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HOUSE BILL 25-1222

BY REPRESENTATIVE(S) Winter T. and Lukens, Armagost, Boesenecker, Johnson, Mauro, Zokaie, Bacon, Barron, Bird, Bradley, Brown, Caldwell, Clifford, Duran, Espenoza, Froelich, Garcia Sander, Gonzalez R., Hamrick, Joseph, Keltie, Mabrey, Marshall, Martinez, McCormick, Paschal, Richardson, Rutinel, Soper, Stewart K., Story, Velasco, Weinberg, McCluskie, Camacho, English, Jackson, Lieder; also SENATOR(S) Roberts and Simpson, Baisley, Bright, Catlin, Hinrichsen, Kipp, Kolker, Marchman, Pelton R., Rich, Snyder, Amabile, Ball, Bridges, Carson, Cutter, Daugherty, Exum, Frizell, Gonzales J., Jodeh, Kirkmeyer, Liston, Lundeen, Michaelson Jenet, Mullica, Pelton B., Wallace, Weissman, Winter F., Coleman.

CONCERNING MEASURES TO PRESERVE HEALTH-CARE ACCESS PROVIDED BY
RURAL INDEPENDENT PHARMACIES.

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

SECTION 1. Legislative declaration. (1) The general assembly finds and determines that:

(a) Rural independent pharmacies are critical to the provision of health-care services for Colorado's rural communities and vulnerable

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

populations;

(b) Nationally, one in 3 pharmacies have closed in the last decade;

(c) A 2024 study of pharmacy closures found that 41% of the state's pharmacy closures were independent pharmacies, with the majority of those closures located in rural areas of the state;

(d) Rural independent pharmacies have higher rates of permanent closure and report low reimbursement rates from pharmacy benefit managers, or "PBMs", as the key contributing factor;

(e) Nationally, PBMs are under scrutiny for restricting consumer choice, steering patients to select pharmacies, and reimbursing rural independent pharmacies below cost;

(f) Rural independent pharmacies offer a wide variety of health-care services, ranging from prescription drug delivery; special drug packaging for vulnerable populations; medication management; wellness and prevention services; immunizations; chronic and acute care management; testing and treatment for strep throat, flu, and COVID-19; blood pressure and glucose screenings; and diabetes education and management, and provide health-care services for hospitals, long-term care facilities, and health clinics; and

(g) When rural independent pharmacies close, patients lose access to care, communities lose health-care providers, and Coloradans are forced to travel greater distances to access care or are left completely without care.

(2) Therefore, the general assembly declares that Colorado must preserve access to rural independent pharmacies for the state's rural communities and its most vulnerable populations.

SECTION 2. In Colorado Revised Statutes, 10-16-102, **add** (59.5) as follows:

10-16-102. Definitions. As used in this article 16, unless the context otherwise requires:

(59.5) "RURAL INDEPENDENT PHARMACY" MEANS A PRESCRIPTION

DRUG OUTLET THAT IS PRIVATELY OWNED BY AT LEAST ONE LICENSED PHARMACIST WITH NO OWNERSHIP INTEREST BY OR AFFILIATION WITH A CHAIN PHARMACY OR A PUBLICLY TRADED PRESCRIPTION DRUG OUTLET.

SECTION 3. In Colorado Revised Statutes, 10-16-122.1, **amend** (3) introductory portion; and **add** (3)(d) as follows:

10-16-122.1. Contracts between PBMs and pharmacies - carrier submit list of PBMs - PBM registration - fees - prohibited practices - exception - rules - enforcement - short title - definitions. (3) ~~Starting in 2022,~~ A PBM or the representative of a PBM shall not:

(d) (I) PROHIBIT A RURAL INDEPENDENT PHARMACY FROM USING A PRIVATE COURIER OR A DELIVERY SERVICE TO DELIVER A PRESCRIPTION DRUG TO A PATIENT; OR

(II) REQUIRE A RURAL INDEPENDENT PHARMACY TO OBTAIN CONSENT FROM THE PBM TO USE A PRIVATE COURIER OR DELIVERY SERVICE TO DELIVER A PRESCRIPTION DRUG TO A PATIENT.

SECTION 4. In Colorado Revised Statutes, 10-16-122.3, **add** (1.5) and (6)(b.3) as follows:

10-16-122.3. Pharmacy benefit management firm payments - retroactive reduction prohibited - enforcement - rules - dispensing fees - definitions. (1.5) ON AND AFTER JANUARY 1, 2026, A PHARMACY BENEFIT MANAGEMENT FIRM SHALL REIMBURSE A RURAL INDEPENDENT PHARMACY FOR A PRESCRIPTION DRUG IN AN AMOUNT NOT LESS THAN THE NATIONAL AVERAGE DRUG ACQUISITION COST FOR THE DISPENSED PRESCRIPTION DRUG INGREDIENTS AND A DISPENSING FEE. IF THE NATIONAL AVERAGE DRUG ACQUISITION COST IS NOT AVAILABLE AT THE TIME A PRESCRIPTION DRUG IS ADMINISTERED OR DISPENSED, A PHARMACY BENEFIT MANAGEMENT FIRM SHALL NOT REIMBURSE IN AN AMOUNT THAT IS LESS THAN THE WHOLESALE ACQUISITION COST OF THE PRESCRIPTION DRUG.

(6) As used in this section:

(b.3) "DISPENSING FEE" MEANS THE REIMBURSEMENT AMOUNT FOR COSTS ASSOCIATED WITH FILLING A PRESCRIPTION, AS PUBLISHED FOR RURAL PHARMACIES IN 10 CCR 2505-10 SEC. 8.800.13.M, AS SPECIFIED IN THE

VERSION OF THE RULE ADOPTED ON JULY 12, 2024. ON JANUARY 1, 2027, AND ON JANUARY 1 OF EVERY YEAR THEREAFTER, A PHARMACY BENEFIT MANAGEMENT FIRM SHALL INCREASE THE AMOUNT OF THE DISPENSING FEE BY ONE PERCENT TO ACCOUNT FOR INFLATION.

SECTION 5. In Colorado Revised Statutes, 10-16-122.5, **amend** (1)(e) and (1)(f); and **add** (1)(g) as follows:

10-16-122.5. Pharmacy benefit manager - audit of pharmacies - time limits on on-site audits - enforcement - rules. (1) A pharmacy benefit manager, a carrier, or an entity acting on behalf of a pharmacy benefit manager or a carrier that audits a pharmacy shall:

(e) Establish a written appeals process that includes procedures to allow a pharmacy to appeal to the pharmacy benefit manager or the carrier the preliminary reports resulting from the audit and any resulting recoupment or penalty; ~~and~~

(f) Not subject a pharmacy to the recoupment of funds when an audit results in the identification of a clerical error in a required document or record unless the error results in actual financial harm to the pharmacy benefit manager, a health benefit plan providing prescription drug benefits that are managed by the pharmacy benefit manager, or a consumer; AND

(g) WHEN SUBJECTING A RURAL INDEPENDENT PHARMACY TO A RECOUPMENT OF FUNDS OF MORE THAN ONE THOUSAND DOLLARS OR A PENALTY OF MORE THAN ONE THOUSAND DOLLARS AS THE RESULT OF AN AUDIT:

(I) ELECTRONICALLY NOTIFY THE RURAL INDEPENDENT PHARMACY OF THE RURAL INDEPENDENT PHARMACY'S RIGHTS TO APPEAL PURSUANT TO SUBSECTION (1)(e) OF THIS SECTION AT LEAST THIRTY DAYS BEFORE THE RECOUPMENT OF FUNDS;

(II) IF THE RURAL INDEPENDENT PHARMACY DOES NOT RESPOND TO THE ELECTRONIC NOTIFICATION PROVIDED PURSUANT TO SUBSECTION (1)(g)(I) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE ELECTRONIC NOTIFICATION, AGAIN ELECTRONICALLY NOTIFY THE RURAL INDEPENDENT PHARMACY OF THE RURAL INDEPENDENT PHARMACY'S RIGHTS TO APPEAL PURSUANT TO SUBSECTION (1)(e) OF THIS SECTION AT LEAST THIRTY DAYS

BEFORE THE RECOUPMENT OF FUNDS; AND

(III) IF THE RURAL INDEPENDENT PHARMACY DOES NOT RESPOND TO THE SECOND ELECTRONIC NOTIFICATION PROVIDED PURSUANT TO SUBSECTION (1)(g)(II) OF THIS SECTION WITHIN THIRTY DAYS AFTER THE SECOND ELECTRONIC NOTIFICATION, SERVE PROCESS ON THE RURAL INDEPENDENT PHARMACY NOTIFYING OF THE RURAL INDEPENDENT PHARMACY'S RIGHTS TO APPEAL PURSUANT TO SUBSECTION (1)(e) OF THIS SECTION AT LEAST THIRTY DAYS BEFORE THE RECOUPMENT OF FUNDS.

SECTION 6. In Colorado Revised Statutes, 12-280-103, **add** (46.7) as follows:

12-280-103. Definitions - rules. As used in this article 280, unless the context otherwise requires or the term is otherwise defined in another part of this article 280:

(46.7) "RURAL INDEPENDENT PHARMACY" HAS THE MEANING SET FORTH IN SECTION 10-16-102 (59.5).

SECTION 7. In Colorado Revised Statutes, 12-280-118, **add** (3)(d) as follows:

12-280-118. Prescription drug outlet under charge of pharmacist - rules. (3) (d) A PRESCRIPTION DRUG OUTLET THAT IS A RURAL INDEPENDENT PHARMACY NEED NOT BE UNDER THE DIRECT CHARGE OF A PHARMACIST IF THE INITIAL INTERPRETATION AND FINAL EVALUATION OF THE PRESCRIPTION IS DONE BY A STATE-LICENSED PHARMACIST IN PERSON OR REMOTELY.

SECTION 8. Act subject to petition - effective date - applicability. (1) Section 10-16-122.3, Colorado Revised Statutes, as amended in section 4 of this act, takes effect January 1, 2026, and the remainder of the act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the

official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO