

SENATE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

March 23, 2023  
Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

SB23-176 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 2, strike lines 2 through 20.

2 Page 3, strike lines 1 through 26 and substitute:

3 "SECTION 1. In Colorado Revised Statutes, add 10-16-158 as  
4 follows:

5 **10-16-158. Prohibition on using the body mass index or ideal**  
6 **body weight - medical necessity criteria - rules.** (1) (a) EVERY HEALTH  
7 BENEFIT PLAN SUBJECT TO PART 2, 3, OR 4 OF THIS ARTICLE 16, EXCEPT  
8 THOSE DESCRIBED IN SECTION 10-16-102 (32)(b), SHALL NOT UTILIZE THE  
9 BODY MASS INDEX, IDEAL BODY WEIGHT, OR ANY OTHER STANDARD  
10 REQUIRING AN ACHIEVED WEIGHT WHEN DETERMINING MEDICAL  
11 NECESSITY OR THE APPROPRIATE LEVEL OF CARE FOR AN INDIVIDUAL  
12 DIAGNOSED WITH AN EATING DISORDER, INCLUDING BUT NOT LIMITED TO  
13 BULIMIA NERVOSA, ATYPICAL ANOREXIA NERVOSA, BINGE-EATING  
14 DISORDER, AVOIDANT RESTRICTIVE FOOD INTAKE DISORDER, AND OTHER  
15 SPECIFIED FEEDING AND EATING DISORDERS AS DEFINED IN THE MOST  
16 RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF  
17 MENTAL DISORDERS.

18 (b) SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY WHEN  
19 DETERMINING MEDICAL NECESSITY OR THE APPROPRIATE LEVEL OF CARE  
20 FOR AN INDIVIDUAL DIAGNOSED WITH ANOREXIA NERVOSA, RESTRICTING  
21 SUBTYPE; HOWEVER, BODY MASS INDEX, IDEAL BODY WEIGHT, OR ANY  
22 OTHER STANDARD REQUIRING AN ACHIEVED BODY WEIGHT MUST NOT BE  
23 THE DETERMINING FACTOR WHEN ASSESSING MEDICAL NECESSITY OR THE  
24 APPROPRIATE LEVEL OF CARE FOR AN INDIVIDUAL DIAGNOSED WITH  
25 ANOREXIA NERVOSA, RESTRICTING SUBTYPE.

26 (2) THE FOLLOWING FACTORS, AT A MINIMUM, MUST BE  
27 CONSIDERED WHEN DETERMINING MEDICAL NECESSITY OR THE

1 APPROPRIATE LEVEL OF CARE FOR AN INDIVIDUAL DIAGNOSED WITH AN  
2 EATING DISORDER:

- 3 (a) THE INDIVIDUAL'S EATING BEHAVIORS;
- 4 (b) THE INDIVIDUAL'S NEED FOR SUPERVISED MEALS AND SUPPORT  
5 INTERVENTIONS;
- 6 (c) LABORATORY RESULTS, INCLUDING BUT NOT LIMITED TO, THE  
7 INDIVIDUAL'S HEART RATE, RENAL OR CARDIOVASCULAR ACTIVITY, AND  
8 BLOOD PRESSURE;
- 9 (d) THE RECOVERY ENVIRONMENT; AND
- 10 (e) CO-OCCURRING DISORDERS THE INDIVIDUAL MAY HAVE.

11 **SECTION 2.** In Colorado Revised Statutes, **add 25.5-5-334** as  
12 follows:

13 **25.5-5-334. Prohibition on using the body mass index or ideal**  
14 **body weight - medical necessity criteria.** (1) (a) BEGINNING JULY 1,  
15 2023, THE STATE MEDICAL ASSISTANCE PROGRAM SHALL NOT UTILIZE THE  
16 BODY MASS INDEX, IDEAL BODY WEIGHT, OR ANY OTHER STANDARD  
17 REQUIRING AN ACHIEVED WEIGHT WHEN DETERMINING MEDICAL  
18 NECESSITY OR THE APPROPRIATE LEVEL OF CARE FOR AN INDIVIDUAL  
19 DIAGNOSED WITH AN EATING DISORDER, INCLUDING BUT NOT LIMITED TO,  
20 BULIMIA NERVOSA, ATYPICAL ANOREXIA NERVOSA, BINGE-EATING  
21 DISORDER, AVOIDANT RESTRICTIVE FOOD INTAKE DISORDER, AND OTHER  
22 SPECIFIED FEEDING AND EATING DISORDERS AS DEFINED IN THE MOST  
23 RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF  
24 MENTAL DISORDERS.

25 (b) SUBSECTION (1)(a) OF THIS SECTION DOES NOT APPLY WHEN  
26 DETERMINING MEDICAL NECESSITY OR THE APPROPRIATE LEVEL OF CARE  
27 FOR AN INDIVIDUAL DIAGNOSED WITH ANOREXIA NERVOSA, RESTRICTING  
28 SUBTYPE; HOWEVER, BODY MASS INDEX, IDEAL BODY WEIGHT, OR ANY  
29 OTHER STANDARD REQUIRING AN ACHIEVED BODY WEIGHT MUST NOT BE  
30 THE DETERMINING FACTOR WHEN ASSESSING MEDICAL NECESSITY OR THE  
31 APPROPRIATE LEVEL OF CARE FOR AN INDIVIDUAL DIAGNOSED WITH  
32 ANOREXIA NERVOSA, RESTRICTING SUBTYPE.

33 (2) THE FOLLOWING FACTORS, AT A MINIMUM, MUST BE  
34 CONSIDERED WHEN DETERMINING MEDICAL NECESSITY OR THE  
35 APPROPRIATE LEVEL OF CARE FOR AN INDIVIDUAL DIAGNOSED WITH AN  
36 EATING DISORDER:

- 37 (a) THE INDIVIDUAL'S EATING BEHAVIORS;
- 38 (b) THE INDIVIDUAL'S NEED FOR SUPERVISED MEALS AND SUPPORT  
39 INTERVENTIONS;
- 40 (c) LABORATORY RESULTS, INCLUDING BUT NOT LIMITED TO, THE  
41 INDIVIDUAL'S HEART RATE, RENAL OR CARDIOVASCULAR ACTIVITY, AND  
42 BLOOD PRESSURE;
- 43 (d) THE RECOVERY ENVIRONMENT; AND

- 1 (e) CO-OCCURRING DISORDERS THE INDIVIDUAL MAY HAVE."
- 2 Page 4, strike line 3 and substitute "**Regulation of Over-the-Counter**  
3 **Diet Pills**".
- 4 Page 4, strike lines 6 through 16.
- 5 Renumber succeeding subsections accordingly.
- 6 Page 5, lines 1 and 2, strike "DIETARY SUPPLEMENTS FOR WEIGHT LOSS  
7 OR".
- 8 Page 5, line 7, strike "**Dietary supplements for weight loss**" and  
9 substitute "**Over-the-counter diet pills**".
- 10 Page 5, line 8, strike "**fine -**".
- 11 Page 5, strike line 10 and substitute "FURNISH".
- 12 Page 5, lines 14 and 15, strike "DIETARY SUPPLEMENTS FOR WEIGHT LOSS  
13 OR".
- 14 Page 5, lines 21 and 22, strike "DIETARY SUPPLEMENTS FOR WEIGHT LOSS  
15 AND".
- 16 Page 5, strike lines 26 and 27.
- 17 Page 6, strike line 1.
- 18 Page 6, line 7, strike "FORCED FEEDING TUBES" and substitute  
19 "INVOLUNTARY TUBE FEEDING".
- 20 Page 6, line 8, after "DISORDER." insert "PRIOR TO PROMULGATING RULES,  
21 THE BHA SHALL REVIEW CURRENT REGULATIONS AND DETERMINE HOW  
22 ADDITIONAL REGULATIONS FIT INTO THE EXISTING INFRASTRUCTURE."
- 23 Page 7, strike lines 9 through 16 and substitute:
- 24 (I) THE ABILITY FOR THE CLIENT TO REQUEST PRIVATE MEDICAL  
25 EXAMINATIONS, INCLUDING WEIGH-INS AND MONITORING OF VITAL SIGNS,  
26 AND NOT BE VISIBLE TO OTHER CLIENTS;  
27 (II) PROHIBITING THAT A CLIENT PERFORM PHYSICAL EXERCISE OR

1 REMOVE ALL CLOTHING DURING A WEIGH-IN UNLESS THE CLIENT IS  
2 PROVIDED ADEQUATE CLOTHING THAT SUFFICIENTLY COVERS THE CLIENT'S  
3 PRIVATE BODY PARTS;

4 (III) POTENTIAL ALTERNATIVE INTERVENTIONS, WHEN MEDICALLY  
5 NECESSARY, WHICH MUST BE OPENLY DISCUSSED WITH THE CLIENT, TO  
6 MINIMIZE THE RISK OF A CLIENT INFLUENCING ASSESSMENTS OF VITAL  
7 SIGNS OR LABS; AND".

8 Page 7, line 26, strike "APPROPRIATE AND QUALIFIED STAFF TO" and  
9 substitute "TRAINED STAFF".

10 Page 7, strike line 27.

11 Page 8, strike line 1.

12 Page 8, line 2, strike "NEURODIVERSE;".

13 Page 8, line 6, after "PRIORITIZED." add "IF A CLIENT REQUESTS A STAFF  
14 MEMBER OF A SPECIFIC GENDER TO MONITOR THE CLIENT'S BATHROOM  
15 TIME, PHYSICAL EXAMS, WEIGH-INS, PLACEMENT OF FEEDING TUBES, OR  
16 ANY OTHER INVOLUNTARY FEEDING PROCESS, THE FACILITY SHALL MAKE  
17 EVERY POSSIBLE ACCOMMODATION TO MEET THE CLIENT'S REQUEST.".

18 Page 8, strike lines 10 through 12 and substitute "MOVEMENT IS NEVER  
19 USED AS A FORM OF PUNISHMENT.".

20 Page 8, strike line 16 and substitute "MEASURES. THE FACILITY SHALL  
21 ENSURE CLIENTS RECEIVING BED-BASED CARE RECEIVE COMPARABLE  
22 ACCESS TO PROGRAMMING AND THERAPY SERVICES AS OTHER CLIENTS IN  
23 THE FACILITY.".

24 Page 8, strike lines 17 through 22 and substitute:

25 "(f) PHYSICAL ACTIVITY LIMITATIONS THAT ARE DISCUSSED  
26 OPENLY WITH THE CLIENT AND ARE BASED ON MEDICAL STABILITY, THE  
27 CLIENT'S ABILITY TO MANAGE ACTIVITY URGES, AND THE NUTRITION  
28 NECESSARY TO SAFELY SUPPORT PHYSICAL ACTIVITY;

29 (g) A REQUIREMENT THAT AN EATING DISORDER TREATMENT AND  
30 RECOVERY FACILITY IMPLEMENT A TREATMENT FRAMEWORK IN  
31 ACCORDANCE WITH RECOGNIZED PRINCIPLES OF TRAUMA-INFORMED  
32 APPROACHES AND TRAUMA-INFORMED INTERVENTIONS;".

33 Reletter succeeding paragraphs accordingly.

1 Page 9, line 1, strike "AND".

2 Page 9, strike lines 2 through 9 and substitute:

3 (i) THE REQUIREMENT FOR THE TREATMENT FACILITY TO HAVE A  
4 FORMAL DISCHARGE POLICY THAT IS PROVIDED TO CLIENTS AT THE TIME  
5 OF ADMISSION AND REVIEWED REGULARLY DURING TREATMENT PLANNING  
6 SESSIONS, AND THAT UPON DISCHARGE, FOLLOW-UP SERVICES WILL BE  
7 OFFERED AS CLINICALLY INDICATED; AND

8 (j) A REQUIREMENT THAT CLIENTS RECEIVE ADEQUATE TIME FOR  
9 BATHING AND OTHER HYGIENE CARE DAILY."

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