

CHAPTER 149

---

**CRIMINAL LAW AND PROCEDURE**

---

**HOUSE BILL 98-1245**

BY REPRESENTATIVES Morrison, Dean, Epps, Faatz, Keller, Lawrence, Grampas, Mace, Reeser, Sullivant, Taylor, and S. Williams;  
also SENATOR Lacy.

**AN ACT**

CONCERNING THE AUTHORITY OF PHARMACISTS TO DISPENSE PRESCRIPTIONS RECEIVED VIA FACSIMILE TRANSMISSION FOR SCHEDULE II CONTROLLED SUBSTANCES.

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

**SECTION 1.** 18-18-414 (2), Colorado Revised Statutes, is amended to read:

**18-18-414. Unlawful acts - licenses - penalties.** (2) (a) A pharmacist in an emergency situation, in lieu of a written 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 prescription order. An "emergency situation", as used in this paragraph (a), means a situation in which the prescribing practitioner determines:

(I) That immediate dispensing of the controlled substance is necessary for proper treatment of the intended ultimate user;

(II) That no alternative prescription drug is available, including drugs that are not controlled substances under schedule II of part 2 of this article;

(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 prior to such dispensing.

(b) Upon receiving such an emergency oral prescription order from the

---

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

practitioner, the pharmacist shall immediately reduce the prescription order to writing and shall write on its face "authorization for emergency dispensing" and the date and time of dispensing of the oral prescription. The prescribing practitioner shall reduce THE PRESCRIPTION ORDER to writing and deliver the prescription order in person, by facsimile transmission ~~if the order is delivered to a long-term care facility~~ AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (2), or by mail to the pharmacist within seventy-two hours. If delivered by mail, the envelope must be postmarked within seventy-two hours of prescribing. ~~If the federal drug enforcement administration promulgates regulations authorizing the transmission of prescriptions for schedule II controlled substances for hospice patients via facsimile equipment, the prescribing practitioner may deliver the prescription order for an emergency oral prescription order to the pharmacist by facsimile transmission within seventy-two hours of prescribing.~~ The pharmacist, upon receipt of the prescription order, shall attach the prescription order to the oral prescription order ~~which~~ THAT has been reduced to writing. The pharmacist shall notify the board if the prescribing practitioner fails to deliver the written prescription order to the pharmacist. ~~For purposes of this paragraph (b), "hospice patient" means an individual who is receiving hospice care from an entity licensed and regulated by the department of public health and environment pursuant to sections 25-1-107(1)(I) and 25-3-101, C.R.S.~~

(c) (I) A PRESCRIPTION FOR A CONTROLLED SUBSTANCE LISTED IN SCHEDULE II OF PART 2 OF THIS ARTICLE MAY BE TRANSMITTED VIA FACSIMILE EQUIPMENT, SO LONG AS THE ORIGINAL WRITTEN, SIGNED PRESCRIPTION IS PRESENTED TO THE PHARMACIST FOR REVIEW PRIOR TO THE ACTUAL DISPENSING OF THE CONTROLLED SUBSTANCE, EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (c).

(II) A PRESCRIPTION WRITTEN FOR A SCHEDULE II CONTROLLED SUBSTANCE FOR A HOSPICE PATIENT OR FOR A RESIDENT OF A LONG-TERM CARE FACILITY OR FOR THE DIRECT HOME ADMINISTRATION TO A PATIENT BY PARENTERAL, INTRAVENOUS, INTRAMUSCULAR, SUBCUTANEOUS, OR INTRASPINAL INFUSION (INFUSION DRUG THERAPY) MAY BE TRANSMITTED BY THE PRACTITIONER OR THE PRACTITIONER'S AGENT TO THE DISPENSING PHARMACY OR PHARMACIST BY FACSIMILE TRANSMISSION. THE PRACTITIONER OR THE PRACTITIONER'S AGENT SHALL NOTE ON THE PRESCRIPTION THAT THE PATIENT IS A HOSPICE PATIENT OR A RESIDENT IN A LONG-TERM CARE FACILITY OR A PATIENT RECEIVING INFUSION DRUG THERAPY. THE FACSIMILE SERVES AS THE ORIGINAL WRITTEN PRESCRIPTION FOR PURPOSES OF THIS SECTION AND SHALL BE MAINTAINED AS SPECIFIED BY THE BOARD.

(III) FOR THE PURPOSES OF THIS PARAGRAPH (c):

(A) "HOSPICE PATIENT" MEANS AN INDIVIDUAL WHO IS RECEIVING HOSPICE CARE FROM AN ENTITY LICENSED AND REGULATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTIONS 25-1-107(1)(I) AND 25-3-101, C.R.S.

(B) "LONG-TERM CARE FACILITY" MEANS A FACILITY THAT IS LICENSED AND REGULATED AS A SKILLED NURSING FACILITY OR NURSING CARE FACILITY BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTIONS 25-1-107(1)(I) AND 25-3-101, C.R.S.

**SECTION 2.** 18-18-308 (2), Colorado Revised Statutes, is amended to read:

**18-18-308. Prescriptions.** (2) EXCEPT AS PROVIDED IN SECTION 18-18-414, a person may dispense a controlled substance only as provided in this section.

**SECTION 3. Effective date - applicability.** This act shall take effect July 1, 1998, and shall apply to all qualifying prescriptions dispensed on or after said date.

**SECTION 4. 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: April 21, 1998