

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 18-0256.01 Kristen Forrestal x4217

SENATE BILL 18-022

SENATE SPONSORSHIP

Tate and Aguilar, Lambert

HOUSE SPONSORSHIP

Pettersen and Kennedy, Singer

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING CLINICAL PRACTICE MEASURES FOR SAFER OPIOID
102 PRESCRIBING.

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://leg.colorado.gov/>.)

Opioid and Other Substance Use Disorders Interim Study Committee. The bill restricts the number of opioid pills that a health care practitioner, including physicians, physician assistants, advanced practice nurses, dentists, optometrists, podiatrists, and veterinarians, may prescribe for an initial prescription to a 7-day supply and one refill for a 7-day supply, with certain exceptions. The bill clarifies that a health care

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

SENATE
Amended 2nd Reading
February 21, 2018

practitioner may electronically prescribe opioids.

Current law allows health care practitioners and other individuals to query the prescription drug monitoring program (program). The bill requires health care practitioners to query the program before prescribing the first refill prescription for an opioid except under specified circumstances, and requires the practitioner to indicate his or her specialty or practice area upon the initial query.

The bill requires the department of public health and environment to report to the general assembly its results from studies regarding the prescription drug monitoring program integration methods and health care provider report cards.

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

2 **SECTION 1. In Colorado Revised Statutes, 12-32-107.5, add (3)**
3 **as follows:**

4 **12-32-107.5. Prescriptions - requirement to advise patients -**
5 **limits on opioid prescriptions - repeal. (3) (a) A PODIATRIST SHALL NOT**
6 **PRESCRIBE MORE THAN A SEVEN-DAY SUPPLY OF AN OPIOID TO A PATIENT**
7 **WHO HAS NOT HAD AN OPIOID PRESCRIPTION IN THE LAST TWELVE MONTHS**
8 **BY THAT PODIATRIST, AND MAY EXERCISE DISCRETION TO INCLUDE A**
9 **SECOND FILL FOR A SEVEN-DAY SUPPLY, UNLESS, IN THE JUDGMENT OF THE**
10 **PODIATRIST, THE PATIENT:**

11 **(I) HAS CHRONIC PAIN THAT TYPICALLY LASTS LONGER THAN**
12 **NINETY DAYS OR PAST THE TIME OF NORMAL HEALING, AS DETERMINED BY**
13 **THE PODIATRIST, OR FOLLOWING TRANSFER OF CARE FROM ANOTHER**
14 **PODIATRIST WHO PRESCRIBED AN OPIOID TO THE PATIENT;**

15 **(II) HAS BEEN DIAGNOSED WITH CANCER AND IS EXPERIENCING**
16 **CANCER-RELATED PAIN; OR**

17 **(III) IS EXPERIENCING POST-SURGICAL PAIN THAT, BECAUSE OF THE**
18 **NATURE OF THE PROCEDURE, IS EXPECTED TO LAST MORE THAN FOURTEEN**
19 **DAYS.**

1 (b) A PODIATRIST LICENSED PURSUANT TO THIS ARTICLE 32 MAY
2 PRESCRIBE OPIOIDS ELECTRONICALLY.

3 (c) THIS SUBSECTION (3) DOES NOT CREATE A PRIVATE RIGHT OF
4 ACTION OR SERVE AS THE BASIS OF A CAUSE OF ACTION. A VIOLATION OF
5 THIS SECTION DOES NOT CONSTITUTE NEGLIGENCE PER SE OR
6 CONTRIBUTORY NEGLIGENCE PER SE AND DOES NOT ALONE ESTABLISH A
7 STANDARD OF CARE.

8 (d) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER 1,
9 2021.

10 SECTION 2. In Colorado Revised Statutes, amend 12-35-114 as
11 follows:

12 **12-35-114. Dentists may prescribe drugs - surgical operations**
13 **- anesthesia - limits on opioid prescriptions - repeal.** (1) A licensed
14 dentist is authorized to prescribe drugs or medicine; perform surgical
15 operations; administer, pursuant to board rules, local anesthesia, analgesia
16 including nitrous oxide/oxygen inhalation, medication prescribed or
17 administered for the relief of anxiety or apprehension, minimal sedation,
18 moderate sedation, deep sedation, or general anesthesia; and use
19 appliances as necessary to the proper practice of dentistry. A dentist shall
20 not prescribe, distribute, or give to any person, including himself or
21 herself, any habit-forming drug or any controlled substance, as defined in
22 section 18-18-102 (5) C.R.S., or as contained in schedule II of 21 U.S.C.
23 sec. 812, other than in the course of legitimate dental practice and
24 pursuant to the rules promulgated by the board regarding controlled
25 substance record keeping.

26 (2)(a) A DENTIST SHALL NOT PRESCRIBE MORE THAN A SEVEN-DAY
27 SUPPLY OF AN OPIOID TO A PATIENT WHO HAS NOT HAD AN OPIOID

1 PRESCRIPTION IN THE LAST TWELVE MONTHS BY THAT DENTIST, AND MAY
2 EXERCISE DISCRETION TO INCLUDE A SECOND FILL FOR A SEVEN-DAY
3 SUPPLY, UNLESS, IN THE JUDGMENT OF THE DENTIST, THE PATIENT:

4 (I) HAS CHRONIC PAIN THAT TYPICALLY LASTS LONGER THAN
5 NINETY DAYS OR PAST THE TIME OF NORMAL HEALING, AS DETERMINED BY
6 THE DENTIST, OR FOLLOWING TRANSFER OF CARE FROM ANOTHER DENTIST
7 WHO PRESCRIBED AN OPIOID TO THE PATIENT;

8 (II) HAS BEEN DIAGNOSED WITH CANCER AND IS EXPERIENCING
9 CANCER-RELATED PAIN; OR

10 (III) IS EXPERIENCING POST-SURGICAL PAIN THAT, BECAUSE OF THE
11 NATURE OF THE PROCEDURE, IS EXPECTED TO LAST MORE THAN FOURTEEN
12 DAYS.

13 (b) A DENTIST LICENSED PURSUANT TO THIS ARTICLE 35 MAY
14 PRESCRIBE OPIOIDS ELECTRONICALLY.

15 (c) THIS SUBSECTION (2) DOES NOT CREATE A PRIVATE RIGHT OF
16 ACTION OR SERVE AS THE BASIS OF A CAUSE OF ACTION. A VIOLATION OF
17 THIS SECTION DOES NOT CONSTITUTE NEGLIGENCE PER SE OR
18 CONTRIBUTORY NEGLIGENCE PER SE AND DOES NOT ALONE ESTABLISH A
19 STANDARD OF CARE.

20 (d) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
21 2021.

22 **SECTION 3. In Colorado Revised Statutes, add 12-36-117.6 as**
23 **follows:**

24 **12-36-117.6. Prescribing opiates - limitations - repeal. (1) A**
25 **PHYSICIAN OR PHYSICIAN ASSISTANT SHALL NOT PRESCRIBE MORE THAN**
26 **A SEVEN-DAY SUPPLY OF AN OPIOID TO A PATIENT WHO HAS NOT HAD AN**
27 **OPIOID PRESCRIPTION IN THE LAST TWELVE MONTHS BY THAT PHYSICIAN**

1 OR PHYSICIAN ASSISTANT, AND MAY EXERCISE DISCRETION TO INCLUDE A
2 SECOND FILL FOR A SEVEN-DAY SUPPLY, UNLESS, IN THE JUDGMENT OF THE
3 PHYSICIAN OR PHYSICIAN ASSISTANT, THE PATIENT:

4 (I) HAS CHRONIC PAIN THAT TYPICALLY LASTS LONGER THAN
5 NINETY DAYS OR PAST THE TIME OF NORMAL HEALING, AS DETERMINED BY
6 THE PHYSICIAN OR PHYSICIAN ASSISTANT, OR FOLLOWING TRANSFER OF
7 CARE FROM ANOTHER PHYSICIAN OR PHYSICIAN ASSISTANT WHO
8 PRESCRIBED AN OPIOID TO THE PATIENT;

9 (II) HAS BEEN DIAGNOSED WITH CANCER AND IS EXPERIENCING
10 CANCER-RELATED PAIN;

11 (III) IS EXPERIENCING POST-SURGICAL PAIN THAT, BECAUSE OF THE
12 NATURE OF THE PROCEDURE, IS EXPECTED TO LAST MORE THAN FOURTEEN
13 DAYS; OR

14 (IV) IS UNDERGOING PALLIATIVE CARE OR HOSPICE CARE FOCUSED
15 ON PROVIDING THE PATIENT WITH RELIEF FROM SYMPTOMS, PAIN, AND
16 STRESS RESULTING FROM A SERIOUS ILLNESS IN ORDER TO IMPROVE
17 QUALITY OF LIFE.

18 (2) A PHYSICIAN OR PHYSICIAN ASSISTANT LICENSED PURSUANT TO
19 THIS ARTICLE 36 MAY PRESCRIBE OPIOIDS ELECTRONICALLY.

20 (3) THIS SECTION DOES NOT CREATE A PRIVATE RIGHT OF ACTION
21 OR SERVE AS THE BASIS OF A CAUSE OF ACTION. A VIOLATION OF THIS
22 SECTION DOES NOT CONSTITUTE NEGLIGENCE PER SE OR CONTRIBUTORY
23 NEGLIGENCE PER SE AND DOES NOT ALONE ESTABLISH A STANDARD OF
24 CARE.

25 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

26 **SECTION 4.** In Colorado Revised Statutes, 12-38-111.6, add
27 (7.5) as follows:

1 12-38-111.6. Prescriptive authority - advanced practice nurses

2 - limits on opioid prescriptions - repeal. (7.5) (a) AN ADVANCED
3 PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY PURSUANT TO THIS
4 SECTION SHALL NOT PRESCRIBE MORE THAN A SEVEN-DAY SUPPLY OF AN
5 OPIOID TO A PATIENT WHO HAS NOT HAD AN OPIOID PRESCRIPTION IN THE
6 LAST TWELVE MONTHS BY THAT ADVANCE PRACTICE NURSE, AND MAY
7 EXERCISE DISCRETION TO INCLUDE A SECOND FILL FOR A SEVEN-DAY
8 SUPPLY, UNLESS, IN THE JUDGMENT OF THE ADVANCE PRACTICE NURSE,
9 THE PATIENT:

10 (I) HAS CHRONIC PAIN THAT TYPICALLY LASTS LONGER THAN
11 NINETY DAYS OR PAST THE TIME OF NORMAL HEALING, AS DETERMINED BY
12 THE ADVANCE PRACTICE NURSE, OR FOLLOWING TRANSFER OF CARE FROM
13 ANOTHER ADVANCE PRACTICE NURSE WHO PRESCRIBED AN OPIOID TO THE
14 PATIENT;

15 (II) HAS BEEN DIAGNOSED WITH CANCER AND IS EXPERIENCING
16 CANCER-RELATED PAIN;

17 (III) IS EXPERIENCING POST-SURGICAL PAIN THAT, BECAUSE OF THE
18 NATURE OF THE PROCEDURE, IS EXPECTED TO LAST MORE THAN FOURTEEN
19 DAYS; OR

20 (IV) IS UNDERGOING PALLIATIVE CARE OR HOSPICE CARE FOCUSED
21 ON PROVIDING THE PATIENT WITH RELIEF FROM SYMPTOMS, PAIN, AND
22 STRESS RESULTING FROM A SERIOUS ILLNESS IN ORDER TO IMPROVE
23 QUALITY OF LIFE.

24 (b) AN ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE
25 AUTHORITY PURSUANT TO THIS SECTION MAY PRESCRIBE OPIOIDS
26 ELECTRONICALLY.

27 (c) THIS SUBSECTION (7.5) DOES NOT CREATE A PRIVATE RIGHT OF

1 ACTION OR SERVE AS THE BASIS OF A CAUSE OF ACTION. A VIOLATION OF
2 THIS SECTION DOES NOT CONSTITUTE NEGLIGENCE PER SE OR
3 CONTRIBUTORY NEGLIGENCE PER SE AND DOES NOT ALONE ESTABLISH A
4 STANDARD OF CARE.

5 (d) THIS SUBSECTION (7.5) IS REPEALED, EFFECTIVE SEPTEMBER 1,
6 2021.

7 SECTION 5. In Colorado Revised Statutes, 12-40-109.5, add (4)
8 as follows:

9 **12-40-109.5. Use of prescription and nonprescription drugs -**
10 **limits on opioid prescriptions - repeal.** (4) (a) AN OPTOMETRIST SHALL
11 NOT PRESCRIBE MORE THAN A SEVEN-DAY SUPPLY OF AN OPIOID TO A
12 PATIENT WHO HAS NOT HAD AN OPIOID PRESCRIPTION IN THE LAST TWELVE
13 MONTHS BY THAT OPTOMETRIST, AND MAY EXERCISE DISCRETION TO
14 INCLUDE A SECOND FILL FOR A SEVEN-DAY SUPPLY, UNLESS, IN THE
15 JUDGMENT OF THE OPTOMETRIST, THE PATIENT:

16 (I) HAS CHRONIC PAIN THAT TYPICALLY LASTS LONGER THAN
17 NINETY DAYS OR PAST THE TIME OF NORMAL HEALING, AS DETERMINED BY
18 THE OPTOMETRIST, OR FOLLOWING TRANSFER OF CARE FROM ANOTHER
19 OPTOMETRIST WHO PRESCRIBED AN OPIOID TO THE PATIENT;

20 (II) HAS BEEN DIAGNOSED WITH CANCER AND IS EXPERIENCING
21 CANCER-RELATED PAIN; OR

22 (III) IS EXPERIENCING POST-SURGICAL PAIN THAT, BECAUSE OF THE
23 NATURE OF THE PROCEDURE, IS EXPECTED TO LAST MORE THAN FOURTEEN
24 DAYS.

25 (b) AN OPTOMETRIST LICENSED PURSUANT TO THIS ARTICLE 40
26 MAY PRESCRIBE OPIOIDS ELECTRONICALLY.

27 (c) THIS SUBSECTION (4) DOES NOT CREATE A PRIVATE RIGHT OF

1 ACTION OR SERVE AS THE BASIS OF A CAUSE OF ACTION. A VIOLATION OF
2 THIS SECTION DOES NOT CONSTITUTE NEGLIGENCE PER SE OR
3 CONTRIBUTORY NEGLIGENCE PER SE AND DOES NOT ALONE ESTABLISH A
4 STANDARD OF CARE.

5 (d) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE SEPTEMBER 1,
6 2021.

7 **SECTION 6.** In Colorado Revised Statutes, 12-42.5-404, **amend**
8 (3)(b); and **add** (3.6) and (8) as follows:

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

12 (b) Any practitioner with the statutory authority to prescribe
13 controlled substances, or an individual designated by the practitioner to
14 act on his or her behalf in accordance with section 12-42.5-403 (1.5)(b),
15 to the extent the query relates to a current patient of the practitioner. THE
16 PRACTITIONER OR HIS OR HER DESIGNEE SHALL IDENTIFY HIS OR HER AREA
17 OF HEALTH CARE SPECIALTY OR PRACTICE UPON THE INITIAL QUERY OF THE
18 PROGRAM;

19 (3.6) (a) EACH PRACTITIONER OR HIS OR HER DESIGNEE SHALL
20 QUERY THE PROGRAM PRIOR TO PRESCRIBING THE SECOND FILL FOR AN
21 OPIOID UNLESS THE PERSON RECEIVING THE PRESCRIPTION:

22 (I) IS RECEIVING THE OPIOID IN A HOSPITAL, SKILLED NURSING
23 FACILITY, RESIDENTIAL FACILITY, OR CORRECTIONAL FACILITY;

24 (II) HAS BEEN DIAGNOSED WITH CANCER AND IS EXPERIENCING
25 CANCER-RELATED PAIN;

26 (III) IS UNDERGOING PALLIATIVE CARE OR HOSPICE CARE;

27 (IV) IS EXPERIENCING POST-SURGICAL PAIN THAT, BECAUSE OF THE

1 NATURE OF THE PROCEDURE, IS EXPECTED TO LAST MORE THAN FOURTEEN
2 DAYS;

3 (V) IS RECEIVING TREATMENT DURING A NATURAL DISASTER OR
4 DURING AN INCIDENT WHERE MASS CASUALTIES HAVE TAKEN PLACE; OR

5 (VI) HAS RECEIVED ONLY A SINGLE DOSE TO RELIEVE PAIN FOR A
6 SINGLE TEST OR PROCEDURE.

7 (b) THE PROGRAM MUST USE INDUSTRY STANDARDS TO ALLOW
8 PROVIDERS OR THEIR DESIGNEES DIRECT ACCESS TO DATA FROM WITHIN AN
9 ELECTRONIC HEALTH RECORD TO THE EXTENT THAT THE QUERY RELATES
10 TO A CURRENT PATIENT OF THE PRACTITIONER.

11 (c) A PRACTITIONER OR HIS OR HER DESIGNEE COMPLIES WITH THIS
12 SUBSECTION (3.6) IF HE OR SHE ATTEMPTS TO ACCESS THE PROGRAM PRIOR
13 TO PRESCRIBING THE SECOND FILL FOR AN OPIOID, AND THE PROGRAM IS
14 NOT AVAILABLE OR IS INACCESSIBLE DUE TO TECHNICAL FAILURE.

15 (d) THIS SUBSECTION (3.6) IS REPEALED, EFFECTIVE SEPTEMBER 1,
16 2021.

17 (8) REPORTS GENERATED BY THE PROGRAM AND PROVIDED TO
18 PRESCRIBING PRACTITIONERS FOR PURPOSES OF INFORMATION,
19 EDUCATION, AND INTERVENTION TO PREVENT AND REDUCE OCCURRENCES
20 OF CONTROLLED SUBSTANCE MISUSE, ABUSE, AND DIVERSION ARE:

21 (a) NOT PUBLIC RECORDS UNDER THE "COLORADO OPEN RECORDS
22 ACT," PART 2 OF ARTICLE 72 OF TITLE 24;

23 (b) PRIVILEGED AND CONFIDENTIAL;

24 (c) NOT SUBJECT TO CIVIL SUBPOENA; AND

25 (d) NOT DISCOVERABLE OR ADMISSIBLE IN ANY CIVIL, CRIMINAL,
26 OR ADMINISTRATIVE PROCEEDING AGAINST A PRESCRIBING PRACTITIONER.

27 **SECTION 7.** In Colorado Revised Statutes, **add 12-64-127 as**

1 follows:

2 **12-64-127. Prescription of opioids - limitations - repeal.** (1) A
3 VETERINARIAN SHALL NOT PRESCRIBE MORE THAN A SEVEN-DAY SUPPLY
4 OF AN OPIOID TO A PATIENT WHO HAS NOT HAD AN OPIOID PRESCRIPTION
5 IN THE LAST TWELVE MONTHS BY THAT VETERINARIAN, AND MAY
6 EXERCISE DISCRETION TO INCLUDE A SECOND FILL FOR A SEVEN-DAY
7 SUPPLY, UNLESS, IN THE JUDGMENT OF THE VETERINARIAN, THE PATIENT:

8 (I) HAS CHRONIC PAIN THAT TYPICALLY LASTS LONGER THAN
9 NINETY DAYS OR PAST THE TIME OF NORMAL HEALING, AS DETERMINED BY
10 THE VETERINARIAN, OR FOLLOWING TRANSFER OF CARE FROM ANOTHER
11 VETERINARIAN WHO PRESCRIBED AN OPIOID TO THE PATIENT;

12 (II) HAS BEEN DIAGNOSED WITH CANCER AND IS EXPERIENCING
13 CANCER-RELATED PAIN; OR

14 (III) IS EXPERIENCING POST-SURGICAL PAIN THAT, BECAUSE OF THE
15 NATURE OF THE PROCEDURE, IS EXPECTED TO LAST MORE THAN FOURTEEN
16 DAYS.

17 (2) A VETERINARIAN LICENSED PURSUANT TO THIS ARTICLE 64
18 MAY PRESCRIBE OPIOIDS ELECTRONICALLY.

19 (3) THIS SECTION DOES NOT CREATE A PRIVATE RIGHT OF ACTION
20 OR SERVE AS THE BASIS OF A CAUSE OF ACTION. A VIOLATION OF THIS
21 SECTION DOES NOT CONSTITUTE NEGLIGENCE PER SE OR CONTRIBUTORY
22 NEGLIGENCE PER SE AND DOES NOT ALONE ESTABLISH A STANDARD OF
23 CARE.

24 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

25 **SECTION 8.** In Colorado Revised Statutes, **add 25-1-129** as
26 follows:

27 **25-1-129. Prescription drug monitoring program integration**

1 methods - health care provider report cards - report - repeal. (1) ON
2 OR BEFORE DECEMBER 1, 2019, THE DEPARTMENT SHALL REPORT TO THE
3 GENERAL ASSEMBLY THE FINDINGS FROM STUDIES THE DEPARTMENT
4 CONDUCTED PURSUANT TO THE FEDERAL GRANT TITLED THE
5 "PRESCRIPTION DRUG OVERDOSE PREVENTION FOR STATES COOPERATIVE
6 AGREEMENT" THAT THE DEPARTMENT RECEIVED CONCERNING:

7 (a) THE PRESCRIPTION DRUG MONITORING PROGRAM INTEGRATION
8 METHODS; AND

9 (b) HEALTH CARE PROVIDER REPORT CARDS.

10 (2) THE DEPARTMENT SHALL FORWARD THE FINDINGS FROM
11 STUDIES CONDUCTED PURSUANT TO SUBSECTION (1) OF THIS SECTION TO
12 THE CENTER FOR RESEARCH INTO SUBSTANCE USE DISORDER PREVENTION,
13 TREATMENT, AND RECOVERY SUPPORT STRATEGIES AT THE UNIVERSITY OF
14 COLORADO HEALTH SCIENCES CENTER, CREATED IN SECTION 27-80-118

15 (3). THE CENTER SHALL USE THE INFORMATION TO PROVIDE VOLUNTARY
16 TRAINING FOR HEALTH CARE PROVIDERS IN TARGETED AREAS.

17 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2020.

18 SECTION 9. Safety clause. The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.