

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 19-0420.01 Kristen Forrestal x4217

HOUSE BILL 19-1077

HOUSE SPONSORSHIP

Roberts,

SENATE SPONSORSHIP

Tate and Pettersen,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZATION FOR A PHARMACIST TO DISPENSE A**
102 **CHRONIC MAINTENANCE DRUG TO A PATIENT WITHOUT A**
103 **CURRENT PRESCRIPTION IN LIMITED CIRCUMSTANCES.**

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>.)

The bill allows a pharmacist to dispense an emergency supply of a chronic maintenance drug to a patient without a prescription if:

- ! The pharmacist is unable to obtain authorization to refill the prescription from a health care provider;
- ! The pharmacist has a record of a prescription in the name

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.

- of the patient who is requesting the emergency supply of the chronic maintenance drug or, in the pharmacist's professional judgment, the refusal to dispense an emergency supply will endanger the health of the patient;
- ! The amount of the chronic maintenance drug dispensed does not exceed the amount of the most recent prescription or the standard quantity or unit of use package dispensed of the drug; and
- ! The pharmacist has not dispensed an emergency supply of the chronic maintenance drug to the same patient in the previous 12-month period.

The bill requires the state board of pharmacy to promulgate rules to establish standard procedures for dispensing chronic maintenance drugs. A pharmacist, the pharmacist's employer, and the original prescriber of the drug are not civilly liable for dispensing a chronic maintenance drug unless there is negligence, recklessness, or willful or wanton misconduct.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-42.5-102, **amend**
 3 (31)(b)(III), (31)(c) introductory portion, and (31)(c)(II)(C); and **add** (6.7)
 4 and (31)(d) as follows:

5 **12-42.5-102. Definitions.** As used in this article 42.5, unless the
 6 context otherwise requires or the term is otherwise defined in another part
 7 of this article 42.5:

8 (6.7) "CHRONIC MAINTENANCE DRUG" MEANS A DRUG THAT:

9 (a) IS NOT AN OPIOID OR IS NOT A CONTROLLED SUBSTANCE THAT
 10 IS PROHIBITED FROM BEING DISPENSED WITHOUT A PRESCRIPTION UNDER
 11 THE FEDERAL "FOOD, DRUG, AND COSMETIC ACT", 21 U.S.C. SEC. 301 ET
 12 SEQ., AS AMENDED; AND

13 (b) IS PRESCRIBED TO A PATIENT TO TAKE ON A RECURRING BASIS
 14 OR IS USED AS A LIFE-SAVING RESCUE DRUG FOR A CHRONIC CONDITION.

15 (31) "Practice of pharmacy" means:

16 (b) (III) The maintenance of proper records for such drugs and

1 devices; and

2 (c) The provision of a therapeutic interchange selection or a
3 therapeutically equivalent selection to a patient if, during the patient's stay
4 at a nursing care facility or a long-term acute care hospital licensed under
5 part 1 of article 3 of title 25, ~~C.R.S.~~, the selection has been approved for
6 the patient:

7 (II) By one of the following health care providers:

8 (C) An advanced practice nurse prescriber licensed as a
9 professional nurse under section 12-38-111, registered as an advanced
10 practice nurse under section 12-38-111.5, and authorized to prescribe
11 controlled substances or prescription drugs pursuant to section
12 12-38-111.6, if the advanced practice nurse prescriber has developed an
13 articulated plan to maintain ongoing collaboration with physicians and
14 other health care professionals; AND

15 (d) THE DISPENSING OF CHRONIC MAINTENANCE DRUGS PURSUANT
16 TO SECTION 12-42.5-122.5 AND BOARD RULES ADOPTED IN ACCORDANCE
17 WITH THAT SECTION.

18 **SECTION 2.** In Colorado Revised Statutes, 12-42.5-120, **amend**
19 (1) as follows:

20 **12-42.5-120. Prescription required - exception - dispensing**
21 **opiate antagonists - definitions.** (1) Except as provided in section
22 SECTIONS 18-18-414 ~~C.R.S.~~, AND 12-42.5-122.5, and subsections (2) and
23 (3) of this section, an order is required prior to dispensing any
24 prescription drug. Orders shall be readily retrievable within the
25 appropriate statute of limitations.

26 **SECTION 3.** In Colorado Revised Statutes, **add** 12-42.5-122.5
27 as follows:

1 **12-42.5-122.5. Pharmacists' authority to dispense chronic**

2 **maintenance drugs - rules - liability.** (1) IN ACCORDANCE WITH BOARD
3 RULES ADOPTED UNDER SUBSECTION (2) OF THIS SECTION, ON AND AFTER
4 JANUARY 1, 2020, A PHARMACIST MAY DISPENSE AN EMERGENCY SUPPLY
5 OF A CHRONIC MAINTENANCE DRUG TO A PATIENT WITHOUT A CURRENT,
6 VALID PRESCRIPTION IF:

7 (a) THE PHARMACIST MAKES EVERY REASONABLE ATTEMPT BUT IS
8 UNABLE TO OBTAIN AUTHORIZATION TO REFILL THE PRESCRIPTION FROM
9 THE PRESCRIBING HEALTH CARE PROVIDER OR ANOTHER HEALTH CARE
10 PROVIDER RESPONSIBLE FOR THE PATIENT'S CARE;

11 (b) (I) THE PHARMACIST HAS A RECORD OF A PRESCRIPTION AT THE
12 PHARMACY OR HAS BEEN PRESENTED PROOF OF A RECENT PRESCRIPTION
13 FOR THE CHRONIC MAINTENANCE DRUG IN THE NAME OF THE PATIENT WHO
14 IS REQUESTING THE EMERGENCY SUPPLY; OR

15 (II) IN THE PHARMACIST'S PROFESSIONAL JUDGMENT, THE REFUSAL
16 TO DISPENSE AN EMERGENCY SUPPLY OF THE CHRONIC MAINTENANCE
17 DRUG WILL ENDANGER THE PATIENT'S HEALTH OR DISRUPT ESSENTIAL
18 DRUG THERAPY FOR A CHRONIC CONDITION OF THE PATIENT;

19 (c) THE AMOUNT OF THE CHRONIC MAINTENANCE DRUG DISPENSED
20 DOES NOT EXCEED THE AMOUNT OF THE MOST RECENT PRESCRIPTION OR
21 THE STANDARD QUANTITY OR UNIT OF USE PACKAGE DISPENSED OF THE
22 DRUG;

23 (d) THE PHARMACIST HAS NOT DISPENSED AN EMERGENCY SUPPLY
24 OF THE CHRONIC MAINTENANCE DRUG TO THE SAME PATIENT IN THE
25 PREVIOUS TWELVE-MONTH PERIOD; AND

26 (e) THE PRESCRIBER OF THE DRUG HAS NOT INDICATED THAT NO
27 EMERGENCY REFILLS ARE AUTHORIZED.

1 (2) THE BOARD SHALL ADOPT RULES, IN CONSULTATION WITH THE
2 COLORADO MEDICAL BOARD CREATED IN SECTION 12-36-103 AND THE
3 STATE BOARD OF NURSING CREATED IN SECTION 12-38-104, TO ESTABLISH
4 STANDARD PROCEDURES FOR PHARMACISTS TO FOLLOW IN DISPENSING
5 CHRONIC MAINTENANCE DRUGS PURSUANT TO THIS SECTION. THE RULES
6 ADOPTED UNDER THIS SUBSECTION (2) MUST INCLUDE DOCUMENTATION
7 REQUIREMENTS FOR A PHARMACIST TO COMPLETE WHEN DISPENSING A
8 CHRONIC MAINTENANCE DRUG WITHOUT A CURRENT PRESCRIPTION.

9 (3) A PHARMACIST, THE PHARMACIST'S EMPLOYER, AND THE
10 ORIGINAL PRESCRIBER OF THE DRUG ARE NOT CIVILLY LIABLE FOR AN ACT
11 OR OMISSION IN CONNECTION WITH THE DISPENSING OF A CHRONIC
12 MAINTENANCE DRUG PURSUANT TO THIS SECTION UNLESS THE ACT OR
13 OMISSION CONSTITUTES NEGLIGENCE, RECKLESSNESS, OR WILLFUL OR
14 WANTON MISCONDUCT.

15 **SECTION 4. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2020 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.