A BILL FOR AN ACT

CONCERNING CLINICAL PRACTICE MEASURES FOR SAFER OPIOID 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
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.

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

SECTION 1. In Colorado Revised Statutes, 12-32-107.5, add (3)

as follows:

12-32-107.5. Prescriptions - requirement to advise patients -
limits on opioid prescriptions - repeal. (3) (a) A PODIATRIST SHALL NOT
prescribe more than a seven-day supply of an opioid to a patient
who has not had an opioid prescription in the last twelve months
by that podiatrist, and may exercise discretion to include a
second fill for a seven-day supply, unless, in the judgment of the
podiatrist, the patient:

(I) has chronic pain that typically lasts longer than
ninety days or past the time of normal healing, as determined by
the podiatrist, or following transfer of care from another
podiatrist who prescribed an opioid to the patient;

(II) has been diagnosed with cancer and is experiencing
cancer-related pain; or

(III) is experiencing post-surgical pain that, because of the
nature of the procedure, is expected to last more than fourteen
days.
(b) A PODIATRIST LICENSED PURSUANT TO THIS ARTICLE 32 MAY PRESCRIBE OPIOIDS ELECTRONICALLY.

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

(d) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

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

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

(2) (a) A DENTIST SHALL NOT PRESCRIBE MORE THAN A SEVEN-DAY SUPPLY OF AN OPIOID TO A PATIENT WHO HAS NOT HAD AN OPIOID
PRESCRIPTION IN THE LAST TWELVE MONTHS BY THAT DENTIST, AND MAY
EXERCISE DISCRETION TO INCLUDE A SECOND FILL FOR A SEVEN-DAY
SUPPLY, UNLESS, IN THE JUDGMENT OF THE DENTIST, THE PATIENT:

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

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

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

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

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

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

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

12-36-117.6. Prescribing opiates - limitations - repeal. (1) A
PHYSICIAN OR PHYSICIAN ASSISTANT SHALL NOT PRESCRIBE MORE THAN
A SEVEN-DAY SUPPLY OF AN OPIOID TO A PATIENT WHO HAS NOT HAD AN
OPIOID PRESCRIPTION IN THE LAST TWELVE MONTHS BY THAT PHYSICIAN
OR PHYSICIAN ASSISTANT, AND MAY EXERCISE DISCRETION TO INCLUDE A
SECOND FILL FOR A SEVEN-DAY SUPPLY, UNLESS, IN THE JUDGMENT OF THE
PHYSICIAN OR PHYSICIAN ASSISTANT, THE PATIENT:

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

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

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

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

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

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

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

SECTION 4. In Colorado Revised Statutes, 12-38-111.6, add
(7.5) as follows:
12-38-111.6. Prescriptive authority - advanced practice nurses - limits on opioid prescriptions - repeal. (7.5) (a) An advanced practice nurse with prescriptive authority pursuant to this section shall not prescribe more than a seven-day supply of an opioid to a patient who has not had an opioid prescription in the last twelve months by that advance practice nurse, and may exercise discretion to include a second fill for a seven-day supply, unless, in the judgment of the advance practice nurse, the patient:

(I) has chronic pain that typically lasts longer than ninety days or past the time of normal healing, as determined by the advance practice nurse, or following transfer of care from another advance practice nurse who prescribed an opioid to the patient;

(II) has been diagnosed with cancer and is experiencing cancer-related pain;

(III) is experiencing post-surgical pain that, because of the nature of the procedure, is expected to last more than fourteen days; or

(IV) is undergoing palliative care or hospice care focused on providing the patient with relief from symptoms, pain, and stress resulting from a serious illness in order to improve quality of life.

(b) An advanced practice nurse with prescriptive authority pursuant to this section may prescribe opioids electronically.

(c) This subsection (7.5) does not create a private right of
ACTION OR SERVE AS THE BASIS OF A CAUSE OF ACTION. A VIOLATION OF
THIS SECTION DOES NOT CONSTITUTE NEGLIGENCE PER SE OR
CONTRIBUTORY NEGLIGENCE PER SE AND DOES NOT ALONE ESTABLISH A
STANDARD OF CARE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(III) IS UNDERGOING PALLIATIVE CARE OR HOSPICE CARE;

(IV) IS EXPERIENCING POST-SURGICAL PAIN THAT, BECAUSE OF THE
(V) is receiving treatment during a natural disaster or during an incident where mass casualties have taken place; or

(VI) has received only a single dose to relieve pain for a single test or procedure.

(b) The program must use industry standards to allow providers or their designees direct access to data from within an electronic health record to the extent that the query relates to a current patient of the practitioner.

(c) A practitioner or his or her designee complies with this subsection (3.6) if he or she attempts to access the program prior to prescribing the second fill for an opioid, and the program is not available or is inaccessible due to technical failure.

(d) This subsection (3.6) is repealed, effective September 1, 2021.

(8) Reports generated by the program and provided to prescribing practitioners for purposes of information, education, and intervention to prevent and reduce occurrences of controlled substance misuse, abuse, and diversion are:

(a) not public records under the "Colorado Open Records Act," part 2 of article 72 of title 24;

(b) privileged and confidential;

(c) not subject to civil subpoena; and

(d) not discoverable or admissible in any civil, criminal, or administrative proceeding against a prescribing practitioner.

SECTION 7. In Colorado Revised Statutes, add 12-64-127 as
follows:

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

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

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

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

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

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

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

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

25-1-129. Prescription drug monitoring program integration
methods - health care provider report cards - report - repeal. (1) On
or before December 1, 2019, the department shall report to the
General Assembly the findings from studies the department
conducted pursuant to the federal grant titled the
"Prescription Drug Overdose Prevention for States Cooperative
Agreement" that the department received concerning:

(a) The prescription drug monitoring program integration
methods; and

(b) Health care provider report cards.

(2) The department shall forward the findings from
studies conducted pursuant to subsection (1) of this section to
the Center for Research into Substance Use Disorder Prevention,
treatment, and recovery support strategies at the University of
Colorado Health Sciences Center, created in section 27-80-118
(3) The center shall use the information to provide voluntary
training for health care providers in targeted areas.

(3) This section is repealed, effective July 1, 2020.

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