

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

**PREAMENDED**

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

LLS NO. 23-0797.01 Kristen Forrestal x4217

**SENATE BILL 23-144**

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**SENATE SPONSORSHIP**

**Ginal**, Marchman

**HOUSE SPONSORSHIP**

**(None)**,

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**Senate Committees**  
Health & Human Services

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING PRESCRIPTION DRUGS FOR THE TREATMENT OF CHRONIC**  
102      **PAIN.**

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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 health-care provider to prescribe, dispense, or administer a schedule II, III, IV, or V controlled substance (drug) to a patient in the course of treatment for a diagnosed condition that causes chronic pain. The bill also clarifies that the prescribing health-care provider is not subject to disciplinary action by the appropriate regulator for prescribing a dosage of a drug that is equal to or more than a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.*

morphine milligram equivalent dosage recommendation or threshold specified in state or federal opioid prescribing guidelines or policies.

The bill prohibits a health-care provider from refusing to accept or continue to treat a patient solely on the basis of the dosage of a drug the patient requires for the treatment of chronic pain. A health-care provider is also prohibited from tapering a needed dosage solely to meet a predetermined dosage recommendation.

The bill also prohibits a pharmacist, health insurance carrier, or pharmacy benefit manager from refusing to fill or approve the coverage for a drug solely on the basis of the dosage requirement of a patient.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 12-30-109.5 as  
3 follows:

4           **12-30-109.5. Prescription drugs for treatment of chronic pain**  
5 **- patients - prescribers - definitions.** (1) AS USED IN THIS SECTION,  
6 UNLESS THE CONTEXT OTHERWISE REQUIRES:

7           (a) "CARRIER" HAS THE SAME MEANING AS SET FORTH IN  
8 10-16-102 (8).

9           **(b) (I) "CHRONIC PAIN" MEANS A PAIN THAT TYPICALLY LASTS**  
10 **THREE MONTHS OR LONGER AND MAY BE THE RESULT OF AN UNDERLYING**  
11 **MEDICAL DISEASE OR CONDITION, INJURY, MEDICAL TREATMENT,**  
12 **INFLAMMATION, OR UNKNOWN CAUSE. "CHRONIC PAIN" IS A PAIN STATE**  
13 **IN WHICH THE CAUSE OF THE PAIN OFTEN CANNOT BE REMOVED WITH**  
14 **REASONABLE MEDICAL EFFORTS AT THE CONSENT OF THE PATIENT, OR PAIN**  
15 **FOR WHICH NO CURE CAN BE FOUND AFTER REASONABLE MEDICAL**  
16 **EFFORTS. CHRONIC PAIN MAY RESTRICT THE ABILITY OF INDIVIDUALS TO**  
17 **WORK, CARE FOR THEMSELVES, AND ENGAGE IN BASIC LIFE, SOCIAL, AND**  
18 **PHYSICAL ACTIVITIES.**

19           **(II) CONDITIONS ASSOCIATED WITH CHRONIC PAIN MAY INCLUDE,**  
20 **BUT ARE NOT LIMITED TO, CANCER AND THE RECOVERY PERIOD, SICKLE**

1 CELL DISEASE, NONCANCER PAIN, RARE DISEASES, SEVERE INJURIES, AND  
2 HEALTH CONDITIONS REQUIRING THE PROVISION OF PALLIATIVE CARE OR  
3 HOSPICE CARE.

4 (III) REASONABLE EFFORTS FOR RELIEVING OR CURING THE CAUSE  
5 OF THE CHRONIC PAIN MAY BE DETERMINED ON THE BASIS OF, BUT ARE NOT  
6 LIMITED TO, THE FOLLOWING:

7 (A) WHEN TREATING A NONTERMINALLY ILL PATIENT FOR CHRONIC  
8 PAIN, AN EVALUATION CONDUCTED BY THE TREATING HEALTH-CARE  
9 PROVIDER OR A HEALTH-CARE PROVIDER SPECIALIZING IN PAIN MEDICINE  
10 OR TREATMENT OF THE AREA, SYSTEM, OR ORGAN OF THE BODY  
11 CONFIRMED OR PERCEIVED AS THE SOURCE OF THE CHRONIC PAIN; OR

12 (B) WHEN TREATING A TERMINALLY ILL PATIENT, AN EVALUATION  
13 CONDUCTED BY THE TREATING HEALTH-CARE PROVIDER WHO CONDUCTS  
14 THE EVALUATION IN ACCORDANCE WITH THE STANDARD OF CARE AND THE  
15 LEVEL OF CARE, SKILL, AND TREATMENT THAT WOULD BE RECOGNIZED BY  
16 A HEALTH-CARE PROVIDER UNDER SIMILAR CONDITIONS AND  
17 CIRCUMSTANCES.

18 (c) "DRUG DIVERSION" MEANS THE UNLAWFUL TRANSFER OF  
19 PRESCRIPTION DRUGS FROM A LICIT MEDICAL PURPOSE TO THE ILLICIT  
20 MARKETPLACE.

21 (d) "HEALTH-CARE PROVIDER" MEANS A PHYSICIAN, A PHYSICIAN  
22 ASSISTANT, OR AN ADVANCED PRACTICE REGISTERED NURSE LICENSED  
23 PURSUANT TO THIS TITLE 12.

24 ==  
25 (e) "RARE DISEASE" MEANS A DISEASE, DISORDER, OR CONDITION  
26 THAT AFFECTS FEWER THAN TWO HUNDRED THOUSAND INDIVIDUALS IN  
27 THE UNITED STATES AND IS CHRONIC, SERIOUS, LIFE-ALTERING, OR

1 LIFE-THREATENING.

2 (f) "SCHEDULE II, III, IV, OR V CONTROLLED SUBSTANCE" MEANS  
3 A CONTROLLED SUBSTANCE AS DESCRIBED IN SECTION 18-18-204,  
4 18-18-205, 18-18-206, OR 18-18-207, RESPECTIVELY.

5 (2) **Criteria for the evaluation and treatment of chronic pain.**

6 WHEN TREATING A NONTERMINALLY ILL PATIENT, THE EVALUATION OF  
7 THE PATIENT AND THE TREATMENT OF THE PATIENT'S CHRONIC PAIN IS  
8 GOVERNED BY THE FOLLOWING CRITERIA:

9 (a) A DIAGNOSIS OF A CONDITION CAUSING CHRONIC PAIN BY THE  
10 TREATING HEALTH-CARE PROVIDER OR A HEALTH-CARE PROVIDER  
11 SPECIALIZING IN PAIN MEDICINE OR TREATMENT OF THE AREA, SYSTEM, OR  
12 ORGAN OF THE BODY CONFIRMED OR PERCEIVED AS THE SOURCE OF THE  
13 PAIN THAT IS SUFFICIENT TO MEET THE DEFINITION OF CHRONIC PAIN; AND

14 (b) THE CAUSE OF THE DIAGNOSIS OF CHRONIC PAIN MUST NOT  
15 INTERFERE WITH MEDICALLY NECESSARY TREATMENT, INCLUDING BUT  
16 NOT LIMITED TO PRESCRIBING OR ADMINISTERING A SCHEDULE II, III, IV,  
17 OR V CONTROLLED SUBSTANCE.

18 (3) **Prescription and administration of controlled substances  
19 for chronic pain.**

(a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW,  
20 A HEALTH-CARE PROVIDER MAY PRESCRIBE, DISPENSE, OR ADMINISTER A  
21 SCHEDULE II, III, IV, OR V CONTROLLED SUBSTANCE TO A PATIENT IN THE  
22 COURSE OF THE HEALTH-CARE PROVIDER'S TREATMENT OF THE PATIENT  
23 FOR A DIAGNOSED CONDITION CAUSING CHRONIC PAIN. A HEALTH-CARE  
24 PROVIDER IS NOT SUBJECT TO DISCIPLINARY ACTION BY THE REGULATOR  
25 FOR APPROPRIATELY PRESCRIBING, DISPENSING, OR ADMINISTERING A  
26 SCHEDULE II, III, IV, OR V CONTROLLED SUBSTANCE IN THE COURSE OF  
27 TREATMENT OF A PATIENT FOR CHRONIC PAIN IF THE HEALTH-CARE

1 PROVIDER KEEPS ACCURATE RECORDS OF THE PURPOSE, USE,  
2 PRESCRIPTION, AND DISPOSAL OF THE CONTROLLED SUBSTANCE, WRITES  
3 ACCURATE PRESCRIPTIONS, AND PRESCRIBES MEDICATIONS IN  
4 ACCORDANCE WITH LEGITIMATE MEDICAL PURPOSE IN THE USUAL COURSE  
5 OF PROFESSIONAL PRACTICE.

6 (b) A HEALTH-CARE PROVIDER ACTING IN GOOD FAITH AND BASED  
7 ON THE NEEDS OF THE PATIENT WITH A DIAGNOSED CONDITION CAUSING  
8 CHRONIC PAIN IS NOT SUBJECT TO DISCIPLINE FROM THE REGULATOR  
9 SOLELY FOR PRESCRIBING A DOSAGE THAT EQUATES TO AN UPWARD  
10 DEVIATION FROM MORPHINE MILLIGRAM EQUIVALENT DOSAGE  
11 RECOMMENDATIONS OR FROM THRESHOLDS SPECIFIED IN STATE OR  
12 FEDERAL OPIOID PRESCRIBING GUIDELINES OR POLICIES.

13 ==  
14 (c) A HEALTH-CARE PROVIDER TREATING A PATIENT WITH CHRONIC  
15 PAIN BY PRESCRIBING, DISPENSING, OR ADMINISTERING ONE OR MORE  
16 SCHEDULE II, III, IV, OR V CONTROLLED SUBSTANCES THAT INCLUDE, BUT  
17 ARE NOT LIMITED TO, OPIOID ANALGESICS SHALL NOT BE REQUIRED TO  
18 TAPER A PATIENT'S MEDICATION DOSAGE SOLELY TO MEET A  
19 PREDETERMINED MORPHINE MILLIGRAM EQUIVALENT DOSAGE  
20 RECOMMENDATION OR THRESHOLD IF THE PATIENT IS STABLE AND  
21 COMPLIANT WITH THE TREATMENT PLAN AND IS NOT EXPERIENCING  
22 SERIOUS HARM FROM THE LEVEL OF MEDICATION CURRENTLY BEING  
23 PRESCRIBED OR PREVIOUSLY PRESCRIBED. A DECISION TO TAPER OR  
24 MAINTAIN MEDICATION MUST INCLUDE AN INDIVIDUALIZED ASSESSMENT  
25 OF THE PATIENT'S CURRENT MEDICAL CONDITION AND TREATMENT PLAN,  
26 THE RISKS AND BENEFITS OF MAINTAINING OR TAPERING THE PATIENT'S  
27 MEDICATION, AND A DISCUSSION WITH THE PATIENT.

1           (d) (I) A CARRIER SHALL NOT REFUSE TO FILL A PRESCRIPTION FOR  
2           AN OPIATE ISSUED BY A HEALTH-CARE PROVIDER WITH THE AUTHORITY TO  
3           PRESCRIBE OPIATES SOLELY BECAUSE THE PRESCRIPTION IS FOR AN OPIATE  
4           OR BECAUSE THE PRESCRIPTION ORDER EXCEEDS A PREDETERMINED  
5           MORPHINE MILLIGRAM EQUIVALENT DOSAGE RECOMMENDATION OR  
6           THRESHOLD.

7           (II) A HEALTH-CARE PRACTICE OR CLINIC IN WHICH A  
8           HEALTH-CARE PROVIDER IS AUTHORIZED TO PRESCRIBE SCHEDULE II, III,  
9           IV, OR V CONTROLLED SUBSTANCES SHALL NOT HAVE A POLICY IN PLACE  
10          THAT REQUIRES THE HEALTH-CARE PROVIDER TO REFUSE TO PRESCRIBE,  
11          ADMINISTER, OR DISPENSE A PRESCRIPTION FOR AN OPIATE SOLELY  
12          BECAUSE THE PRESCRIPTION EXCEEDS A PREDETERMINED MORPHINE  
13          MILLIGRAM EQUIVALENT DOSAGE RECOMMENDATION OR THRESHOLD.

14          (e) BEFORE TREATING A PATIENT FOR CHRONIC PAIN IN  
15          ACCORDANCE WITH THIS SUBSECTION (3), A HEALTH-CARE PROVIDER  
16          SHALL DISCUSS WITH THE PATIENT OR THE PATIENT'S LEGAL GUARDIAN, IF  
17          APPLICABLE, THE RISKS ASSOCIATED WITH THE SCHEDULE II, III, IV, OR V  
18          CONTROLLED SUBSTANCE TO BE PRESCRIBED OR ADMINISTERED IN THE  
19          COURSE OF THE HEALTH-CARE PROVIDER'S TREATMENT OF THE PATIENT  
20          AND DOCUMENT THE DISCUSSION IN THE PATIENT'S RECORD.

21          (4) **Limits on applicability.** THIS SECTION DOES NOT APPLY TO:

22          (a) A HEALTH-CARE PROVIDER'S TREATMENT OF A PATIENT FOR A  
23          SUBSTANCE USE DISORDER RESULTING FROM THE USE OF A SCHEDULE II,  
24          III, IV, OR V CONTROLLED SUBSTANCE;

25          (b) THE PRESCRIPTION OR ADMINISTRATION OF A SCHEDULE II, III,  
26          IV, OR V CONTROLLED SUBSTANCE TO A PATIENT WHOM THE  
27          HEALTH-CARE PROVIDER KNOWS TO BE USING THE CONTROLLED

1 SUBSTANCE FOR NONTHERAPEUTIC OR DRUG DIVERSION PURPOSES;

2 (c) THE PRESCRIPTION, DISPENSING, OR ADMINISTRATION OF A  
3 SCHEDULE II, III, IV, OR V CONTROLLED SUBSTANCE FOR THE PURPOSE OF  
4 TERMINATING THE LIFE OF A PATIENT WITH CHRONIC PAIN; OR

5 (d) THE PRESCRIPTION, DISPENSING, OR ADMINISTRATION OF A  
6 SCHEDULE II, III, IV, OR V CONTROLLED SUBSTANCE THAT IS NOT A  
7 CONTROLLED SUBSTANCE APPROVED BY THE FEDERAL FOOD AND DRUG  
8 ADMINISTRATION FOR PAIN RELIEF.

9 **SECTION 2. Safety clause.** The general assembly hereby finds,  
10 determines, and declares that this act is necessary for the immediate  
11 preservation of the public peace, health, or safety.