

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

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

LLS NO. 20-0100.01 Kristen Forrestal x4217

HOUSE BILL 20-1061

HOUSE SPONSORSHIP

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House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING PHARMACISTS' ABILITY TO PROVIDE HIV INFECTION**
102 **PREVENTION MEDICATIONS TO PATIENTS, AND, IN CONNECTION**
103 **THEREWITH, MAKING AN APPROPRIATION.**

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>.)

With regard to coverage under a health benefit plan for HIV infection prevention medications, the bill:

- ! Prevents a health insurance carrier from requiring a covered person to undergo step therapy or to receive prior authorization before receiving HIV infection prevention

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
3rd Reading Unamended
June 6, 2020

SENATE
Amended 2nd Reading
June 5, 2020

HOUSE
3rd Reading Unamended
March 5, 2020

HOUSE
Amended 2nd Reading
March 4, 2020

HOUSE
Amended 2nd Reading
March 2, 2020

- ! drugs;
- ! Requires carriers to cover HIV infection prevention drugs prescribed or dispensed by a pharmacist and to provide an adequate consultative fee to those pharmacists; and
- ! Allows a pharmacist to prescribe and dispense HIV infection prevention drugs if the pharmacist fulfills specific requirements.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-102, **add**
3 (27.5), (38.5), (50.5), and (50.7) as follows:

4 **10-16-102. Definitions.** As used in this article 16, unless the
5 context otherwise requires:

6 (27.5) "FDA" MEANS THE FOOD AND DRUG ADMINISTRATION IN
7 THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR
8 ANY SUCCESSOR ENTITY.

9 (38.5) "HIV INFECTION PREVENTION DRUG" MEANS PREEXPOSURE
10 PROPHYLAXIS, POST-EXPOSURE PROPHYLAXIS, OR OTHER DRUGS APPROVED
11 BY THE FDA FOR THE PREVENTION OF HIV INFECTION.

12 (50.5) "POST-EXPOSURE PROPHYLAXIS" MEANS A DRUG OR DRUG
13 COMBINATION THAT MEETS THE SAME CLINICAL ELIGIBILITY
14 RECOMMENDATIONS PROVIDED IN CDC GUIDELINES, AS DEFINED IN
15 SECTION 12-280-125.7.

16 (50.7) "PREEXPOSURE PROPHYLAXIS" MEANS A DRUG OR DRUG
17 COMBINATION THAT MEETS THE SAME CLINICAL ELIGIBILITY
18 RECOMMENDATIONS PROVIDED IN CDC GUIDELINES, AS DEFINED IN
19 SECTION 12-280-125.7.

20 **SECTION 2.** In Colorado Revised Statutes, 10-16-104, **add**
21 (18)(e) as follows:

22 **10-16-104. Mandatory coverage provisions - definitions -**

1 rules. (18) Preventive health care services. (e) (I) A CARRIER SHALL
2 REIMBURSE A PHARMACIST EMPLOYED BY AN IN-NETWORK PHARMACY FOR
3 PRESCRIBING AND DISPENSING HIV INFECTION PREVENTION DRUGS TO A
4 COVERED PERSON. A CARRIER SHALL PROVIDE A PHARMACIST WHO
5 PRESCRIBES AND DISPENSES HIV INFECTION PREVENTION DRUGS TO A
6 COVERED PERSON PURSUANT TO SECTION 12-280-125.7 AN ADEQUATE
7 CONSULTATIVE FEE, OR, IF MEDICAL BILLING IS NOT AVAILABLE, AN
8 ENHANCED DISPENSING FEE, THAT IS EQUIVALENT OR THAT IS PROVIDED TO
9 A PHYSICIAN OR ADVANCED PRACTICE NURSE.

10 (II) THIS SUBSECTION (18)(e) DOES NOT APPLY TO AN INTEGRATED
11 HEALTH CARE DELIVERY SYSTEM THAT DISPENSES A MAJORITY OF
12 PRESCRIPTION DRUGS THROUGH INTEGRATED PHARMACIES.

13 **SECTION 3.** In Colorado Revised Statutes, **add** 10-16-152 as
14 follows:

15 **10-16-152. HIV prevention medication - limitations on**
16 **carriers - step therapy - prior authorization.** A CARRIER SHALL NOT
17 REQUIRE A COVERED PERSON TO UNDERGO STEP THERAPY OR TO RECEIVE
18 PRIOR AUTHORIZATION BEFORE A PHARMACIST MAY, PURSUANT TO
19 SECTION 12-280-125.7, PRESCRIBE AND DISPENSE AN HIV INFECTION
20 PREVENTION DRUG.

21 **SECTION 4.** In Colorado Revised Statutes, 12-280-103, **amend**
22 (39)(c)(II)(C) and (39)(d); and **add** (39)(e) as follows:

23 **12-280-103. Definitions - rules.** As used in this article 280, unless
24 the context otherwise requires or the term is otherwise defined in another
25 part of this article 280:

26 (39) "Practice of pharmacy" means:

27 (c) The provision of a therapeutic interchange selection or a

1 therapeutically equivalent selection to a patient if, during the patient's stay
2 at a nursing care facility or a long-term acute care hospital licensed under
3 part 1 of article 3 of title 25, the selection has been approved for the
4 patient:

5 (II) By one of the following health care providers:

6 (C) An advanced practice nurse prescriber licensed as a
7 professional nurse under section 12-255-110, registered as an advanced
8 practice nurse under section 12-255-111, and authorized to prescribe
9 controlled substances or prescription drugs pursuant to section
10 12-255-112, if the advanced practice nurse prescriber has developed an
11 articulated plan to maintain ongoing collaboration with physicians and
12 other health care professionals; ~~and~~

13 (d) The dispensing of chronic maintenance drugs pursuant to
14 section 12-280-125.5 and board rules adopted in accordance with that
15 section; AND

16 (e) PURSUANT TO A STANDING ORDER OR TO A STATEWIDE DRUG
17 THERAPY PROTOCOL DEVELOPED PURSUANT TO SECTION 12-280-125.7,
18 THE PRESCRIBING AND DISPENSING OF POST-EXPOSURE PROPHYLAXIS, AS
19 DEFINED IN SECTION 12-280-125.7 (1)(d), FOR NONOCCUPATIONAL
20 EXPOSURE TO HIV INFECTION AND PREEXPOSURE PROPHYLAXIS, AS
21 DEFINED IN SECTION 12-280-125.7 (1)(e), AND THE ORDERING OF LAB
22 TESTS IN CONJUNCTION WITH PRESCRIBING OR DISPENSING THE DRUGS.

23 **SECTION 5.** In Colorado Revised Statutes, **add** 12-280-125.7 as
24 follows:

25 **12-280-125.7. Pharmacists' authority to prescribe and**
26 **dispense HIV infection prevention drugs - definitions - rules. (1) AS**
27 **USED IN THIS SECTION:**

1 (a) "CDC" MEANS THE FEDERAL CENTERS FOR DISEASE CONTROL
2 AND PREVENTION IN THE UNITED STATES DEPARTMENT OF HEALTH AND
3 HUMAN SERVICES, OR ANY SUCCESSOR ENTITY.

4 (b) "CDC GUIDELINES" MEANS THE CDC GUIDELINES FOR
5 PREEXPOSURE PROPHYLAXIS FOR THE PREVENTION OF HIV INFECTION AND
6 THE "UPDATED GUIDELINES FOR ANTIRETROVIRAL POST-EXPOSURE
7 PROPHYLAXIS AFTER SEXUAL, INJECTION DRUG USE, OR OTHER
8 NONOCCUPATIONAL EXPOSURE TO HIV", AND ANY ANALOGOUS
9 SUBSEQUENT GUIDELINES PUBLISHED BY THE CDC.

10 (c) "HIV INFECTION PREVENTION DRUG" MEANS PREEXPOSURE
11 PROPHYLAXIS, POST-EXPOSURE PROPHYLAXIS, OR OTHER DRUGS APPROVED
12 BY THE FDA FOR THE PREVENTION OF HIV INFECTION.

13 (d) "POST-EXPOSURE PROPHYLAXIS" MEANS A DRUG OR DRUG
14 COMBINATION THAT MEETS THE SAME CLINICAL ELIGIBILITY
15 RECOMMENDATIONS PROVIDED IN CDC GUIDELINES.

16 (e) "PREEXPOSURE PROPHYLAXIS" MEANS A DRUG OR DRUG
17 COMBINATION THAT MEETS THE SAME CLINICAL ELIGIBILITY
18 RECOMMENDATIONS PROVIDED IN CDC GUIDELINES.

19 (f) "PRESCRIBER" MEANS:

20 (I) A PHYSICIAN OR PHYSICIAN ASSISTANT LICENSED PURSUANT TO
21 ARTICLE 240 OF THIS TITLE 12; OR

22 (II) AN ADVANCED PRACTICE NURSE, AS DEFINED IN SECTION
23 12-255-104 (1), WITH PRESCRIPTIVE AUTHORITY PURSUANT TO SECTION
24 12-255-112.

25 (g) "STANDING ORDER" MEANS A PRESCRIPTION ORDER WRITTEN
26 BY A PRESCRIBER THAT IS NOT SPECIFIC TO AND DOES NOT IDENTIFY A
27 PARTICULAR PATIENT.

1 (2) A PHARMACIST MAY PRESCRIBE AND DISPENSE HIV INFECTION
2 PREVENTION DRUGS IN ACCORDANCE WITH A STANDING ORDER PURSUANT
3 TO SECTION 25-1-130 OR A STATEWIDE DRUG THERAPY PROTOCOL
4 DEVELOPED PURSUANT TO SUBSECTION (5) OF THIS SECTION.

5 (3) BEFORE PRESCRIBING OR DISPENSING HIV INFECTION
6 PREVENTION DRUGS TO A PATIENT, A PHARMACIST MUST:

7 (a) HOLD A CURRENT LICENSE TO PRACTICE IN COLORADO;

8 (b) BE ENGAGED IN THE PRACTICE OF PHARMACY;

9 (c) HAVE EARNED A DOCTORATE OF PHARMACY DEGREE OR
10 COMPLETED AT LEAST FIVE YEARS OF EXPERIENCE AS A LICENSED
11 PHARMACIST;

12 (d) CARRY ADEQUATE PROFESSIONAL LIABILITY INSURANCE AS
13 DETERMINED BY THE BOARD; AND

14 (e) COMPLETE A TRAINING PROGRAM ACCREDITED BY THE
15 ACCREDITATION COUNCIL FOR PHARMACY EDUCATION, OR ITS SUCCESSOR
16 ENTITY, PURSUANT TO THE PROTOCOL DEVELOPED BY THE BOARD.

17 (4) THE BOARD SHALL PROMULGATE RULES NECESSARY TO
18 IMPLEMENT THIS SECTION, INCLUDING RULES THAT ESTABLISH PROTOCOLS
19 FOR PRESCRIBING AND DISPENSING PREEXPOSURE PROPHYLAXIS AND
20 POST-EXPOSURE PROPHYLAXIS.

21 (5) (a) ON OR BEFORE SIX MONTHS AFTER THE EFFECTIVE DATE OF
22 THIS SECTION, THE STATE BOARD OF PHARMACY, THE COLORADO MEDICAL
23 BOARD, AND THE STATE BOARD OF NURSING SHALL, IN COLLABORATION
24 WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND AS
25 DESCRIBED IN SECTION 12-280-601 (1)(b), DEVELOP STATEWIDE DRUG
26 THERAPY PROTOCOLS FOR PHARMACISTS TO PRESCRIBE AND DISPENSE HIV
27 INFECTION PREVENTION DRUGS.

1 (b) IF THE STATE BOARD OF PHARMACY, THE COLORADO MEDICAL
2 BOARD, AND THE STATE BOARD OF NURSING ARE NOT ABLE TO AGREE IN
3 THE TIME PERIOD REQUIRED BY SUBSECTION (5)(a) OF THIS SECTION TO
4 STATEWIDE DRUG THERAPY PROTOCOLS FOR PHARMACISTS TO PRESCRIBE
5 AND DISPENSE HIV INFECTION PREVENTION DRUGS, THE STATE BOARD OF
6 PHARMACY SHALL COLLABORATE WITH THE DEPARTMENT OF PUBLIC
7 HEALTH AND ENVIRONMENT TO DEVELOP AND IMPLEMENT STATEWIDE
8 DRUG THERAPY PROTOCOLS BY JANUARY 1, 2021.

9 (c) IN DEVELOPING THE STATEWIDE DRUG THERAPY PROTOCOLS,
10 THE APPLICABLE BOARDS AND THE DEPARTMENT OF PUBLIC HEALTH AND
11 ENVIRONMENT SHALL CONSIDER PHYSICIAN REFERRALS; LAB TESTING,
12 INCLUDING PREEXPOSURE AND POST-EXPOSURE PRESCRIBING TESTS, AND
13 APPROPRIATE REFERRALS PURSUANT TO CDC GUIDELINES; COUNSELING
14 PURSUANT TO CDC GUIDELINES; AND PATIENT FOLLOW-UP CARE AND
15 COUNSELING.

16 **SECTION 6.** In Colorado Revised Statutes, add 25-1-130 as
17 follows:

18 **25-1-130. Standing order - post-exposure prophylaxis -**
19 **definition.** (1) ON OR BEFORE AUGUST 1, 2020, AND UNTIL A STATEWIDE
20 DRUG THERAPY PROTOCOL IS IMPLEMENTED PURSUANT TO SECTION
21 12-280-125.7, THE DEPARTMENT SHALL IMPLEMENT AND MAINTAIN A
22 STANDING ORDER FOR POST-EXPOSURE PROPHYLAXIS SO THAT
23 PHARMACISTS MAY PRESCRIBE AND DISPENSE POST-EXPOSURE
24 PROPHYLAXIS PURSUANT TO SECTION 12-280-125.7.

25 (2) AS USED IN THIS SECTION "POST-EXPOSURE PROPHYLAXIS" HAS
26 THE SAME MEANING AS SET FORTH IN SECTION 12-280-125.7.

27 **SECTION 7. Appropriation.** For the 2020-21 state fiscal year,

1 \$13,347 is appropriated to the department of regulatory agencies for use
2 by the division of insurance. This appropriation is from the division of
3 insurance cash fund created in section 10-1-103 (3), C.R.S., and is based
4 on an assumption that the division will require an additional 0.2 FTE. To
5 implement this act, the division may use this appropriation for personal
6 services.

7 **SECTION 8. Safety clause.** The general assembly hereby finds,
8 determines, and declares that this act is necessary for the immediate
9 preservation of the public peace, health, or safety.