

First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 15-0484.01 Kristen Forrestal x4217

HOUSE BILL 15-1039

HOUSE SPONSORSHIP

Tyler,

SENATE SPONSORSHIP

Neville T.,

House Committees

Public Health Care & Human Services

Senate Committees

Health & Human Services

A BILL FOR AN ACT

101 CONCERNING THE DONATION OF PRESCRIPTION MEDICATIONS BY  
102 LICENSED HEALTH CARE FACILITIES.

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://www.leg.state.co.us/billsummaries>.)*

Current law restricts the use of donated medications, medical supplies, and medical devices by a nonprofit entity to purposes related to aiding the victims of a disaster. The bill removes this restriction. In addition, the bill removes the requirement that a medication dispensed or donated must bear an expiration date that is 6 months later than the date the drug was donated, instead only requiring that the drug be unexpired.

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  
2nd Reading Unamended  
February 18, 2015

HOUSE  
3rd Reading Unamended  
January 26, 2015

HOUSE  
Amended 2nd Reading  
January 23, 2015

The bill prohibits the resale of donated materials.

For purposes of the statute governing such donations, the bill changes the definition of "licensed facility" to mean any health care facility that is required to be licensed by the department of public health and environment.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-42.5-133, **amend**  
3 (1) (a.5), (2) (a) (I), (2) (a) (II) (A), (2) (a) (III), and (3); and **add** (2) (a)  
4 (II) (C) and (3.5) as follows:

5 **12-42.5-133. Unused medication - licensed facilities -**  
6 **correctional facilities - reuse - rules.** (1) As used in this section, unless  
7 the context otherwise requires:

8 (a.5) "Licensed facility" means a hospital, hospital unit,  
9 community mental health center, acute treatment unit, hospice, nursing  
10 care facility, ~~or~~ assisted living residence, OR ANY OTHER FACILITY that is  
11 required to be licensed pursuant to section 25-3-101, C.R.S., or a licensed  
12 long-term care facility as defined in section 25-1-124 (2.5) (b), C.R.S.

13 (2) (a) (I) If donated by the patient, resident, or the patient's or  
14 resident's next of kin, a licensed facility may return unused ~~medications~~  
15 ~~OR~~ medical supplies, and ~~USED OR UNUSED~~ medical devices to a  
16 pharmacist within the licensed facility or a prescription drug outlet in  
17 order for the ~~medication~~ MATERIALS to be redispensed to another patient  
18 or donated to a nonprofit entity that has the legal authority to possess the  
19 ~~medication~~ MATERIALS or to a practitioner authorized by law to ~~prescribe~~  
20 ~~DISPENSE~~ the ~~medication~~ MATERIALS.

21 (II) (A) A licensed facility ~~OR A PRESCRIPTION DRUG OUTLET~~ may  
22 donate ~~unused medications~~ MATERIALS TO A NONPROFIT ENTITY THAT HAS  
23 LEGAL AUTHORITY TO POSSESS THE MATERIALS OR to a person legally

1 authorized to dispense the ~~medications on behalf of a nonprofit entity that~~  
2 ~~has the express purpose of providing medications, medical devices, or~~  
3 ~~medical supplies for the relief of victims who are in urgent need as a~~  
4 ~~result of natural or other types of disasters~~ MATERIALS. A licensed  
5 pharmacist shall review the process of donating the unused medications  
6 to the nonprofit entity.

7 (C) A PERSON OR ENTITY IS NOT SUBJECT TO CIVIL OR CRIMINAL  
8 LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION FOR DONATING,  
9 ACCEPTING, DISPENSING, OR FACILITATING THE DONATION OF MATERIALS  
10 IN GOOD FAITH, WITHOUT NEGLIGENCE, AND IN COMPLIANCE WITH THIS  
11 SECTION.

12 (III) A correctional facility may return unused medications OR  
13 medical supplies, and USED OR UNUSED medical devices to the pharmacist  
14 within the correctional facility or a prescription drug outlet in order for  
15 the medication to be redispensed to another patient or donated to a  
16 nonprofit entity that has the legal authority to possess the medication  
17 MATERIALS or to a practitioner authorized by law to prescribe the  
18 medication MATERIALS.

19 (3) Medication dispensed or donated pursuant to this section must  
20 ~~bear an expiration date that is later than six months after the date the drug~~  
21 ~~was donated~~ NOT BE EXPIRED. A MEDICATION SHALL NOT BE DISPENSED  
22 THAT WILL EXPIRE BEFORE THE USE BY THE PATIENT BASED ON THE  
23 PRESCRIBING PRACTITIONER'S DIRECTIONS FOR USE.

24 (3.5) MEDICATION, MEDICAL SUPPLIES, AND MEDICAL DEVICES  
25 DONATED PURSUANT TO THIS SECTION MAY NOT BE RESOLD FOR PROFIT.  
26 THE ENTITY THAT RECEIVES THE DONATED MATERIALS MAY CHARGE THE  
27 END USER A HANDLING FEE, WHICH SHALL NOT EXCEED THE AMOUNT

1 SPECIFIED BY RULE OF THE BOARD.

2           **SECTION 2. Act subject to petition - effective date.** This act  
3 takes effect at 12:01 a.m. on the day following the expiration of the  
4 ninety-day period after final adjournment of the general assembly  
5 (August 5, 2015, if adjournment sine die is on May 6, 2015); except that,  
6 if a referendum petition is filed pursuant to section 1 (3) of article V of  
7 the state constitution against this act or an item, section, or part of this act  
8 within such period, then the act, item, section, or part will not take effect  
9 unless approved by the people at the general election to be held in  
10 November 2016 and, in such case, will take effect on the date of the  
11 official declaration of the vote thereon by the governor.