

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0937.01 Christy Chase x2008

HOUSE BILL 18-1279

HOUSE SPONSORSHIP

Esgar, Buckner, Ginal, Kennedy, Liston, McKean, Roberts

SENATE SPONSORSHIP

Priola and Moreno,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT CERTAIN PRACTITIONERS**
102 **PRESCRIBE CONTROLLED SUBSTANCES ELECTRONICALLY.**

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 requires podiatrists, dentists, physicians, physician assistants, advanced practice nurses, and optometrists, starting July 1, 2020, and practitioners serving rural communities or in a solo practice, starting July 1, 2021, to prescribe controlled substances only via a prescription that is electronically transmitted to a pharmacy unless a specified exception applies. Prescribers are required to indicate on license

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.

HOUSE
Amended 2nd Reading
April 13, 2018

renewal questionnaires whether they have complied with the electronic prescribing requirement. Pharmacists need not verify the applicability of an exception to electronic prescribing when they receive an order for a controlled substance in writing, orally, or via facsimile transmission and may fill the order if otherwise valid under the law.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 12-32-107.7** as
3 follows:

4 **12-32-107.7. Electronic prescribing of controlled substances**
5 **- exceptions - rules - definition.** (1) (a) EXCEPT AS PROVIDED IN
6 SUBSECTION (1)(b) OF THIS SECTION, ON OR AFTER JULY 1, 2021, A
7 PODIATRIST LICENSED UNDER THIS ARTICLE 32 SHALL PRESCRIBE A
8 CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), THAT IS
9 INCLUDED IN SCHEDULE II, III, OR IV PURSUANT TO PART 2 OF ARTICLE 18
10 OF TITLE 18, ONLY BY ELECTRONIC PRESCRIPTION TRANSMITTED TO A
11 PHARMACY UNLESS:

12 (I) AT THE TIME OF ISSUING THE PRESCRIPTION, ELECTRONIC
13 PRESCRIBING IS NOT AVAILABLE DUE TO TECHNOLOGICAL OR ELECTRICAL
14 FAILURE;

15 (II) THE PRESCRIPTION IS TO BE DISPENSED AT A PHARMACY THAT
16 IS LOCATED OUTSIDE OF THIS STATE;

17 (III) THE PRESCRIBING PODIATRIST IS DISPENSING THE
18 CONTROLLED SUBSTANCE TO THE PATIENT;

19 (IV) THE PRESCRIPTION INCLUDES ELEMENTS THAT ARE NOT
20 SUPPORTED BY THE MOST RECENT VERSION OF THE NATIONAL COUNCIL
21 FOR PRESCRIPTION DRUG PROGRAMS SCRIPT STANDARD;

22 (V) THE FEDERAL FOOD AND DRUG ADMINISTRATION REQUIRES
23 THE PRESCRIPTION FOR THE PARTICULAR CONTROLLED SUBSTANCE TO

1 CONTAIN ELEMENTS THAT CANNOT BE SATISFIED WITH ELECTRONIC
2 PRESCRIBING;

3 (VI) THE PRESCRIPTION IS NOT SPECIFIC TO A PATIENT AND
4 ALLOWS DISPENSING OF THE PRESCRIBED CONTROLLED SUBSTANCE:

5 (A) PURSUANT TO A STANDING ORDER, APPROVED PROTOCOL OF
6 DRUG THERAPY, OR COLLABORATIVE DRUG MANAGEMENT OR
7 COMPREHENSIVE MEDICATION MANAGEMENT PLAN;

8 (B) IN RESPONSE TO A PUBLIC HEALTH EMERGENCY; OR

9 (C) UNDER OTHER CIRCUMSTANCES THAT PERMIT THE PODIATRIST
10 TO ISSUE A PRESCRIPTION THAT IS NOT PATIENT-SPECIFIC;

11 (VII) THE PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE UNDER
12 A RESEARCH PROTOCOL;

13 (VIII) THE PODIATRIST WRITES TWENTY-FOUR OR FEWER
14 PRESCRIPTIONS FOR CONTROLLED SUBSTANCES PER YEAR;

15 (IX) THE PODIATRIST IS PRESCRIBING A CONTROLLED SUBSTANCE
16 TO BE ADMINISTERED TO A PATIENT IN A HOSPITAL, NURSING CARE
17 FACILITY, HOSPICE CARE FACILITY, DIALYSIS TREATMENT CLINIC, OR
18 ASSISTED LIVING RESIDENCE OR TO A PERSON WHO IS IN THE CUSTODY OF
19 THE DEPARTMENT OF CORRECTIONS; OR

20 (X) THE PODIATRIST REASONABLY DETERMINES THAT THE PATIENT
21 WOULD BE UNABLE TO OBTAIN CONTROLLED SUBSTANCES PRESCRIBED
22 ELECTRONICALLY IN A TIMELY MANNER AND THAT THE DELAY WOULD
23 ADVERSELY AFFECT THE PATIENT'S MEDICAL CONDITION.

24 (b) A PODIATRIST PRACTICING IN A RURAL AREA OF THE STATE OR
25 IN A PRACTICE CONSISTING OF ONLY ONE PODIATRIST SHALL COMPLY WITH
26 THIS SUBSECTION (1) ON OR AFTER JULY 1, 2022.

27 (2) THE BOARD SHALL ADOPT RULES DEFINING WHAT CONSTITUTES

1 A TEMPORARY TECHNOLOGICAL OR ELECTRICAL FAILURE FOR PURPOSES OF
2 SUBSECTION (1)(a)(I) OF THIS SECTION.

3 (3) (a) THIS SECTION DOES NOT:

4 (I) CREATE A PRIVATE RIGHT OF ACTION;

5 (II) SERVE AS THE BASIS OF A CAUSE OF ACTION; OR

6 (III) ESTABLISH A STANDARD OF CARE.

7 (b) A VIOLATION OF THIS SECTION DOES NOT CONSTITUTE
8 NEGLIGENCE PER SE OR CONTRIBUTORY NEGLIGENCE PER SE.

9 (4) AS USED IN THIS SECTION, "RURAL AREA" MEANS A COUNTY
10 THAT IS LOCATED IN A NONMETROPOLITAN AREA IN THE STATE THAT
11 EITHER HAS NO MUNICIPALITY WITHIN ITS TERRITORIAL BOUNDARIES WITH
12 FIFTY THOUSAND OR MORE PERMANENT RESIDENTS BASED UPON THE MOST
13 RECENT POPULATION ESTIMATES PUBLISHED BY THE UNITED STATES
14 CENSUS BUREAU OR THAT SATISFIES ALTERNATE CRITERIA FOR THE
15 DESIGNATION OF A RURAL AREA AS MAY BE PROMULGATED BY THE
16 FEDERAL OFFICE OF MANAGEMENT AND BUDGET.

17 **SECTION 2.** In Colorado Revised Statutes, 12-32-111, **amend**
18 (1.5) as follows:

19 **12-32-111. Renewal of license.** (1.5) The board shall establish
20 a questionnaire to accompany the renewal form. The questionnaire ~~shall~~
21 **MUST** be designed to determine if the licensee has acted in violation of,
22 or has been disciplined for actions that might be construed as violations
23 of, this article **32** or that may make the licensee unfit to practice podiatry
24 with reasonable care and safety. THE BOARD SHALL INCLUDE ON THE
25 QUESTIONNAIRE A QUESTION REGARDING WHETHER THE PODIATRIST HAS
26 COMPLIED WITH SECTION 12-32-107.7. The failure of an applicant to
27 answer the questionnaire accurately ~~shall constitute~~ CONSTITUTES

