



Healthcare council:

We wanted to send a quick update on HB 1232, the Colorado Option and SB 175, Prescription Drug Affordability bill.

HB21-1232 was finalized with House concurrence with Senate amendments around 10 PM last night. The final iteration being sent to the Governor's for signature [can be found here](#). A high level overview of the progression for this bill is below.

Original Bill:

- Mandatory participation for doctors, hospitals and plans
- Enforcement through revocation of hospital license, a letter of admonition by the Medical Board, plans unable to have rate plans approved
- Require premiums to drop by 20%, from 2021 rates by the beginning 2024, including cost of living inflation
- No rates included in the bill
- State run option health insurance option with benefits to be determined by a stakeholder group, if rate reduction targets aren't met

House Amendments:

- NO State run plan – instead each health plan has to offer a standardized plan as determined by the stakeholder group
- Included rate floors for hospitals – tiered based on specialty hospitals starting at 155% of Medicare
- Included a floor for doctors at 135% of Medicare
- Change lack of participation penalty for doctors to fines
- Change inflation to medical inflation – more appropriate measure, and higher

Senate Amendments – final bill linked above:

- Removal of all enforcement for lack of participation by doctors
- Removal of ability to revoke hospital licensure as enforcement
- Lower target premium reduction to 15% by beginning of 2024 from 2021 rates
- Medicaid comparison tool added for rate floors if Medicare equivalent isn't available – ie pediatrics
- An amendment to carve out ASCs (via any facility providing 100% elective procedures) was run both in Senate committee and on the Senate floor and lost by one vote in both instances

SB 175 Summary with House Amendments

To review the introduced bill, [please click here](#). This bill was just passed through the House last night, and the Senate has concurred with the changes this afternoon. This bill is headed to the Governor, an outline of the changes are included below.

The Senate amended the bill in the following ways, through 26 amendments in Senate Health Committee, Senate Approps Committee and on 2nd reading in the Senate – [you can view Senate version here](#):

- Clarified conflict of interest language in the definitions
- Clarified the definition of “optional participating plan”
- Added a definition of wholesaler, pursuant to the Board of Pharmacy Practice Act
- Clarified that the board exists under the Division of Insurance
- Adds additional language about the necessary qualifications board members must have: “an advanced degree and experience or expertise in health-care economics or clinical medicine
- Defines the reasons the Governor may remove a member of the Board – previously just defined as serving and being removed at the pleasure of the Governor
- Allows the board to seek gifts, grants and donations from private or public sources
- Requires carriers or PBMs to submit payment reporting information to be submitted to the APCD (all-payer claims database) instead of to the Board or directly to the Division
- Add clarification around the eligible drugs for review – clarifying eligibility is based on the total spend for each listed category
- Changes to how the carriers and PBMs submit the reports
- Required the Board to consider drugs purchased through 340B program
- Required the Board to consider orphan drug status
- Set a limit of 12 drugs to be reviewed by the Board annually
- Required the Board to consider drugs listed on the FDA drug shortage list when determining a UPL
- Required the Board to consider the impact on older adults and persons with disabilities when determining a UPL
- Stated the Board shall not consider research or methods that assess quality of life years
- Required a dispensing fee for retail pharmacies, to be paid by the insurer
- Required the Board to set an effective date for drugs with a UPL, at least 6 months from the UPL being set
- Compels the Board to determine a proper notification process for consumers once a UPL is set
- Established a process for an appeal – through the current insurance appeal process in title 10
- Allows the carrier to disregard the UPL if independent external review determines the drug should be covered for the individual
- Changed the advisory committee to 15 members – added a member representing wholesalers
- Changed the healthcare professional to a prescribing healthcare professional
- Clarifies that a carrier or state agency that is required to purchase a drug under another law is exempt
- Creates a study to review the impact of a UPL on a patient’s ability to continue to access the drug
- Requires the chair of the Board to provide a report during the SMART hearings
- Exempts any drugs derived from cannabis
- Sunsets the program in 5 years

The House amended the bill in the following ways, through 5 amendments done on 2nd reading in the House, after a refusal to do them in Committee– [you can view their version here](#):

- Changed the legislative declaration to clarify the intent of the bill is to protect the entire supply chain and not just state and local governments
- Changed the required dispensing fee language to include all pharmacies, not just retail, and clarified that “reasonable fees” shall be paid – not just “dispensing fees”
- Changed the eligibility threshold for drugs that have increased by \$3,000 to a drug that has increased by 10% in the 12 months prior
- Required the Board to consider information provided by patients and caregivers with the condition treated by a drug impacted by the UPL – as well as those who possess scientific or medical training in the specific condition
- Required the Board to reach out to any manufacturer with a drug where a UPL has been established and ask if the drug will continue to be available and the rationale provided if not – and have the Board submit that information to the Joint Health Committees

If you have questions about anything included or would like more details, please contact Katie Wolf, kwolf@cochamber.com.

Thank you!

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