

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 24-1438

BY REPRESENTATIVE(S) Mabrey and Jodeh, Amabile, Bacon, Boesenecker, Brown, Clifford, Duran, Epps, Froelich, Garcia, Hernandez, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Martinez, Marvin, Mauro, McCormick, McLachlan, Ortiz, Parenti, Ricks, Rutinel, Sirota, Story, Valdez, Velasco, Woodrow, Young, McCluskie, English, Hamrick, Herod, Joseph, Vigil, Weinberg;
also SENATOR(S) Roberts, Bridges, Buckner, Cutter, Exum, Ginal, Jaquez Lewis, Michaelson Jenet, Priola, Sullivan, Winter F.

CONCERNING THE IMPLEMENTATION OF CERTAIN AFFORDABLE PRESCRIPTION DRUG PROGRAMS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 6-1-105, **add** (1)(ffff) as follows:

6-1-105. Unfair or deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

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.

(ffff) FAILS TO COMPLY WITH THE MANUFACTURER REQUIREMENTS UNDER THE INSULIN AFFORDABILITY PROGRAM PURSUANT TO SECTION 12-280-139 OR THE MANUFACTURER REQUIREMENTS FOR THE EMERGENCY SUPPLY OF PRESCRIPTION INSULIN PURSUANT TO SECTION 12-280-140.

SECTION 2. In Colorado Revised Statutes, 12-280-139, **amend** (4), (9), and (11); and **repeal** (1)(b) as follows:

12-280-139. Insulin affordability program - record keeping - reimbursement - definitions. (1) As used in this section and section 12-280-140, unless the context otherwise requires:

(b) ~~"Division of insurance" means the division of insurance in the department of regulatory agencies, created in section 10-1-103.~~

(4)(a) ~~The division of insurance~~ BOARD shall develop an application form to be used by an individual who is seeking insulin under the program. The application form must require the individual to show proof that the individual meets the requirements of subsection (3) of this section.

(b) ~~The division of insurance and the department of health care policy and financing~~ BOARD shall make the application form available on ~~each agency's~~ ITS website. ~~The division of insurance~~ BOARD shall also make the application form available to pharmacies, health-care providers, and health facilities that prescribe or dispense insulin.

(9) ~~The division of insurance and the department of health care policy and financing~~ BOARD shall promote the availability of the program to Coloradans. The promotional material must include information about each manufacturer's consumer insulin programs. ~~Each agency~~ THE BOARD may seek and accept gifts, grants, and donations to fulfill the requirements of this subsection (9).

(11) (a) A manufacturer that fails to comply with the requirements of this section:

(I) ~~Is subject to a fine of ten thousand dollars for each month of noncompliance.~~ IN AN AMOUNT AND FREQUENCY THAT IS EQUAL TO THE AMOUNT AND FREQUENCY OF THE FINE PERMITTED UNDER THE "COLORADO CONSUMER PROTECTION ACT", PART 1 OF ARTICLE 1 OF TITLE 6; AND

(II) ENGAGES IN A DECEPTIVE TRADE PRACTICE UNDER SECTION 6-1-105 (1)(ffff).

(b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 12-280-140, **amend** (3)(a), (7), and (9) as follows:

12-280-140. Emergency prescription insulin supply - eligibility - record keeping. (3) (a) ~~The division of insurance~~ BOARD shall create and make available to the public an application form for individuals seeking an emergency prescription insulin supply pursuant to this section.

(7) ~~The division of insurance and the department of health care policy and financing~~ BOARD shall promote the availability of the emergency prescription insulin supply to Coloradans. The promotional material must include information about each manufacturer's consumer insulin programs. ~~Each agency~~ THE BOARD may seek and accept gifts, grants, and donations to fulfill the requirements of this subsection (7).

(9) (a) A manufacturer that fails to comply with the requirements of this section:

(I) ~~Is subject to a fine of ten thousand dollars for each month of noncompliance.~~ IN AN AMOUNT AND FREQUENCY THAT IS EQUAL TO THE AMOUNT AND FREQUENCY OF THE FINE PERMITTED UNDER THE "COLORADO CONSUMER PROTECTION ACT", PART 1 OF ARTICLE 1 OF TITLE 6; AND

(II) ENGAGES IN A DECEPTIVE TRADE PRACTICE UNDER SECTION 6-1-105 (1)(ffff).

(b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS SECTION.

SECTION 4. In Colorado Revised Statutes, 12-280-142, **amend** (4), (6)(b)(II), (9), and (11); and **repeal** (1)(b) as follows:

12-280-142. Epinephrine auto-injector affordability program - record keeping - reimbursement - definitions. (1) As used in this section:

~~(b) "Division of insurance" means the division of insurance in the department of regulatory agencies created in section 10-1-103.~~

(4) (a) The ~~division of insurance~~ BOARD shall develop an EPINEPHRINE AUTO-INJECTOR AFFORDABILITY PROGRAM application form to be used by an individual who is seeking epinephrine auto-injectors through the program. ALL MANUFACTURERS SUBJECT TO THIS SECTION SHALL PARTICIPATE IN THE PROGRAM. THE APPLICATION FORM MUST BE AVAILABLE TO INDIVIDUALS, PHARMACIES, HEALTH-CARE PROVIDERS, AND HEALTH FACILITIES THROUGH THE BOARD'S WEBSITE AND MUST BE ACCESSIBLE THROUGH A QUICK RESPONSE (QR) CODE OR OTHER MACHINE-READABLE CODE. WITHIN A REASONABLE PERIOD OF TIME AFTER THE PUBLICATION OF THE PROGRAM WEBSITE, ALL MANUFACTURERS REQUIRED TO PARTICIPATE IN THE PROGRAM SHALL INCLUDE A LINK TO THE PROGRAM WEBSITE ON THE MANUFACTURER'S CONSUMER EPINEPHRINE AUTO-INJECTOR PROGRAM WEBSITE. At a minimum, the application form must:

(I) Provide information related to program eligibility and coverage in English, Spanish, and in each language spoken by at least two and one-half percent of the population of any county in which such population speaks English less than very well, as defined by the United States bureau of the census American community survey or comparable census data, and speaks a shared minority language at home; ~~and~~

(II) Require the individual to ~~show proof~~ ATTEST that the individual meets the requirements of subsection (3) of this section; AND

(III) INCLUDE THE INFORMATION REQUIRED FOR A PHARMACY TO SUCCESSFULLY SUBMIT, PURSUANT TO SUBSECTION (8) OF THIS SECTION, AN ELECTRONIC CLAIM FOR REIMBURSEMENT THAT IS MADE IN ACCORDANCE WITH THE NATIONAL COUNCIL FOR PRESCRIPTION DRUG PROGRAMS' STANDARDS FOR ELECTRONIC CLAIMS PROCESSING FOR THE COST TO DISPENSE THE EPINEPHRINE AUTO-INJECTORS, ABOVE ANY REQUIRED COST SHARING BY THE INDIVIDUAL AND ADJUDICATED AT THE POINT OF SALE.

~~(b) The division of insurance and the department of health care policy and financing shall make the application form available on each agency's website. The division of insurance shall also make the application form available to pharmacies, health-care providers, and health facilities that prescribe or dispense epinephrine auto-injectors~~ BOARD SHALL SUPPLY

PHARMACIES WITH INFORMATION ABOUT THE PROGRAM TO PROVIDE TO INDIVIDUALS WHO ARE SEEKING ACCESS TO THE PROGRAM. THE INFORMATION MUST CONTAIN A QUICK RESPONSE (QR) CODE OR OTHER MACHINE-READABLE CODE THAT AN INDIVIDUAL MAY USE TO ACCESS THE PROGRAM APPLICATION AND INCLUDE INFORMATION ON HOW TO SUBMIT A PROGRAM APPLICATION.

(6) (b) The pharmacist is encouraged to inform the individual:

(II) Of any manufacturer-sponsored programs that assist individuals who cannot afford their prescription epinephrine auto-injectors AND PROVIDE THE INDIVIDUAL WITH THE INFORMATION DESCRIBED IN SUBSECTION (4)(b) OF THIS SECTION ABOUT THE PROGRAM.

~~(9) The division of insurance and the department of health care policy and financing~~ BOARD shall promote the availability of the program to Coloradans. The promotional material must include information about each manufacturer's consumer epinephrine auto-injector program, as applicable. ~~Each agency~~ THE BOARD may seek and accept gifts, grants, and donations to fulfill the requirements of this subsection (9).

(11) (a) A manufacturer that fails to comply with the requirements of this section:

~~(a) (I) Is subject to a fine of ten thousand dollars for each month of noncompliance.~~ IN AN AMOUNT AND FREQUENCY THAT IS EQUAL TO THE AMOUNT AND FREQUENCY OF THE FINE PERMITTED UNDER THE "COLORADO CONSUMER PROTECTION ACT", PART 1 OF ARTICLE 1 OF TITLE 6; and

~~(b) (II) Engages in a deceptive trade practice under section 6-1-105 (1)(zzz).~~

(b) THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THIS SECTION.

SECTION 5. Appropriation. For the 2024-25 state fiscal year, \$8,874 is appropriated to the department of regulatory agencies for use by the division of professions and occupations. This appropriation is from the division of professions and occupations cash fund created in section 12-20-105 (3), C.R.S., and is based on an assumption that the division will

require an additional 0.2 FTE. To implement this act, the division may use this appropriation for personal services.

SECTION 6. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO