

CHAPTER 83

HEALTH CARE

SENATE BILL 10-115

BY SENATOR(S) Tochtrop, Bacon, Carroll M., Williams, Boyd, Heath, Hodge, Hudak, Johnston, Kester, Morse, Newell, Schwartz, Shaffer B., Steadman, Tapia, White, Whitehead;
also REPRESENTATIVE(S) Primavera and Merrifield, Apuan, Court, Fischer, Frangas, Gardner C., Gerou, Kerr J., King S., Labuda, Massey, McFadyen, Middleton, Miklosi, Murray, Pace, Pommer, Riesberg, Ryden, Scanlan, Schafer S., Solano, Soper, Summers, Swalm, Todd, Vigil, Waller, Weissmann.

AN ACT**CONCERNING THE AUTHORITY OF LICENSED HEALTH CARE FACILITIES TO REDISPENSE UNUSED MEDICATIONS.**

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

SECTION 1. Legislative declaration. The general assembly finds and determines that the devastating earthquake that hit Haiti on January 12, 2010, has left the country in dire need of medications to help those injured in the earthquake and, no matter how much the United States gives, there cannot be enough relief for the desperately needy victims. The general assembly also finds that there are many instances where it would benefit patients and those in need if medications, medical devices, and medical supplies could be redispensed and redistributed instead of destroyed. Therefore, it is the intent of the general assembly to make it easier for health care facilities to donate unused medications to nonprofit entities that are giving their efforts to the relief effort in Haiti by allowing the facilities to make the decision whether unused medications may be donated to help the nonprofit entities with medical relief efforts and to aid others who may be in need.

SECTION 2. 12-22-133 (1) and (2), Colorado Revised Statutes, are amended to read:

12-22-133. Unused medication - licensed facilities - reuse - rules. (1) As used in this section and section 12-22-134, unless the context otherwise requires:

(a) "Licensed facility" means a hospital, hospital unit, COMMUNITY MENTAL HEALTHCENTER, ACUTE TREATMENT UNIT, hospice, nursing care facility, or assisted

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

living residence that is required to be licensed pursuant to section 25-3-101, C.R.S., OR A LICENSED LONG-TERM CARE FACILITY AS DEFINED IN SECTION 25-1-124 (2.5) (b), C.R.S.

(b) "MEDICAL DEVICE" MEANS AN INSTRUMENT, APPARATUS, IMPLEMENT, MACHINE, CONTRIVANCE, IMPLANT, OR SIMILAR OR RELATED ARTICLE THAT IS REQUIRED TO BE LABELED PURSUANT TO 21 CFR PART 801.

(c) "MEDICAL SUPPLY" MEANS A CONSUMABLE SUPPLY ITEM THAT IS DISPOSABLE AND NOT INTENDED FOR REUSE.

~~(b)~~ (d) "Medication means A prescription ~~medication~~ that is not a controlled substance.

(2) (a) (I) If donated by the patient, resident, or the patient's or resident's next of kin, a licensed facility may return unused ~~medication~~ MEDICATIONS, MEDICAL SUPPLIES, AND MEDICAL DEVICES to a pharmacist within the licensed facility OR A PRESCRIPTION DRUG OUTLET in order for the medication to be redispensed to another patient or ~~resident of that licensed facility. A pharmacist may redispense a returned medication that is prescribed to a patient or resident of a licensed facility if the medication was originally dispensed to another patient or resident of the licensed facility or may donate a returned medication~~ DONATED to a nonprofit entity that has the legal authority to possess the medication OR TO A PRACTITIONER AUTHORIZED BY LAW TO PRESCRIBE THE MEDICATION.

(II) (A) A LICENSED FACILITY MAY DONATE UNUSED MEDICATIONS TO A PERSON LEGALLY AUTHORIZED TO DISPENSE THE MEDICATIONS ON BEHALF OF A NONPROFIT ENTITY THAT HAS THE EXPRESS PURPOSE OF PROVIDING MEDICATIONS, MEDICAL DEVICES, OR MEDICAL SUPPLIES FOR THE RELIEF OF VICTIMS WHO ARE IN URGENT NEED AS A RESULT OF NATURAL OR OTHER TYPES OF DISASTERS. THE PROCESS OF DONATING THE UNUSED MEDICATIONS TO THE NONPROFIT ENTITY SHALL BE REVIEWED BY A LICENSED PHARMACIST.

(B) NOTHING IN THIS SUBPARAGRAPH (II) SHALL BE CONSTRUED TO CREATE OR ABROGATE ANY LIABILITY ON BEHALF OF A PRESCRIPTION DRUG MANUFACTURER FOR THE STORAGE, DONATION, ACCEPTANCE, OR DISPENSING OF A MEDICATION OR PRODUCT OR TO CREATE ANY CIVIL CAUSE OF ACTION AGAINST A PRESCRIPTION DRUG MANUFACTURER, IN ADDITION TO THAT WHICH IS AVAILABLE UNDER APPLICABLE LAW.

(b) Medications shall only be available to be dispensed to another person or donated to a nonprofit entity under this section if the medications are:

~~(a)~~ (I) Liquid and the vial is still sealed and properly stored;

~~(b)~~ (II) Individually packaged and the packaging has not been damaged; or

~~(c)~~ (III) In the original, unopened, sealed, and tamper-evident unit dose packaging.

(c) THE FOLLOWING MEDICATIONS MAY NOT BE DONATED:

(I) MEDICATIONS PACKAGED IN TRADITIONAL BROWN OR AMBER PILL BOTTLES;

(II) CONTROLLED SUBSTANCES;

(III) MEDICATIONS THAT REQUIRE REFRIGERATION, FREEZING, OR SPECIAL STORAGE;

(IV) MEDICATIONS THAT REQUIRE SPECIAL REGISTRATION WITH THE MANUFACTURER; OR

(V) MEDICATIONS THAT ARE ADULTERATED OR MISBRANDED, AS DETERMINED BY A PERSON LEGALLY AUTHORIZED TO DISPENSE THE MEDICATIONS ON BEHALF OF THE NONPROFIT ENTITY.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 13, 2010