

First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 07-0166.01 Jerry Barry

SENATE BILL 07-001

SENATE SPONSORSHIP

Hagedorn,

HOUSE SPONSORSHIP

Madden,

Senate Committees
Health and Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING A GENERIC AND NONPATENTED PRESCRIPTION DRUG
102 PROGRAM.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Establishes in the department of health care policy and financing ("department") the Colorado Cares Rx program to provide generic and non-patented prescription drugs to eligible persons at discounted prices. Specifies eligibility requirements. Directs the medical services board to adopt rules. Requires pharmacies to provide generic and nonpatented prescription drugs to eligible persons at the lesser of:

An amount negotiated by the department and the generic or

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.

nonpatented drug manufacturer that is between the average manufacturer's price and the federal upper limit established by the federal government, plus a dispensing fee; or The customary charge for the drug at the pharmacy.

Clarifies that making a false statement in an application constitutes 2nd degree perjury.

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

2 **SECTION 1.** Title 25.5, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 2.5**

5 **Colorado Cares**

6 **Prescription Drug Program**

7 **25.5-2.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
8 MAY BE CITED AS THE "COLORADO CARES RX ACT".

9 **25.5-2.5-102. Legislative declaration.** (1) THE GENERAL
10 ASSEMBLY FINDS THAT:

11 (a) UNINSURED, UNDERINSURED, AND OLDER COLORADANS PAY A
12 DISPROPORTIONATELY GREATER SHARE OF THEIR INCOME FOR
13 PRESCRIPTION DRUGS. IN MANY CASES, CURRENT DRUG PRICES HAVE THE
14 EFFECT OF DENYING RESIDENTS ACCESS TO NECESSARY MEDICAL CARE,
15 THEREBY THREATENING THEIR HEALTH AND SAFETY.

16 (b) PRESCRIPTION DRUGS PLAY AN INCREASINGLY IMPORTANT
17 ROLE IN IMPROVING OR STABILIZING A PERSON'S HEALTH AND IN REDUCING
18 OVERALL HEALTH CARE COSTS;

19 (c) ADDITIONALLY, THE NEW MEDICARE PRESCRIPTION DRUG
20 BENEFIT RESTRICTS PERSONS FROM PURCHASING INSURANCE IN ORDER TO
21 FULLY COVER THEIR PRESCRIPTION DRUG NEEDS. THIS RESTRICTION ON A
22 PERSON'S ABILITY TO PURCHASE ADEQUATE COVERAGE MAY THREATEN

1 THE PERSON'S HEALTH AND SAFETY.

2 (d) CURRENTLY, THERE IS NO LIMIT ON THE AMOUNT THAT A
3 PHARMACY MAY CHARGE FOR A GENERIC OR NONPATENTED DRUG, AND,
4 ALTHOUGH SOME RETAIL PHARMACIES ARE OFFERING SOME GENERIC AND
5 NONPATENTED DRUGS AT DISCOUNTED PRICES, THERE ARE NO
6 GUARANTEES THAT THE PHARMACIES WILL CONTINUE TO DO SO.

7 (2) THE GENERAL ASSEMBLY, THEREFORE, DECLARES THAT IT IS
8 NECESSARY TO PROVIDE A MECHANISM FOR PERSONS TO PURCHASE
9 LOWER-COST GENERIC AND NONPATENTED PRESCRIPTION DRUGS THROUGH
10 THE IMPLEMENTATION OF "COLORADO CARES RX ACT" IN ORDER TO
11 PROTECT THE HEALTH OF UNINSURED, UNDERINSURED, AND OLDER
12 COLORADANS.

13 **25.5-2.5-103. Definitions.** AS USED IN THIS ARTICLE 2.5, UNLESS
14 THE CONTEXT OTHERWISE REQUIRES:

15 (1) "PROGRAM" MEANS THE COLORADO CARES RX PROGRAM
16 ESTABLISHED IN SECTION 25.5-2.5-104.

17 (2) "PROGRAM CARD" MEANS A CARD ISSUED PURSUANT TO
18 SECTION 25.5-2.5-104 (3) THAT INDICATES A PERSON'S ELIGIBILITY TO
19 PARTICIPATE IN THE PROGRAM.

20 **25.5-2.5-104. Program - rules.** (1) THERE IS HEREBY
21 ESTABLISHED IN THE STATE DEPARTMENT THE COLORADO CARES RX
22 PROGRAM TO PROVIDE GENERIC AND NONPATENTED PRESCRIPTION DRUGS
23 TO ELIGIBLE PERSONS AT DISCOUNTED RATES.

24 (2) FOR PURPOSES OF THE PROGRAM, AN ELIGIBLE PERSON SHALL
25 BE A PERSON:

26 (a) WHO IS A RESIDENT OF THE STATE OF COLORADO;

27 (b) WHO IS NOT ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO

1 ARTICLES 4 TO 6 OF THIS TITLE OR THE CHILDREN'S BASIC HEALTH PLAN
2 PURSUANT TO ARTICLE 8 OF THIS TITLE; AND

3 (c) WHOSE FAMILY INCOME DOES NOT EXCEED THREE HUNDRED
4 PERCENT OF THE FEDERAL POVERTY LEVEL, ADJUSTED FOR FAMILY SIZE.

5 (3) TO PARTICIPATE IN THE PROGRAM, AN ELIGIBLE PERSON SHALL
6 SUBMIT AN APPLICATION TO THE STATE DEPARTMENT ON A FORM
7 APPROVED BY THE STATE BOARD BY RULE AND PAY A REGISTRATION FEE
8 IN AN AMOUNT ESTABLISHED BY THE STATE BOARD BY RULE TO COVER THE
9 ADMINISTRATIVE COSTS OF THE PROGRAM. THE REGISTRATION FEE
10 ESTABLISHED BY THE STATE BOARD SHALL NOT EXCEED TWENTY DOLLARS.
11 THE STATE DEPARTMENT SHALL ISSUE TO AN ELIGIBLE PERSON WHO
12 SUBMITS AN APPLICATION AND PAYS THE REQUIRED REGISTRATION FEE A
13 PROGRAM CARD INDICATING THE PERSON'S ELIGIBILITY FOR THE PROGRAM.

14 (4) ON AND AFTER SEPTEMBER 1, 2007, A PHARMACY SHALL
15 CHARGE A PERSON WHO PRESENTS A PROGRAM CARD FOR A GENERIC OR
16 NONPATENTED PRESCRIPTION DRUG THE LESSER OF:

17 (a) AN AMOUNT NEGOTIATED BETWEEN THE STATE DEPARTMENT
18 AND THE GENERIC OR NONPATENTED DRUG MANUFACTURER THAT SHALL
19 BE NOT LESS THAN THE AVERAGE MANUFACTURER'S PRICE AND NOT MORE
20 THAN THE MAXIMUM AMOUNT FOR WHICH THE FEDERAL GOVERNMENT
21 WILL REIMBURSE THE STATE UNDER THE MEDICAID PROGRAM, PLUS A
22 DISPENSING FEE ESTABLISHED BY RULE OF THE STATE BOARD; OR

23 (b) THE CUSTOMARY CHARGE FOR THE DRUG AT THE PHARMACY.

24 (5) A PERSON WHO KNOWINGLY MAKES A FALSE, FICTITIOUS, OR
25 FRAUDULENT STATEMENT OR REPRESENTATION ON AN APPLICATION
26 SUBMITTED PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL BE
27 GUILTY OF A VIOLATION OF SECTION 18-8-503, C.R.S.

1 **SECTION 2. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.