

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

**INTRODUCED**

LLS NO. 23-0473.01 Shelby Ross x4510

**SENATE BILL 23-176**

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**SENATE SPONSORSHIP**

**Moreno and Cutter,**

**HOUSE SPONSORSHIP**

**(None),**

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**Senate Committees**  
Health & Human Services

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING MEASURES TO IMPROVE OUTCOMES FOR INDIVIDUALS**  
102 **WITH AN EATING DISORDER.**

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**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>.)*

The bill prohibits certain health benefit plans or the state medical assistance program from utilizing the body mass index, ideal body weight, or any other standard requiring an achieved weight when determining medical necessity criteria or appropriate level of care for an individual with a diagnosed eating disorder.

The bill prohibits a retail establishment from selling, transferring,

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.*

or otherwise furnishing dietary supplements for weight loss or over-the-counter diet pills to any individual under 18 years of age without a prescription.

The bill requires the behavioral health administration (BHA) to promulgate rules concerning forced feeding tubes for individuals with an eating disorder.

No later than July 1, 2024, the bill requires the BHA to require all eating disorder treatment and recovery facilities to hold an appropriate designation based on the level of care the facility provides.

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

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

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

16 (2) THIS SECTION DOES NOT LIMIT A HEALTH BENEFIT PLAN FROM  
17 RELYING ON FACTORS SUCH AS EATING BEHAVIORS; THE NEED FOR  
18 SUPERVISED MEALS AND SUPPORT INTERVENTIONS; LABORATORY RESULTS,  
19 INCLUDING BUT NOT LIMITED TO HEART RATE, RENAL OR  
20 CARDIOVASCULAR ACTIVITY, AND BLOOD PRESSURE; RECOVERY

1 ENVIRONMENT; AND COOCCURRING DISORDERS WHEN DETERMINING  
2 MEDICAL NECESSITY OR THE APPROPRIATE LEVEL OF CARE FOR AN  
3 INDIVIDUAL WITH A DIAGNOSED EATING DISORDER.

4 (3) THE COMMISSIONER MAY PROMULGATE RULES AS NECESSARY  
5 TO IMPLEMENT AND ENFORCE THIS SECTION.

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

8 **25.5-5-334. Prohibition on using the body mass index or ideal**  
9 **body weight - medical necessity criteria.** (1) BEGINNING JULY 1, 2023,  
10 THE STATE MEDICAL ASSISTANCE PROGRAM SHALL NOT UTILIZE THE BODY  
11 MASS INDEX, IDEAL BODY WEIGHT, OR ANY OTHER STANDARD REQUIRING  
12 AN ACHIEVED WEIGHT WHEN DETERMINING MEDICAL NECESSITY OR THE  
13 APPROPRIATE LEVEL OF CARE FOR AN INDIVIDUAL WITH A DIAGNOSED  
14 EATING DISORDER, INCLUDING BUT NOT LIMITED TO, BULIMIA NERVOSA,  
15 ATYPICAL ANOREXIA NERVOSA, BINGE-EATING DISORDER, AND OTHER  
16 SPECIFIED FEEDING AND EATING DISORDERS AS DEFINED IN THE MOST  
17 RECENT EDITION OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF  
18 MENTAL DISORDERS.

19 (2) THIS SECTION DOES NOT LIMIT THE STATE MEDICAL ASSISTANCE  
20 PROGRAM FROM RELYING ON FACTORS SUCH AS EATING BEHAVIORS; THE  
21 NEED FOR SUPERVISED MEALS AND SUPPORT INTERVENTIONS;  
22 LABORATORY RESULTS, INCLUDING BUT NOT LIMITED TO, HEART RATE,  
23 RENAL OR CARDIOVASCULAR ACTIVITY, AND BLOOD PRESSURE; RECOVERY  
24 ENVIRONMENT; AND COOCCURRING DISORDERS WHEN DETERMINING  
25 MEDICAL NECESSITY OR THE APPROPRIATE LEVEL OF CARE FOR AN  
26 INDIVIDUAL WITH A DIAGNOSED EATING DISORDER.

27 **SECTION 3.** In Colorado Revised Statutes, **add** article 8 to title

1 44 as follows:

2

**ARTICLE 8**

3

**Regulation of Dietary Supplements for Weight Loss**

4

**44-8-101. Definitions.** AS USED IN THIS ARTICLE 8, UNLESS THE

5

CONTEXT OTHERWISE REQUIRES:

6

(1) (a) "DIETARY SUPPLEMENT FOR WEIGHT LOSS" MEANS A CLASS

7

OF DIETARY SUPPLEMENTS THAT ARE LABELED AND MARKETED UNDER THE

8

"FEDERAL FOOD, DRUG, AND COSMETIC ACT", 21 U.S.C. SEC. 301 ET SEQ.,

9

FOR THE PURPOSE OF ACHIEVING WEIGHT LOSS.

10

(b) "DIETARY SUPPLEMENT FOR WEIGHT LOSS" INCLUDES

11

PRODUCTS WITH A SUPPLEMENT FACTS PANEL PURSUANT TO FEDERAL

12

REGULATIONS THAT CONTAIN EITHER LAWFUL DIETARY INGREDIENTS OR

13

INGREDIENTS DEEMED ADULTERATED PURSUANT TO 21 U.S.C. SEC. 342,

14

OR BOTH.

15

(c) "DIETARY SUPPLEMENT FOR WEIGHT LOSS" DOES NOT INCLUDE

16

DIETARY FIBER PRODUCTS.

17

(2) (a) "OVER-THE-COUNTER DIET PILL" MEANS A CLASS OF DRUGS

18

THAT ARE LABELED AND MARKETED UNDER THE "FEDERAL FOOD, DRUG,

19

AND COSMETIC ACT", 21 U.S.C. SEC. 301 ET SEQ., FOR THE PURPOSE OF

20

ACHIEVING WEIGHT LOSS THAT ARE LAWFULLY SOLD, TRANSFERRED, OR

21

OTHERWISE FURNISHED WITHOUT A PRESCRIPTION.

22

(b) "OVER-THE-COUNTER DIET PILL" INCLUDES PRODUCTS

23

MARKETED WITH A DRUG FACTS PANEL PURSUANT TO FEDERAL

24

REGULATIONS THAT CONTAIN EITHER APPROVED DRUG INGREDIENTS OR

25

INGREDIENTS DEEMED ADULTERATED PURSUANT TO 21 U.S.C. SEC. 342,

26

OR BOTH.

27

(3) "RETAIL ESTABLISHMENT" MEANS ANY VENDOR THAT, IN THE

1 REGULAR COURSE OF BUSINESS, SELLS DIETARY SUPPLEMENTS FOR WEIGHT  
2 LOSS OR OVER-THE-COUNTER DIET PILLS AT RETAIL DIRECTLY TO THE  
3 PUBLIC, INCLUDING BUT NOT LIMITED TO, PHARMACIES, GROCERY STORES,  
4 OTHER RETAIL STORES, AND VENDORS THAT ACCEPT ORDERS PLACED BY  
5 MAIL, TELEPHONE, ELECTRONIC MAIL, INTERNET WEBSITE, ONLINE  
6 CATALOG, OR SOFTWARE APPLICATION.

7 **44-8-102. Dietary supplements for weight loss - prohibition on**  
8 **selling to persons under eighteen years of age - fine - rules.** (1) (a) A  
9 RETAIL ESTABLISHMENT SHALL NOT SELL, TRANSFER, OR OTHERWISE  
10 FURNISH DIETARY SUPPLEMENTS FOR WEIGHT LOSS OR  
11 OVER-THE-COUNTER DIET PILLS TO ANY PERSON UNDER EIGHTEEN YEARS  
12 OF AGE.

13 (b) A RETAIL ESTABLISHMENT SHALL REQUEST VALID  
14 IDENTIFICATION FROM ANY PERSON WHO ATTEMPTS TO PURCHASE DIETARY  
15 SUPPLEMENTS FOR WEIGHT LOSS OR OVER-THE-COUNTER DIET PILLS IF  
16 THAT PERSON REASONABLY APPEARS TO THE RETAIL ESTABLISHMENT TO  
17 BE UNDER EIGHTEEN YEARS OF AGE.

18 (2) THE DEPARTMENT, IN COLLABORATION WITH THE BEHAVIORAL  
19 HEALTH ADMINISTRATION AND OTHER RELEVANT STAKEHOLDERS, MAY  
20 PROMULGATE RULES AS NECESSARY TO IMPLEMENT THIS SECTION,  
21 INCLUDING DETERMINING WHICH DIETARY SUPPLEMENTS FOR WEIGHT LOSS  
22 AND OVER-THE-COUNTER DIET PILLS ARE SUBJECT TO THE REQUIREMENTS  
23 OF THIS ARTICLE 8, INCLUDING, BUT NOT LIMITED TO, LAXATIVES THAT  
24 INCLUDE AN ACTIVE INGREDIENT THAT ACTS AS A STIMULANT, SUCH AS  
25 SENNOSIDES OR BISACODYL.

26 (3) IF A RETAIL ESTABLISHMENT VIOLATES THIS ARTICLE 8, THE  
27 DEPARTMENT SHALL IMPOSE A FINE OF NOT MORE THAN TWO THOUSAND

1 DOLLARS.

2 **SECTION 4.** In Colorado Revised Statutes, **amend** 27-65-128 as  
3 follows:

4 **27-65-128. Administration - rules.** The BHA shall promulgate  
5 any rules and develop and distribute any applications or forms necessary  
6 to consistently enforce the provisions of this article 65, INCLUDING RULES  
7 CONCERNING FORCED FEEDING TUBES FOR INDIVIDUALS WITH AN EATING  
8 DISORDER. The BHA shall proactively train providers, facilities, counties,  
9 judges, magistrates, intervening professionals, and certified peace officers  
10 on the procedures under this article 65, which training must include an  
11 understanding of the criteria for invoking an emergency mental health  
12 hold pursuant to section 27-65-106, the definition of "gravely disabled"  
13 and how a person who is gravely disabled may present physically and  
14 psychiatrically, and suggested templates and resources to be used by  
15 facilities to meet the requirements of section 27-65-106 (8)(a)(III) and  
16 (8)(a)(VII).

17 **SECTION 5.** In Colorado Revised Statutes, **add** article 65.5 to  
18 title 27 as follows:

19 **ARTICLE 65.5**

20 **Eating Disorder Treatment and Recovery Programs**

21 **27-65.5-101. Eating disorder and treatment recovery**  
22 **programs - rules.** (1) NO LATER THAN JULY 1, 2024, THE BEHAVIORAL  
23 HEALTH ADMINISTRATION, ESTABLISHED IN SECTION 27-60-203, SHALL  
24 REQUIRE ALL EATING DISORDER TREATMENT AND RECOVERY FACILITIES TO  
25 HOLD AN APPROPRIATE DESIGNATION BASED ON THE LEVEL OF CARE THE  
26 FACILITY PROVIDES, INCLUDING FACILITIES THAT OFFER INTENSIVE  
27 OUTPATIENT TREATMENT, PARTIAL HOSPITALIZATION, RESIDENTIAL

1 PROGRAMS, AND INPATIENT PROGRAMS. LICENSED CLINICIANS WHO ARE  
2 NOT FACILITY-BASED AND OFFER BEHAVIORAL HEALTH THERAPY TO  
3 INDIVIDUALS WITH AN EATING DISORDER ON AN OUTPATIENT BASIS ARE  
4 NOT REQUIRED TO HOLD A DESIGNATION.

5 (2) THE STATE BOARD OF HUMAN SERVICES SHALL PROMULGATE  
6 RULES THAT ADDRESS:

7 (a) ADEQUATE PRIVACY DURING ANY REQUIRED MEDICAL  
8 EXAMINATION, WHICH MUST INCLUDE:

9 (I) THE ABILITY FOR THE CLIENT TO HAVE ANY MEDICAL  
10 EXAMINATION, INCLUDING A WEIGH-IN, WITHOUT OTHER CLIENTS PRESENT  
11 IN THE SAME ROOM;

12 (II) PROHIBITING THAT A CLIENT REMOVE ALL CLOTHING DURING  
13 A WEIGH-IN AND REQUIRING THAT ANY CLOTHING PROVIDED TO A CLIENT  
14 DURING A WEIGH-IN MUST SUFFICIENTLY COVER THE CLIENT'S BODY;

15 (III) PROHIBITING THAT A CLIENT PERFORM PHYSICAL EXERCISES  
16 DURING A WEIGH-IN; AND

17 (IV) PROVIDING CLIENTS, INCLUDING GENDER NONCONFORMING  
18 AND TRANSGENDER CLIENTS, WITH THE SAME RESTROOM POLICIES  
19 PROVIDED FOR CISGENDER CLIENTS, WHICH INCLUDES, BUT IS NOT LIMITED  
20 TO, SET TIMES FOR RESTROOM ACCESS FOR GENDER NONCONFORMING AND  
21 TRANSGENDER CLIENTS, AND PROHIBITING THAT A CLIENT SHARE A SINGLE  
22 STALL WITH A STAFF MEMBER OR ANOTHER CLIENT.

23 (b) RESPECT FOR AND ACCOMMODATION OF A CLIENT'S SEXUAL  
24 ORIENTATION, GENDER IDENTITY, RELIGION, AND PERSONAL DIETARY  
25 ETHICS BY THE PROGRAM AND DIETARY STAFF;

26 (c) THE PRESENCE OF APPROPRIATE AND QUALIFIED STAFF TO  
27 TREAT A CLIENT IN THE FACILITY'S CARE, INCLUDING A CLIENT WITH

1 AVOIDANT RESTRICTIVE FOOD INTAKE DISORDER AND A CLIENT WHO IS  
2 NEURODIVERSE; DURING WEIGH-INS; BATHROOM TIME; VITAL SIGN  
3 CHECKS; AND BEHAVIORAL HEALTH TREATMENT AND GROUP THERAPY. IF  
4 STAFF PERFORM MULTIPLE FUNCTIONS AT A TREATMENT FACILITY, THE  
5 RULES MUST ENSURE THE THERAPEUTIC RELATIONSHIP BETWEEN STAFF  
6 AND THE CLIENT IS PRESERVED AND PRIORITIZED.

7 (d) THE USE OF RESTRAINTS AND RESTRICTION OF A CLIENT'S  
8 ALLOWED BODILY MOVEMENT. THE RULES MUST ENSURE CLIENTS ARE NOT  
9 INAPPROPRIATELY SECLUDED OR RESTRAINED AND THAT RESTRICTION OF  
10 MOVEMENT IS NEVER USED AS A FORM OF PUNISHMENT AND THAT CLIENTS  
11 ARE PERMITTED A MINIMUM AMOUNT OF PHYSICAL ACTIVITY PER DAY AS  
12 CLINICALLY APPROPRIATE BASED ON THE LEVEL OF CARE.

13 (e) THE USE OF BED-BASED OR ROOM-BASED CARE, ENSURING  
14 THESE PRACTICES ARE USED AS A LAST RESORT AND THAT STAFF ARE  
15 MEANINGFULLY ENGAGING CLIENTS TO AVOID THESE RESTRICTIVE  
16 MEASURES;

17 (f) A REQUIREMENT THAT AN EATING DISORDER TREATMENT AND  
18 RECOVERY FACILITY IMPLEMENTS A TREATMENT FRAMEWORK THAT  
19 INVOLVES UNDERSTANDING, RECOGNIZING, AND RESPONDING TO THE  
20 EFFECTS OF ALL TYPES OF TRAUMA IN ACCORDANCE WITH RECOGNIZED  
21 PRINCIPLES OF TRAUMA-INFORMED APPROACHES AND TRAUMA-INFORMED  
22 INTERVENTIONS;

23 (g) THE MINIMUM RIGHTS EACH PATIENT IS ENTITLED TO AT THE  
24 TREATMENT FACILITY, THE REQUIREMENT THAT THE PATIENT'S RIGHTS BE  
25 PUBLICLY POSTED AND INDIVIDUALLY FURNISHED TO EACH PATIENT, AND  
26 THE FORMAL GRIEVANCE PROCESS FOR A PATIENT TO FILE A COMPLAINT  
27 AGAINST THE TREATMENT FACILITY THROUGH THE BEHAVIORAL HEALTH



1 ADMINISTRATION FOR A VIOLATION OF THE PATIENT'S RIGHTS; AND

2 (h) THE REQUIREMENT FOR THE TREATMENT FACILITY TO HAVE A  
3 FORMAL DISCHARGE POLICY IN PLACE THAT IS APPROVED BY THE  
4 BEHAVIORAL HEALTH ADMINISTRATION.

5 (3) PROVIDERS SHALL NOT UTILIZE THE BODY MASS INDEX, IDEAL  
6 BODY WEIGHT, OR ANY OTHER STANDARD REQUIRING AN ACHIEVED  
7 WEIGHT WHEN DETERMINING MEDICAL NECESSITY CRITERIA OR  
8 APPROPRIATE LEVEL OF CARE RELATED TO ANY INDIVIDUAL WITH A  
9 DIAGNOSED EATING DISORDER.

10 **SECTION 6. Effective date.** This act takes effect upon passage;  
11 except that section 1 of this act takes effect January 1, 2024, and section  
12 3 of this act takes effect July 1, 2024.

13 **SECTION 7. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, or safety.