

**Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-1044.01 Yelana Love x2295

**HOUSE BILL 16-1361**

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**HOUSE SPONSORSHIP**

**Primavera and Becker J.**, Arndt, Buck, Coram, Esgar, Joshi, Lawrence, Lontine, Ryden,  
Salazar, Tyler, Windholz

**SENATE SPONSORSHIP**

**Sonnenberg and Newell,**

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Public Health Care & Human Services

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**A BILL FOR AN ACT**

101     **CONCERNING THE ABILITY OF A PERSON ELIGIBLE FOR PRESCRIPTION**  
102             **DRUG BENEFITS TO CHOOSE THE PHARMACY AT WHICH TO FILL**  
103             **A PRESCRIPTION DRUG ORDER.**

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**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>.)*

The bill prohibits a health benefit plan or pharmacy benefit management firm that covers pharmaceutical services, including prescription drug coverage, from:

!       Limiting or restricting a covered person's ability to select a

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.*

pharmacy or pharmacist of the covered person's choice if certain conditions are met;

- ! Imposing a co-payment, fee, or other cost-sharing requirement for selecting a pharmacy of the covered person's choosing;
- ! Imposing other conditions on a covered person, pharmacist, or pharmacy that limit or restrict a covered person's ability to use a pharmacy of the covered person's choosing; or
- ! Denying a pharmacy or pharmacist the right to participate in any of its pharmacy network contracts in this state or as a contracting provider in this state if the pharmacy or pharmacist has a valid license in Colorado and the pharmacy or pharmacist agrees to specified conditions.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-143 as  
3 follows:

4           **10-16-143. Patient choice of pharmacy.** (1) A HEALTH BENEFIT  
5 PLAN OR PHARMACY BENEFIT MANAGEMENT FIRM THAT COVERS  
6 PHARMACY SERVICES, INCLUDING PRESCRIPTION DRUG COVERAGE, SHALL  
7 NOT:

8           (a) LIMIT OR RESTRICT A COVERED PERSON'S ABILITY TO SELECT A  
9 PHARMACY OR PHARMACIST OF THE COVERED PERSON'S CHOICE IF THE  
10 PHARMACY OR PHARMACIST IS LICENSED UNDER ARTICLE 42.5 OF TITLE 12,  
11 C.R.S., AND THE PHARMACY OR PHARMACIST HAS AGREED TO THE TERMS  
12 OF THE CONTRACT OF THE HEALTH PLAN COMPANY OR PHARMACY BENEFIT  
13 PROVIDER;

14           (b) IMPOSE A CO-PAYMENT, FEE, OR OTHER COST-SHARING  
15 REQUIREMENT ON A COVERED PERSON, A PHARMACIST, OR A PHARMACY  
16 FOR THE COVERED PERSON'S SELECTION OF A PHARMACY UNLESS THE  
17 PROVIDER NETWORK CONTRACT OF THE HEALTH PLAN COMPANY OR  
18 PHARMACY BENEFIT MANAGER IMPOSES THE SAME CO-PAYMENT, FEE, OR

1 OTHER COST-SHARING REQUIREMENT ON ALL COVERED PERSONS,  
2 PHARMACISTS, OR PHARMACIES WITHIN THIS STATE;

3 (c) IMPOSE OTHER CONDITIONS ON A COVERED PERSON,  
4 PHARMACIST, OR PHARMACY THAT LIMIT OR RESTRICT AN COVERED  
5 PERSON'S ABILITY TO USE A PHARMACY OF THE COVERED PERSON'S  
6 CHOOSING; OR

7 (d) IF A COVERED PERSON SELECTS A PHARMACY OR PHARMACIST  
8 OF THE COVERED PERSON'S CHOICE, DENY THE CHOSEN PHARMACY OR  
9 PHARMACIST THE RIGHT TO PARTICIPATE IN ANY OF ITS PHARMACY  
10 NETWORK CONTRACTS IN THIS STATE OR AS A CONTRACTING PROVIDER IN  
11 THIS STATE IF THE PHARMACY OR PHARMACIST HAS A VALID LICENSE  
12 UNDER ARTICLE 42.5 OF TITLE 12, C.R.S., AND THE PHARMACY OR  
13 PHARMACIST AGREES TO:

14 (I) ACCEPT THE TERMS AND CONDITIONS OFFERED BY THE HEALTH  
15 PLAN COMPANY OR PHARMACY BENEFIT MANAGER; AND

16 (II) PROVIDE PHARMACY SERVICES THAT MEET STATE AND  
17 FEDERAL LAWS AND REGULATIONS.

18 (2) THIS SECTION DOES NOT APPLY TO PHARMACY SERVICES  
19 ADMINISTERED TO AN INDIVIDUAL RECEIVING INPATIENT OR EMERGENCY  
20 MEDICAL CARE IN A LICENSED OR CERTIFIED HEALTH FACILITY SUBJECT TO  
21 THE REQUIREMENTS OF SECTION 25-1.5-103, C.R.S.

22 (3) FOR PURPOSES OF THIS SECTION, "HEALTH BENEFIT  
23 MANAGEMENT PLAN" AND "PHARMACY BENEFIT MANAGEMENT FIRM" DO  
24 NOT INCLUDE:

25 (a) A CARRIER THAT OFFERS MANAGED CARE PLANS AND PROVIDES  
26 A MAJORITY OF COVERED PROFESSIONAL SERVICES THROUGH PHYSICIANS  
27 EMPLOYED BY THE CARRIER OR THROUGH A SINGLE CONTRACTED MEDICAL

1 GROUP;

2 (b) A SELF-FUNDED PLAN THAT IS EXEMPT FROM STATE  
3 REGULATION PURSUANT TO ERISA; OR

4 (c) A PLAN ISSUED FOR COVERAGE FOR STATE OR FEDERAL  
5 EMPLOYEES.

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

16 (2) This act applies to health benefit plans issued, delivered, or  
17 renewed on or after January 1, 2018.