

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0369.01 Kristen Forrestal x4217

SENATE BILL 21-098

SENATE SPONSORSHIP

Jaquez Lewis and Pettersen, Fields, Ginal

HOUSE SPONSORSHIP

(None),

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE PRESCRIPTION DRUG
102 MONITORING PROGRAM, AND, IN CONNECTION THEREWITH,
103 IMPLEMENTING RECOMMENDATIONS CONTAINED IN THE 2020
104 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY
105 AGENCIES.

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/>.)

Sunset Process - Senate Health and Human Services Committee. The bill implements the recommendations of the department

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 regulatory agencies' 2020 sunset review and report by:

- Continuing the prescription drug monitoring program (program) until September 1, 2028 (**sections 4 and 5** of the bill);
- Authorizing the state board of pharmacy (board) to promulgate rules that identify a list of prescription drugs that are not currently listed as controlled substances and require such drugs to be tracked through the program (**section 2**);
- Authorizing each coroner to authorize deputy coroners to access the program (**section 2**);
- Authorizing the board to create a data retention schedule for information obtained and stored by the program (**section 2**);
- Requiring the board to report its efforts to seek outside funding for the program during the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearings (**section 3**); and
- Making a technical change to remove a reference to the department of health care policy and financing from the statute as that department does not have access to the program (**section 2**).

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-280-403, **amend**
3 (2)(a) as follows:

4 **12-280-403. Prescription drug use monitoring program -**
5 **registration required.** (2) (a) ~~By January 1, 2015, or by an earlier date~~
6 ~~determined by the director, every~~ EACH practitioner in this state who
7 holds a current registration issued by the federal drug enforcement
8 administration and ~~every~~ EACH pharmacist shall register and maintain a
9 user account with the program.

10 **SECTION 2.** In Colorado Revised Statutes, 12-280-404, **amend**
11 (2), (3)(1) introductory portion, (3)(1)(I), (3)(1)(II), and (6); and **add** (3.5)
12 as follows:

13 **12-280-404. Program operation - access - rules - definitions -**

1 **repeal.** (2) (a) The board shall adopt all rules necessary to implement the
2 program.

3 (b) THE RULES ADOPTED PURSUANT TO SUBSECTION (2)(a) OF THIS
4 SECTION MAY:

5 (I) IDENTIFY PRESCRIPTION DRUGS AND SUBSTANCES BY USING
6 EVIDENCE-BASED PRACTICES, IN ADDITION TO CONTROLLED SUBSTANCES,
7 THAT HAVE A SUBSTANTIAL POTENTIAL FOR ABUSE AND MUST REQUIRE
8 PHARMACISTS AND PRESCRIPTION DRUG OUTLETS TO REPORT THOSE
9 PRESCRIPTION DRUGS AND SUBSTANCES TO THE PROGRAM WHEN THEY ARE
10 DISPENSED TO A PATIENT; AND

11 (II) INCLUDE A DATA RETENTION SCHEDULE FOR THE INFORMATION
12 OBTAINED AND STORED BY THE PROGRAM PURSUANT TO THIS PART 4 AND
13 THE PROCESSES FOR THE PRESERVATION OF DE-IDENTIFIED, AGGREGATED
14 DATA FOR A PERIOD OF TIME AS DETERMINED BY THE BOARD.

15 (3) The program is available for query only to the following
16 persons or groups of persons:

17 (I) A medical examiner who is a physician licensed pursuant to
18 article 240 of this title 12, whose license is in good standing, and who is
19 located and employed in the state of Colorado; ~~or~~ a coroner elected
20 pursuant to section 30-10-601; OR A DEPUTY CORONER WHO IS
21 AUTHORIZED BY THE CORONER TO ACT ON BEHALF OF THE CORONER IN
22 ACCORDANCE WITH SUBSECTION (3.5) OF THIS SECTION, if:

23 (I) The information released is specific to an individual who is the
24 subject of an autopsy conducted by the medical examiner, ~~or~~ coroner, OR
25 DEPUTY CORONER;

26 (II) The medical examiner, ~~or the~~ coroner, OR DEPUTY CORONER
27 has legitimate access to the individual's medical record; and

1 (3.5) A CORONER MAY AUTHORIZE A DEPUTY CORONER TO ACCESS
2 THE PROGRAM ON BEHALF OF THE CORONER IF:

3 (a) THE CORONER TAKES REASONABLE STEPS TO ENSURE THAT THE
4 DEPUTY CORONER IS SUFFICIENTLY COMPETENT TO USE THE PROGRAM; AND

5 (b) THE CORONER REMAINS RESPONSIBLE FOR:

6 (I) ENSURING THAT ACCESS TO THE PROGRAM IS LIMITED TO THE
7 PURPOSES SPECIFIED IN SUBSECTION (3)(1) OF THE SECTION AND THAT THE
8 ACCESS OCCURS IN A MANNER THAT PROTECTS THE CONFIDENTIALITY OF
9 PROGRAM INFORMATION; AND

10 (II) ANY NEGLIGENT BREACH OF THE CONFIDENTIALITY OF
11 INFORMATION OBTAINED FROM THE PROGRAM BY THE DEPUTY CORONER.

12 (6) The board OR the department of public health and
13 environment, ~~or the department of health care policy and financing,~~
14 pursuant to a written agreement that ensures compliance with this part 4,
15 may provide data to qualified personnel of a public or private entity for
16 the purpose of bona fide research or education so long as the data does
17 not identify a recipient of, a practitioner who prescribed, or a prescription
18 drug outlet that dispensed, a prescription drug.

19 **SECTION 3.** In Colorado Revised Statutes, 12-280-405, **amend**
20 (2) as follows:

21 **12-280-405. Prescription drug monitoring fund - creation -**
22 **gifts, grants, and donations - report - fee.** (2) After implementing the
23 program, the board shall seek gifts, grants, and donations ~~on an annual~~
24 ~~basis~~ for the purpose of maintaining the program. The board shall report
25 ~~annually to the health and human services committee of the senate and the~~
26 ~~health and insurance committee of the house of representatives, or any~~
27 ~~successor committees, regarding~~ the gifts, grants, and donations

1 requested, of whom they were requested, and the amounts received TO
2 THE EXECUTIVE DIRECTOR, WHO SHALL SUBMIT THE INFORMATION TO THE
3 SENATE HEALTH AND HUMAN SERVICES COMMITTEE AND THE HOUSE OF
4 REPRESENTATIVES HEALTH AND INSURANCE AND PUBLIC AND BEHAVIORAL
5 HEALTH AND HUMAN SERVICES COMMITTEES, OR ANY SUCCESSOR
6 COMMITTEES, DURING THE COMMITTEES' HEARINGS UNDER THE "STATE
7 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
8 (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

9 **SECTION 4.** In Colorado Revised Statutes, **amend** 12-280-410
10 as follows:

11 **12-280-410. Repeal of part - review of functions.** This part 4 is
12 repealed, effective ~~July 1, 2021~~ SEPTEMBER 1, 2028. Before the repeal,
13 the functions of the board and the program under this part 4 are scheduled
14 for review in accordance with section 24-34-104.

15 **SECTION 5.** In Colorado Revised Statutes, 24-34-104, **repeal**
16 (20)(a)(II); and **add** (29)(a)(XIII) as follows:

17 **24-34-104. General assembly review of regulatory agencies**
18 **and functions for repeal, continuation, or reestablishment - legislative**
19 **declaration - repeal.** (20) (a) The following agencies, functions, or both,
20 will repeal on July 1, 2021:

21 (II) ~~The electronic prescription drug monitoring program created~~
22 ~~in part 4 of article 280 of title 12.~~

23 (29) (a) The following agencies, functions, or both, are scheduled
24 for repeal on September 1, 2028:

25 (XIII) THE ELECTRONIC PRESCRIPTION DRUG MONITORING
26 PROGRAM CREATED IN PART 4 OF ARTICLE 280 OF TITLE 12.

27 **SECTION 6. Effective date.** This act takes effect July 1, 2021.

1 **SECTION 7. 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, or safety.