

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 16, 2011
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB11-1091 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. 39-26-717, Colorado Revised Statutes, is amended
4 to read:

5 **39-26-717. Drugs and medical and therapeutic devices -**
6 **definitions.** (1) The following shall be exempt from taxation under the
7 provisions of part 1 of this article:

8 (a) All sales of drugs dispensed in accordance with a prescription;

9 (b) All sales of insulin in all its forms dispensed pursuant to the
10 direction of a licensed physician;

11 (c) All sales of glucose useable for treatment of insulin reactions;

12 (d) All sales of urine- and blood-testing kits and materials;

13 (e) All sales of insulin measuring and injecting devices, including
14 hypodermic syringes and needles;

15 (f) All sales of prosthetic devices;

16 (g) (I) ALL SALES OF OXYGEN DELIVERY EQUIPMENT AND
17 DISPOSABLE MEDICAL SUPPLIES RELATED TO OXYGEN DELIVERY DISPENSED
18 PURSUANT TO A PRESCRIPTION.

19 (II) FOR PURPOSES OF THIS PARAGRAPH (g), "PRESCRIPTION"
20 MEANS ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED
21 PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH
22 PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND
23 IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT
24 PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A

1 BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN SUBPARAGRAPH (I) OF
2 THIS PARAGRAPH (g) SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN
3 ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE
4 NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM DESCRIBED IN
5 SUBPARAGRAPH (I) OF THIS PARAGRAPH (g) IS ORDERED AND DIRECTIONS,
6 IF ANY, TO BE INCLUDED WITH SUCH ITEM.

7 (h) (I) ALL SALES OF MEDICAL, FEEDING, AND DISPOSABLE
8 SUPPLIES, INCLUDING ANY RELATED ACCESSORIES, FOR INCONTINENCE,
9 INFUSION, ENTERAL NUTRITION, OSTOMY, UROLOGY, DIABETIC CARE, AND
10 WOUND CARE DISPENSED PURSUANT TO A PRESCRIPTION.

11 (II) FOR PURPOSES OF THIS PARAGRAPH (h), "PRESCRIPTION"
12 MEANS ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED
13 PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH
14 PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND
15 IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT
16 PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A
17 BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN SUBPARAGRAPH (I) OF
18 THIS PARAGRAPH (h) SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN
19 ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE
20 NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM DESCRIBED IN
21 SUBPARAGRAPH (I) OF THIS PARAGRAPH (h) IS ORDERED AND DIRECTIONS,
22 IF ANY, TO BE INCLUDED WITH SUCH ITEM.

23 (i) (I) ALL SALES OF EQUIPMENT AND RELATED ACCESSORIES FOR
24 SLEEP THERAPY, INHALATION THERAPY, AND ELECTROTHERAPY DISPENSED
25 PURSUANT TO A PRESCRIPTION.

26 (II) FOR PURPOSES OF THIS PARAGRAPH (i), "PRESCRIPTION" MEANS
27 ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED PHYSICIAN,
28 PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH
29 PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND
30 IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT
31 PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A
32 BUSINESS LICENSED TO SELL ITEMS DESCRIBED IN SUBPARAGRAPH (I) OF
33 THIS PARAGRAPH (i) SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN
34 ELECTRONIC SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE
35 NAME AND ADDRESS OF THE PERSON FOR WHOM AN ITEM DESCRIBED IN
36 SUBPARAGRAPH (I) OF THIS PARAGRAPH (i) IS ORDERED AND DIRECTIONS,
37 IF ANY, TO BE INCLUDED WITH SUCH ITEM.

38 (j) All sales of ~~wheelchairs and hospital beds~~ DURABLE MEDICAL
39 EQUIPMENT AND MOBILITY ENHANCING EQUIPMENT;

40 (k) All sales of drugs or materials when furnished by a doctor as
41 part of professional services provided to a patient; and

1 (l) All sales of corrective eyeglasses, contact lenses, or hearing
2 aids.

3 ~~(b) When sold in accordance with a written recommendation from
4 a licensed doctor, all sales of therapeutic devices, appliances, or related
5 accessories, with a retail value of more than one hundred dollars, that are
6 sold to correct or treat a human physical disability or surgically created
7 abnormality; and~~

8 ~~(c) All sales of therapeutic devices, appliances, or related
9 accessories, with a retail value of one hundred dollars or less, that are sold
10 to correct or treat a human physical disability or surgically created
11 abnormality.~~

12 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

14 (a) (I) "DURABLE MEDICAL EQUIPMENT" MEANS EQUIPMENT,
15 INCLUDING REPAIR AND REPLACEMENT PARTS FOR SUCH EQUIPMENT,
16 DISPENSED PURSUANT TO A PRESCRIPTION, THAT:

17 (A) CAN WITHSTAND REPEATED USE;

18 (B) IS PRIMARILY AND CUSTOMARILY USED TO SERVE A MEDICAL
19 PURPOSE;

20 (C) IS GENERALLY NOT USEFUL TO A PERSON IN THE ABSENCE OF
21 ILLNESS OR INJURY; AND

22 (D) IS NOT WORN IN OR ON THE BODY.

23 (II) "DURABLE MEDICAL EQUIPMENT" INCLUDES, BUT IS NOT
24 LIMITED TO, HOSPITAL BEDS, INTRAVENOUS POLES AND PUMPS, TRAPEZE
25 BARS, TOILETING AIDS, BATH AND SHOWER AIDS, STANDING AIDS,
26 ADAPTIVE CAR SEATS, COMMUNICATION DEVICES, AND ANY RELATED
27 ACCESSORIES FOR SUCH ITEMS.

28 (III) FOR PURPOSES OF THIS PARAGRAPH (a), "PRESCRIPTION"
29 MEANS ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED
30 PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH
31 PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND
32 IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT
33 PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A
34 BUSINESS LICENSED TO SELL ITEMS OF DURABLE MEDICAL EQUIPMENT SO
35 LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN ELECTRONIC SUBMISSION
36 OF THE ORDER TO THE BUSINESS, SPECIFYING THE NAME AND ADDRESS OF
37 THE PERSON FOR WHOM AN ITEM OF DURABLE MEDICAL EQUIPMENT IS
38 ORDERED AND DIRECTIONS, IF ANY, TO BE INCLUDED WITH THE
39 EQUIPMENT.

40 (b) (I) "MOBILITY ENHANCING EQUIPMENT" MEANS EQUIPMENT,
41 INCLUDING REPAIR AND REPLACEMENT PARTS FOR SUCH EQUIPMENT,
42 DISPENSED PURSUANT TO A PRESCRIPTION, THAT:

1 (A) IS PRIMARILY AND CUSTOMARILY USED TO PROVIDE OR
2 INCREASE THE ABILITY TO MOVE FROM ONE PLACE TO ANOTHER;
3 (B) IS APPROPRIATE FOR USE IN A HOME, IN A PERSON'S
4 COMMUNITY, OR IN A MOTOR VEHICLE;
5 (C) IS NOT GENERALLY USED BY PERSONS WITH NORMAL MOBILITY;
6 AND
7 (D) DOES NOT INCLUDE ANY MOTOR VEHICLE OR EQUIPMENT ON
8 A MOTOR VEHICLE NORMALLY PROVIDED BY A MOTOR VEHICLE
9 MANUFACTURER.
10 (II) "MOBILITY ENHANCING EQUIPMENT" INCLUDES, BUT IS NOT
11 LIMITED TO, WHEELCHAIRS AND WHEELCHAIR COMPONENTS OR
12 ACCESSORIES, WALKING AIDS SUCH AS CRUTCHES, CANES, OR WALKERS,
13 GRAB BARS, TRAPEZE BARS, LIFT CHAIRS, PATIENT LIFTS, MOTORIZED
14 CARTS, SCOOTERS, CONTROLS THAT ARE INSTALLED ON MOTOR VEHICLES,
15 AND ANY RELATED ACCESSORIES FOR SUCH ITEMS.
16 (III) FOR PURPOSES OF THIS PARAGRAPH (b), "PRESCRIPTION"
17 MEANS ANY ORDER IN WRITING, DATED AND SIGNED BY A LICENSED
18 PHYSICIAN, PHYSICIAN'S ASSISTANT, OR ADVANCED PRACTICE NURSE WITH
19 PRESCRIPTIVE AUTHORITY, OR GIVEN ORALLY BY SUCH A PERSON AND
20 IMMEDIATELY REDUCED TO WRITING BY THE PHARMACIST, ASSISTANT
21 PHARMACIST, OR PHARMACY INTERN, OR BY A REPRESENTATIVE OF A
22 BUSINESS LICENSED TO SELL ITEMS OF MOBILITY ENHANCING EQUIPMENT
23 SO LONG AS SUCH ORDER IS ALSO FOLLOWED BY AN ELECTRONIC
24 SUBMISSION OF THE ORDER TO THE BUSINESS, SPECIFYING THE NAME AND
25 ADDRESS OF THE PERSON FOR WHOM AN ITEM OF MOBILITY ENHANCING
26 EQUIPMENT IS ORDERED AND DIRECTIONS, IF ANY, TO BE INCLUDED WITH
27 THE EQUIPMENT.

28 **SECTION 2. Act subject to petition - effective date -**
29 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
30 following the expiration of the ninety-day period after final adjournment
31 of the general assembly (August 10, 2011, if adjournment sine die is on
32 May 11, 2011); except that, if a referendum petition is filed pursuant to
33 section 1 (3) of article V of the state constitution against this act or an
34 item, section, or part of this act within such period, then the act, item,
35 section, or part shall not take effect unless approved by the people at the
36 general election to be held in November 2012 and shall take effect on the
37 date of the official declaration of the vote thereon by the governor.

38 (2) The provisions of this act shall apply to purchases of medical
39 equipment on or after the applicable effective date of this act."

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