

Testimony in opposition to HB 26-1056

Tuesday February 17, 2026

The Partnership for Safe Medicines, a public health group that studies both counterfeit and unsafe medications in the U.S. submits this testimony in opposition to House Bill 26-1056.

HB 26-1056 would stop patient advocates and health benefits professionals from providing patients and health plans important patient safety information about Pharmacy Stewardship Plans.

Some health plans today attempt to save money by fraudulently directing their covered patients to obtain their medication from drug manufacturer patients assistance programs while claiming to be uninsured. This can cause treatment delays or even loss of access for patients, and put health plans who do this in a problematic legal and moral posture. Patient advocates and health benefits consultants who provide education and advice about how these programs are bad for patients and health plans will be silenced by this legislation.

When using illegal international sourcing, these Pharmacy Stewardship Programs cause medicines of an unknown origin to be dispensed to Colorado patients by individuals not licensed by the Colorado Board Of Pharmacy. This exposes patients to multiple safety risks. HB 26-1056 stops patient advocates and health benefits consultants from informing Colorado health plans and patients of this risk.

There are also unresolved legal questions about whether health plans are fulfilling their duty of care to their patient enrollees when they force patients into these arrangements. Health plans need to be adequately informed about the consequences of using Pharmacy Stewardship Programs and HB 26-1056 would hide important information from them.

HB 26-1056 would prevent patient advocates and health benefits professionals from informing health plans about their legal and financial liability risk for using illegal foreign sourcing by Pharmacy Stewardship Programs.

When vendors to health plans like pharmacy stewardship programs use illegal foreign importation, they take on two types of legal risks. HB 26-1056 prevents patient advocates and health benefits professionals from informing health plans of those risks.

Criminal legal liability: The FDA has long held that companies that import medicine for patients are at risk of operating in violation of federal law, and has warned two different companies on this topic. (CanaRX and ElectRX) Any health plan retaining a vendor for this activity risks creating legal liability for itself. Once an entity begins facilitating importation of medicine at scale, it is no longer “personal importation” but “commercial importation”, which is clearly illegal.

Civil legal liability: When companies that run programs like Pharmacy Stewardship Programs facilitate the movement of trademarked pharmaceutical products between markets without permission of the original manufacturer, they are subject to civil sanctions. Courts have found that moving trademarked products that have country-specific health and safety labelling without the cooperation of the original manufacturer are liable for trademark infringement. In a current civil litigation case, Gilead Sciences vs. Meritain Health et al,

the pharmacy stewardship programs who have been doing this practice have been enjoined by the court to cease and desist and are facing significant financial penalties. Furthermore the principal executives of the Pharmacy Stewardship Programs have been named as defendants, and are also facing court sanctions.

Both of these types of legal liability pose serious risks for any Colorado health plan who uses a Pharmacy Stewardship Program to adopt these practices. HB 26-1056 would stop Colorado health plans from receiving importation legal information by creating a new deceptive trade practice for simply informing Colorado health plans about their true legal and financial risks.

This bill creates a conflict between federal and state law regarding importation of medicines, setting up an expensive legal fight that will cost Colorado money to defend, and that Colorado will lose because of prior cases that recognize federal preemption.

Today it is illegal for individuals to import medicines from overseas when there is a valid commercial product available domestically. The bill misstates federal law on this topic by implying that personal importation is legal, and declares that it is state policy to allow this illegal importation.

This same assertion was tested in 2015 when Maine passed a law allowing individuals to import medicines from the drug supplies of other countries. The Maine law was challenged in court, and Maine had to pay the costs to defend it. The costs certainly exceeded the amount the fiscal note for this legislation (approx. \$113k).

In 2015 federal District Court Judge Nancy Torenson found that federal law did not allow Maine to legislate on this topic as pharmaceutical importation state policies are pre-empted by federal law. She overturned the Maine law. Passing this law would create an expensive, and likely to lose, piece of litigation for Colorado.

This bill confuses Colorado's Section 804 Importation Program, which has never been approved, with personal importation, which is illegal.

Throughout the stakeholder process, backers of Pharmacy Stewardship Programs have implied that Colorado's never-approved bulk Canadian drug importation program somehow creates the legal basis for allowing Pharmacy Stewardship Programs to operate. This is a wildly inaccurate statement.

Colorado's Section 804 program, despite operating for several years at a high cost to the state, has never been approved by the U.S. Food and Drug Administration. Colorado does not have permission to import medicine from foreign sources, including Canada. In fact Florida, which has an approved Canadian drug importation program and has cost over \$80mm since it began, has not imported a single unit of medicine ever.

HB 26-1056 unnecessarily duplicates existing protections while hampering information for Colorado health plans and their patient enrollees.

There are already many ways in which a business with a trademark protected service such as Pharmacy Stewardship Programs can take action against other entities unfairly criticizing them, including many of the rights afforded to trademark owners. That's why it is odd that Colorado would consider taking a single trademark owner and giving them their own cause of action in Colorado state code. Preferential treatment for a single trademark owner should not be written into state law.



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Colorado health plans and their patients need to be able to be fully informed about unsafe and illegal proposals to source medicine in non-traditional ways, as are currently being promoted by the purveyors of Pharmacy Stewardship Programs. Additionally, if sourcing medicine this way would bring additional civil legal and financial liability to them, Colorado health plans should be fully informed of that. HB 26-1056 would impede that, creating danger for Colorado health plans. **PSM urges you to vote no on HB 26-1056.**