

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 25-0494.01 Josh Schultz x5486

HOUSE BILL 25-1222

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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.

HOUSE
3rd Reading Unamended
March 25, 2025

HOUSE
Amended 2nd Reading
March 20, 2025

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 [REDACTED]
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 PRIVATELY OWNED BY AT LEAST ONE LICENSED
26 PHARMACIST WITH NO OWNERSHIP INTEREST BY OR AFFILIATION WITH A
27 CHAIN PHARMACY OR A PUBLICLY TRADED PRESCRIPTION DRUG OUTLET.

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

3 **10-16-122.1. Contracts between PBMs and pharmacies -**
4 **carrier submit list of PBMs - PBM registration - fees - prohibited**
5 **practices - exception - rules - enforcement - short title - definitions.**

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

7 (d) (I) PROHIBIT A RURAL INDEPENDENT PHARMACY FROM USING
8 A PRIVATE COURIER OR A DELIVERY SERVICE TO DELIVER A PRESCRIPTION
9 DRUG TO A PATIENT; OR

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

13 **SECTION 4.** In Colorado Revised Statutes, 10-16-122.3, **add**
14 (1.5) and (6)(b.3) as follows:

15 **10-16-122.3. Pharmacy benefit management firm payments -**
16 **retroactive reduction prohibited - enforcement - rules - dispensing**

17 **fees - definitions.** (1.5) **ON AND AFTER JANUARY 1, 2026, A PHARMACY**
18 **BENEFIT MANAGEMENT FIRM SHALL REIMBURSE A RURAL INDEPENDENT**
19 **PHARMACY FOR A PRESCRIPTION DRUG IN AN AMOUNT NOT LESS THAN THE**
20 **NATIONAL AVERAGE DRUG ACQUISITION COST FOR THE DISPENSED**
21 **PRESCRIPTION DRUG INGREDIENTS AND A DISPENSING FEE. IF THE**
22 **NATIONAL AVERAGE DRUG ACQUISITION COST IS NOT AVAILABLE AT THE**
23 **TIME A PRESCRIPTION DRUG IS ADMINISTERED OR DISPENSED, A PHARMACY**
24 **BENEFIT MANAGEMENT FIRM SHALL NOT REIMBURSE IN AN AMOUNT THAT**
25 **IS LESS THAN THE WHOLESALE ACQUISITION COST OF THE PRESCRIPTION**
26 **DRUG.**

27 (6) As used in this section:

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(b.3) "DISPENSING FEE" MEANS THE REIMBURSEMENT AMOUNT FOR COSTS ASSOCIATED WITH FILLING A PRESCRIPTION, AS PUBLISHED FOR RURAL PHARMACIES IN 10 CCR 2505-10 SEC. 8.800.13.L, AS THE RULE EXISTED ON JUNE 1, 2025. ON JANUARY 1, 2027, AND ON JANUARY 1 OF EVERY YEAR THEREAFTER, A PHARMACY BENEFIT MANAGEMENT FIRM SHALL INCREASE THE AMOUNT OF THE DISPENSING FEE BY ONE PERCENT TO ACCOUNT FOR INFLATION.

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

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

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

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

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

1 **AUDIT:**

2 **(I) ELECTRONICALLY NOTIFY THE RURAL INDEPENDENT PHARMACY**
3 **OF THE RURAL INDEPENDENT PHARMACY'S RIGHTS TO APPEAL PURSUANT**
4 **TO SUBSECTION (1)(e) OF THIS SECTION AT LEAST THIRTY DAYS BEFORE**
5 **THE RECOUPMENT OF FUNDS;**

6 **(II) IF THE RURAL INDEPENDENT PHARMACY DOES NOT RESPOND**
7 **TO THE ELECTRONIC NOTIFICATION PROVIDED PURSUANT TO SUBSECTION**
8 **(1)(g)(I) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE ELECTRONIC**
9 **NOTIFICATION, AGAIN ELECTRONICALLY NOTIFY THE RURAL INDEPENDENT**
10 **PHARMACY OF THE RURAL INDEPENDENT PHARMACY'S RIGHTS TO APPEAL**
11 **PURSUANT TO SUBSECTION (1)(e) OF THIS SECTION AT LEAST THIRTY DAYS**
12 **BEFORE THE RECOUPMENT OF FUNDS; AND**

13 **(III) IF THE RURAL INDEPENDENT PHARMACY DOES NOT RESPOND**
14 **TO THE SECOND ELECTRONIC NOTIFICATION PROVIDED PURSUANT TO**
15 **SUBSECTION (1)(g)(II) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE**
16 **SECOND ELECTRONIC NOTIFICATION, SERVE PROCESS ON THE RURAL**
17 **INDEPENDENT PHARMACY NOTIFYING OF THE RURAL INDEPENDENT**
18 **PHARMACY'S RIGHTS TO APPEAL PURSUANT TO SUBSECTION (1)(e) OF THIS**
19 **SECTION AT LEAST THIRTY DAYS BEFORE THE RECOUPMENT OF FUNDS.**

20 **SECTION 6.** In Colorado Revised Statutes, 12-280-103, **add**
21 (46.7) as follows:

22 **12-280-103. Definitions - rules.** As used in this article 280, unless
23 the context otherwise requires or the term is otherwise defined in another
24 part of this article 280:

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26 (46.7) "RURAL INDEPENDENT PHARMACY" HAS THE MEANING SET
27 FORTH IN SECTION 10-16-102 (59.5).

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

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

9 **SECTION 8. Act subject to petition - effective date -**
10 **applicability.** (1) Section 10-16-122.3, Colorado Revised Statutes, as
11 amended in section 4 of this act, takes effect January 1, 2026, and the
12 remainder of the act takes effect at 12:01 a.m. on the day following the
13 expiration of the ninety-day period after final adjournment of the general
14 assembly; except that, if a referendum petition is filed pursuant to section
15 1 (3) of article V of the state constitution against this act or an item,
16 section, or part of this act within such period, then the act, item, section,
17 or part will not take effect unless approved by the people at the general
18 election to be held in November 2026 and, in such case, will take effect
19 on the date of the official declaration of the vote thereon by the governor.

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