

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 05-1131

BY REPRESENTATIVE(S) Cloer, Clapp, Crane, Decker, Frangas, Lundberg, Weissmann, Berens, Borodkin, Boyd, Butcher, Cerbo, Coleman, Gallegos, Garcia, Kerr, Liston, Madden, Marshall, McFadyen, McGihon, Merrifield, Paccione, Pommer, Solano, Stafford, Todd, Vigil, Harvey, Riesberg, and Schultheis;
also SENATOR(S) Tochtrop, Johnson, Sandoval, Groff, Hanna, Isgar, Kester, Shaffer, Tapia, Tupa, Williams, Bacon, Fitz-Gerald, Jones, Lamborn, Teck, and Windels.

CONCERNING THE AUTHORITY OF A PHARMACIST TO REDISPENSE SPECIFIED
UNUSED MEDICATIONS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Part 1 of article 22 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

12-22-133. Unused medication - licensed facilities - reuse - rules.

(1) AS USED IN THIS SECTION AND SECTION 12-22-134, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "LICENSED FACILITY" MEANS A HOSPITAL, HOSPITAL UNIT,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

HOSPICE, NURSING CARE FACILITY, OR ASSISTED LIVING RESIDENCE THAT IS REQUIRED TO BE LICENSED PURSUANT TO SECTION 25-3-101, C.R.S.

(b) "MEDICATION" MEANS PRESCRIPTION MEDICATION THAT IS NOT A CONTROLLED SUBSTANCE.

(2) IF DONATED BY THE PATIENT, RESIDENT, OR THE PATIENT'S OR RESIDENT'S NEXT OF KIN, A LICENSED FACILITY MAY RETURN UNUSED MEDICATION TO A PHARMACIST WITHIN THE LICENSED FACILITY IN ORDER FOR THE MEDICATION TO BE REDISPENSED TO ANOTHER PATIENT OR RESIDENT OF THAT LICENSED FACILITY. A PHARMACIST MAY REDISPENSE A RETURNED MEDICATION THAT IS PRESCRIBED TO A PATIENT OR RESIDENT OF A LICENSED FACILITY IF THE MEDICATION WAS ORIGINALLY DISPENSED TO ANOTHER PATIENT OR RESIDENT OF THE LICENSED FACILITY OR MAY DONATE A RETURNED MEDICATION TO A NONPROFIT ENTITY THAT HAS THE LEGAL AUTHORITY TO POSSESS THE MEDICATION. MEDICATIONS SHALL ONLY BE AVAILABLE TO BE DISPENSED TO ANOTHER PERSON OR DONATED TO A NONPROFIT ENTITY UNDER THIS SECTION IF THE MEDICATIONS ARE:

(a) LIQUID AND THE VIAL IS STILL SEALED AND PROPERLY STORED;

(b) INDIVIDUALLY PACKAGED AND THE PACKAGING HAS NOT BEEN DAMAGED; OR

(c) IN THE ORIGINAL, UNOPENED, SEALED, AND TAMPER-EVIDENT UNIT DOSE PACKAGING.

(3) MEDICATION DISPENSED OR DONATED PURSUANT TO THIS SECTION SHALL BEAR AN EXPIRATION DATE THAT IS LATER THAN SIX MONTHS AFTER THE DATE THE DRUG WAS DONATED.

(4) THE BOARD SHALL ADOPT RULES THAT ALLOW A PHARMACIST TO REDISPENSE MEDICATION PURSUANT TO THIS SECTION AND SECTION 26-4-406.3, C.R.S., AND TO DONATE MEDICATION PURSUANT TO THIS SECTION.

12-22-134. Liability - prescription drug manufacturers. NOTHING IN SECTION 12-22-133 OR 26-4-406.3, C.R.S., SHALL BE CONSTRUED TO CREATE OR ABROGATE ANY LIABILITY ON BEHALF OF A PRESCRIPTION DRUG MANUFACTURER FOR THE STORAGE, DONATION, ACCEPTANCE, OR DISPENSING OF AN UNUSED DONATED MEDICATION OR TO

CREATE ANY CIVIL CAUSE OF ACTION AGAINST A PRESCRIPTION DRUG MANUFACTURER, IN ADDITION TO THAT WHICH IS AVAILABLE UNDER APPLICABLE LAW.

SECTION 2. Part 4 of article 4 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-4-406.3. Unused medications - reuse - rules. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "MEDICATION" MEANS PRESCRIPTION MEDICATION THAT IS NOT A CONTROLLED SUBSTANCE.

(2) A PHARMACIST PARTICIPATING IN THE MEDICAL ASSISTANCE PROGRAM MAY ACCEPT UNUSED MEDICATION FROM A LICENSED FACILITY, AS DEFINED IN SECTION 12-22-133, C.R.S., OR A LICENSED HEALTH CARE PROVIDER FOR THE PURPOSE OF DISPENSING THE MEDICATION TO ANOTHER PERSON. A PHARMACIST SHALL REIMBURSE THE STATE DEPARTMENT FOR THE COST OF MEDICATIONS THAT THE STATE DEPARTMENT HAS PAID TO THE PHARMACIST IF MEDICATIONS ARE RETURNED TO A PHARMACIST AND THE MEDICATIONS ARE AVAILABLE TO BE DISPENSED TO ANOTHER PERSON. MEDICATIONS SHALL ONLY BE AVAILABLE TO BE DISPENSED TO ANOTHER PERSON UNDER THIS SECTION IF THE MEDICATIONS ARE:

(a) LIQUID AND THE VIAL IS STILL SEALED AND PROPERLY STORED;

(b) INDIVIDUALLY PACKAGED AND THE PACKAGING HAS NOT BEEN DAMAGED; OR

(c) IN THE ORIGINAL, UNOPENED, SEALED, AND TAMPER-EVIDENT UNIT DOSE PACKAGING.

(3) MEDICATION DISPENSED PURSUANT TO THIS SECTION SHALL BEAR AN EXPIRATION DATE THAT IS LATER THAN SIX MONTHS AFTER THE DATE THE DRUG WAS DONATED.

(4) ANY SAVINGS REALIZED THROUGH REIMBURSEMENTS RECEIVED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL FUND THE ADMINISTRATION OF THIS SECTION.

(5) THE STATE BOARD, IN CONSULTATION WITH THE STATE BOARD OF PHARMACY, SHALL ADOPT RULES FOR THE IMPLEMENTATION OF THIS SECTION.

SECTION 3. Appropriation in the 2005 long bill to be adjusted.

For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2005, shall be adjusted as follows: The appropriation to the department of health care policy and financing, for medical services premiums, is decreased by seven hundred thirty-three thousand nine hundred seventy dollars (\$733,970). Of said sum, three hundred sixty-six thousand nine hundred eighty-five dollars (\$366,985) shall be from the general fund and three hundred sixty-six thousand nine hundred eighty-five dollars (\$366,985) shall be from federal funds.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 10, 2005, if adjournment sine die is on May 11, 2005); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or

part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO