

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 14-0123.01 Christy Chase x2008

HOUSE BILL 14-1283

HOUSE SPONSORSHIP

McCann, Becker, Fields, Ginal, Primavera, Schafer, Singer, Tyler, Young

SENATE SPONSORSHIP

Newell and Kefalas, Guzman, Roberts

House Committees

Health, Insurance, & Environment
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO THE ELECTRONIC PRESCRIPTION**
102 **DRUG MONITORING PROGRAM, AND, IN CONNECTION**
103 **THEREWITH, 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>.)

The bill makes the following modifications to the electronic prescription drug monitoring program:

! Authorizes the state board of pharmacy, in consultation with other state boards that oversee prescribing

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 4, 2014

practitioners, to develop criteria for indicators of controlled substance misuse, abuse, and diversion and, based on those criteria, to disseminate unsolicited reports of prescription-specific data to prescribing practitioners and dispensing pharmacies to assist in preventing and reducing prescription drug misuse, abuse, and diversion;

- ! Allows the departments of public health and environment and health care policy and financing to access the electronic database for public health purposes and medicaid patient care coordination, respectively;
- ! Allows an out-of-state pharmacist to access the database in connection with a current patient to whom the pharmacist is dispensing a controlled substance or is providing clinical patient care services;
- ! Adds individual pharmacies as an eligible subject for information requests by law enforcement officials if the request for information is accompanied by a court order or subpoena;
- ! Allows a prescribing practitioner or a pharmacist to delegate authority to access the database to up to 3 designees acting for the practitioner or pharmacist, and requires each designee to register with the program;
- ! Starting January 1, 2015, or by an earlier date determined by the director of the division of professions and occupations, requires prescribing practitioners and pharmacists to register and create user accounts with the program;
- ! Allows federally owned and operated pharmacies to submit data to the database; and
- ! Authorizes the executive director of the department of regulatory agencies to create a prescription drug monitoring program task force, or to request assistance from the team assembled by the governor's office to develop a plan to reduce prescription drug abuse, to study the program and make recommendations to the executive director on ways to ensure that the program is effective at reducing prescription drug abuse and misuse.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-42.5-402, **amend**

3 (1) and (4); and **add** (1.5) as follows:

4 **12-42.5-402. Definitions.** As used in this part 4, unless the

1 context otherwise requires:

2 (1) ~~"Controlled substance" means any schedule II, III, IV, or V~~
3 ~~drug as listed in sections 18-18-204, 18-18-205, 18-18-206, and~~
4 ~~18-18-207, C.R.S. "BOARD" MEANS THE STATE BOARD OF PHARMACY~~
5 ~~CREATED IN SECTION 12-42.5-103.~~

6 (1.5) "CONTROLLED SUBSTANCE" MEANS ANY SCHEDULE II, III, IV,
7 OR V DRUG AS LISTED IN SECTIONS 18-18-204, 18-18-205, 18-18-206, AND
8 18-18-207, C.R.S.

9 (4) "Prescription drug outlet" or "pharmacy" means:

10 (a) Any resident or nonresident pharmacy outlet registered or
11 licensed pursuant to this article where prescriptions are compounded and
12 dispensed; AND

13 (b) ANY FEDERALLY OWNED AND OPERATED PHARMACY
14 REGISTERED WITH THE FEDERAL DRUG ENFORCEMENT ADMINISTRATION.

15 **SECTION 2.** In Colorado Revised Statutes, 12-42.5-403, **add**
16 (1.5) as follows:

17 **12-42.5-403. Prescription drug use monitoring program -**
18 **program registration required - rules.** (1.5) (a) BY JANUARY 1, 2015,
19 OR BY AN EARLIER DATE DETERMINED BY THE DIRECTOR OF THE DIVISION,
20 EVERY PRACTITIONER IN THIS STATE WHO HOLDS A CURRENT
21 REGISTRATION ISSUED BY THE FEDERAL DRUG ENFORCEMENT
22 ADMINISTRATION AND EVERY PHARMACIST SHALL REGISTER AND
23 MAINTAIN A USER ACCOUNT WITH THE PROGRAM.

24 (b) WHEN REGISTERING WITH THE PROGRAM OR AT ANY TIME
25 THEREAFTER, A PRACTITIONER OR PHARMACIST MAY AUTHORIZE UP TO
26 THREE DESIGNEES TO ACCESS THE PROGRAM UNDER SECTION 12-42.5-404
27 (3) (b), (3) (c), or (3) (d), AS APPLICABLE, ON BEHALF OF THE

1 PRACTITIONER OR PHARMACIST IF:

2 (I) (A) THE AUTHORIZED DESIGNEE OF THE PRACTITIONER IS
3 EMPLOYED BY, OR IS UNDER CONTRACT WITH, THE SAME PROFESSIONAL
4 PRACTICE AS THE PRACTITIONER; OR

5 (B) THE AUTHORIZED DESIGNEE OF THE PHARMACIST IS EMPLOYED
6 BY, OR IS UNDER CONTRACT WITH, THE SAME PRESCRIPTION DRUG OUTLET
7 AS THE PHARMACIST; AND

8 (II) THE PRACTITIONER OR PHARMACIST TAKES REASONABLE STEPS
9 TO ENSURE THAT THE DESIGNEE IS SUFFICIENTLY COMPETENT IN THE USE
10 OF THE PROGRAM; AND

11 (III) THE PRACTITIONER OR PHARMACIST REMAINS RESPONSIBLE
12 FOR:

13 (A) ENSURING THAT ACCESS TO THE PROGRAM BY THE
14 PRACTITIONER'S DESIGNEE IS LIMITED TO THE PURPOSES AUTHORIZED IN
15 SECTION 12-42.5-404 (3) (b) OR (3) (c) OR THAT ACCESS TO THE PROGRAM
16 BY THE PHARMACIST'S DESIGNEE IS LIMITED TO THE PURPOSES
17 AUTHORIZED IN SECTION 12-42.5-404 (3) (d), AS THE CASE MAY BE, AND
18 THAT ACCESS TO THE PROGRAM OCCURS IN A MANNER THAT PROTECTS THE
19 CONFIDENTIALITY OF THE INFORMATION OBTAINED FROM THE PROGRAM;
20 AND

21 (B) ANY BREACH OF CONFIDENTIALITY OF INFORMATION OBTAINED
22 FROM THE PROGRAM BY THE PRACTITIONER'S OR PHARMACIST'S DESIGNEE.

23 (c) A PRACTITIONER OR PHARMACIST IS SUBJECT TO PENALTIES
24 PURSUANT TO SECTION 12-42.5-406 FOR VIOLATING THE REQUIREMENTS
25 OF PARAGRAPH (b) OF THIS SUBSECTION (1.5).

26 (d) ANY INDIVIDUAL AUTHORIZED AS A DESIGNEE OF A
27 PRACTITIONER OR PHARMACIST PURSUANT TO PARAGRAPH (b) OF THIS

1 SUBSECTION (1.5) SHALL REGISTER AS A DESIGNEE OF A PRACTITIONER OR
2 PHARMACIST WITH THE PROGRAM FOR PROGRAM DATA ACCESS IN
3 ACCORDANCE WITH SECTION 12-42.5-404 (3) (b), (3) (c), OR (3) (d), AS
4 APPLICABLE, AND BOARD RULES.

5 **SECTION 3.** In Colorado Revised Statutes, 12-42.5-404, **amend**
6 (3) (b), (3) (c), (3) (d), (3) (e), (3) (g), and (5); and **add** (3) (i), (3) (j), and
7 (7) as follows:

8 **12-42.5-404. Program operation - access - rules.** (3) The
9 program is available for query only to the following persons or groups of
10 persons:

11 (b) Any practitioner with the statutory authority to prescribe
12 controlled substances, OR AN INDIVIDUAL DESIGNATED BY THE
13 PRACTITIONER TO ACT ON HIS OR HER BEHALF IN ACCORDANCE WITH
14 SECTION 12-42.5-403 (1.5) (b), to the extent the query relates to a current
15 patient of the practitioner to whom the practitioner is prescribing or
16 considering prescribing any controlled substance;

17 (c) ~~Practitioners~~ A PRACTITIONER, OR AN INDIVIDUAL DESIGNATED
18 BY THE PRACTITIONER TO ACT ON HIS OR HER BEHALF IN ACCORDANCE
19 WITH SECTION 12-42.5-403 (1.5) (b), engaged in a legitimate program to
20 monitor a patient's drug abuse;

21 (d) ~~Pharmacists~~ A PHARMACIST, AN INDIVIDUAL DESIGNATED BY
22 A PHARMACIST IN ACCORDANCE WITH SECTION 12-42.5-403 (1.5) (b) TO
23 ACT ON HIS OR HER BEHALF, OR A PHARMACIST LICENSED IN ANOTHER
24 STATE, to the extent the information requested relates specifically to a
25 current patient to whom the pharmacist is dispensing or considering
26 dispensing a controlled substance or to whom the pharmacist is providing
27 clinical patient care services;

1 (e) Law enforcement officials so long as the information released
2 is specific to an individual patient, PHARMACY, or practitioner and is part
3 of a bona fide investigation, and the request for information is
4 accompanied by an official court order or subpoena;

5 (g) State regulatory boards within the division and the director of
6 the division so long as the information released is specific to an
7 individual practitioner and is part of a bona fide investigation, and the
8 request for information is accompanied by an official court order or
9 subpoena; ~~and~~

10 (i) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR
11 PURPOSES OF POPULATION-LEVEL ANALYSIS, BUT ANY USE OF PROGRAM
12 DATA BY THE DEPARTMENT IS SUBJECT TO THE FEDERAL "HEALTH
13 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L.
14 104-191, AS AMENDED, AND IMPLEMENTING FEDERAL REGULATIONS,
15 INCLUDING THE REQUIREMENT TO REMOVE ANY IDENTIFYING DATA UNLESS
16 EXEMPTED FROM THE REQUIREMENT;

17 (j) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR
18 PURPOSES OF ACCESSING DATA PERTAINING TO RECIPIENTS OF BENEFITS
19 UNDER THE STATE PROGRAM OF MEDICAL ASSISTANCE ESTABLISHED
20 UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF
21 TITLE 25.5, C.R.S., BUT ANY USE OF PROGRAM DATA BY THE DEPARTMENT
22 IS SUBJECT TO THE FEDERAL "HEALTH INSURANCE PORTABILITY AND
23 ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED, AND
24 IMPLEMENTING FEDERAL REGULATIONS, INCLUDING THE REQUIREMENT TO
25 REMOVE ANY IDENTIFYING DATA UNLESS EXEMPTED FROM THE
26 REQUIREMENT;

27 (5) The board, THE DEPARTMENT OF PUBLIC HEALTH AND

1 ENVIRONMENT, OR THE DEPARTMENT OF HEALTH CARE POLICY AND
2 FINANCING, pursuant to a written agreement that ensures compliance with
3 this part 4, may provide data to qualified personnel of a public or private
4 entity for the purpose of bona fide research or education so long as the
5 data does not identify a recipient of, a practitioner who prescribed, or a
6 prescription drug outlet that dispensed, a prescription drug.

7 (7) THE BOARD SHALL DEVELOP CRITERIA FOR INDICATORS OF
8 MISUSE, ABUSE, AND DIVERSION OF CONTROLLED SUBSTANCES AND, BASED
9 ON THOSE CRITERIA, PROVIDE UNSOLICITED REPORTS OF DISPENSED
10 CONTROLLED SUBSTANCES TO PRESCRIBING PRACTITIONERS AND
11 DISPENSING PHARMACIES FOR PURPOSES OF EDUCATION AND
12 INTERVENTION TO PREVENT AND REDUCE OCCURRENCES OF CONTROLLED
13 SUBSTANCE MISUSE, ABUSE, AND DIVERSION. IN DEVELOPING THE
14 CRITERIA, THE BOARD SHALL CONSULT WITH THE COLORADO DENTAL
15 BOARD, COLORADO MEDICAL BOARD, STATE BOARD OF NURSING, STATE
16 BOARD OF OPTOMETRY, COLORADO PODIATRY BOARD, AND STATE BOARD
17 OF VETERINARY MEDICINE.

18 **SECTION 4.** In Colorado Revised Statutes, **add** 12-42.5-408.5
19 as follows:

20 **12-42.5-408.5. Examination and analysis of prescription drug**
21 **monitoring program - recommendations to executive director.**

22 (1) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY
23 AGENCIES SHALL CREATE A PRESCRIPTION DRUG MONITORING PROGRAM
24 TASK FORCE OR CONSULT WITH AND REQUEST ASSISTANCE FROM THE
25 COLORADO TEAM ASSEMBLED BY THE GOVERNOR'S OFFICE TO DEVELOP A
26 STRATEGIC PLAN TO REDUCE PRESCRIPTION DRUG ABUSE, OR ITS
27 SUCCESSOR GROUP, IN ORDER TO:

1 (a) EXAMINE ISSUES, OPPORTUNITIES, AND WEAKNESSES OF THE
2 PROGRAM, INCLUDING HOW PERSONAL INFORMATION IS SECURED IN THE
3 PROGRAM AND WHETHER INCLUSION OF PERSONAL IDENTIFYING
4 INFORMATION IN THE PROGRAM AND ACCESS TO THAT INFORMATION IS
5 NECESSARY; AND

6 (b) MAKE RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR ON
7 WAYS TO MAKE THE PROGRAM A MORE EFFECTIVE TOOL FOR
8 PRACTITIONERS AND PHARMACISTS IN ORDER TO REDUCE PRESCRIPTION
9 DRUG ABUSE IN THIS STATE.

10 (2) IF THE EXECUTIVE DIRECTOR CONVENES A TASK FORCE OR
11 OBTAINS ASSISTANCE FROM THE COLORADO TEAM, THE APPLICABLE
12 GROUP SHALL SUBMIT ANNUAL REPORTS TO THE EXECUTIVE DIRECTOR AND
13 THE GENERAL ASSEMBLY DETAILING ITS FINDINGS AND
14 RECOMMENDATIONS. NOTWITHSTANDING SECTION 24-1-136(11), C.R.S.,
15 THE REQUIREMENT IN THIS SECTION TO REPORT TO THE GENERAL
16 ASSEMBLY CONTINUES INDEFINITELY.

17 (3) IF THE EXECUTIVE DIRECTOR CONVENES A TASK FORCE, THE
18 MEMBERS OF THE TASK FORCE SERVE ON A VOLUNTARY BASIS AND ARE
19 NOT ENTITLED TO COMPENSATION OR EXPENSE REIMBURSEMENT.

20 **SECTION 5. 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 12-42.5-405 (1),
23 Colorado Revised Statutes, not otherwise appropriated, to the department
24 of regulatory agencies, for the fiscal year beginning July 1, 2014, the sum
25 of \$7,500, or so much thereof as may be necessary, for allocation to the
26 division of professions and occupations for computer system changes
27 related to the implementation of this act.

1 **SECTION 6. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.