, OR PHARMACIES WITHIN THIS STATE;

3 (c) IMPOSE OTHER CONDITIONS ON A COVERED PERSON,
4 PHARMACIST, OR PHARMACY THAT LIMIT OR RESTRICT AN COVERED
5 PERSON'S ABILITY TO USE A PHARMACY OF THE COVERED PERSON'S
6 CHOOSING; OR

7 (d) IF A COVERED PERSON SELECTS A PHARMACY OR PHARMACIST
8 OF THE COVERED PERSON'S CHOICE, DENY THE CHOSEN PHARMACY OR
9 PHARMACIST THE RIGHT TO PARTICIPATE IN ANY OF ITS PHARMACY
10 NETWORK CONTRACTS IN THIS STATE OR AS A CONTRACTING PROVIDER IN
11 THIS STATE IF THE PHARMACY OR PHARMACIST HAS A VALID LICENSE
12 UNDER ARTICLE 42.5 OF TITLE 12, C.R.S., AND THE PHARMACY OR
13 PHARMACIST AGREES TO:

14 (I) ACCEPT THE TERMS AND CONDITIONS OFFERED BY THE HEALTH
15 PLAN COMPANY OR PHARMACY BENEFIT MANAGER; AND

16 (II) PROVIDE PHARMACY SERVICES THAT MEET STATE AND
17 FEDERAL LAWS AND REGULATIONS.

18 (2) THIS SECTION DOES NOT APPLY TO PHARMACY SERVICES
19 ADMINISTERED TO AN INDIVIDUAL RECEIVING INPATIENT OR EMERGENCY
20 MEDICAL CARE IN A LICENSED OR CERTIFIED HEALTH FACILITY SUBJECT TO
21 THE REQUIREMENTS OF SECTION 25-1.5-103, C.R.S.

22 (3) FOR PURPOSES OF THIS SECTION, "HEALTH BENEFIT
23 MANAGEMENT PLAN" AND "PHARMACY BENEFIT MANAGEMENT FIRM" DO
24 NOT INCLUDE:

25 (a) A CARRIER THAT OFFERS MANAGED CARE PLANS AND PROVIDES
26 A MAJORITY OF COVERED PROFESSIONAL SERVICES THROUGH PHYSICIANS
27 EMPLOYED BY THE CARRIER OR THROUGH A SINGLE CONTRACTED MEDICAL

1 GROUP;

2 (b) A SELF-FUNDED PLAN THAT IS EXEMPT FROM STATE
3 REGULATION PURSUANT TO ERISA; OR

4 (c) A PLAN ISSUED FOR COVERAGE FOR STATE OR FEDERAL
5 EMPLOYEES.

6 **SECTION 2. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
8 the expiration of the ninety-day period after final adjournment of the
9 general assembly (August 10, 2016, if adjournment sine die is on May 11,
10 2016); except that, if a referendum petition is filed pursuant to section 1
11 (3) of article V of the state constitution against this act or an item, section,
12 or part of this act within such period, then the act, item, section, or part
13 will not take effect unless approved by the people at the general election
14 to be held in November 2016 and, in such case, will take effect on the
15 date of the official declaration of the vote thereon by the governor.

16 (2) This act applies to health benefit plans issued, delivered, or
17 renewed on or after January 1, 2018.