

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0532.03 Brita Darling x2241

SENATE BILL 23-189

SENATE SPONSORSHIP

Moreno and Cutter, Gonzales, Jaquez Lewis, Marchman, Winter F., Buckner, Coleman, Danielson, Fenberg, Fields, Ginal, Hinrichsen, Mullica, Sullivan

HOUSE SPONSORSHIP

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Senate Committees

Health & Human Services
Appropriations

House Committees

Health & Insurance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING INCREASING ACCESS TO REPRODUCTIVE HEALTH-CARE**
102 **SERVICES, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **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>.)

Sections 1, 2, 3, and 5 of the bill change the defined term "HIV infection prevention drug", as it appears and is used in several areas of law, to "HIV prevention drug".

Section 2 also:

- Adds the women's preventive services guidelines of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
Amended 3rd Reading
March 22, 2023

SENATE
Amended 2nd Reading
March 21, 2023

health resources and services administration in the United States department of health and human services to the mandatory preventive health-care services coverage for health benefit plans;

- Specifies that the mandatory preventive health-care services benefit for counseling for, prevention of, and screening for sexually transmitted infection includes HIV prevention drugs and the services necessary for initiation and continued use of an HIV prevention drug, as described in the bill, based on the most recent guidelines and clinical guidance;
- Requires large employer plans, on and after January 1, 2025, to provide coverage for the total cost of abortion care without policy deductibles, copayments, or coinsurance. Individual and small group plans must provide this coverage if the federal department of health and human services confirms the state's determination that the coverage is not subject to state defrayal pursuant to federal law. To the extent required by binding federal jurisprudence, employers are exempted from providing coverage if providing coverage conflicts with the employer's sincerely held religious beliefs.

Section 3 also prohibits a health insurance carrier from requiring a covered person to undergo step therapy or to receive prior authorization before a health-care provider may prescribe or dispense a medication for the treatment of HIV.

Section 4 prohibits a carrier from imposing deductibles, copayments, coinsurance, annual or lifetime maximum benefits, or other cost sharing on coverage for:

- The treatment of a sexually transmitted infection; or
- Sterilization services, which coverage must be provided regardless of the covered person's gender.

With the minor's consent, **section 6** allows a health-care provider acting within the scope of the health-care provider's license, certificate, or registration to furnish contraceptive procedures, supplies, or information to the minor without notification to or the consent of the minor's parent or parents, legal guardian, or any other person having custody of or decision-making responsibility for the minor.

Sections 7 and 8 expand the reproductive health-care program administered by the department of health care policy and financing (department) to include additional family planning services and family-planning-related services and allow individuals under 19 years of age to apply for and enroll themselves in the program.

Section 9 requires the department to reimburse licensed health-care providers for family planning services and

family-planning-related services provided to a minor and creates a cash fund from which the general assembly may appropriate money to the department for this purpose. **Section 10** exempts the cash fund from the limit on uncommitted cash fund reserves.

Section 11 requires nonemergency medical transportation services under the state medical assistance program to include expenses for transportation to medical services that are prohibited from coverage pursuant to section 50 of article V of the Colorado constitution.

Section 12 of the bill prohibits the use under the state medical assistance program of utilization management, including prior authorization and step therapy, for prescription drugs prescribed for the treatment or prevention of HIV.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-102, **amend**
3 (38.5) as follows:

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

6 (38.5) "HIV ~~infection~~ prevention drug" means preexposure
7 prophylaxis, post-exposure prophylaxis, or other drugs approved by the
8 FDA for the prevention of HIV infection.

9 **SECTION 2.** In Colorado Revised Statutes, 10-16-104, **amend**
10 (18)(a)(I) introductory portion, (18)(b)(X), and (18)(e)(I); and **add**
11 (18)(b.3) and (26) as follows:

12 **10-16-104. Mandatory coverage provisions - definitions -**
13 **rules.** (18) **Preventive health-care services.** (a) (I) The following
14 policies and contracts that are issued or renewed in this state must provide
15 coverage for the total cost of the preventive health-care services specified
16 in subsections (18)(b), **(18)(b.3)**, and (18)(b.7) of this section:

17 (b) The coverage required by this subsection (18) must include
18 preventive health-care services for the following, in accordance with the
19 A or B recommendations of the task force for the particular preventive

1 health-care service:

2 (X) (A) Any other preventive services included in the A or B
3 recommendation of the task force or required by federal law; ANY OTHER
4 RECOMMENDATIONS ESTABLISHED BY THE ACIP; ANY OTHER PREVENTIVE
5 CARE AND SCREENING AS PROVIDED FOR IN THE COMPREHENSIVE
6 GUIDELINES SUPPORTED BY THE HEALTH RESOURCES AND SERVICES
7 ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF HEALTH AND
8 HUMAN SERVICES FOR WOMEN; AND EVIDENCE-INFORMED PREVENTIVE
9 CARE AND SCREENING PROVIDED FOR IN THE COMPREHENSIVE GUIDELINES
10 SUPPORTED BY THE HEALTH RESOURCES AND SERVICES ADMINISTRATION
11 OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
12 FOR INFANTS, CHILDREN, AND ADOLESCENTS.

13 (B) This subparagraph (X) SUBSECTION (18)(b)(X) does not apply
14 to grandfathered health benefit plans.

15 (b.3) IF COUNSELING, PREVENTION, AND SCREENING FOR A
16 SEXUALLY TRANSMITTED INFECTION, AS REQUIRED IN SUBSECTION
17 (18)(b)(XI) OF THIS SECTION, ARE COVERED SERVICES, THE HEALTH
18 BENEFIT PLAN MUST PROVIDE THE COVERAGE WITHOUT COST SHARING,
19 REGARDLESS OF THE COVERED PERSON'S GENDER, AND THE COVERAGE
20 MUST INCLUDE, CONSISTENT WITH TASK FORCE REQUIREMENTS, COVERAGE
21 FOR HIV PREVENTION DRUGS AND SERVICES NECESSARY FOR INITIATION
22 AND CONTINUED USE OF HIV PREVENTION DRUGS, INCLUDING OFFICE
23 VISITS, TESTING, VACCINATIONS, AND MONITORING SERVICES.

24 (e) (I) A carrier shall reimburse a pharmacist employed by an
25 in-network pharmacy for prescribing and dispensing HIV infection
26 prevention drugs to a covered person. A carrier shall provide a pharmacist
27 who prescribes and dispenses HIV infection prevention drugs to a

1 covered person pursuant to section 12-280-125.7 an adequate consultative
2 fee, or, if medical billing is not available, an enhanced dispensing fee,
3 that is equivalent or that is provided to a physician or advanced practice
4 registered nurse.

5 (26) **Abortion care - rules - definition.** (a) EXCEPT AS PROVIDED
6 IN SUBSECTIONS (26)(d) AND (26)(g) OF THIS SECTION AND SUBJECT TO
7 THE PROVISIONS OF SUBSECTIONS (26)(e) AND (26)(f) OF THIS SECTION,
8 ALL INDIVIDUAL AND SMALL GROUP HEALTH BENEFIT PLANS ISSUED OR
9 RENEWED IN THIS STATE SHALL PROVIDE COVERAGE FOR THE TOTAL COST
10 OF ABORTION CARE.

11 (b) THE COVERAGE REQUIRED PURSUANT TO THIS SUBSECTION (26)
12 IS NOT SUBJECT TO POLICY DEDUCTIBLES, COPAYMENTS, OR COINSURANCE;
13 EXCEPT THAT COPAYMENTS MAY APPLY AS REQUIRED BY A
14 GRANDFATHERED HEALTH BENEFIT PLAN.

15 (c) THE COMMISSIONER SHALL ADOPT RULES CONSISTENT WITH
16 AND AS ARE NECESSARY TO IMPLEMENT THIS SUBSECTION (26).

17 (d) AN EMPLOYER IS NOT OBLIGATED TO PROVIDE THE COVERAGE
18 REQUIRED BY THIS SUBSECTION (26) IF:

19 (I) PROVIDING _____ THE COVERAGE CONFLICTS WITH THE
20 EMPLOYER'S SINCERELY HELD RELIGIOUS BELIEFS; OR

21 (II) THE EMPLOYER IS A PUBLIC ENTITY PROHIBITED BY SECTION 50
22 OF ARTICLE V OF THE STATE CONSTITUTION FROM USING PUBLIC FUNDS TO
23 PAY FOR INDUCED ABORTIONS.

24 (e) THIS SUBSECTION (26) APPLIES TO, AND THE DIVISION SHALL
25 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (26) FOR, LARGE
26 EMPLOYER HEALTH BENEFIT PLANS ISSUED OR RENEWED IN THIS STATE ON
27 OR AFTER JANUARY 1, 2025.

1 (f) WITH RESPECT TO INDIVIDUAL AND SMALL GROUP HEALTH
2 BENEFIT PLANS:

3 (I) THE DIVISION SHALL SUBMIT TO THE FEDERAL DEPARTMENT OF
4 HEALTH AND HUMAN SERVICES:

5 (A) THE DIVISION'S DETERMINATION AS TO WHETHER THE BENEFIT
6 SPECIFIED IN THIS SUBSECTION (26) IS IN ADDITION TO ESSENTIAL HEALTH
7 BENEFITS AND WOULD BE SUBJECT TO DEFRAID BY THE STATE PURSUANT
8 TO 42 U.S.C. SEC. 18031 (d)(3)(B); AND

9 (B) A REQUEST THAT THE FEDERAL DEPARTMENT OF HEALTH AND
10 HUMAN SERVICES CONFIRM THE DIVISION'S DETERMINATION WITHIN SIXTY
11 DAYS AFTER RECEIPT OF THE DIVISION'S REQUEST FOR CONFIRMATION OF
12 THE DETERMINATION.

13 (II) THIS SUBSECTION (26) APPLIES TO, AND THE DIVISION SHALL
14 IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (26) FOR,
15 INDIVIDUAL AND SMALL GROUP HEALTH BENEFIT PLANS ISSUED OR
16 RENEWED IN THIS STATE UPON THE EARLIER OF:

17 (A) TWELVE MONTHS AFTER THE FEDERAL DEPARTMENT OF
18 HEALTH AND HUMAN SERVICES CONFIRMS THAT THE COVERAGE SPECIFIED
19 IN THIS SUBSECTION (26) DOES NOT CONSTITUTE AN ADDITIONAL BENEFIT
20 THAT REQUIRES DEFRAID BY THE STATE PURSUANT TO 42 U.S.C. SEC.
21 18031 (d)(3)(B);

22 (B) TWELVE MONTHS AFTER THE FEDERAL DEPARTMENT OF
23 HEALTH AND HUMAN SERVICES OTHERWISE INFORMS THE DIVISION THAT
24 THE COVERAGE IN THIS SUBSECTION (26) DOES NOT REQUIRE STATE
25 DEFRAID PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); OR

26 (C) THE PASSAGE OF MORE THAN THREE HUNDRED SIXTY-FIVE
27 DAYS SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST

1 FOR CONFIRMATION PURSUANT TO SUBSECTION (26)(f)(I) OF THIS SECTION,
2 AND THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS
3 FAILED TO RESPOND TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE
4 THE DIVISION SHALL CONSIDER THE FEDERAL DEPARTMENT'S
5 UNREASONABLE DELAY A PRECLUSION FROM REQUIRING DEFRAID BY THE
6 STATE.

7 (g) THE PROVISIONS OF THIS SUBSECTION (26) DO NOT APPLY TO A
8 HIGH DEDUCTIBLE HEALTH BENEFIT PLAN __ PURSUANT TO 26 U.S.C. SEC.
9 223, AS AMENDED, ISSUED OR RENEWED IN THIS STATE UNTIL AN ELIGIBLE
10 INSURED'S DEDUCTIBLE HAS BEEN MET, UNLESS ALLOWED PURSUANT TO
11 FEDERAL LAW.

12 (h) AS USED IN THIS SUBSECTION (26), "ABORTION CARE" HAS THE
13 SAME MEANING AS "ABORTION", AS DEFINED IN SECTION 25-6-402 (1).

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

16 **10-16-152. HIV prevention and treatment medication -**
17 **limitations on carriers - step therapy - prior authorization - study -**
18 **repeal. (1) A carrier shall not require a covered person to undergo step**
19 **therapy or to receive prior authorization before a pharmacist may,**
20 **pursuant to section 12-280-125.7, prescribe ~~and~~ OR dispense an HIV**
21 **infection prevention drug.**

22 (2) BEFORE JULY 1, 2027, A CARRIER SHALL NOT REQUIRE A
23 COVERED PERSON TO UNDERGO STEP THERAPY OR TO RECEIVE PRIOR
24 AUTHORIZATION BEFORE A PROVIDER MAY, ACTING WITHIN THE
25 PROVIDER'S SCOPE OF PRACTICE, PRESCRIBE OR DISPENSE ANY DRUG
26 APPROVED BY THE FDA AND USED FOR THE TREATMENT OR PREVENTION
27 OF HIV THAT IS INCLUDED ON THE CARRIER'S PRESCRIPTION DRUG

1 FORMULARY AS OF MARCH 1, 2023.

2 (3) (a) THE DIVISION SHALL CONTRACT WITH ONE OR MORE
3 ENTITIES TO CONDUCT A STUDY THAT INCLUDES QUALITATIVE PATIENT
4 AND PROVIDER EXPERIENCE INFORMATION AND AN ACTUARIAL REVIEW TO
5 CONSIDER THE PREDICTED COST AND HEALTH IMPACTS OF REMOVING THE
6 REQUIREMENT FOR A COVERED PERSON TO UNDERGO STEP THERAPY OR TO
7 RECEIVE PRIOR AUTHORIZATION BEFORE A PROVIDER MAY, ACTING WITHIN
8 THE PROVIDER'S SCOPE OF PRACTICE, PRESCRIBE OR DISPENSE A DRUG FOR
9 THE TREATMENT OF HIV. IN CONDUCTING THE STUDY, THE ENTITY
10 CONTRACTED TO PERFORM THE STUDY MUST CONSULT WITH COMMUNITY
11 ORGANIZATIONS LED BY PEOPLE LIVING WITH HIV. THE DIVISION SHALL
12 PROVIDE THE COMPLETED STUDY TO THE GENERAL ASSEMBLY NO LATER
13 THAN OCTOBER 1, 2026.

14 (b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2027.

15 **SECTION 4.** In Colorado Revised Statutes, **add** 10-16-158 and
16 10-16-159 as follows:

17 **10-16-158. Treatment of sexually transmitted infection - cost**
18 **sharing.** (1) IF THE TREATMENT OF A SEXUALLY TRANSMITTED
19 INFECTION, AS DEFINED IN SECTION 25-4-402 (10), IS A COVERED SERVICE,
20 THE HEALTH BENEFIT PLAN MUST PROVIDE THE COVERAGE WITHOUT
21 DEDUCTIBLES, COPAYMENTS, COINSURANCE, ANNUAL OR LIFETIME
22 MAXIMUM BENEFIT LIMITS, OR OTHER COST SHARING FOR OR LIMITS ON
23 THE COVERAGE FOR THE TREATMENT OF A SEXUALLY TRANSMITTED
24 INFECTION.

25 (2) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A HIGH
26 DEDUCTIBLE HEALTH BENEFIT PLAN __ PURSUANT TO 26 U.S.C. SEC. 223,
27 AS AMENDED, ISSUED OR RENEWED IN THIS STATE UNTIL AN ELIGIBLE

1 INSURED'S DEDUCTIBLE HAS BEEN MET, UNLESS ALLOWED PURSUANT TO
2 FEDERAL LAW.

3 **10-16-159. Coverage for sterilization services - cost sharing.**

4 (1) IF STERILIZATION SERVICES ARE A COVERED SERVICE, THE HEALTH
5 BENEFIT PLAN MUST PROVIDE THE COVERAGE REGARDLESS OF THE
6 COVERED PERSON'S SEX OR GENDER AND WITHOUT DEDUCTIBLES,
7 COPAYMENTS, COINSURANCE, ANNUAL OR LIFETIME MAXIMUM BENEFIT
8 LIMITS, OR OTHER COST SHARING FOR OR LIMITS ON THE COVERAGE FOR
9 STERILIZATION SERVICES.

10 (2) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A HIGH
11 DEDUCTIBLE HEALTH BENEFIT PLAN __ PURSUANT TO 26 U.S.C. SEC. 223,
12 AS AMENDED, ISSUED OR RENEWED IN THIS STATE UNTIL AN ELIGIBLE
13 INSURED'S DEDUCTIBLE HAS BEEN MET, UNLESS ALLOWED PURSUANT TO
14 FEDERAL LAW.

15 **SECTION 5.** In Colorado Revised Statutes, 12-280-125.7,
16 **amend** (1) introductory portion, (1)(c), (2), (3) introductory portion,
17 (5)(a), and (5)(b) as follows:

18 **12-280-125.7. Pharmacists' authority to prescribe and**
19 **dispense HIV prevention drugs - definitions - rules.** (1) As used in this
20 section, UNLESS THE CONTEXT OTHERWISE REQUIRES:

21 (c) "HIV ~~infection~~ prevention drug" means preexposure
22 prophylaxis, post-exposure prophylaxis, or other drugs approved by the
23 FDA for the prevention of HIV infection.

24 (2) A pharmacist may prescribe and dispense HIV ~~infection~~
25 prevention drugs in accordance with a standing order pursuant to section
26 25-1-130 or a statewide drug therapy protocol developed pursuant to
27 subsection (5) of this section.

1 (3) Before prescribing or dispensing HIV infection prevention
2 drugs to a patient, a pharmacist must:

3 (5) (a) On or before six months after July 13, 2020, the state board
4 of pharmacy, the Colorado medical board, and the state board of nursing
5 shall, in collaboration with the department of public health and
6 environment, and as described in section 12-280-601 (1)(b), develop
7 statewide drug therapy protocols for pharmacists to prescribe and
8 dispense HIV infection prevention drugs.

9 (b) If the state board of pharmacy, the Colorado medical board,
10 and the state board of nursing are not able to agree in the time period
11 required by subsection (5)(a) of this section to statewide drug therapy
12 protocols for pharmacists to prescribe and dispense HIV infection
13 prevention drugs, the state board of pharmacy shall collaborate with the
14 department of public health and environment to develop and implement
15 statewide drug therapy protocols by January 1, 2021.

16 **SECTION 6.** In Colorado Revised Statutes, **amend** 13-22-105 as
17 follows:

18 **13-22-105. Minors - consent - contraception.** ~~Birth control~~
19 WITH THE MINOR'S CONSENT, A HEALTH-CARE PROVIDER LICENSED,
20 CERTIFIED, OR REGISTERED PURSUANT TO TITLE 12 WHO IS ACTING WITHIN
21 THE HEALTH-CARE PROVIDER'S SCOPE OF PRACTICE MAY FURNISH
22 CONTRACEPTIVE procedures, supplies, ~~and~~ OR information ~~may be~~
23 ~~furnished by physicians licensed under article 240 of title 12 to any~~ A
24 ~~minor who is pregnant, or a parent, or married, or who has the consent of~~
25 ~~the minor's parent or legal guardian, or who has been referred for such~~
26 ~~services by another physician, a member of the clergy, a family planning~~
27 ~~clinic, a school or institution of higher education, or any agency or~~

1 ~~instrumentality of this state or any subdivision thereof, or who requests~~
2 ~~and is in need of birth control procedures, supplies, or information~~
3 WITHOUT NOTIFICATION TO OR THE CONSENT OF THE MINOR'S PARENT OR
4 PARENTS, LEGAL GUARDIAN, OR ANY OTHER PERSON HAVING CUSTODY OF
5 OR DECISION-MAKING RESPONSIBILITY FOR THE MINOR.

6 **SECTION 7.** In Colorado Revised Statutes, 25.5-2-103, **amend**
7 (2), (6), and (7)(c); **repeal** (1)(a); and **add** (1)(g) and (5.5) as follows:

8 **25.5-2-103. Reproductive health-care program - report - rules**
9 **- definitions.** (1) As used in this section, unless the context otherwise
10 requires:

- 11 (a) ~~"Contraceptive methods and counseling services" means:~~
12 ~~(I) Any FDA-approved contraceptive drug, device, or product;~~
13 ~~(II) Services related to the administration and monitoring of~~
14 ~~FDA-approved contraceptive drugs, devices, and products, including~~
15 ~~management of side effects;~~
16 ~~(III) Counseling services for continued adherence to a prescribed~~
17 ~~regimen;~~
18 ~~(IV) Device insertion and removal; and~~
19 ~~(V) Any other contraceptive methods and counseling services~~
20 ~~identified by the health resources and services administration in the~~
21 ~~United States department of health and human services or the Women's~~
22 ~~Preventive Services Guidelines as of December 17, 2019.~~

23 (g) "REPRODUCTIVE HEALTH-CARE SERVICES" MEANS FAMILY
24 PLANNING SERVICES, AS DEFINED IN SECTION 25.5-4-412 (2)(b), AND
25 FAMILY-PLANNING-RELATED SERVICES, AS DEFINED IN SECTION 25.5-4-412
26 (2)(a).

27 (2) On and after July 1, 2022, the state department shall

1 administer a reproductive health-care program, referred to in this section
2 as the "program", that provides ~~contraceptive methods and counseling~~
3 REPRODUCTIVE HEALTH-CARE services to participants.

4

5 (5.5) TO THE EXTENT PRACTICABLE, THE STATE DEPARTMENT
6 SHALL ENSURE THAT ELIGIBLE INDIVIDUALS SEEKING TO PARTICIPATE IN
7 THE PROGRAM ARE ABLE TO APPLY FOR AND ENROLL IN THE PROGRAM
8 THROUGH THEIR LOCAL COUNTY OFFICE, A STATE MEDICAL ASSISTANCE
9 PROGRAM SITE, AN ONLINE APPLICATION, OR ANY OTHER MECHANISM THAT
10 IS AVAILABLE TO APPLICANTS FOR THE STATE MEDICAL ASSISTANCE
11 PROGRAM.

12 (6) The state department shall provide ~~contraceptive methods and~~
13 ~~counseling~~ REPRODUCTIVE HEALTH-CARE services to participants without
14 imposing any cost-sharing requirements.

15 (7) Beginning in state fiscal year 2023-24, the state department
16 shall analyze and report the cost-effectiveness of the program to the
17 public through the annual hearing, pursuant to the "State Measurement for
18 Accountable, Responsive, and Transparent (SMART) Government Act",
19 part 2 of article 7 of title 2. At a minimum, the report must include:

20 (c) The cost of providing ~~contraceptive methods and counseling~~
21 REPRODUCTIVE HEALTH-CARE services to participants;

22 **SECTION 8.** In Colorado Revised Statutes, 25.5-1-201, **amend**
23 (1) introductory portion and (1)(f.5) as follows:

24 **25.5-1-201. Programs to be administered by the department**
25 **of health care policy and financing.** (1) The ~~department of health care~~
26 ~~policy and financing~~ STATE DEPARTMENT shall administer the following
27 programs and perform the following functions:

1 (f.5) The reproductive health-care program that provides
2 ~~contraceptive methods and counseling~~ REPRODUCTIVE HEALTH-CARE
3 services, as specified in section 25.5-2-103;

4

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5 **SECTION 9.** In Colorado Revised Statutes, **add** 25.5-5-514 as
6 follows:

7 **25.5-5-514. Prescription drugs used for treatment or**
8 **prevention of HIV - prohibition on utilization management -**
9 **definition.** (1) AS USED IN THIS SECTION, "HIV" MEANS HUMAN
10 IMMUNODEFICIENCY VIRUS.

11 (2) (a) BEFORE JULY 1, 2027, THE STATE DEPARTMENT SHALL NOT
12 RESTRICT BY PRIOR AUTHORIZATION OR STEP THERAPY REQUIREMENTS
13 ANY PRESCRIPTION DRUG APPROVED BY THE FEDERAL FOOD AND DRUG
14 ADMINISTRATION THAT IS USED FOR THE TREATMENT OR PREVENTION OF
15 HIV IF A PRESCRIBING PRACTITIONER LICENSED PURSUANT TO TITLE 12
16 HAS DETERMINED THE PRESCRIPTION DRUG TO BE MEDICALLY NECESSARY
17 FOR THE TREATMENT OR PREVENTION OF HIV FOR A RECIPIENT.
18 PRESCRIPTION DRUGS USED FOR THE TREATMENT OR PREVENTION OF HIV
19 INCLUDE PROTEASE INHIBITORS, NON-NUCLEOSIDE REVERSE
20 TRANSCRIPTASE INHIBITORS, NUCLEOSIDE REVERSE TRANSCRIPTASE
21 INHIBITORS, ANTIVIRALS, INTEGRASE INHIBITORS, LONG ACTING
22 MEDICATIONS, AND FUSION INHIBITORS.

23 (b) NOTHING IN THIS SUBSECTION (2) PREVENTS THE STATE
24 DEPARTMENT FROM PERFORMING DRUG UTILIZATION REVIEW THAT MAY
25 BE NECESSARY FOR PATIENT SAFETY OR FOR ENSURING THE PRESCRIBED
26 USE IS FOR A MEDICALLY ACCEPTED INDICATION, AS REQUIRED BY SECTION
27 1927 OF THE "SOCIAL SECURITY ACT OF 1935".

1 **SECTION 10.** In Colorado Revised Statutes, 25-6-101, **amend**
2 **(1)** as follows:

3 **25-6-101. Legislative declaration.** (1) ~~Continuing population~~
4 ~~growth either causes or aggravates many social, economic, and~~
5 ~~environmental problems, both in this state and in the nation~~ EVERY
6 INDIVIDUAL HAS A FUNDAMENTAL RIGHT TO MAKE DECISIONS ABOUT THE
7 INDIVIDUAL'S REPRODUCTIVE HEALTH CARE INCLUDING THE
8 FUNDAMENTAL RIGHT TO USE OR REFUSE CONTRACEPTION.

9 **SECTION 11.** In Colorado Revised Statutes, **add** 25-6-104 as
10 **follows:**

11 **25-6-104. Department of public health and environment -**
12 **family planning access collaborative - legislative declaration -**
13 **recommendations - funding.** (1) (a) THE GENERAL ASSEMBLY FINDS AND
14 DECLARES THAT, ACCORDING TO A 2019 REPORT BY THE COLORADO
15 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, REFERRED TO IN THIS
16 SECTION AS THE "DEPARTMENT", IN 2019, THERE WERE NINETY-THREE
17 THOUSAND THREE HUNDRED COLORADANS WITHOUT ACCESS TO FAMILY
18 PLANNING SERVICES, INCLUDING FIFTY-EIGHT THOUSAND COLORADANS
19 WHO WERE UNINSURED AND THIRTY-FIVE THOUSAND THREE HUNDRED
20 WHO WERE INSURED, BUT NOT USING THEIR FAMILY PLANNING COVERAGE
21 PRIMARILY DUE TO FEAR OF BREACHES IN CONFIDENTIALITY.

22 (b) THE GENERAL ASSEMBLY FURTHER FINDS THAT THERE HAVE
23 SINCE BEEN IMPORTANT EXPANSIONS IN ACCESS INCLUDING A STATE PLAN
24 AMENDMENT TO EXPAND INCOME ELIGIBILITY FOR SERVICES, THE
25 CREATION OF COVERAGE PROGRAMS FOR UNDOCUMENTED INDIVIDUALS,
26 EXPANSIONS OF COMMERCIAL AND MEDICAID INSURANCE COVERAGE, AND
27 INCREASED FAMILY PLANNING FUNDING. HOWEVER, PERSISTENT GAPS IN

1 ACCESS REMAIN.

2 (2) THE DEPARTMENT SHALL CONVENE A FAMILY PLANNING
3 ACCESS COLLABORATIVE TO COORDINATE WITH THE DEPARTMENT TO
4 ADVISE THE DEPARTMENT IN IDENTIFYING ACCESS GAPS THAT CONTRIBUTE
5 TO APPROXIMATELY NINETY-THREE THOUSAND COLORADANS LACKING
6 FAMILY PLANNING ACCESS INCLUDING, BUT NOT LIMITED TO:

7 (a) PRIVACY AND CONFIDENTIALITY CONCERNS;

8 (b) GAPS IN EXISTING FAMILY PLANNING PROGRAMS;

9 (c) GEOGRAPHIC BARRIERS AND RURAL ACCESS;

10 (d) ABILITY OF ADOLESCENTS TO ACCESS CARE AND SERVICES;

11 (e) FUNDING FOR SERVICES;

12 (f) IDENTIFICATION OF LEGISLATIVE, REGULATORY, AND FUNDING
13 STRATEGIES TO CLOSE ACCESS GAPS IDENTIFIED BY THE COLLABORATIVE.

14 (3) THE DEPARTMENT SHALL INVITE REPRESENTATIVES WITH
15 RELEVANT EXPERTISE IN THE PROVISION OF, FUNDING OF, AND ADVOCACY
16 FOR FAMILY PLANNING SERVICES TO PARTICIPATE IN THE COLLABORATIVE.

17 (4) THE DEPARTMENT SHALL CONVENE THE FAMILY PLANNING
18 ACCESS COLLABORATIVE ON OR BEFORE SEPTEMBER 1, 2023.

19 (5) ON OR BEFORE DECEMBER 15, 2023, THE COLLABORATIVE
20 SHALL PUBLISH RECOMMENDATIONS INFORMED BY THE GAPS IDENTIFIED
21 IN SUBSECTION (2) OF THIS SECTION.

22 (6) FOR THE 2023-24 STATE FISCAL YEAR, THE GENERAL
23 ASSEMBLY SHALL APPROPRIATE TWO HUNDRED THOUSAND DOLLARS FROM
24 THE GENERAL FUND TO THE DEPARTMENT FOR THE PURPOSES OF THIS
25 SECTION.

26 (7) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS,
27 GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE

1 PURPOSES OF THIS SECTION.

2 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

3 SECTION 12. In Colorado Revised Statutes, 10-16-124.5,
4 amend (2)(a) introductory portion; and add (2)(c) and (2)(c.5) as follows:

5 10-16-124.5. Prior authorization form - drug benefits - rules
6 of commissioner - definitions - repeal. (2) (a) Except as provided in
7 paragraph (b) of this subsection (2) SUBSECTION (2)(b) OR (2)(c) OF THIS
8 SECTION, a prior authorization request is deemed granted if a carrier or
9 pharmacy benefit management firm fails to:

10 (c) FOR NONURGENT PRIOR AUTHORIZATION REQUESTS RELATED
11 TO A COVERED PERSON'S HIV PRESCRIPTION DRUG COVERAGE, THE PRIOR
12 AUTHORIZATION REQUEST IS DEEMED GRANTED IF A CARRIER OR
13 PHARMACY BENEFIT MANAGEMENT FIRM FAILS TO:

14 (I) UTILIZE THE PRIOR AUTHORIZATION PROCESS DEVELOPED
15 PURSUANT TO SUBSECTION (3) OF THIS SECTION;

16 (II) FOR PRIOR AUTHORIZATION REQUESTS SUBMITTED
17 ELECTRONICALLY:

18 (A) NOTIFY THE PRESCRIBING PROVIDER WITHIN ONE BUSINESS
19 DAY AFTER RECEIPT OF THE REQUEST THAT THE REQUEST IS APPROVED,
20 DENIED, OR INCOMPLETE, AND IF INCOMPLETE, INDICATE THE SPECIFIC
21 ADDITIONAL INFORMATION, CONSISTENT WITH CRITERIA POSTED
22 PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION, THAT IS REQUIRED
23 TO PROCESS THE REQUEST; OR

24 (B) NOTIFY THE PRESCRIBING PROVIDER WITHIN ONE BUSINESS
25 DAY AFTER RECEIVING THE ADDITIONAL INFORMATION REQUIRED BY THE
26 CARRIER OR PHARMACY BENEFIT MANAGEMENT FIRM PURSUANT TO
27 SUBSECTION (2)(a)(II)(A) OF THIS SECTION, THAT THE REQUEST IS

1 APPROVED OR DENIED; AND

2 (III) FOR NONURGENT AND URGENT PRIOR AUTHORIZATION
3 REQUESTS SUBMITTED ORALLY, BY FACSIMILE, OR BY ELECTRONIC MAIL,
4 NOTIFY THE PRESCRIBING PROVIDER WITHIN ONE DAY AFTER RECEIPT OF
5 THE REQUEST THAT THE REQUEST IS APPROVED OR DENIED.

6 (c.5) THIS SUBSECTION (2)(c.5) AND SUBSECTION (2)(c) OF THIS
7 SECTION ARE REPEALED, EFFECTIVE JULY 1, 2027.

8 **SECTION 13. Appropriation.** (1) For the 2023-24 state fiscal
9 year, \$200,000 is appropriated to the department of public health and
10 environment for use by the prevention services division. This
11 appropriation is from the general fund. To implement this act, the division
12 may use this appropriation for the family planning access collaborative
13 related to women's health.

14 (2) For the 2023-24 state fiscal year, \$67,627 is appropriated to
15 the department of regulatory agencies. This appropriation is from the
16 division of insurance cash fund created in section 10-1-103 (3), C.R.S. To
17 implement this act, the division may use this appropriation as follows:

18 (a) \$37,109 for use by the division of insurance for personal
19 services, which amount is based on an assumption that the division will
20 require an additional 0.5 FTE;

21 (b) \$7,345 for use by the division of insurance for operating
22 expenses; and

23 (c) \$23,263 for the purchase of legal services.

24 (3) For the 2023-24 state fiscal year, \$23,263 is appropriated to
25 the department of law. This appropriation is from reappropriated funds
26 received from the department of regulatory agencies under subsection
27 (2)(c) of this section and is based on an assumption that the department

1 of law will require an additional 0.1 FTE. To implement this act, the
2 department of law may use this appropriation to provide legal services for
3 the department of regulatory agencies.

4 **SECTION 14. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety.