

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

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 19-0420.01 Kristen Forrestal x4217

**HOUSE BILL 19-1077**

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**House Committees**  
Health & Insurance

**Senate Committees**  
Health & Human Services

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**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.**

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**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.

SENATE  
3rd Reading Unamended  
February 26, 2019

SENATE  
Amended 2nd Reading  
February 25, 2019

HOUSE  
3rd Reading Unamended  
January 28, 2019

HOUSE  
Amended 2nd Reading  
January 25, 2019

- 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.

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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 \_\_\_ OF THE DRUG;

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

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

27          (2) THE BOARD SHALL ADOPT RULES, IN CONSULTATION WITH THE

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

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

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

17 **12-280-103. Definitions - rules. As used in this article 280, unless**  
18 **the context otherwise requires or the term is otherwise defined in another**  
19 **part of this article 280:**

20 **(9.5) "CHRONIC MAINTENANCE DRUG" MEANS A DRUG THAT:**

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

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

27 **(39) "Practice of pharmacy" means:**

1           (b) (III) The maintenance of proper records for the drugs and  
2 devices; and

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

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

9           (C) An advanced practice nurse prescriber licensed as a  
10 professional nurse under section 12-255-110, registered as an advanced  
11 practice nurse under section 12-255-111, and authorized to prescribe  
12 controlled substances or prescription drugs pursuant to section  
13 12-255-112, if the advanced practice nurse prescriber has developed an  
14 articulated plan to maintain ongoing collaboration with physicians and  
15 other health care professionals; AND

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

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

21           **12-280-123. Prescription required - exception - dispensing**  
22 **opiate antagonists. (1) Except as provided in section SECTIONS**  
23 **18-18-414 AND 12-280-125.5 and subsections (2) and (3) of this section,**  
24 **an order is required prior to dispensing any prescription drug. Orders shall**  
25 **be readily retrievable within the appropriate statute of limitations.**

26           **SECTION 6.** In Colorado Revised Statutes, **add to article 280**  
27 **as relocated by House Bill 19-1172 12-280-125.5 as follows:**

1           12-280-125.5. 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 OF THE DRUG;

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

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

27          (2) THE BOARD SHALL ADOPT RULES, IN CONSULTATION WITH THE

1 COLORADO MEDICAL BOARD CREATED IN SECTION 12-240-105 AND THE  
2 STATE BOARD OF NURSING CREATED IN SECTION 12-255-105, TO  
3 ESTABLISH STANDARD PROCEDURES FOR PHARMACISTS TO FOLLOW IN  
4 DISPENSING CHRONIC MAINTENANCE DRUGS PURSUANT TO THIS SECTION.  
5 THE RULES ADOPTED UNDER THIS SUBSECTION (2) MUST INCLUDE  
6 DOCUMENTATION REQUIREMENTS FOR A PHARMACIST TO COMPLETE WHEN  
7 DISPENSING A CHRONIC MAINTENANCE DRUG WITHOUT A CURRENT  
8 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 7. Effective date.** This act takes effect upon passage;  
16 except that sections 4, 5, and 6 of this act take effect only if House Bill  
17 19-1172 becomes law, in which case sections 4, 5, and 6 take effect on  
18 October 1, 2019.

19 **SECTION 8. Safety clause.** The general assembly hereby finds,  
20 determines, and declares that this act is necessary for the immediate  
21 preservation of the public peace, health, and safety.