

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

PREAMENDED

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

LLS NO. 25-0494.01 Josh Schultz x5486

HOUSE BILL 25-1222

HOUSE SPONSORSHIP

Winter T. and Lukens, Armagost, Boesenecker, Johnson, Mauro, Zokaie

SENATE SPONSORSHIP

Roberts and Simpson, Baisley, Bright, Catlin, Hinrichsen, Kipp, Kolker, Marchman, Pelton R., Rich, Snyder

House Committees
Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PRESERVE HEALTH-CARE ACCESS**
102 **PROVIDED BY RURAL INDEPENDENT PHARMACIES.**

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 prevents a pharmacy benefit manager (PBM) from prohibiting a rural independent pharmacy from using a private courier or a delivery service to deliver a prescription drug to a patient.

A PBM is required to reimburse a rural independent pharmacy for a prescription drug in an amount not less than the average acquisition cost for like prescription drugs, as determined by the medical services board

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.

in the state department of health care policy and financing, plus pay a dispensing fee.

When a PBM conducts an audit of a rural independent pharmacy and the audit results in a recoupment of more than \$1,000 or a penalty of more than \$1,000, the PBM must serve process on the rural independent pharmacy and notify the rural independent pharmacy of the rural independent pharmacy's appeal rights at least 30 days before any recoupment of funds.

The bill defines "flex pharmacy" as a prescription drug outlet that:

- Is registered with the state board of pharmacy (board) as a prescription drug outlet;
- Operates as a telepharmacy during times when the licensed pharmacist is not on the premises;
- Has a licensed pharmacist on the premises for at least twice the number of hours that the flex pharmacy operates as a telepharmacy;
- Operates as a telepharmacy from the same premises as the premises where the pharmacy is registered; and
- Is a rural independent pharmacy.

The board may adopt rules to facilitate the operation of flex pharmacies and may assess a fee on a prescription drug outlet applying to be a flex pharmacy.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and determines that:

4 (a) Rural independent pharmacies are critical to the provision of
5 health-care services for Colorado's rural communities and vulnerable
6 populations;

7 (b) Nationally, one in 3 pharmacies have closed in the last decade;

8 (c) A 2024 study of pharmacy closures found that 41% of the
9 state's pharmacy closures were independent pharmacies, with the majority
10 of those closures located in rural areas of the state;

11 (d) Rural independent pharmacies have higher rates of permanent
12 closure and report low reimbursement rates from pharmacy benefit
13 managers, or "PBMs", as the key contributing factor;

1 (e) Nationally, PBMs are under scrutiny for restricting consumer
2 choice, steering patients to select pharmacies, and reimbursing rural
3 independent pharmacies below cost;

4
5 (f) Rural independent pharmacies offer a wide variety of
6 health-care services, ranging from prescription drug delivery; special drug
7 packaging for vulnerable populations; medication management; wellness
8 and prevention services; immunizations; chronic and acute care
9 management; testing and treatment for strep throat, flu, and COVID-19;
10 blood pressure and glucose screenings; and diabetes education and
11 management, and provide health-care services for hospitals, long-term
12 care facilities, and health clinics; and

13 (g) When rural independent pharmacies close, patients lose access
14 to care, communities lose health-care providers, and Coloradans are
15 forced to travel greater distances to access care or are left completely
16 without care.

17 (2) Therefore, the general assembly declares that Colorado must
18 preserve access to rural independent pharmacies for the state's rural
19 communities and its most vulnerable populations.

20 **SECTION 2.** In Colorado Revised Statutes, 10-16-102, **add**
21 (59.5) as follows:

22 **10-16-102. Definitions.** As used in this article 16, unless the
23 context otherwise requires:

24 (59.5) "RURAL INDEPENDENT PHARMACY" MEANS A PRESCRIPTION
25 DRUG OUTLET THAT IS:

26 (a) PRIVATELY OWNED BY AT LEAST ONE LICENSED PHARMACIST
27 WITH NO OWNERSHIP INTEREST BY OR AFFILIATION WITH A CHAIN

1 PHARMACY OR A PUBLICLY TRADED PRESCRIPTION DRUG OUTLET; OR
2 (b) LOCATED IN A COUNTY WITH A POPULATION OF LESS THAN
3 FIFTY THOUSAND RESIDENTS OR A MUNICIPALITY WITH A POPULATION OF
4 LESS THAN TWENTY-FIVE THOUSAND RESIDENTS IF THE MUNICIPALITY IS
5 NOT CONTIGUOUS TO A MUNICIPALITY WITH A POPULATION OF
6 TWENTY-FIVE THOUSAND OR MORE RESIDENTS.

7 **SECTION 3.** In Colorado Revised Statutes, 10-16-122.1, **amend**
8 (3) introductory portion; and **add** (3)(d) as follows:

9 **10-16-122.1. Contracts between PBMs and pharmacies -**
10 **carrier submit list of PBMs - PBM registration - fees - prohibited**
11 **practices - exception - rules - enforcement - short title - definitions.**

12 (3) ~~Starting in 2022,~~ A PBM or the representative of a PBM shall not:

13 (d) (I) PROHIBIT A RURAL INDEPENDENT PHARMACY FROM USING
14 A PRIVATE COURIER OR A DELIVERY SERVICE TO DELIVER A PRESCRIPTION
15 DRUG TO A PATIENT; OR

16 (II) REQUIRE A RURAL INDEPENDENT PHARMACY TO OBTAIN
17 CONSENT FROM THE PBM TO USE A PRIVATE COURIER OR DELIVERY
18 SERVICE TO DELIVER A PRESCRIPTION DRUG TO A PATIENT.

19 **SECTION 4.** In Colorado Revised Statutes, 10-16-122.3, **add**
20 (1.5) and (6)(b.3) as follows:

21 **10-16-122.3. Pharmacy benefit management firm payments -**
22 **retroactive reduction prohibited - enforcement - rules - dispensing**

23 **fees - definitions.** (1.5) (a) A PHARMACY BENEFIT MANAGEMENT FIRM
24 SHALL REIMBURSE A RURAL INDEPENDENT PHARMACY FOR A PRESCRIPTION
25 DRUG IN AN AMOUNT NOT LESS THAN THE NATIONAL AVERAGE DRUG
26 ACQUISITION COST FOR THE DISPENSED PRESCRIPTION DRUG INGREDIENTS
27 AND A DISPENSING FEE. IF THE NATIONAL AVERAGE DRUG ACQUISITION

1 COST IS NOT AVAILABLE AT THE TIME A PRESCRIPTION DRUG IS
2 ADMINISTERED OR DISPENSED, A PHARMACY BENEFIT MANAGEMENT FIRM
3 SHALL NOT REIMBURSE IN AN AMOUNT THAT IS LESS THAN THE WHOLESALE
4 ACQUISITION COST OF THE PRESCRIPTION DRUG. ■

5 (b) A PHARMACY BENEFIT MANAGEMENT FIRM SHALL PAY A RURAL
6 INDEPENDENT PHARMACY A DISPENSING FEE, WHICH FEE IS DETERMINED
7 BY THE MEDICAL SERVICES BOARD IN THE STATE DEPARTMENT OF HEALTH
8 CARE POLICY AND FINANCING, IN AN AMOUNT NOT LESS THAN THE
9 DISPENSING FEE FOR RURAL PHARMACIES.

10 (6) As used in this section:

11 ■

12 (b.3) ■ "DISPENSING FEE" MEANS THE REIMBURSEMENT AMOUNT
13 FOR COSTS ASSOCIATED WITH FILLING A PRESCRIPTION, AS PUBLISHED FOR
14 A RURAL INDEPENDENT PHARMACY IN 10 CCR 2505-10 SEC. 8.800.13.L,
15 AS THE RULE EXISTED ON JUNE 1, 2025. ON JANUARY 1, 2028, AND ON
16 JANUARY 1 OF EVERY SECOND YEAR THEREAFTER, A PHARMACY BENEFIT
17 MANAGEMENT FIRM SHALL INCREASE THE AMOUNT OF THE DISPENSING FEE
18 FOR INFLATION. INFLATION IS MEASURED BY THE ANNUAL PERCENTAGE
19 CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR'S BUREAU OF
20 LABOR STATISTICS CONSUMER PRICE INDEX, OR A SUCCESSOR INDEX, FOR
21 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS PAID FOR BY URBAN
22 CONSUMERS. ■

23 **SECTION 5.** In Colorado Revised Statutes, 10-16-122.5, **amend**
24 (1)(e) and (1)(f); and **add** (1)(g) as follows:

25 **10-16-122.5. Pharmacy benefit manager - audit of pharmacies**
26 **- time limits on on-site audits - enforcement - rules.** (1) A pharmacy
27 benefit manager, a carrier, or an entity acting on behalf of a pharmacy

1 benefit manager or a carrier that audits a pharmacy shall:

2 (e) Establish a written appeals process that includes procedures to
3 allow a pharmacy to appeal to the pharmacy benefit manager or the
4 carrier the preliminary reports resulting from the audit and any resulting
5 recoupment or penalty; and

6 (f) Not subject a pharmacy to the recoupment of funds when an
7 audit results in the identification of a clerical error in a required document
8 or record unless the error results in actual financial harm to the pharmacy
9 benefit manager, a health benefit plan providing prescription drug
10 benefits that are managed by the pharmacy benefit manager, or a
11 consumer; AND

12 (g) WHEN SUBJECTING A RURAL INDEPENDENT PHARMACY TO
13 A RECOUPMENT OF FUNDS OF MORE THAN ONE THOUSAND DOLLARS OR A
14 PENALTY OF MORE THAN ONE THOUSAND DOLLARS AS THE RESULT OF AN
15 AUDIT:

16 (I) ELECTRONICALLY NOTIFY THE RURAL INDEPENDENT PHARMACY
17 OF THE RURAL INDEPENDENT PHARMACY'S RIGHTS TO APPEAL PURSUANT
18 TO SUBSECTION (1)(e) OF THIS SECTION AT LEAST THIRTY DAYS BEFORE
19 THE RECOUPMENT OF FUNDS;

20 (II) IF THE RURAL INDEPENDENT PHARMACY DOES NOT RESPOND
21 TO THE ELECTRONIC NOTIFICATION PROVIDED PURSUANT TO SUBSECTION
22 (1)(g)(I) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE ELECTRONIC
23 NOTIFICATION, AGAIN ELECTRONICALLY NOTIFY THE RURAL INDEPENDENT
24 PHARMACY OF THE RURAL INDEPENDENT PHARMACY'S RIGHTS TO APPEAL
25 PURSUANT TO SUBSECTION (1)(e) OF THIS SECTION AT LEAST THIRTY DAYS
26 BEFORE THE RECOUPMENT OF FUNDS; AND

27 (III) IF THE RURAL INDEPENDENT PHARMACY DOES NOT RESPOND

1 TO THE SECOND ELECTRONIC NOTIFICATION PROVIDED PURSUANT TO
2 SUBSECTION (1)(g)(II) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE
3 SECOND ELECTRONIC NOTIFICATION, SERVE PROCESS ON THE RURAL
4 INDEPENDENT PHARMACY NOTIFYING OF THE RURAL INDEPENDENT
5 PHARMACY'S RIGHTS TO APPEAL PURSUANT TO SUBSECTION (1)(e) OF THIS
6 SECTION AT LEAST THIRTY DAYS BEFORE THE RECOUPMENT OF FUNDS.

7 **SECTION 6.** In Colorado Revised Statutes, 12-280-103, add
8 (46.7) as follows:

9 **12-280-103. Definitions - rules.** As used in this article 280, unless
10 the context otherwise requires or the term is otherwise defined in another
11 part of this article 280:

12
13 (46.7) "RURAL INDEPENDENT PHARMACY" HAS THE MEANING SET
14 FORTH IN SECTION 10-16-102 (59.5).

15 **SECTION 7.** In Colorado Revised Statutes, 12-280-118, add
16 (3)(d) as follows:

17 **12-280-118. Prescription drug outlet under charge of**
18 **pharmacist - rules.** (3) (d) A PRESCRIPTION DRUG OUTLET THAT IS A
19 RURAL INDEPENDENT PHARMACY NEED NOT BE UNDER THE DIRECT
20 CHARGE OF A PHARMACIST IF THE INITIAL INTERPRETATION AND FINAL
21 EVALUATION OF THE PRESCRIPTION IS DONE BY A PHARMACIST IN PERSON
22 OR REMOTELY.

23 **SECTION 8. Act subject to petition - effective date -**
24 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
25 the expiration of the ninety-day period after final adjournment of the
26 general assembly; except that, if a referendum petition is filed pursuant
27 to section 1 (3) of article V of the state constitution against this act or an

1 item, section, or part of this act within such period, then the act, item,
2 section, or part will not take effect unless approved by the people at the
3 general election to be held in November 2026 and, in such case, will take
4 effect on the date of the official declaration of the vote thereon by the
5 governor.

6 (2) This act applies to conduct occurring on or after the applicable
7 effective date of this act.