

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

PREAMENDED

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

LLS NO. 17-0148.01 Jane Ritter x4342

SENATE BILL 17-019

SENATE SPONSORSHIP

Martinez Humenik,

HOUSE SPONSORSHIP

Singer,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASING MEDICATION CONSISTENCY FOR PERSONS**
102 **WITH MENTAL ILLNESS IN THE CRIMINAL AND JUVENILE JUSTICE**
103 **SYSTEMS.**

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/>.)

Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems. The bill implements recommendations from the task force concerning the treatment of persons with mental illness in the criminal and juvenile justice systems and the medication consistency work group

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

of the behavioral health transformation council to promote increased medication consistency for persons with mental illness in the criminal and juvenile justice systems. The recommendations include:

- ! Requiring the unit and office within the department of human services that administers behavioral health programs (OBH), including those related to mental health and substance use, and the department of corrections to promulgate rules that require providers under each department's authority to use an agreed upon medication formulary (formulary) by mental health providers and justice system providers (providers);
- ! Requiring OBH to conduct annual and biannual reviews of the formulary to address any urgent concerns related to the formulary, update the formulary, and ensure compliance with the medicaid formulary;
- ! Requiring the department of corrections, county jails, community mental health centers, the division of youth corrections, and other providers to share patient-specific mental health care and treatment information, provided federal and state confidentiality requirements are met;
- ! Requiring OBH and relevant providers to develop a plan for electronically sharing patient-specific mental health care and treatment information across systems;
- ! Requiring OBH to encourage providers to utilize cooperative purchasing for the formulary to maximize statewide cost savings;
- ! Encouraging the pharmaceutical cooperative purchasing entity to include an ongoing drug utilization review process;
- ! Requiring OBH to investigate and develop options for collaboration with local county jails to coordinate medication purchasing. Based on that information, the behavioral health transformation council shall develop a medication purchasing plan on or before July 1, 2017; and
- ! Requiring the department of human services and the department of corrections to report progress on the implementation and use of the medication formulary and cooperative purchasing as part of each department's "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing, beginning in January 2018 and annually thereafter.

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

1 JUVENILE JUSTICE SYSTEMS; AND

2 (e) INCREASING INFORMATION SHARING ACROSS SYSTEMS AND
3 SERVICE PROVIDERS ABOUT THE IMPORTANCE OF MEDICATION
4 CONSISTENCY AND THE USE OF A COMMON AND AGREED UPON MEDICATION
5 FORMULARY AND COOPERATIVE PURCHASING WILL RESULT IN LONG-TERM
6 BENEFITS FOR THE STATE AND FOR INDIVIDUALS WITH BEHAVIORAL OR
7 MENTAL HEALTH DISORDERS WHO ARE INVOLVED IN THE CRIMINAL AND
8 JUVENILE JUSTICE SYSTEMS.

9 **27-70-102. Definitions.** AS USED IN THIS ARTICLE 70, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF HUMAN SERVICES
12 CREATED IN SECTION 26-1-105.

13 (2) "FACILITY" MEANS A FEDERALLY QUALIFIED HEALTH CARE
14 CENTER, CLINIC, COMMUNITY MENTAL HEALTH CENTER OR CLINIC,
15 INSTITUTION, ACUTE TREATMENT UNIT, JAIL, FACILITY OPERATED BY THE
16 DEPARTMENT OF CORRECTIONS, OR A FACILITY OPERATED BY THE DIVISION
17 OF YOUTH CORRECTIONS.

18 (3) "MEDICATION FORMULARY" MEANS THE MEDICATION
19 FORMULARY ESTABLISHED PURSUANT TO SECTION 27-70-103 FOR USE BY
20 PROVIDERS.

21 (4) "OFFICE" MEANS THE OFFICE OF BEHAVIORAL HEALTH IN THE
22 DEPARTMENT OF HUMAN SERVICES.

23 (5) "PROVIDER" MEANS ANY PERSON, FACILITY, OR GOVERNMENT
24 ENTITY RESPONSIBLE FOR PROVIDING MENTAL HEALTH SERVICES RELATED
25 TO THE CARE AND TREATMENT OF AN INDIVIDUAL WITH BEHAVIORAL OR
26 MENTAL HEALTH DISORDERS WHO IS OR WAS INVOLVED WITH THE
27 CRIMINAL OR JUVENILE JUSTICE SYSTEM.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

====
27-70-103. Medication consistency for individuals with behavioral or mental health disorders in the criminal and juvenile justice systems - medication formulary - cooperative purchasing - reporting. (1) (a) BEGINNING JULY 1, 2017, THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF CORRECTIONS SHALL PROMULGATE RULES THAT REQUIRE PROVIDERS UNDER EACH DEPARTMENT'S AUTHORITY TO USE A MEDICATION FORMULARY THAT HAS BEEN DEVELOPED COLLABORATIVELY BY DEPARTMENTS, AGENCIES, AND PROVIDERS. PUBLIC HOSPITALS AND LICENSED PRIVATE HOSPITALS MAY ALSO, AT THEIR DISCRETION, PARTICIPATE IN THE MEDICATION FORMULARY. THE DEPARTMENTS SHALL ALSO DEVELOP PROCESSES FOR EDUCATION AND MARKETING RELATED TO INFORMATION REGARDING THE MEDICATION FORMULARY AND COOPERATIVE PURCHASING OPPORTUNITIES FOR FACILITIES AND PROVIDERS.

(b) ON OR BEFORE JULY 1, 2018, AND EVERY JULY 1 OF EVERY EVEN-NUMBERED YEAR THEREAFTER, THE OFFICE SHALL CONDUCT A REVIEW OF THE MEDICATION FORMULARY TO ADDRESS ANY URGENT CONCERNS RELATED TO THE FORMULARY AND TO PROPOSE UPDATES TO THE FORMULARY. DURING THIS REVIEW, THE OFFICE SHALL ALSO CREATE THE APPROPRIATE NOTIFICATION PROCESS FOR UPDATES TO THE FORMULARY.

(c) ON OR BEFORE JULY 1, 2019, AND EVERY TWO YEARS THEREAFTER AS NECESSARY, THE OFFICE SHALL CONDUCT A REVIEW OF THE MEDICATION FORMULARY TO UPDATE THE MEDICATION FORMULARY AND ENSURE COMPLIANCE WITH THE MEDICAID FORMULARY USED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

1 (2) (a) FOR THE SOLE PURPOSE OF ENSURING MEDICATION
2 CONSISTENCY FOR INDIVIDUALS WITH BEHAVIORAL OR MENTAL HEALTH
3 DISORDERS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS, THE
4 DEPARTMENT OF CORRECTIONS, COUNTIES, THE DIVISION OF YOUTH
5 CORRECTIONS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER
6 PROVIDERS SHALL SHARE PATIENT-SPECIFIC MENTAL HEALTH AND
7 TREATMENT INFORMATION. ALL SUCH INFORMATION SHARING MUST
8 COMPLY WITH CONFIDENTIALITY REQUIREMENTS, INCLUDING ANY
9 NECESSARY MEMORANDUMS OF UNDERSTANDING BETWEEN PROVIDERS,
10 SET FORTH IN THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
11 ACCOUNTABILITY ACT OF 1996", 45 CFR PARTS 2, 160, 162, AND 164.

12 (b) ON OR BEFORE JULY 1, 2017, THE OFFICE, IN COLLABORATION
13 WITH THE OFFICE OF INFORMATION TECHNOLOGY, THE OFFICE OF E-HEALTH
14 INNOVATION, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING,
15 THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF CORRECTIONS,
16 AND OTHER AGENCIES AS APPROPRIATE, SHALL DEVELOP A PLAN BY WHICH
17 THE PATIENT-SPECIFIC INFORMATION REQUIRED BY SUBSECTION (2)(a) OF
18 THIS SECTION CAN BE SHARED ELECTRONICALLY, WHILE STILL IN
19 COMPLIANCE WITH CONFIDENTIALITY REQUIREMENTS, INCLUDING ANY
20 NECESSARY MEMORANDUMS OF UNDERSTANDING BETWEEN PROVIDERS,
21 SET FORTH IN THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
22 ACCOUNTABILITY ACT OF 1996", 45 CFR PARTS 2, 160, 162, AND 164.

23 (3) (a) THE OFFICE SHALL ENCOURAGE PROVIDERS THAT HAVE
24 BEEN GRANTED PURCHASING AUTHORITY BY THE DEPARTMENT OF
25 PERSONNEL PURSUANT TO SECTION 24-102-204 TO UTILIZE COOPERATIVE
26 PURCHASING FOR THE MEDICATION FORMULARY, AS AUTHORIZED
27 PURSUANT TO SECTION 24-110-201, UNLESS THE PROVIDER CAN OBTAIN

1 THE MEDICATION ELSEWHERE AT A LOWER COST. THE USE OF
2 COOPERATIVE PURCHASING MAY, AND IS ENCOURAGED TO, INCLUDE
3 EXTERNAL PROCUREMENT ACTIVITY, AS DEFINED IN SECTION 24-110-101
4 (2), IF THE EXTERNAL PROCUREMENT ACTIVITY AGGREGATES PURCHASING
5 VOLUME TO NEGOTIATE DISCOUNTS WITH MANUFACTURERS,
6 DISTRIBUTORS, AND OTHER VENDORS.

7 (b) ANY EXTERNAL PROCUREMENT ACTIVITY, AS DEFINED IN
8 SECTION 24-110-101 (2), USED BY PROVIDERS FOR PURPOSES OF THIS
9 ARTICLE 70 IS ENCOURAGED TO INCLUDE AN ONGOING DRUG UTILIZATION
10 REVIEW PROCESS. THE PURPOSE OF THE REVIEW PROCESS IS TO HELP
11 ENSURE A STRUCTURED, ONGOING REVIEW OF HEALTH CARE PROVIDER
12 PRESCRIBING, PHARMACIST DISPENSING, AND PATIENT USE OF MEDICATION.
13 THE REVIEW MUST INCLUDE A COMPREHENSIVE ANALYSIS OF PATIENTS'
14 PRESCRIPTION AND MEDICATION DATA TO HELP ENSURE APPROPRIATE
15 MEDICATION DECISION-MAKING AND POSITIVE PATIENT OUTCOMES BY
16 PROVIDING EDUCATIONAL FEEDBACK TO PROVIDERS ON APPROPRIATE
17 MEDICATION UTILIZATION.

18 (4) THE OFFICE SHALL INVESTIGATE AND DEVELOP OPTIONS FOR
19 COLLABORATION WITH LOCAL COUNTY JAILS TO COORDINATE MEDICATION
20 PURCHASING. BASED ON THE INFORMATION FROM THE OFFICE, THE
21 BEHAVIORAL HEALTH TRANSFORMATION COUNCIL, ESTABLISHED IN
22 SECTION 27-61-102, SHALL DEVELOP A MEDICATION PURCHASING PLAN ON
23 OR BEFORE JULY 1, 2017.

24 (5) (a) BEGINNING IN JANUARY 2018, AND EVERY JANUARY
25 THEREAFTER, THE DEPARTMENT OF HUMAN SERVICES AND THE
26 DEPARTMENT OF CORRECTIONS SHALL REPORT PROGRESS ON THE
27 IMPLEMENTATION AND USE OF THE MEDICATION FORMULARY AND

1 COOPERATIVE PURCHASING AS PART OF EACH DEPARTMENT'S "STATE
2 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
3 (SMART) GOVERNMENT ACT" HEARING REQUIRED BY SECTION 2-7-203.
4 EACH DEPARTMENT SHALL MAKE SUCH REPORTS TO THE JOINT HEALTH
5 AND HUMAN SERVICES COMMITTEE AND THE JOINT JUDICIARY COMMITTEE,
6 OR ANY SUCCESSOR COMMITTEES.

7 (b) THIS SECTION IS EXEMPT FROM THE PROVISIONS OF SECTION
8 24-1-136 (11), AND THE PERIODIC REPORTING REQUIREMENT OF THAT
9 SECTION SHALL REMAIN IN EFFECT UNTIL CHANGED BY THE GENERAL
10 ASSEMBLY ACTING BY BILL.

11 **SECTION 2. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2018 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.