

SENATE COMMITTEE OF REFERENCE REPORT

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February 20, 2019

Chair of Committee

Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

HB19-1077 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation and with a recommendation that it be placed on the consent calendar:

1 Amend reengrossed bill, page 2, line 11, strike "FEDERAL "FOOD," and  
2 substitute ""FEDERAL FOOD,".

3 Page 4, line 21, strike "DISPENSED".

4 Page 5, after line 14 insert:

5       **"SECTION 4.** In Colorado Revised Statutes, 12-280-103, **amend**  
6 **as relocated by House Bill 19-1172** (39)(b)(III) and (39)(c)(II)(C); and  
7 **add** (9.5) and (39)(d) as follows:

8       **12-280-103. Definitions - rules.** As used in this article 280, unless  
9 the context otherwise requires or the term is otherwise defined in another  
10 part of this article 280:

11       (9.5) "CHRONIC MAINTENANCE DRUG" MEANS A DRUG THAT:

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

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

18       (39) "Practice of pharmacy" means:

19       (b) (III) The maintenance of proper records for the drugs and  
20 devices; **and**

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

14 (d) THE DISPENSING OF CHRONIC MAINTENANCE DRUGS PURSUANT  
15 TO SECTION 12-280-125.5 AND BOARD RULES ADOPTED IN ACCORDANCE  
16 WITH THAT SECTION.

17                   **SECTION 5.** In Colorado Revised Statutes, 12-280-123, amend  
18                   **as relocated by House Bill 19-1172 (1)** as follows:

**12-280-123. Prescription required - exception - dispensing opiate antagonists.** (1) Except as provided in sections 18-18-414 and 12-280-125.5 and subsections (2) and (3) of this section, an order is required prior to dispensing any prescription drug. Orders shall be readily retrievable within the appropriate statute of limitations.

26 **12-280-125.5. Pharmacists' authority to dispense chronic**  
27 **maintenance drugs - rules - liability.** (1) IN ACCORDANCE WITH BOARD  
28 RULES ADOPTED UNDER SUBSECTION (2) OF THIS SECTION, ON AND AFTER  
29 JANUARY 1, 2020, A PHARMACIST MAY DISPENSE AN EMERGENCY SUPPLY  
30 OF A CHRONIC MAINTENANCE DRUG TO A PATIENT WITHOUT A CURRENT,  
31 VALID PRESCRIPTION IF:

32 (a) THE PHARMACIST MAKES EVERY REASONABLE ATTEMPT BUT IS  
33 UNABLE TO OBTAIN AUTHORIZATION TO REFILL THE PRESCRIPTION FROM  
34 THE PRESCRIBING HEALTH CARE PROVIDER OR ANOTHER HEALTH CARE  
35 PROVIDER RESPONSIBLE FOR THE PATIENT'S CARE:

36 (b) (I) THE PHARMACIST HAS A RECORD OF A PRESCRIPTION AT THE  
37 PHARMACY OR HAS BEEN PRESENTED PROOF OF A RECENT PRESCRIPTION  
38 FOR THE CHRONIC MAINTENANCE DRUG IN THE NAME OF THE PATIENT WHO  
39 IS REQUESTING THE EMERGENCY SUPPLY; OR

40 (II) IN THE PHARMACIST'S PROFESSIONAL JUDGMENT, THE REFUSAL  
41 TO DISPENSE AN EMERGENCY SUPPLY OF THE CHRONIC MAINTENANCE

1 DRUG WILL ENDANGER THE PATIENT'S HEALTH OR DISRUPT ESSENTIAL  
2 DRUG THERAPY FOR A CHRONIC CONDITION OF THE PATIENT;

3 (c) THE AMOUNT OF THE CHRONIC MAINTENANCE DRUG DISPENSED  
4 DOES NOT EXCEED THE AMOUNT OF THE MOST RECENT PRESCRIPTION OR  
5 THE STANDARD QUANTITY OR UNIT OF USE PACKAGE OF THE DRUG;

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

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

11 (2) THE BOARD SHALL ADOPT RULES, IN CONSULTATION WITH THE  
12 COLORADO MEDICAL BOARD CREATED IN SECTION 12-240-105 AND THE  
13 STATE BOARD OF NURSING CREATED IN SECTION 12-255-105, TO  
14 ESTABLISH STANDARD PROCEDURES FOR PHARMACISTS TO FOLLOW IN  
15 DISPENSING CHRONIC MAINTENANCE DRUGS PURSUANT TO THIS SECTION.  
16 THE RULES ADOPTED UNDER THIS SUBSECTION (2) MUST INCLUDE  
17 DOCUMENTATION REQUIREMENTS FOR A PHARMACIST TO COMPLETE WHEN  
18 DISPENSING A CHRONIC MAINTENANCE DRUG WITHOUT A CURRENT  
19 PRESCRIPTION.

20 (3) A PHARMACIST, THE PHARMACIST'S EMPLOYER, AND THE  
21 ORIGINAL PRESCRIBER OF THE DRUG ARE NOT CIVILLY LIABLE FOR AN ACT  
22 OR OMISSION IN CONNECTION WITH THE DISPENSING OF A CHRONIC  
23 MAINTENANCE DRUG PURSUANT TO THIS SECTION UNLESS THE ACT OR  
24 OMISSION CONSTITUTES NEGLIGENCE, RECKLESSNESS, OR WILLFUL OR  
25 WANTON MISCONDUCT.

26 **SECTION 7. Effective date.** This act takes effect upon passage;  
27 except that sections 4, 5, and 6 of this act take effect only if House Bill  
28 19-1172 becomes law, in which case sections 4, 5, and 6 take effect on  
29 October 1, 2019."

30 Rerumber succeeding section accordingly.

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