

HOUSE COMMITTEE OF REFERENCE REPORT

March 6, 2019

Chair of Committee

Date

Committee on Public Health Care & Human Services.

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

SB19-079 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, page 21, strike lines 23 through 27.

2 Strike page 22 and substitute:

3 "SECTION 16. In Colorado Revised Statutes, 12-30-109, **amend**
4 **as relocated by House Bill 19-1172** (2) as follows:

5 **12-30-109. Prescribing opioids - limitations - definition -**
6 **repeal.** (2) An opioid prescriber licensed pursuant to article 220 ~~240,~~
7 ~~255, 275, 290,~~ or 315 of this title 12 may prescribe opioids electronically.

8 SECTION 17. In Colorado Revised Statutes, 12-30-109, **amend**
9 **as relocated by House Bill 19-1172** (2) as follows:

10 **12-30-109. Prescribing opioids - limitations - definition -**
11 **repeal.** (2) An opioid prescriber licensed pursuant to article ~~220, 240,~~
12 ~~255, 275, 290,~~ or 315 of this title 12 may prescribe opioids electronically.

13 SECTION 18. In Colorado Revised Statutes, **add to article 30**
14 **of title 12 as relocated by House Bill 19-1172** 12-30-110 as follows:

15 **12-30-111. Electronic prescribing of controlled substances -**
16 **exceptions - rules - definitions.** (1) (a) EXCEPT AS PROVIDED IN
17 SUBSECTION (1)(b) OF THIS SECTION, ON AND AFTER JULY 1, 2021, A
18 PRESCRIBER SHALL PRESCRIBE A CONTROLLED SUBSTANCE, AS DEFINED IN
19 SECTION 18-18-102 (5), THAT IS INCLUDED IN SCHEDULE II, III, OR IV
20 PURSUANT TO PART 2 OF ARTICLE 18 OF TITLE 18, ONLY BY ELECTRONIC
21 PRESCRIPTION TRANSMITTED TO A PHARMACY UNLESS:

22 (I) AT THE TIME OF ISSUING THE PRESCRIPTION, ELECTRONIC

1 PRESCRIBING IS NOT AVAILABLE DUE TO TECHNOLOGICAL OR ELECTRICAL
2 FAILURE;
3 (II) THE PRESCRIPTION IS TO BE DISPENSED AT A PHARMACY THAT
4 IS LOCATED OUTSIDE OF THIS STATE;
5 (III) THE PRESCRIBER IS DISPENSING THE CONTROLLED SUBSTANCE
6 TO THE PATIENT;
7 (IV) THE PRESCRIPTION INCLUDES ELEMENTS THAT ARE NOT
8 SUPPORTED BY THE MOST RECENT VERSION OF THE NATIONAL COUNCIL
9 FOR PRESCRIPTION DRUG PROGRAMS SCRIPT STANDARD AND 21 CFR
10 1311;
11 (V) THE FEDERAL FOOD AND DRUG ADMINISTRATION OR DRUG
12 ENFORCEMENT ADMINISTRATION REQUIRES THE PRESCRIPTION FOR THE
13 PARTICULAR CONTROLLED SUBSTANCE TO CONTAIN ELEMENTS THAT
14 CANNOT BE SATISFIED WITH ELECTRONIC PRESCRIBING;
15 (VI) THE PRESCRIPTION IS NOT SPECIFIC TO A PATIENT AND
16 ALLOWS DISPENSING OF THE PRESCRIBED CONTROLLED SUBSTANCE:
17 (A) PURSUANT TO A STANDING ORDER, APPROVED PROTOCOL OF
18 DRUG THERAPY, OR COLLABORATIVE DRUG MANAGEMENT OR
19 COMPREHENSIVE MEDICATION MANAGEMENT PLAN;
20 (B) IN RESPONSE TO A PUBLIC HEALTH EMERGENCY; OR
21 (C) UNDER OTHER CIRCUMSTANCES THAT PERMIT THE PRESCRIBER
22 TO ISSUE A PRESCRIPTION THAT IS NOT PATIENT-SPECIFIC;
23 (VII) THE PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE UNDER
24 A RESEARCH PROTOCOL;
25 (VIII) THE PRESCRIBER WRITES TWENTY-FOUR OR FEWER
26 PRESCRIPTIONS FOR CONTROLLED SUBSTANCES PER YEAR;
27 (IX) THE PRESCRIBER IS PRESCRIBING A CONTROLLED SUBSTANCE
28 TO BE ADMINISTERED TO A PATIENT IN A HOSPITAL, NURSING CARE
29 FACILITY, HOSPICE CARE FACILITY, DIALYSIS TREATMENT CLINIC, OR
30 ASSISTED LIVING RESIDENCE OR TO A PERSON WHO IS IN THE CUSTODY OF
31 THE DEPARTMENT OF CORRECTIONS;
32 (X) THE PRESCRIBER REASONABLY DETERMINES THAT THE PATIENT
33 WOULD BE UNABLE TO OBTAIN CONTROLLED SUBSTANCES PRESCRIBED
34 ELECTRONICALLY IN A TIMELY MANNER AND THAT THE DELAY WOULD
35 ADVERSELY AFFECT THE PATIENT'S MEDICAL CONDITION; OR
36 (XI) THE PRESCRIBER DEMONSTRATES ECONOMIC HARDSHIP IN
37 ACCORDANCE WITH RULES ADOPTED BY THE REGULATOR PURSUANT TO
38 SUBSECTION (2)(b) OF THIS SECTION.
39 (b) A PRESCRIBER WHO IS A LICENSED DENTIST OR WHO IS
40 PRACTICING IN A RURAL AREA OF THE STATE OR IN A PRACTICE CONSISTING
41 OF ONLY ONE PRESCRIBER SHALL COMPLY WITH THIS SUBSECTION (1) ON

1 AND AFTER JULY 1, 2023.
2 (2) THE REGULATOR FOR EACH PRESCRIBER SUBJECT TO THIS
3 SECTION SHALL ADOPT RULES:
4 (a) DEFINING WHAT CONSTITUTES A TEMPORARY TECHNOLOGICAL
5 OR ELECTRICAL FAILURE FOR PURPOSES OF SUBSECTION (1)(a)(I) OF THIS
6 SECTION; AND
7 (b) DEFINING ECONOMIC HARDSHIP FOR PURPOSES OF SUBSECTION
8 (1)(a)(XI) OF THIS SECTION AND ESTABLISHING:
9 (I) THE PROCESS FOR A PRESCRIBER TO DEMONSTRATE ECONOMIC
10 HARDSHIP, INCLUDING THE INFORMATION REQUIRED TO BE SUBMITTED TO
11 ALLOW THE REGULATOR TO MAKE A DETERMINATION;
12 (II) THE PERIOD DURING WHICH THE ECONOMIC HARDSHIP
13 EXCEPTION IS EFFECTIVE, WHICH PERIOD MUST NOT EXCEED ONE YEAR,
14 AND
15 (III) A PROCESS FOR A PRESCRIBER TO APPLY TO RENEW AN
16 ECONOMIC HARDSHIP EXCEPTION, INCLUDING THE INFORMATION REQUIRED
17 TO BE SUBMITTED THAT DEMONSTRATES THE PRESCRIBER'S CONTINUING
18 NEED FOR THE EXCEPTION.
19 (3) (a) THIS SECTION DOES NOT:
20 (I) CREATE A PRIVATE RIGHT OF ACTION;
21 (II) SERVE AS THE BASIS OF A CAUSE OF ACTION; OR
22 (III) ESTABLISH A STANDARD OF CARE.
23 (b) A VIOLATION OF THIS SECTION DOES NOT CONSTITUTE
24 NEGLIGENCE PER SE OR CONTRIBUTORY NEGLIGENCE PER SE.
25 (4) AS USED IN THIS SECTION:
26 (a) "PRESCRIBER" MEANS:
27 (I) A DENTIST LICENSED PURSUANT TO ARTICLE 220 OF THIS TITLE
28 12;
29 (II) A PHYSICIAN OR PHYSICIAN ASSISTANT LICENSED PURSUANT
30 TO ARTICLE 240 OF THIS TITLE 12;
31 (III) AN ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE
32 AUTHORITY PURSUANT TO SECTION 12-255-112;
33 (IV) AN OPTOMETRIST LICENSED PURSUANT TO ARTICLE 275 OF
34 THIS TITLE 12; OR
35 (V) A PODIATRIST LICENSED PURSUANT TO ARTICLE 290 OF THIS
36 TITLE 12.
37 (b) "RURAL AREA" MEANS A COUNTY LOCATED IN A
38 NONMETROPOLITAN AREA IN THE STATE THAT EITHER:
39 (I) HAS NO MUNICIPALITY WITHIN ITS TERRITORIAL BOUNDARIES
40 WITH FIFTY THOUSAND OR MORE PERMANENT RESIDENTS BASED UPON THE
41 MOST RECENT POPULATION ESTIMATES PUBLISHED BY THE UNITED STATES

1 CENSUS BUREAU; OR
2 (II) SATISFIES ALTERNATE CRITERIA FOR THE DESIGNATION OF A
3 RURAL AREA AS MAY BE PROMULGATED BY THE FEDERAL OFFICE OF
4 MANAGEMENT AND BUDGET.

5 **SECTION 19.** In Colorado Revised Statutes, **amend as relocated**
6 **by House Bill 19-1172** 12-220-119 as follows:

7 **12-220-119. Renewal of dental and dental hygienist licenses -**
8 **fees - questionnaire.** (1) Licenses issued pursuant to this article 220 are
9 subject to the renewal, expiration, reinstatement, and delinquency fee
10 provisions specified in section 12-20-202 (1) and (2). Any person whose
11 license expires is subject to the penalties provided in this article 220 or
12 section 12-20-202 (1).

13 (2) ON AND AFTER JULY 1, 2023, THE BOARD SHALL REQUIRE A
14 DENTIST WHO APPLIES FOR LICENSE RENEWAL TO COMPLETE A
15 QUESTIONNAIRE THAT REQUIRES THE DENTIST TO INDICATE WHETHER THE
16 DENTIST HAS COMPLIED WITH SECTION 12-30-111. THE FAILURE OF AN
17 APPLICANT TO ANSWER THE QUESTIONNAIRE ACCURATELY CONSTITUTES
18 GROUNDS FOR DISCIPLINE PURSUANT TO SECTION 12-220-130.

19 **SECTION 20.** In Colorado Revised Statutes, 12-220-130, **amend**
20 **as relocated by House Bill 19-1172** (1)(nn) and (1)(oo); and **add** (1)(pp)
21 as follows:

22 **12-220-130. Grounds for disciplinary action - definition.**
23 (1) The board may take disciplinary action against an applicant or
24 licensee in accordance with sections 12-20-404 and 12-220-131 for any
25 of the following causes:

26 (nn) Failing to comply with section 12-220-128 regarding the
27 placement of interim therapeutic restorations; ~~or~~

28 (oo) Failing to comply with section 12-220-129 regarding the
29 application of silver diamine fluoride; OR

30 (pp) FAILING TO ACCURATELY COMPLETE AND SUBMIT THE
31 QUESTIONNAIRE REQUIRED BY SECTION 12-220-119 (2).

32 **SECTION 21.** In Colorado Revised Statutes, 12-240-130, **amend**
33 **as relocated by House Bill 19-1172** (2) as follows:

34 **12-240-130. Procedure - registration - fees.** (2) The board shall
35 design a questionnaire to accompany the renewal form for the purpose of
36 determining whether a licensee has acted in violation of this article 240
37 or been disciplined for any action that might be considered a violation of
38 this article 240 or might make the licensee unfit to practice medicine with
39 reasonable care and safety. THE BOARD SHALL INCLUDE ON THE
40 QUESTIONNAIRE A QUESTION REGARDING WHETHER THE LICENSEE HAS
41 COMPLIED WITH SECTION 12-30-111. If an applicant fails to answer the

1 questionnaire accurately, the failure ~~shall constitute~~ CONSTITUTES
2 unprofessional conduct under section 12-240-121 (1)(t).

3 **SECTION 22.** In Colorado Revised Statutes, 12-255-110, **amend**
4 **as relocated by House Bill 19-1172** (3) as follows:

5 **12-255-110. Requirements for professional nurse licensure.**

6 (3) The board shall design a questionnaire to be sent to all licensees who
7 apply for license renewal. Each applicant for license renewal shall
8 complete the board-designed questionnaire. The purpose of the
9 questionnaire is to determine whether a licensee has acted in violation of
10 this article 255 or been disciplined for any action that might be considered
11 a violation of this article 255 or might make the licensee unfit to practice
12 nursing with reasonable care and safety. THE BOARD SHALL INCLUDE ON
13 THE QUESTIONNAIRE A QUESTION REGARDING WHETHER THE LICENSEE HAS
14 COMPLIED WITH SECTION 12-30-111. If an applicant fails to answer the
15 questionnaire accurately, the failure ~~shall constitute~~ CONSTITUTES grounds
16 for discipline under section 12-255-120 (1)(v). The board may include the
17 cost of developing and reviewing the questionnaire in the fee paid under
18 subsection (1)(d) of this section. The board may refuse an application for
19 license renewal that does not accompany an accurately completed
20 questionnaire.

21 **SECTION 23.** In Colorado Revised Statutes, 12-275-115, **amend**
22 **as relocated by House Bill 19-1172** (2) as follows:

23 **12-275-115. License renewal - questionnaire - continuing**

24 **education.** (2) The board shall establish a questionnaire to accompany
25 the renewal form. THE BOARD SHALL DESIGN THE questionnaire ~~shall be~~
26 ~~designed~~ to determine if the licensee has acted in violation of or has been
27 disciplined for actions that might be considered as violations of this
28 article 275 or that might make the licensee unfit to practice optometry
29 with reasonable care and safety. THE BOARD SHALL INCLUDE ON THE
30 QUESTIONNAIRE A QUESTION REGARDING WHETHER THE LICENSEE HAS
31 COMPLIED WITH SECTION 12-30-111. Failure of the applicant to answer the
32 questionnaire accurately ~~shall be considered~~ CONSTITUTES unprofessional
33 conduct as specified in section 12-275-120.

34 **SECTION 24.** In Colorado Revised Statutes, 12-280-123, **amend**
35 **as relocated by House Bill 19-1172** (1) as follows:

36 **12-280-123. Prescription required - exception - dispensing**

37 **opiate antagonists.** (1) (a) Except as provided in section 18-18-414 and
38 subsections (2) and (3) of this section, an order is required prior to
39 dispensing any prescription drug. Orders shall be readily retrievable
40 within the appropriate statute of limitations.

41 (b) A PHARMACIST WHO RECEIVES AN ORDER FOR A CONTROLLED

1 SUBSTANCE THAT IS INCLUDED IN SCHEDULE II, III, OR IV FROM A
2 PODIATRIST, DENTIST, PHYSICIAN, PHYSICIAN ASSISTANT, ADVANCED
3 PRACTICE NURSE, OR OPTOMETRIST, WHICH ORDER IS NOT TRANSMITTED
4 ELECTRONICALLY TO THE PHARMACIST, IS NOT REQUIRED TO VERIFY THE
5 APPLICABILITY OF AN EXCEPTION TO ELECTRONIC PRESCRIBING OF
6 CONTROLLED SUBSTANCES UNDER SECTION 12-30-111 AND MAY DISPENSE
7 THE CONTROLLED SUBSTANCE PURSUANT TO A WRITTEN, ORAL, OR
8 FACSIMILE-TRANSMITTED ORDER THAT IS OTHERWISE VALID AND
9 CONSISTENT WITH THE REQUIREMENTS OF CURRENT LAW.

10 **SECTION 25.** In Colorado Revised Statutes, 12-290-119, **amend**
11 **as relocated by House Bill 19-1172 (2)** as follows:

12 **12-290-119. Renewal of license - continuing education -**
13 **professional development program - rules - renewal questionnaire.**

14 (2) The board shall establish a questionnaire to accompany the renewal
15 form. The BOARD SHALL DESIGN THE questionnaire ~~shall be designed~~
16 to determine if the licensee has acted in violation of, or has been disciplined
17 for actions that might be construed as violations of, this article 290 or that
18 may make the licensee unfit to practice podiatry with reasonable care and
19 safety. THE BOARD SHALL INCLUDE ON THE QUESTIONNAIRE A QUESTION
20 REGARDING WHETHER THE LICENSEE HAS COMPLIED WITH SECTION
21 12-30-111. The failure of an applicant to answer the questionnaire
22 accurately ~~shall constitute~~ CONSTITUTES unprofessional conduct pursuant
23 to section 12-290-108.

24 **SECTION 26. Act subject to petition - effective date.**

25 (1) Except as otherwise provided in subsection (2) of this section, this act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August
28 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
29 referendum petition is filed pursuant to section 1 (3) of article V of the
30 state constitution against this act or an item, section, or part of this act
31 within such period, then the act, item, section, or part will not take effect
32 unless approved by the people at the general election to be held in
33 November 2020 and, in such case, will take effect on the date of the
34 official declaration of the vote thereon by the governor.

35 (2) Sections 16 through 25 of this act take effect only if House
36 Bill 19-1172 becomes law, in which case:

- 37 (a) Sections 18 and 21 through 25 take effect October 1, 2019;
38 (b) Section 16 takes effect July 1, 2021; and
39 (c) Sections 17, 19, and 20 take effect July 1, 2023."

40 Strike "STANDARD" and substitute "STANDARD AND 21 CFR 1311" on:

1 **Page 3**, line 5; **page 6**, line 17; **page 10**, line 5; **page 14**, line 7; and **page**
2 **18**, line 10.

3 After "ADMINISTRATION" insert "OR DRUG ENFORCEMENT
4 ADMINISTRATION" on: **Page 3**, line 6; **page 6**, line 18; **page 10**, line 6;
5 **page 14**, line 8; and **page 18**, line 11.

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