

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0296.01 Yelana Love x2295

HOUSE BILL 20-1065

HOUSE SPONSORSHIP

Kennedy and Herod, Becker, Caraveo, Duran, Esgar, Gonzales-Gutierrez, Gray, Hooton, Jackson, Jaquez Lewis, Kipp, Lontine, McCluskie, Michaelson Jenet, Mullica, Singer, Sirota, Titone, Valdez A., Valdez D., Young

SENATE SPONSORSHIP

Pettersen and Priola,

House Committees

Health & Insurance
Appropriations

Senate Committees

State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING THE USE OF MEASURES THAT DO NOT INVOLVE SCHEDULE**
102 **I CONTROLLED SUBSTANCES TO REDUCE THE HARM CAUSED BY**
103 **SUBSTANCE USE DISORDERS.**

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/>.)

Opioid and Other Substance Use Disorders Study Committee.

The bill:

- ! Requires a carrier that provides coverage for opiate antagonists to reimburse a hospital if the hospital provides a covered person with an opiate antagonist upon discharge

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
3rd Reading Unamended
June 9, 2020

HOUSE
Amended 2nd Reading
June 8, 2020

- (**section 1** of the bill);
- ! Allows a pharmacist or pharmacy technician to sell a nonprescription syringe or needle to any person (**sections 2 and 5**);
 - ! Extends civil and criminal immunity for a person who acts in good faith to furnish or administer an opiate antagonist to an individual the person believes to be suffering an opiate-related drug overdose when the opiate antagonist was expired (**sections 3 and 4**);
 - ! Removes the requirement that entities first receive local board of health approval before operating a clean syringe exchange program (**sections 6 and 7**); and
 - ! Provides that money in the harm reduction grant program cash fund is continuously appropriated to the department of public health and environment for purposes of the harm reduction grant program and establishes an annual appropriation of an amount equal to the appropriation for the 2019-20 fiscal year plus \$250,000 (**section 8**).

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-152 as
3 follows:

4 **10-16-152. Coverage for opiate antagonists - definition.**

5 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
6 REQUIRES, "OPIATE ANTAGONIST" HAS THE SAME MEANING AS SET FORTH
7 IN SECTION 12-30-110 (7)(d).

8 (2) A CARRIER THAT PROVIDES COVERAGE FOR OPIATE
9 ANTAGONISTS PURSUANT TO THE TERMS OF A HEALTH COVERAGE PLAN
10 THE CARRIER OFFERS SHALL REIMBURSE A HOSPITAL FOR THE HOSPITAL'S
11 COST OF AN OPIATE ANTAGONIST IF THE HOSPITAL GIVES A COVERED
12 PERSON AN OPIATE ANTAGONIST UPON DISCHARGE FROM THE HOSPITAL.

13 (3) A CARRIER SHALL REIMBURSE A PHARMACIST EMPLOYED BY AN
14 IN-NETWORK PHARMACY FOR PRESCRIBING AND DISPENSING AN OPIATE
15 ANTAGONIST IN ACCORDANCE WITH SECTION 12-30-111 TO A COVERED

1 PERSON. A CARRIER SHALL PROVIDE A PHARMACIST WHO PRESCRIBES AND
2 DISPENSES AN OPIATE ANTAGONIST PURSUANT TO SECTION 12-30-111:

3 (a) IF MEDICAL BILLING IS AVAILABLE, AN ADEQUATE
4 CONSULTATIVE FEE EQUIVALENT TO THE CONSULTATIVE FEE PROVIDED TO
5 A PHYSICIAN LICENSED PURSUANT TO ARTICLE 240 OF TITLE 12 OR AN
6 ADVANCED PRACTICE NURSE LICENSED PURSUANT TO ARTICLE 255 OF
7 TITLE 12; OR

8 (b) IF MEDICAL BILLING IS NOT AVAILABLE, AN ENHANCED
9 DISPENSING FEE THAT IS EQUIVALENT TO THE CONSULTATIVE FEE
10 SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION.

11 **SECTION 2.** In Colorado Revised Statutes, 12-30-110, **amend**
12 **(1)(a) introductory portion, (2)(a), (3) introductory portion, (4)(a), and**
13 **(7)(h); and repeal (7)(g) as follows:**

14 **12-30-110. Prescribing or dispensing opiate antagonists -**
15 **authorized recipients - definitions.** (1) (a) A prescriber may prescribe
16 or dispense, directly or in accordance with standing orders and protocols,
17 and a pharmacist may dispense, pursuant to an order or standing orders
18 and protocols, an opiate antagonist to:

19 (2) (a) A prescriber who prescribes or dispenses, or a pharmacist
20 who dispenses, DISPENSES an opiate antagonist pursuant to this section is
21 strongly encouraged to educate persons receiving the opiate antagonist on
22 the use of an opiate antagonist for overdose, including instruction
23 concerning risk factors for overdose, recognizing an overdose, calling
24 emergency medical services, rescue breathing, and administering an
25 opiate antagonist.

26 (3) Neither A prescriber described in subsection (7)(h)(I) of this
27 section nor a pharmacist engages DOES NOT ENGAGE in unprofessional

1 conduct pursuant to section 12-240-121, or 12-280-126, respectively, and
2 a prescriber described in subsection (7)(h)(II) of this section does not
3 engage in conduct that is grounds for discipline pursuant to section OR
4 12-255-120, RESPECTIVELY, if the prescriber issues standing orders and
5 protocols regarding opiate antagonists or prescribes or dispenses, or the
6 pharmacist dispenses, pursuant to an order or standing orders and
7 protocols, an opiate antagonist in a good-faith effort to assist:

8 (4) (a) A prescriber or pharmacist who prescribes or dispenses an
9 opiate antagonist in accordance with this section is not subject to civil
10 liability or criminal prosecution, as specified in sections 13-21-108.7 (4)
11 and 18-1-712 (3), respectively.

12 (7) As used in this section:

13 (g) "Pharmacist" means an individual licensed by the state
14 pursuant to article 280 of this title 12 to engage in the practice of
15 pharmacy.

16 (h) "Prescriber" means:

17 (I) A physician or physician assistant licensed pursuant to article
18 240 of this title 12; or

19 (II) An advanced practice nurse, as defined in section 12-255-104
20 (1), with prescriptive authority pursuant to section 12-255-112; OR

21 (III) A PHARMACIST LICENSED PURSUANT TO SECTION 12-280-114.

22 **SECTION 3.** In Colorado Revised Statutes, 12-280-123, **amend**
23 **(3); and add (1)(c) and (4) as follows:**

24 **12-280-123. Prescription required - exception - dispensing**
25 **opiate antagonists - selling nonprescription syringes and needles.**

26 **(1) (c) (I) A PHARMACIST WHO DISPENSES A PRESCRIPTION ORDER FOR A**
27 **PRESCRIPTION DRUG THAT IS AN OPIOID SHALL INFORM THE INDIVIDUAL TO**

1 WHOM THE OPIOID IS BEING DISPENSED OF THE POTENTIAL DANGERS OF A
2 HIGH DOSE OF OPIOID AND OFFER TO PRESCRIBE THE INDIVIDUAL, ON AT
3 LEAST AN ANNUAL BASIS, AN OPIATE ANTAGONIST APPROVED BY THE
4 FEDERAL FOOD AND DRUG ADMINISTRATION FOR THE REVERSAL OF AN
5 OPIOID OVERDOSE IF:

6 (A) IN THE PHARMACIST'S PROFESSIONAL JUDGMENT, THE
7 INDIVIDUAL WOULD BENEFIT FROM THE NOTIFICATION; OR

8 (B) THE OPIOID PRESCRIPTION IS AT OR IN EXCESS OF NINETY
9 MORPHINE MILLIGRAM EQUIVALENT, AS DESCRIBED IN THE GUIDELINES OF
10 THE FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION.

11 (II) IF AN INDIVIDUAL TO WHOM AN OPIOID IS BEING DISPENSED
12 CHOOSES TO ACCEPT THE PHARMACIST'S PRESCRIPTION FOR AN OPIATE
13 ANTAGONIST, THE PHARMACIST SHALL COUNSEL THE INDIVIDUAL ON HOW
14 TO USE THE OPIATE ANTAGONIST IN THE EVENT OF AN OVERDOSE.

15 (III) AN IN-NETWORK PHARMACIST WHO PRESCRIBES AN OPIOID
16 ANTAGONIST TO AN INDIVIDUAL PURSUANT TO THIS SECTION IS ENTITLED
17 TO AN ADEQUATE CONSULTATIVE FEE OR AN ENHANCED DISPENSING FEE
18 AS SPECIFIED IN SECTION 10-16-152 (3).

19 (3) A pharmacist may PRESCRIBE AND dispense an opiate
20 antagonist in accordance with section 12-30-110.

21 (4) A PHARMACIST OR PHARMACY TECHNICIAN MAY SELL A
22 NONPRESCRIPTION SYRINGE OR NEEDLE TO ANY PERSON.

23 **SECTION 4.** In Colorado Revised Statutes, 13-21-108.7, **amend**
24 (3)(a) as follows:

25 **13-21-108.7. Persons rendering emergency assistance through**
26 **the administration of an opiate antagonist - limited immunity -**
27 **legislative declaration - definitions. (3) General immunity. (a) A**

1 person, other than a health care provider or a health care facility, who acts
2 in good faith to furnish or administer an opiate antagonist, INCLUDING AN
3 EXPIRED OPIATE ANTAGONIST, to an individual the person believes to be
4 suffering an opiate-related drug overdose event or to an individual who
5 is in a position to assist the individual at risk of experiencing an
6 opiate-related overdose event is not liable for any civil damages for acts
7 or omissions made as a result of the act or for any act or omission made
8 if the opiate antagonist is stolen.

9 **SECTION 5.** In Colorado Revised Statutes, 18-1-712, **amend**
10 (2)(a) as follows:

11 **18-1-712. Immunity for a person who administers an opiate**
12 **antagonist during an opiate-related drug overdose event - definitions.**

13 (2) **General immunity.** (a) A person, other than a health care provider
14 or a health care facility, who acts in good faith to furnish or administer an
15 opiate antagonist, INCLUDING AN EXPIRED OPIATE ANTAGONIST, to an
16 individual the person believes to be suffering an opiate-related drug
17 overdose event or to an individual who is in a position to assist the
18 individual at risk of experiencing an opiate-related overdose event is
19 immune from criminal prosecution for the act or for any act or omission
20 made if the opiate antagonist is stolen.

21 **SECTION 6.** In Colorado Revised Statutes, **amend** 18-18-430.5
22 as follows:

23 **18-18-430.5. Drug paraphernalia - exemption.** (1) A person
24 ~~shall be~~ IS exempt from ~~the provisions of~~ sections 18-18-425 to
25 18-18-430 if ~~he or she~~ THE PERSON is:

26 (a) Participating as an employee, volunteer, or participant in an
27 approved syringe exchange program created pursuant to section 25-1-520;

1 ~~C.R.S.~~ OR

2 (b) A PHARMACIST OR PHARMACY TECHNICIAN WHO SELLS
3 NONPRESCRIPTION SYRINGES OR NEEDLES PURSUANT TO SECTION
4 12-280-123 (4).

5 **SECTION 7.** In Colorado Revised Statutes, 25-1-520, **amend**
6 (2.5) as follows:

7 **25-1-520. Clean syringe exchange programs - operation -**
8 **approval - reporting requirements.** (2.5) (a) A ~~program developed~~
9 ~~pursuant to this section may be operated in a hospital~~ NONPROFIT
10 ORGANIZATION WITH EXPERIENCE OPERATING A CLEAN SYRINGE
11 EXCHANGE PROGRAM OR A HEALTH FACILITY licensed or certified by the
12 state department pursuant to section ~~25-1.5-103 (1)(a)~~ MAY OPERATE A
13 CLEAN SYRINGE EXCHANGE PROGRAM WITHOUT PRIOR BOARD APPROVAL.

14 (b) PRIOR TO OPERATING A CLEAN SYRINGE EXCHANGE PROGRAM
15 PURSUANT TO THIS SUBSECTION (2.5), A NONPROFIT ORGANIZATION SHALL
16 CONSULT WITH INTERESTED STAKEHOLDERS AND DISCUSS THE ISSUES
17 DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

18 (c) EACH NONPROFIT ORGANIZATION AND HEALTH FACILITY THAT
19 OPERATES A CLEAN SYRINGE EXCHANGE PROGRAM PURSUANT TO THIS
20 SUBSECTION (2.5) SHALL ANNUALLY REPORT TO THE STATE DEPARTMENT
21 SPECIFYING THE NONPROFIT ORGANIZATION'S OR HEALTH FACILITY'S
22 NUMBER OF SYRINGE ACCESS EPISODES IN THE PREVIOUS YEAR AND THE
23 NUMBER OF USED SYRINGES COLLECTED BY THE NONPROFIT
24 ORGANIZATION OR HEALTH FACILITY.

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27 **SECTION 8. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly; except
3 that, if a referendum petition is filed pursuant to section 1 (3) of article V
4 of the state constitution against this act or an item, section, or part of this
5 act within such period, then the act, item, section, or part will not take
6 effect unless approved by the people at the general election to be held in
7 November 2022 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.