### First Regular Session Sixty-eighth General Assembly STATE OF COLORADO

# REVISED

This Version Includes All Amendments Adopted on Second Reading in the Second House

LLS NO. 11-0865.02 Kristen Forrestal

SENATE BILL 11-192

SENATE SPONSORSHIP

Aguilar and Spence, Boyd, Guzman, Jahn, Newell, White, Williams S.

#### HOUSE SPONSORSHIP

Massey, Casso, Priola, Riesberg, Soper

### Senate Committees

Health and Human Services Finance Appropriations House Committees Health and Environment Appropriations

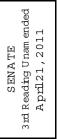
## A BILL FOR AN ACT

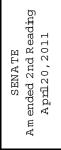
101	CONCERNING THE CONTINUATION OF THE PRESCRIPTION DRUG
102	MONITORING PROGRAM, AND, IN CONNECTION THEREWITH,
103	REPEALING THE PRESCRIPTION CONTROLLED SUBSTANCE ABUSE
104	MONITORING COMMITTEE, AND MAKING AN APPROPRIATION.

#### **Bill Summary**

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

Sections 1 and 2 of the bill continue the electronic prescription drug monitoring program until July 1, 2021. Sections 3, 4, and 5 of the





bill repeal the prescription controlled substance abuse monitoring advisory committee. Sections 6, 7, and 8 make conforming amendments.

1	Be it enacted by the General Assembly of the State of Colorado:
2	SECTION 1. 24-34-104 (42) (i) and (52), Colorado Revised
3	Statutes, are amended to read:
4	24-34-104. General assembly review of regulatory agencies
5	and functions for termination, continuation, or reestablishment.
6	(42) The following agencies, functions, or both, shall terminate on July
7	<u>1, 2011:</u>
8	(i) The electronic prescription drug monitoring program, created
9	in part 7 of article 22 of title 12, C.R.S.;
10	(52) The following agencies, functions, or both, shall terminate on
11	<u>July 1, 2021:</u>
12	(a) The workers' compensation classification appeals board,
13	created in article 55 of title 8, C.R.S.
14	(b) THE ELECTRONIC PRESCRIPTION DRUG MONITORING PROGRAM
15	CREATED IN PART 7 OF ARTICLE 22 OF TITLE 12, C.R.S.
16	SECTION 2. 12-22-710, Colorado Revised Statutes, is amended
17	to read:
18	<b>12-22-710. Repeal of part.</b> This part 7 is repealed, effective July
19	1, 2011 JULY 1, 2021. Prior to such repeal, the functions under this part
20	7 and the committee shall be reviewed as provided in sections 2-3-1203
21	and SECTION 24-34-104, C.R.S.
22	SECTION 3. Repeal. 2-3-1203 (3) (x) (IV), Colorado Revised
23	Statutes, is repealed as follows:
24	<b>2-3-1203.</b> Sunset review of advisory committees. (3) The
25	following dates are the dates for which the statutory authorization for the

1	designated advisory committees is scheduled for repeal:
2	<u>(x) July 1, 2011:</u>
3	(IV) The prescription controlled substance abuse monitoring
4	advisory committee created in section 12-22-703, C.R.S.;
5	SECTION 4. 12-22-701 (1), Colorado Revised Statutes, is
6	amended BY THE ADDITION OF A NEW PARAGRAPH to read:
7	<b><u>12-22-701.</u></b> Legislative declaration. (1) The general assembly
8	finds, determines, and declares that:
9	(d) Electronic monitoring of prescriptions for controlled
10	SUBSTANCES PROVIDES A MECHANISM FOR LAW ENFORCEMENT OFFICIALS
11	AND REGULATORY BOARDS TO EFFICIENTLY INVESTIGATE PRESCRIBER
12	BEHAVIOR THAT IS POTENTIALLY HARMFUL TO THE PUBLIC.
13	SECTION 5. Repeal. 12-22-702 (2), Colorado Revised Statutes,
14	is repealed as follows:
15	12-22-702. Definitions. As used in this part 7, unless the context
16	otherwise requires:
17	(2) "Committee" means the prescription controlled substance
18	abuse monitoring advisory committee.
19	SECTION 6. Repeal. 12-22-703, Colorado Revised Statutes, is
20	repealed as follows:
21	<u>12-22-703. Advisory committee - duties - repeal. (1) There is</u>
22	hereby created within the division, the prescription controlled substance
23	abuse monitoring advisory committee. The committee shall consist of the
24	following eleven members:
25	(a) The director of the division or his or her designee;
26	(b) A pharmacist appointed by the board;
27	(c) Three physicians appointed by the Colorado medical board,

1	one of which is a pain specialist or addiction specialist;
2	(d) A dentist appointed by the state board of dental examiners;
3	(e) A veterinarian appointed by the state board of veterinary
4	<u>medicine;</u>
5	(f) The director of the division of alcohol and drug abuse in the
6	department of human services or his or her designee; and
7	(g) Three persons appointed by the committee, one of which is a
8	representative of law enforcement.
9	(2) The committee shall advise and assist the board with the
10	development, operation, and maintenance of the electronic prescription
11	drug monitoring program; and with the development of access and
12	security protocols for the program. The committee shall advise the board
13	regarding mandatory information to be reported for inclusion in the
14	<u>program.</u>
15	(3) Committee members shall not receive compensation or
16	reimbursement for expenses associated with service on the committee.
17	(4) This section is repealed, effective July 1, 2011. Prior to such
18	repeal, the committee shall be reviewed as provided in section 2-3-1203,
19	<u>C.R.S.</u>
20	SECTION 7. The introductory portion to 12-22-704 (1) and
21	12-22-704 (2), Colorado Revised Statutes, are amended, and the said
22	12-22-704 is further amended BY THE ADDITION OF A NEW
23	SUBSECTION, to read:
24	12-22-704. Prescription drug use monitoring program.
25	(1) The board shall develop or procure a prescription controlled
26	substance electronic program to track prescriptions written for controlled
27	substances DISPENSED in Colorado. The program shall track information

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1	regarding controlled substance prescriptions that includes, but is not
2	limited to, the following:
3	(1.5) EACH PRESCRIBER AND EACH DISPENSING PHARMACY SHALL
4	DISCLOSE TO A PATIENT RECEIVING A CONTROLLED SUBSTANCE THAT HIS
5	OR HER IDENTIFYING PRESCRIPTION INFORMATION WILL BE ENTERED INTO
6	THE PROGRAM DATABASE AND MAY BE ACCESSED FOR LIMITED PURPOSES
7	BY SPECIFIED INDIVIDUALS.
8	(2) The board and the committee shall establish a method and
9	format for prescription drug outlets to convey the necessary information
10	to the board or its designee. The method shall not require more than a
11	one-time entry of data per patient per prescription by a prescription drug
12	outlet.
13	SECTION 8. 12-22-705 (1) and (2), the introductory portion to
14	12-22-705 (3), and 12-22-705 (3) (d) and (3) (e), Colorado Revised
15	Statutes, are amended, and the said 12-22-705 (3) is further amended BY
16	THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to
17	<u>read:</u>
18	<b><u>12-22-705.</u> Program operation - access - rules.</b> (1) The board
19	shall operate and maintain the program. The committee shall advise and
20	assist the board. The committee shall meet at least quarterly during the
21	first two years of the program.
22	(2) The board shall adopt all rules necessary to implement the
23	program. The committee shall advise the board regarding proposed rules.
24	(3) The program shall be IS available for query only to the
25	following persons or groups of persons:
26	(d) Licensed pharmacists with statutory authority to dispense
27	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	<u>12-22-706. Prescription drug monitoring fund - creation -</u>
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	SEVENTEEN DOLLARS AND FIFTY CENTS FOR THE FISCAL YEARS $2011-2012$
25	and 2012-2013, twenty dollars for the fiscal years $2013-2014$ and
26	2014-2015, and twenty-five dollars for each fiscal year
27	THEREAFTER, from an individual who holds a license from the division

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1	that authorizes him or her to prescribe a controlled substance as defined
2	by section 18-18-102, C.R.S. The fee shall be established pursuant to
3	section 24-34-105, C.R.S., and shall be collected in conjunction with the
4	license renewal fees collected pursuant to section 24-34-105, C.R.S.
5	Moneys collected pursuant to this subsection (5) shall be credited to the
6	prescription drug monitoring fund created in subsection (1) of this
7	section.
8	SECTION 10. 12-22-707, Colorado Revised Statutes, is amended
9	to read:
10	12-22-707. Violations - penalties. A person who knowingly
11	releases, obtains, or attempts to obtain information from the program in
12	violation of this part 7 shall be punished by a civil fine of not less than
13	one thousand dollars and not more than ten thousand dollars for each
14	violation. Fines paid shall be deposited in the prescription drug
15	monitoring GENERAL fund.
16	SECTION 11. 12-22-709 (2), Colorado Revised Statutes, is
17	amended to read:
18	12-22-709. Exemption - waiver. (2) A prescription drug outlet
19	that does not report controlled substance data to the program due to a lack
20	of electronic automation of the outlet's business may apply to the board
21	for a waiver from the reporting requirements. The committee shall
22	determine whether a waiver shall be granted.
23	SECTION 12. 18-4-412 (2) (a), Colorado Revised Statutes, is
24	amended to read:
25	18-4-412. Theft of medical records or medical information -
26	penalty. (2) As used in this section:
27	(a) "Medical record" means the written or graphic documentation,

1	sound recording, or computer record pertaining to medical, mental health.
2	and health care services which THAT are performed at the direction of a
3	physician or other licensed health care provider on behalf of a patient by
4	physicians, dentists, nurses, technicians, emergency medical technicians,
5	mental health professionals, prehospital providers, or other health care
6	personnel. "Medical record" includes such diagnostic documentation as
7	X rays, electrocardiograms, electroencephalograms, and other test results.
8	"MEDICAL RECORD" INCLUDES DATA ENTERED INTO THE PRESCRIPTION
9	DRUG MONITORING PROGRAM PURSUANT TO SECTION 12-22-704, C.R.S.
10	SECTION 13. 25-1-1202 (1), Colorado Revised Statutes, is
11	amended BY THE ADDITION OF A NEW PARAGRAPH to read:
12	25-1-1202. Index of statutory sections regarding medical
13	record confidentiality and health information. (1) Statutory
14	provisions concerning policies, procedures, and references to the release,
15	sharing, and use of medical records and health information include the
16	following:
17	(nnn) SECTION 12-22-707, C.R.S., CONCERNING INFORMATION
18	ENTERED INTO THE PRESCRIPTION DRUG MONITORING PROGRAM
19	DATABASE.
20	SECTION 14. Appropriation. In addition to any other
21	appropriation, there is hereby appropriated, out of any moneys in the
22	prescription drug monitoring fund created in section 12-22-706 (1),
23	Colorado Revised Statutes, not otherwise appropriated, to the department
24	of regulatory agencies, for allocation to the division of registrations, for
25	personal services and operating expenses, for the fiscal year beginning
26	July 1, 2011, the sum of fifty thousand three hundred twenty-six dollars
27	(\$50,326) cash funds and 1.0 FTE, or so much thereof as may be

- 1 <u>necessary, for the implementation of this act.</u>
- 2 **SECTION 15.** Effective date applicability. This act shall take
- 3 <u>effect July 1, 2011, and shall apply to conduct occurring on or after said</u>
- 4 <u>date.</u>
- 5 SECTION 16. Safety clause. The general assembly hereby finds,
- 6 determines, and declares that this act is necessary for the immediate
- 7 preservation of the public peace, health, and safety.