

First Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 05-0575.01 Michele Hanigsberg

SENATE BILL 05-165

SENATE SPONSORSHIP

Tochtrop, and Hagedorn

HOUSE SPONSORSHIP

Hefley,

Senate Committees

Health and Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE COLORADO CANCER DRUG REPOSITORY 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 the Colorado cancer drug repository program ("program") in the department of public health and environment for the purpose of allowing a cancer patient or the patient's family to donate unused cancer drugs and medical devices to uninsured and underinsured cancer patients in the state of Colorado.

Allows a cancer patient or the patient's family to donate unused cancer drugs or medical devices to a health care facility, medical clinic, or pharmacy that elects to participate in the program. Authorizes a health care facility, medical clinic, or pharmacy that receives a donated cancer

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.

SENATE
3rd Reading Unamended
February 22, 2005

SENATE
2nd Reading Unamended
February 21, 2005

drug or medical device under the program to distribute the cancer drug to another eligible health care facility, medical clinic, or pharmacy for use under the program. Allows a pharmacist to accept and dispense cancer drugs and medical devices donated under the program to eligible patients if specified requirements are met. Specifies that a cancer drug or medical device donated under the program may not be resold.

Contains rule-making authority.

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

2 **SECTION 1.** Title 25, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 35**

5 **Colorado Cancer Drug Repository Program**

6 **25-35-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY
7 BE CITED AS THE "COLORADO CANCER DRUG REPOSITORY ACT".

8 **25-35-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "CANCER DRUG" MEANS A PRESCRIPTION DRUG THAT IS USED
11 TO TREAT CANCER OR THE SIDE EFFECTS OF CANCER.

12 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
13 AND ENVIRONMENT.

14 (3) "DISPENSE" SHALL HAVE THE SAME MEANING AS SET FORTH IN
15 SECTION 12-22-102 (9), C.R.S.

16 (4) "ELIGIBLE PATIENT" MEANS AN UNINSURED OR UNDERINSURED
17 CANCER PATIENT WHO MEETS THE ELIGIBILITY CRITERIA ESTABLISHED IN
18 RULE BY THE STATE BOARD.

19 (5) "HEALTH CARE FACILITY" MEANS A HOSPITAL OR HOSPITAL
20 UNIT THAT IS REQUIRED TO BE LICENSED PURSUANT TO SECTION 25-3-101.

21 (6) "MEDICAL CLINIC" MEANS A COMMUNITY HEALTH CLINIC
22 REQUIRED TO BE LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT

1 TO SECTION 25-1.5-103.

2 (7) "MEDICAL DEVICE" MEANS AN INSTRUMENT, APPARATUS,
3 IMPLEMENT, MACHINE, CONTRIVANCE, IMPLANT, OR SIMILAR OR RELATED
4 ARTICLE THAT IS REQUIRED UNDER FEDERAL LAW TO BEAR THE LABEL,
5 "CAUTION: FEDERAL LAW REQUIRES DISPENSING BY OR ON THE ORDER
6 OF A PHYSICIAN." "DEVICE" ALSO INCLUDES ANY COMPONENT PART OF,
7 OR ACCESSORY OR ATTACHMENT TO, ANY SUCH ARTICLE, WHETHER OR NOT
8 THE COMPONENT PART, ACCESSORY, OR ATTACHMENT IS SEPARATELY SO
9 LABELED.

10 (8) "PHARMACIST" MEANS AN INDIVIDUAL LICENSED BY THIS STATE
11 PURSUANT TO THE PROVISIONS OF ARTICLE 22 OF TITLE 12, C.R.S, TO
12 ENGAGE IN THE PRACTICE OF PHARMACY.

13 (9) "PROGRAM" MEANS THE COLORADO CANCER DRUG
14 REPOSITORY PROGRAM CREATED IN SECTION 25-35-103.

15 (10) "STATE BOARD" MEANS THE STATE BOARD OF HEALTH.

16 **25-35-103. Cancer drug repository - administration - donation**
17 **- dispensing - cancer drugs - medical devices.** (1) THERE IS HEREBY
18 ESTABLISHED THE COLORADO CANCER DRUG REPOSITORY PROGRAM FOR
19 THE PURPOSE OF ALLOWING A CANCER PATIENT OR THE PATIENT'S FAMILY
20 TO DONATE UNUSED CANCER DRUGS AND MEDICAL DEVICES TO UNINSURED
21 AND UNDERINSURED CANCER PATIENTS IN THE STATE OF COLORADO. THE
22 PROGRAM SHALL BE ADMINISTERED BY THE DEPARTMENT.

23 (2) THE PROGRAM SHALL ALLOW A CANCER PATIENT OR THE
24 PATIENT'S FAMILY TO DONATE UNUSED CANCER DRUGS OR MEDICAL
25 DEVICES TO A HEALTH CARE FACILITY, MEDICAL CLINIC, OR PHARMACY
26 THAT ELECTS TO PARTICIPATE IN THE PROGRAM. A HEALTH CARE FACILITY,
27 MEDICAL CLINIC, OR PHARMACY THAT RECEIVES A DONATED CANCER DRUG

1 OR MEDICAL DEVICE UNDER THE PROGRAM MAY DISTRIBUTE THE CANCER
2 DRUG TO ANOTHER ELIGIBLE HEALTH CARE FACILITY, MEDICAL CLINIC, OR
3 PHARMACY FOR USE UNDER THE PROGRAM.

4 (3) A PHARMACIST MAY ACCEPT AND DISPENSE CANCER DRUGS
5 AND MEDICAL DEVICES DONATED UNDER THE PROGRAM TO ELIGIBLE
6 PATIENTS IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

7 (a) THE CANCER DRUG IS IN ITS ORIGINAL, UNOPENED, SEALED, AND
8 TAMPER-EVIDENT UNIT DOSE PACKAGING OR, IF PACKAGED IN SINGLE-UNIT
9 DOSES, THE SINGLE-UNIT-DOSE PACKAGING IS UNOPENED;

10 (b) THE CANCER DRUG BEARS AN EXPIRATION DATE THAT IS LATER
11 THAN SIX MONTHS AFTER THE DATE THE DRUG WAS DONATED;

12 (c) THE CANCER DRUG OR MEDICAL DEVICE IS NOT ADULTERATED
13 OR MISBRANDED, AS DETERMINED BY A PHARMACIST EMPLOYED BY OR
14 UNDER CONTRACT WITH THE HEALTH CARE FACILITY, MEDICAL CLINIC, OR
15 PHARMACY; AND

16 (d) THE CANCER DRUG OR MEDICAL DEVICE IS PRESCRIBED BY A
17 PRACTITIONER, AS DEFINED IN SECTION 12-22-102 (27), C.R.S., FOR USE
18 BY AN ELIGIBLE PATIENT AND IS DISPENSED BY A PHARMACIST.

19 (4) A CANCER DRUG OR MEDICAL DEVICE DONATED UNDER THE
20 PROGRAM MAY NOT BE RESOLD. A HEALTH CARE FACILITY, MEDICAL
21 CLINIC, OR PHARMACY MAY CHARGE AN ELIGIBLE PATIENT A HANDLING FEE
22 TO RECEIVE A DONATED CANCER DRUG OR MEDICAL DEVICE, WHICH FEE
23 MAY NOT EXCEED THE AMOUNT SPECIFIED IN RULE BY THE STATE BOARD.

24 (5) NOTHING IN THIS SECTION REQUIRES A HEALTH CARE FACILITY,
25 MEDICAL CLINIC, OR PHARMACY TO PARTICIPATE IN THE PROGRAM.

26 **25-35-104. Rules.** (1) THE STATE BOARD, IN CONSULTATION WITH
27 THE STATE BOARD OF PHARMACY, SHALL PROMULGATE ANY RULES

1 NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE
2 PROGRAM. THE RULES SHALL INCLUDE, AT A MINIMUM:

3 (a) REQUIREMENTS FOR HEALTH CARE FACILITIES, MEDICAL
4 CLINICS, AND PHARMACIES TO ACCEPT AND DISPENSE DONATED CANCER
5 DRUGS AND MEDICAL DEVICES UNDER THE PROGRAM, INCLUDING BUT NOT
6 LIMITED TO:

7 (I) ELIGIBILITY CRITERIA; AND

8 (II) STANDARDS AND PROCEDURES FOR A HEALTH CARE FACILITY,
9 MEDICAL CLINIC, OR PHARMACY TO ACCEPT, SAFELY STORE, AND DISPENSE
10 DONATED CANCER DRUGS AND MEDICAL DEVICES.

11 (b) ELIGIBILITY CRITERIA FOR INDIVIDUALS TO RECEIVE DONATED
12 CANCER DRUGS OR MEDICAL DEVICES DISPENSED UNDER THE PROGRAM.
13 THE CRITERIA SHALL PRIORITIZE DISPENSATION TO CANCER PATIENTS WHO
14 ARE UNINSURED OR UNDERINSURED, BUT SHALL PERMIT DISPENSATION TO
15 OTHER CANCER PATIENTS IF AN UNINSURED OR UNDERINSURED CANCER
16 PATIENT IS NOT AVAILABLE.

17 (c) A MEANS BY WHICH AN ELIGIBLE PATIENT MAY INDICATE THE
18 INDIVIDUAL'S ELIGIBILITY UNDER THE PROGRAM;

19 (d) THE MAXIMUM HANDLING FEE THAT A HEALTH CARE FACILITY,
20 MEDICAL CLINIC, OR PHARMACY MAY CHARGE FOR DISTRIBUTING OR
21 DISPENSING DONATED CANCER DRUGS OR MEDICAL DEVICES; AND

22 (e) A LIST OF CANCER DRUGS, ARRANGED BY CATEGORY OR
23 INDIVIDUAL CANCER DRUG, THAT THE PROGRAM WILL ACCEPT AND WILL
24 NOT ACCEPT FOR DISPENSING. THE LIST OF CANCER DRUGS THE PROGRAM
25 WILL NOT ACCEPT SHALL INCLUDE THE REASON A CANCER DRUG IS
26 INELIGIBLE FOR DONATION.

27 **SECTION 2. Effective date.** This act shall take effect at 12:01

1 a.m. on the day following the expiration of the ninety-day period after
2 final adjournment of the general assembly that is allowed for submitting
3 a referendum petition pursuant to article V, section 1 (3) of the state
4 constitution (August 10, 2005, if adjournment sine die is on May 11,
5 2005); except that, if a referendum petition is filed against this act or an
6 item, section, or part of this act within such period, then the act, item,
7 section, or part, if approved by the people, shall take effect on the date of
8 the official declaration of the vote thereon by proclamation of the
9 governor.