

CHAPTER 40

CRIMINAL LAW AND PROCEDURE

SENATE BILL 12-037

BY SENATOR(S) King S., Aguilar, Boyd, Cadman, Carroll, Foster, Guzman, Jahn, Lambert, Newell, Nicholson, Roberts, Spence, White;
also REPRESENTATIVE(S) Young, Brown, Conti, Fields, Hamner, Kefalas, Kerr A., Kerr J., Labuda, Massey, Schafer S., Scott, Summers, Todd, Wilson.

AN ACT

CONCERNING THE ABILITY TO DISPENSE A CONTROLLED SUBSTANCE BASED ON AN ELECTRONICALLY TRANSMITTED PRESCRIPTION DRUG ORDER.

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

SECTION 1. In Colorado Revised Statutes, 18-18-308, **amend** (3) and (4) as follows:

18-18-308. Prescriptions. (3) (a) ~~Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user~~ AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), A PERSON SHALL NOT DISPENSE a substance included in schedule II ~~may not be dispensed~~ TO AN ULTIMATE USER OF THE SUBSTANCE without:

(I) The written prescription of a practitioner; OR

(II) AN ELECTRONIC PRESCRIPTION DRUG ORDER FOR A SCHEDULE II SUBSTANCE THAT IS CREATED AND TRANSMITTED IN ACCORDANCE WITH 21 CFR 1311.

(b) A PRACTITIONER, OTHER THAN A PHARMACY, MAY DISPENSE A SCHEDULE II SUBSTANCE DIRECTLY TO THE ULTIMATE USER WITHOUT A WRITTEN PRESCRIPTION.

(4) (a) ~~Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user~~ AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), A PERSON SHALL NOT DISPENSE a substance included in schedule III, IV, or V ~~may not be dispensed~~ TO AN ULTIMATE USER OF THE SUBSTANCE without:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) A written or oral prescription order of a practitioner; OR

(II) AN ELECTRONIC PRESCRIPTION DRUG ORDER FOR A SCHEDULE III, IV, OR V SUBSTANCE THAT IS CREATED AND TRANSMITTED IN ACCORDANCE WITH 21 CFR 1311.

(b) A PRACTITIONER, OTHER THAN A PHARMACY, MAY DISPENSE A SCHEDULE III, IV, OR V SUBSTANCE DIRECTLY TO THE ULTIMATE USER WITHOUT A WRITTEN PRESCRIPTION.

(c) ~~The~~ A prescription order FOR A SCHEDULE III, IV, OR V SUBSTANCE must not be filled or refilled more than six months after the date ~~thereof~~ OF THE ORDER or be refilled more than five times.

SECTION 2. In Colorado Revised Statutes, 18-18-414, **amend** (1) (b), (2) (a) introductory portion, (2) (a) (III), and (2) (b) as follows:

18-18-414. Unlawful acts - licenses - penalties. (1) Except as otherwise provided in this article or in article 22 of title 12, C.R.S., the following acts are unlawful:

(b) Except as provided in subsection (2) of this section, the dispensing of any schedule II controlled substance unless such substance is dispensed:

(I) From a pharmacy pursuant to a written order OR AN ORDER ELECTRONICALLY TRANSMITTED IN ACCORDANCE WITH 21 CFR 1311; or ~~is dispensed~~

(II) By any practitioner in the course of his OR HER professional practice;

(2) (a) A pharmacist in an emergency situation, in lieu of a written OR ELECTRONICALLY TRANSMITTED prescription order, in good faith, may dispense up to a seventy-two-hour supply of any controlled substance listed in schedule II of part 2 of this article without a written OR ELECTRONICALLY TRANSMITTED prescription order. An "emergency situation", as used in this paragraph (a), means a situation in which the prescribing practitioner determines:

(III) That it is not reasonably possible for the prescribing practitioner to provide a written prescription order to be presented to the person dispensing the controlled substance, OR TO ELECTRONICALLY TRANSMIT A PRESCRIPTION ORDER TO THE DISPENSER, prior to such dispensing.

(b) (I) Upon receiving ~~such~~ an emergency oral prescription order from the practitioner, the pharmacist shall immediately reduce the prescription order to writing OR AN ELECTRONIC FORMAT and shall write ~~on its face~~ OR OTHERWISE ENSURE THAT THE FOLLOWING LANGUAGE AND INFORMATION IS RECORDED IN THE PRESCRIPTION RECORD: "Authorization for emergency dispensing" and the date and time of dispensing of the oral prescription.

(II) The prescribing practitioner shall reduce the prescription order to writing OR AN ELECTRONIC FORMAT and SHALL deliver the prescription order TO THE PHARMACIST in person, by facsimile transmission as provided in paragraph (c) of

this subsection (2), ~~or by mail, to the pharmacist~~ OR BY ELECTRONIC TRANSMISSION within seventy-two hours AFTER PRESCRIBING THE SCHEDULE II CONTROLLED SUBSTANCE. If delivered by mail, the envelope must be postmarked within seventy-two hours ~~of~~ AFTER prescribing. UPON RECEIPT OF THE PRESCRIPTION ORDER, the pharmacist ~~upon receipt of the prescription order, shall attach~~ MAINTAIN the prescription order ~~to~~ WITH the oral prescription order that has been reduced to writing OR AN ELECTRONIC FORMAT.

(III) The pharmacist shall notify the board if the prescribing practitioner fails to deliver the written OR ELECTRONIC prescription order to the pharmacist.

SECTION 3. 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.

Approved: March 22, 2012