

Initiative #117 - Transparency in Prescription Drug Prices

Be it enacted by the people of the state of Colorado:



SECTION 1. In Colorado Revised Statutes, **add** part 3 of article 20 of title 6 as follows:

6-20-300. Purpose. A DECLARATION FROM THE PEOPLE OF COLORADO.

- (1) THE PEOPLE OF COLORADO ENACT THIS LAW REGARDING PRICE TRANSPARENCY IN HEALTHCARE BILLING TO ESTABLISH COMMON SENSE, ORDER, AND INTEGRITY IN COLORADO'S HEALTHCARE SYSTEM AND TO SET AN EXAMPLE FOR THE REST OF OUR NATION. THE PEOPLE BELIEVE TRANSPARENCY, IN ALL ASPECTS OF HEALTHCARE BILLING, IS OF PARAMOUNT IMPORTANCE AND THAT IT WILL NOT, IN ANY WAY, IMPEDE COMPETITION, BUT RATHER, WILL IMPROVE COMPETITION AND EMPOWER PATIENTS TO BECOME MORE ACTIVE PARTICIPANTS IN THEIR OWN CARE.
- (2) THE PEOPLE UNDERSTAND THAT SOME IN THE HEALTHCARE INDUSTRY MAY FIND PROVISIONS OF THIS LAW ONEROUS. THE PEOPLE, HOWEVER, BELIEVE THAT THE LACK OF TRANSPARENCY THAT IS THE NORM AT THE TIME OF THIS LAW'S ENACTMENT IS FAR MORE ONEROUS AND DANGEROUS, AND THUS, FIND THIS LAW ABSOLUTELY NECESSARY IN ALL OF ITS DETAIL.
- (3) THE PURPOSE OF TRANSPARENCY IN HEALTHCARE BILLING IS NOT MERELY TO PROVIDE PATIENTS WITH THE ABILITY TO SHOP FOR HEALTHCARE SERVICES ON THE BASIS OF PRICE. IN FACT, SHOPPING AROUND IS ONLY A SMALL ASPECT OF TRANSPARENCY IN HEALTHCARE BILLING, BECAUSE SHOPPING FOR SERVICES IS NOT ALWAYS PRACTICAL WHEN HEALTHCARE SERVICE IS NEEDED. THE PURPOSE OF TRANSPARENCY IN HEALTHCARE BILLING, AND OF THIS LAW, IS TO ENSURE THAT COLORADO'S HEALTHCARE SYSTEM BEGINS TO FUNCTION IN A MANNER WHERE PRICES ARE AVAILABLE TO ANYONE AND EVERYONE AT ALL TIMES. THE PEOPLE OF COLORADO BELIEVE THAT IF THERE IS TRANSPARENCY IN HEALTHCARE BILLING, PRICES WILL BE FAIR AND WILL BE DETERMINED BY THE MARKETPLACE, WHETHER OR NOT THEY PERSONALLY REVIEW ALL PRICES IN ADVANCE OF HEALTHCARE SERVICES.

SECTION 2. In Colorado Revised Statutes, **add** part 3 of article 20 of title 6 as follows:

PART 3 PRESCRIPTION DRUG PRICES TRANSPARENCY

6-20-301. Short title. THE SHORT TITLE OF THIS PART 3 IS THE "PRESCRIPTION DRUG PRICES TRANSPARENCY ACT".

6-20-302. Definitions. AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (1) "BOARD" MEANS THE STATE BOARD OF PHARMACY.
- (2) "PHARMACY" MEANS ANY ENTITY WHICH ADMINISTERS, COMPOUNDS, DELIVERS, DISPENSES, OR DISTRIBUTES PRESCRIPTION DRUGS PURSUANT TO ARTICLE 42.5 OF TITLE 12. THE TERM DOES NOT INCLUDE A HOSPITAL, AMBULATORY SURGICAL CENTER, OR OTHER PROVIDERS WHICH ADMINISTER PRESCRIPTION DRUGS AS PART OF A HEALTHCARE SERVICE AND FOR WHICH THE CHARGE FOR PRESCRIPTION DRUGS IS INCLUDED IN THEIR CHARGEMASTER OR FEE SCHEDULE.
- (3) "RETAIL DRUG PRICE" IS THE PRICE FOR PRESCRIPTION DRUGS THAT PHARMACIES CHARGE TO THE UNINSURED OR INSURED BEFORE THE APPLICATION OF ANY DISCOUNTS, REBATES, NEGOTIATIONS, OR OTHER FORMS OF CHARGE REDUCTION OR ADJUSTMENT.

6-20-303. Transparency - prescription drug prices - pharmacies required to publish - update - rules.

- (1) EVERY PHARMACY SHALL PUBLISH IN A PUBLIC, EASY-TO-FIND, AND EASY-TO-ACCESS LOCATION, ITS

RETAIL DRUG PRICES IN A FORM AND MANNER DETERMINED BY THE BOARD. THE PHARMACY SHALL MAKE ITS RETAIL DRUG PRICES AVAILABLE AS SPECIFIED BY THE BOARD, AND AT A MINIMUM, AS FOLLOWS:

- (a) IN PRINTED, HARD-COPY FORM, OR AN ELECTRONIC SUBSTITUTE SUCH AS A KIOSK, TABLET, E-READER, OR OTHER ELECTRONIC DEVICE OR MEANS, THAT IS PHYSICALLY PROVIDED BY THE PHARMACY, FOR USE WHILE AT THE PHARMACY, AT THE POINT OF DELIVERY OF PRESCRIPTION DRUGS;
 - (b) IN NONPROPRIETARY, DOWNLOADABLE FORMATS ON THE PHARMACY'S WEBSITE USING COMMON STANDARDS THAT CAN BE READ AND IMPORTED INTO APPLICATIONS AS ARE IN COMMON USE BY THE GENERAL PUBLIC; AND
 - (c) IF THE PHARMACY DOES NOT HAVE A WEBSITE, THE PHARMACY SHALL PROVIDE ITS RETAIL DRUG PRICES TO AN INDIVIDUAL IN A NONPROPRIETARY, ELECTRONIC FORMAT UPON REQUEST. THIS MAY BE DONE IN ANY REASONABLE MANNER INCLUDING A DISC, FLASH DRIVE, E-MAIL, OR OTHER SUCH COMMONLY USED AND AVAILABLE MEANS AS MAY CHANGE OVER TIME.
- (2) (a) A PHARMACY SHALL UPDATE ITS PUBLISHED RETAIL DRUG PRICES AND THE INFORMATION REQUIRED BY THIS SECTION PROMPTLY UPON ANY CHANGE IN THE INFORMATION, AS SPECIFIED BY THE BOARD; AND
- (b) A PHARMACY SHALL MAINTAIN RECORDS OF ALL CHANGES TO ITS PUBLISHED RETAIL DRUG PRICES AND THE INFORMATION REQUIRED BY THIS SECTION, INCLUDING THE DATE OF THE CHANGE, AS SPECIFIED BY THE BOARD.
- (3) ON OR BEFORE APRIL 30, 2019, THE BOARD SHALL PROMULGATE RULES AS ARE NECESSARY FOR THE IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT OF THIS SECTION, AND SHALL, THEREAFTER, REVISE SUCH RULES AS ARE NECESSARY.

SECTION 3. Effective date. THIS ACT TAKES EFFECT APRIL 30, 2019.

Submitted by:

David Silverstein, 555 17th Street (Suite 400), Denver, CO 80202
davidsilverstein@brokenhealthcare.org 303-684-7391 (tel) 805-690-8065 (fax)

Andrew Graham, 3464 S. Willow, Denver, CO 80231
andrewsgraham@yahoo.com 303-755-2900 (tel) 805-690-8065 (fax)