

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 31, 2011
Date

Committee on Health and Human Services.

After consideration on the merits, the Committee recommends the following:

SB11-192 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. 24-34-104 (42) (i) and (52), Colorado Revised
4 Statutes, are amended to read:

5 **24-34-104. General assembly review of regulatory agencies**
6 **and functions for termination, continuation, or reestablishment.**
7 (42) The following agencies, functions, or both, shall terminate on July
8 1, 2011:

9 (i) ~~The electronic prescription drug monitoring program, created~~
10 ~~in part 7 of article 22 of title 12, C.R.S.;~~

11 (52) The following agencies, functions, or both, shall terminate on
12 July 1, 2021:

13 (a) The workers' compensation classification appeals board,
14 created in article 55 of title 8, C.R.S.

15 (b) THE ELECTRONIC PRESCRIPTION DRUG MONITORING PROGRAM
16 CREATED IN PART 7 OF ARTICLE 22 OF TITLE 12, C.R.S.

17 **SECTION 2.** 12-22-710, Colorado Revised Statutes, is amended
18 to read:

19 **12-22-710. Repeal of part.** This part 7 is repealed, effective July
20 ~~1, 2011~~ JULY 1, 2021. Prior to such repeal, the functions under this part
21 7 ~~and the committee~~ shall be reviewed as provided in ~~sections 2-3-1203~~
22 ~~and~~ SECTION 24-34-104, C.R.S.

23 **SECTION 3. Repeal.** 2-3-1203 (3) (x) (IV), Colorado Revised
24 Statutes, is repealed as follows:

1 **2-3-1203. Sunset review of advisory committees.** (3) The
2 following dates are the dates for which the statutory authorization for the
3 designated advisory committees is scheduled for repeal:

4 (x) July 1, 2011:

5 (IV) ~~The prescription controlled substance abuse monitoring~~
6 ~~advisory committee created in section 12-22-703, C.R.S.;~~

7 **SECTION 4.** 12-22-701 (1), Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

9 **12-22-701. Legislative declaration.** (1) The general assembly
10 finds, determines, and declares that:

11 (d) ELECTRONIC MONITORING OF PRESCRIPTIONS FOR CONTROLLED
12 SUBSTANCES PROVIDES A MECHANISM FOR LAW ENFORCEMENT OFFICIALS
13 AND REGULATORY BOARDS TO EFFICIENTLY INVESTIGATE PRESCRIBER
14 BEHAVIOR THAT IS POTENTIALLY HARMFUL TO THE PUBLIC.

15 **SECTION 5. Repeal.** 12-22-702 (2), Colorado Revised Statutes,
16 is repealed as follows:

17 **12-22-702. Definitions.** As used in this part 7, unless the context
18 otherwise requires:

19 (2) ~~"Committee" means the prescription controlled substance~~
20 ~~abuse monitoring advisory committee.~~

21 **SECTION 6. Repeal.** 12-22-703, Colorado Revised Statutes, is
22 repealed as follows:

23 **12-22-703. Advisory committee - duties - repeal.** ~~(1) There is~~
24 ~~hereby created within the division, the prescription controlled substance~~
25 ~~abuse monitoring advisory committee. The committee shall consist of the~~
26 ~~following eleven members:~~

27 ~~(a) The director of the division or his or her designee;~~

28 ~~(b) A pharmacist appointed by the board;~~

29 ~~(c) Three physicians appointed by the Colorado medical board;~~
30 ~~one of which is a pain specialist or addiction specialist;~~

31 ~~(d) A dentist appointed by the state board of dental examiners;~~

32 ~~(e) A veterinarian appointed by the state board of veterinary~~
33 ~~medicine;~~

34 ~~(f) The director of the division of alcohol and drug abuse in the~~
35 ~~department of human services or his or her designee; and~~

36 ~~(g) Three persons appointed by the committee, one of which is a~~
37 ~~representative of law enforcement.~~

38 ~~(2) The committee shall advise and assist the board with the~~
39 ~~development, operation, and maintenance of the electronic prescription~~
40 ~~drug monitoring program; and with the development of access and~~
41 ~~security protocols for the program. The committee shall advise the board~~

1 regarding mandatory information to be reported for inclusion in the
2 program.

3 ~~(3) Committee members shall not receive compensation or~~
4 ~~reimbursement for expenses associated with service on the committee.~~

5 ~~(4) This section is repealed, effective July 1, 2011. Prior to such~~
6 ~~repeal, the committee shall be reviewed as provided in section 2-3-1203,~~
7 ~~C.R.S.~~

8 **SECTION 7.** The introductory portion to 12-22-704 (1) and
9 12-22-704 (2), Colorado Revised Statutes, are amended, and the said
10 12-22-704 is further amended BY THE ADDITION OF A NEW
11 SUBSECTION, to read:

12 **12-22-704. Prescription drug use monitoring program.**

13 (1) The board shall develop or procure a prescription controlled
14 substance electronic program to track prescriptions ~~written~~ for controlled
15 substances DISPENSED in Colorado. The program shall track information
16 regarding controlled substance prescriptions that includes, but is not
17 limited to, the following:

18 (1.5) EACH PRESCRIBER SHALL DISCLOSE TO A PATIENT RECEIVING
19 A CONTROLLED SUBSTANCE THAT HIS OR HER IDENTIFYING PRESCRIPTION
20 INFORMATION WILL BE ENTERED INTO THE PROGRAM DATABASE AND MAY
21 BE ACCESSED FOR LIMITED PURPOSES BY SPECIFIED INDIVIDUALS.

22 (2) The board ~~and the committee~~ shall establish a method and
23 format for prescription drug outlets to convey the necessary information
24 to the board or its designee. The method shall not require more than a
25 one-time entry of data per patient per prescription by a prescription drug
26 outlet.

27 **SECTION 8.** 12-22-705 (1) and (2), the introductory portion to
28 12-22-705 (3), and 12-22-705 (3) (d) and (3) (e), Colorado Revised
29 Statutes, are amended, and the said 12-22-705 (3) is further amended BY
30 THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to
31 read:

32 **12-22-705. Program operation - access - rules.** (1) The board
33 shall operate and maintain the program. ~~The committee shall advise and~~
34 ~~assist the board. The committee shall meet at least quarterly during the~~
35 ~~first two years of the program.~~

36 (2) The board shall adopt all rules necessary to implement the
37 program. ~~The committee shall advise the board regarding proposed rules.~~

38 (3) The program ~~shall be~~ IS available for query only to the
39 following persons or groups of persons:

40 (d) Licensed pharmacists with statutory authority to dispense
41 controlled substances to the extent the information requested relates

1 specifically to a current patient to whom the pharmacist is dispensing or
2 considering dispensing a controlled substance OR TO WHOM THE
3 PHARMACIST IS PROVIDING CLINICAL PATIENT CARE SERVICES;

4 (e) Law enforcement officials so long as the information released
5 is specific to an individual PATIENT OR PRESCRIBER and is part of a bona
6 fide investigation and the request for information is accompanied by an
7 official court order or subpoena; ~~and~~

8 (g) STATE REGULATORY BOARDS WITHIN THE DIVISION AND THE
9 DIRECTOR OF THE DIVISION SO LONG AS THE INFORMATION RELEASED IS
10 SPECIFIC TO AN INDIVIDUAL PRESCRIBER AND IS PART OF A BONA FIDE
11 INVESTIGATION AND THE REQUEST FOR INFORMATION IS ACCOMPANIED BY
12 AN OFFICIAL COURT ORDER OR SUBPOENA; AND

13 (h) A RESIDENT PHYSICIAN WITH AN ACTIVE PHYSICIAN TRAINING
14 LICENSE ISSUED BY THE COLORADO MEDICAL BOARD PURSUANT TO
15 SECTION 12-36-122 AND UNDER THE SUPERVISION OF A LICENSED
16 PHYSICIAN.

17 **SECTION 9.** 12-22-706 (5), Colorado Revised Statutes, is
18 amended to read:

19 **12-22-706. Prescription drug monitoring fund - creation -**
20 **gifts, grants, and donations - fee.** (5) If, based upon the appropriations
21 for the direct and indirect costs of the program, there are insufficient
22 funds to maintain the program, the ~~board~~ DIVISION may collect a AN
23 ANNUAL fee of no more than ~~seven dollars and fifty cents per year~~
24 TWELVE DOLLARS OR AN AMOUNT THAT REFLECTS THE ACTUAL COSTS OF
25 THE PROGRAM, WHICHEVER IS LESS, from an individual who holds a
26 license from the division that authorizes him or her to prescribe a
27 controlled substance as defined by section 18-18-102, C.R.S. The fee
28 shall be established pursuant to section 24-34-105, C.R.S., and shall be
29 collected in conjunction with the license renewal fees collected pursuant
30 to section 24-34-105, C.R.S. Moneys collected pursuant to this
31 subsection (5) shall be credited to the prescription drug monitoring fund
32 created in subsection (1) of this section.

33 **SECTION 10.** 12-22-707, Colorado Revised Statutes, is amended
34 to read:

35 **12-22-707. Violations - penalties.** A person who knowingly
36 releases, obtains, or attempts to obtain information from the program in
37 violation of this part 7 shall be punished by a civil fine of not less than
38 one thousand dollars and not more than ten thousand dollars for each
39 violation. Fines paid shall be deposited in the ~~prescription drug~~
40 ~~monitoring~~ GENERAL fund.

41 **SECTION 11.** 12-22-709 (2), Colorado Revised Statutes, is

1 amended to read:

2 **12-22-709. Exemption - waiver.** (2) A prescription drug outlet
3 that does not report controlled substance data to the program due to a lack
4 of electronic automation of the outlet's business may apply to the board
5 for a waiver from the reporting requirements. ~~The committee shall~~
6 ~~determine whether a waiver shall be granted.~~

7 **SECTION 12. Effective date - applicability.** This act shall take
8 effect July 1, 2011, and shall apply to conduct occurring on or after said
9 date.

10 **SECTION 13. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, and safety.".

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