

CHAPTER 302

HEALTH AND ENVIRONMENT

SENATE BILL 07-231

BY SENATOR(S) Tochtrop, Bacon, Boyd, Fitz-Gerald, Groff, Isgar, Johnson, Keller, Kester, Morse, Sandoval, Schwartz, Shaffer, Taylor, Tupa, Ward, Williams, and Windels;
also REPRESENTATIVE(S) Primavera, Borodkin, Butcher, Carroll M., Carroll T., Frangas, Gibbs, Hodge, Kefalas, Labuda, Madden, Massey, Rice, Riesberg, Romanoff, Stafford, Stephens, Summers, Todd, and Witwer.

AN ACT**CONCERNING THE COLORADO CANCER DRUG REPOSITORY PROGRAM.**

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

SECTION 1. 25-35-102 (7), Colorado Revised Statutes, is amended to read:

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

(7) "Medical device" means an instrument, apparatus, implement, machine, contrivance, implant, IN VITRO REAGENT, or OTHER similar or related article, ~~that is required under federal law to bear the label, "Caution: federal law requires dispensing by or on the order of a physician."~~ "Device" also includes any component part of, or accessory or attachment to, any such article, ~~whether or not the component part, accessory, or attachment is separately so labeled~~ INCLUDING A COMPONENT, PART, OR ACCESSARY THAT IS:

(a) RECOGNIZED IN THE OFFICIAL NATIONAL FORMULARY, OR THE UNITED STATES PHARMACOPOEIA, OR ANY SUPPLEMENT;

(b) INTENDED FOR USE IN THE DIAGNOSIS OF DISEASE OR OTHER CONDITIONS, OR IN THE CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE, IN HUMANS OR ANIMALS; OR

(c) INTENDED TO AFFECT THE STRUCTURE OR ANY FUNCTION OF THE HUMAN BODY OR ANIMALS, THAT DOES NOT ACHIEVE ANY OF ITS PRIMARY INTENDED PURPOSES THROUGH CHEMICAL ACTION WITHIN OR ON THE HUMAN BODY OR ANIMALS, AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THAT IS NOT DEPENDENT UPON BEING METABOLIZED FOR THE ACHIEVEMENT OF ANY OF ITS PRIMARY INTENDED PURPOSES.

SECTION 2. 25-35-103 (3) (a) and (3) (c), Colorado Revised Statutes, are amended, and the said 25-35-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25-35-103. Cancer drug repository - administration - donation - dispensing - cancer drugs - medical devices. (3) A pharmacist may accept and dispense cancer drugs and medical devices donated under the program to eligible patients if all of the following requirements are met:

(a) (I) The cancer drug OR MEDICAL DEVICE is in its original, unopened, sealed, and tamper-evident ~~unit-dose~~ packaging or, if packaged in single-unit doses, the single-unit-dose packaging is unopened; OR

(II) THE PHARMACIST HAS DETERMINED THAT THE CANCER DRUG OR MEDICAL DEVICE IS SAFE FOR REDISTRIBUTION;

(c) The cancer drug or medical device is not adulterated or misbranded, as determined by a pharmacist; ~~employed by or under contract with the health care facility, medical clinic, or pharmacy;~~ and

(6) A HEALTH CARE FACILITY, MEDICAL CLINIC, OR PHARMACY THAT ELECTS TO PARTICIPATE IN THE PROGRAM SHALL ESTABLISH ELIGIBILITY CRITERIA FOR INDIVIDUALS TO RECEIVE DONATED CANCER DRUGS OR MEDICAL DEVICES. DISPENSATION SHALL BE PRIORITIZED TO CANCER PATIENTS WHO ARE UNINSURED OR UNDERINSURED. DISPENSATION TO OTHER CANCER PATIENTS SHALL BE PERMITTED IF AN UNINSURED OR UNDERINSURED CANCER PATIENT IS NOT AVAILABLE.

SECTION 3. Repeal. 25-35-104 (1) (b), (1) (c), and (1) (e), Colorado Revised Statutes, are repealed as follows:

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

(b) ~~Eligibility criteria for individuals to receive donated cancer drugs or medical devices dispensed under the program. The criteria shall prioritize dispensation to cancer patients who are uninsured or underinsured, but shall permit dispensation to other cancer patients if an uninsured or underinsured cancer patient is not available.~~

(c) ~~A means by which an eligible patient may indicate the individual's eligibility under the program;~~

(e) ~~A list of cancer drugs, arranged by category or individual cancer drug, that the program will accept and will not accept for dispensing. The list of cancer drugs the program will not accept shall include the reason a cancer drug is ineligible for donation.~~

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: May 25, 2007