

## CHAPTER 185

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**HEALTH AND ENVIRONMENT**

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**HOUSE BILL 19-1131**

BY REPRESENTATIVE(S) Jaquez Lewis, Bird, Buentello, Caraveo, Cutter, Duran, Exum, Galindo, Gonzales-Gutierrez, Herod, Kennedy, McCluskie, McLachlan, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Valdez A., Weissman, Benavidez, Hooton, Titone;  
also SENATOR(S) Winter, Bridges, Crowder, Priola, Smallwood, Tate.

**AN ACT**

**CONCERNING A REQUIREMENT TO SHARE THE WHOLESALE ACQUISITION COST OF A DRUG WHEN SHARING INFORMATION CONCERNING THE DRUG WITH ANOTHER PARTY.**

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

**SECTION 1.** In Colorado Revised Statutes, **add** 12-42.5-308 as follows:

**12-42.5-308. Manufacturer, agent, representative, employee - drug cost information - required - definitions.** (1) A MANUFACTURER, OR A REPRESENTATIVE, AGENT, OR EMPLOYEE OF A MANUFACTURER, WHO WHILE EMPLOYED BY OR UNDER CONTRACT TO REPRESENT A MANUFACTURER ENGAGES IN PRESCRIPTION DRUG MARKETING, SHALL PROVIDE TO A PRESCRIBER, IN WRITING, THE WHOLESALE ACQUISITION COST OF A PRESCRIPTION DRUG WHEN, IN THE COURSE OF CONDUCTING BUSINESS, THE MANUFACTURER, REPRESENTATIVE, AGENT, OR EMPLOYEE PROVIDES INFORMATION CONCERNING THE DRUG TO THE PRESCRIBER.

(2)(a) WHEN PROVIDING THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION, A MANUFACTURER, OR A REPRESENTATIVE, AGENT, OR EMPLOYEE OF A MANUFACTURER, SHALL ALSO DISSEMINATE THE NAMES OF AT LEAST THREE GENERIC PRESCRIPTION DRUGS FROM THE SAME THERAPEUTIC CLASS, OR IF THREE ARE NOT AVAILABLE, AS MANY AS ARE AVAILABLE FOR PRESCRIPTIVE USE.

(b) FOR THE PURPOSES OF THIS SECTION:

(1) "PRESCRIBER" MEANS A HEALTH CARE PROVIDER LICENSED PURSUANT TO THIS TITLE 12 WHO IS AUTHORIZED TO PRESCRIBE CONTROLLED SUBSTANCES OR PRESCRIPTION DRUGS.

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*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.*

(II) "PRESCRIPTION DRUG MARKETING" MEANS ANY ACTIVITY THAT DOES NOT INCLUDE CONVERSATIONS AT SCIENTIFIC CONFERENCES AND THAT MAY INCLUDE IN-PERSON MEETINGS, PHYSICAL MAILINGS, TELEPHONIC CONVERSATIONS, VIDEO CONFERENCING, ELECTRONIC MAILING OR TEXTING, OR FACSIMILE TRANSMISSIONS THAT PROVIDES EDUCATIONAL OR MARKETING INFORMATION OR MATERIALS REGARDING A PRESCRIPTION DRUG.

(III) "THERAPEUTIC CLASS" MEANS A GROUP OF SIMILAR DRUGS THAT HAVE THE SAME OR SIMILAR MECHANISMS OF ACTION AND ARE USED TO TREAT A SPECIFIC CONDITION.

**SECTION 2.** In Colorado Revised Statutes, **add to article 280 as relocated by House Bill 19-1172 12-280-308** as follows:

**12-280-308. Manufacturer, agent, representative, employee - drug cost information - required - definitions.** (1) A MANUFACTURER, OR A REPRESENTATIVE, AGENT, OR EMPLOYEE OF A MANUFACTURER, WHO WHILE EMPLOYED BY OR UNDER CONTRACT TO REPRESENT A MANUFACTURER ENGAGES IN PRESCRIPTION DRUG MARKETING, SHALL PROVIDE TO A PRESCRIBER, IN WRITING, THE WHOLESALE ACQUISITION COST OF A PRESCRIPTION DRUG WHEN, IN THE COURSE OF CONDUCTING BUSINESS, THE MANUFACTURER, REPRESENTATIVE, AGENT, OR EMPLOYEE PROVIDES INFORMATION CONCERNING THE DRUG TO THE PRESCRIBER.

(2)(a) WHEN PROVIDING THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION, A MANUFACTURER, OR A REPRESENTATIVE, AGENT, OR EMPLOYEE OF A MANUFACTURER, SHALL ALSO DISSEMINATE THE NAMES OF AT LEAST THREE GENERIC PRESCRIPTION DRUGS FROM THE SAME THERAPEUTIC CLASS, OR IF THREE ARE NOT AVAILABLE, AS MANY AS ARE AVAILABLE FOR PRESCRIPTIVE USE.

(b) FOR THE PURPOSES OF THIS SECTION:

(I) "PRESCRIBER" MEANS A HEALTH CARE PROVIDER LICENSED PURSUANT TO THIS TITLE 12 WHO IS AUTHORIZED TO PRESCRIBE CONTROLLED SUBSTANCES OR PRESCRIPTION DRUGS.

(II) "PRESCRIPTION DRUG MARKETING" MEANS ANY ACTIVITY THAT DOES NOT INCLUDE CONVERSATIONS AT SCIENTIFIC CONFERENCES AND THAT MAY INCLUDE IN-PERSON MEETINGS, PHYSICAL MAILINGS, TELEPHONIC CONVERSATIONS, VIDEO CONFERENCING, ELECTRONIC MAILING OR TEXTING, OR FACSIMILE TRANSMISSIONS THAT PROVIDES EDUCATIONAL OR MARKETING INFORMATION OR MATERIALS REGARDING A PRESCRIPTION DRUG.

(III) "THERAPEUTIC CLASS" MEANS A GROUP OF SIMILAR DRUGS THAT HAVE THE SAME OR SIMILAR MECHANISMS OF ACTION AND ARE USED TO TREAT A SPECIFIC CONDITION.

**SECTION 3. Act subject to petition - effective date.** (1) Except as otherwise provided in subsection (2) of this section, 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 2, 2019, if adjournment sine die is on May 3, 2019);

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 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Section 2 of this act takes effect only if House Bill 19-1172 becomes law, in which case section 2 takes effect October 1, 2019.

Approved: May 16, 2019