

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

REENGROSSED

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

LLS NO. 19-0607.02 Christy Chase x2008

SENATE BILL 19-079

SENATE SPONSORSHIP

Todd and Priola, Cooke, Coram, Court, Fenberg, Ginal, Moreno, Williams A., Winter, Zenzinger, Bridges, Garcia, Lee, Story, Tate

HOUSE SPONSORSHIP

Esgar and Landgraf,

Senate Committees

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House 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>.)

Sections 1 to 14 of the bill require podiatrists, physicians, physician assistants, advanced practice nurses, and optometrists, starting July 1, 2021, and dentists and practitioners serving rural communities or in a solo practice, starting July 1, 2023, to prescribe schedule II, III, or IV controlled substances only via a prescription that is electronically transmitted to a pharmacy unless a specified exception applies.

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 7, 2019

SENATE
Amended 2nd Reading
February 6, 2019

Prescribers are required to indicate on license renewal questionnaires whether they have complied with the electronic prescribing requirement.

Section 15 specifies that 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.

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

SECTION 1. In Colorado Revised Statutes, 12-32-107.5, **amend** (3)(c) as follows:

12-32-107.5. Prescriptions - requirement to advise patients - limit on opioid prescriptions - repeal. (3) (c) (I) A podiatrist licensed pursuant to this article 32 may prescribe opioids electronically.

(II) THIS SUBSECTION (3)(c) IS REPEALED, EFFECTIVE JULY 1, 2021.

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

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

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

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

1 (III) THE PRESCRIBING PODIATRIST IS DISPENSING THE
2 CONTROLLED SUBSTANCE TO THE PATIENT;

3 (IV) THE PRESCRIPTION INCLUDES ONE OR MORE ELEMENTS THAT
4 ARE NOT SUPPORTED BY THE MOST RECENT VERSION OF THE NATIONAL
5 COUNCIL FOR PRESCRIPTION DRUG PROGRAMS SCRIPT STANDARD;

6 (V) THE FEDERAL FOOD AND DRUG ADMINISTRATION REQUIRES
7 THE PRESCRIPTION FOR THE PARTICULAR CONTROLLED SUBSTANCE TO
8 CONTAIN ONE OR MORE ELEMENTS THAT CANNOT BE SATISFIED WITH
9 ELECTRONIC PRESCRIBING;

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

12 (A) PURSUANT TO A STANDING ORDER, APPROVED PROTOCOL OF
13 DRUG THERAPY, OR COLLABORATIVE DRUG MANAGEMENT OR
14 COMPREHENSIVE MEDICATION MANAGEMENT PLAN;

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

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

18 (VII) THE PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE UNDER
19 A RESEARCH PROTOCOL;

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

22 (IX) THE PODIATRIST IS PRESCRIBING A CONTROLLED SUBSTANCE
23 TO BE ADMINISTERED TO A PATIENT IN A HOSPITAL, NURSING CARE
24 FACILITY, HOSPICE CARE FACILITY, DIALYSIS TREATMENT CLINIC, OR
25 ASSISTED LIVING RESIDENCE OR TO A PERSON WHO IS IN THE CUSTODY OF
26 THE DEPARTMENT OF CORRECTIONS; ==

27 (X) THE PODIATRIST REASONABLY DETERMINES THAT THE PATIENT

1 WOULD BE UNABLE TO OBTAIN THE CONTROLLED SUBSTANCE PRESCRIBED
2 ELECTRONICALLY IN A TIMELY MANNER AND THAT THE DELAY WOULD
3 ADVERSELY AFFECT THE PATIENT'S MEDICAL CONDITION; OR

4 (XI) THE PODIATRIST DEMONSTRATES ECONOMIC HARDSHIP IN
5 ACCORDANCE WITH RULES ADOPTED BY THE BOARD PURSUANT TO
6 SUBSECTION (2)(b) OF THIS SECTION.

7 (b) A PODIATRIST PRACTICING IN A RURAL AREA OF THE STATE OR
8 IN A PRACTICE CONSISTING OF ONLY ONE PODIATRIST SHALL COMPLY WITH
9 THIS SUBSECTION (1) ON OR AFTER JULY 1, 2023.

10 (2) THE BOARD SHALL ADOPT RULES:

11 (a) DEFINING WHAT CONSTITUTES A TEMPORARY TECHNOLOGICAL
12 OR ELECTRICAL FAILURE FOR PURPOSES OF SUBSECTION (1)(a)(I) OF THIS
13 SECTION; AND

14 (b) DEFINING ECONOMIC HARDSHIP FOR PURPOSES OF SUBSECTION
15 (1)(a)(XI) OF THIS SECTION AND ESTABLISHING:

16 (I) THE PROCESS FOR A PODIATRIST TO DEMONSTRATE ECONOMIC
17 HARDSHIP, INCLUDING THE INFORMATION REQUIRED TO BE SUBMITTED TO
18 ALLOW THE BOARD TO MAKE A DETERMINATION;

19 (II) THE PERIOD DURING WHICH THE ECONOMIC HARDSHIP
20 EXCEPTION IS EFFECTIVE, WHICH PERIOD SHALL NOT EXCEED ONE YEAR;

21 AND

22 (III) A PROCESS FOR A PODIATRIST TO APPLY TO RENEW AN
23 ECONOMIC HARDSHIP EXCEPTION, INCLUDING THE INFORMATION REQUIRED
24 TO BE SUBMITTED THAT DEMONSTRATES THE PODIATRIST'S CONTINUING
25 NEED FOR THE EXCEPTION.

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

27 (I) CREATE A PRIVATE RIGHT OF ACTION;

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

2 (III) ESTABLISH A STANDARD OF CARE.

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

5 (4) AS USED IN THIS SECTION, "RURAL AREA" MEANS A COUNTY
6 LOCATED IN A NONMETROPOLITAN AREA IN THE STATE THAT:

7 (a) HAS NO MUNICIPALITY WITHIN ITS TERRITORIAL BOUNDARIES
8 WITH FIFTY THOUSAND OR MORE PERMANENT RESIDENTS BASED UPON THE
9 MOST RECENT POPULATION ESTIMATES PUBLISHED BY THE UNITED STATES
10 CENSUS BUREAU; OR

11 (b) SATISFIES ALTERNATE CRITERIA FOR THE DESIGNATION OF A
12 RURAL AREA AS MAY BE PROMULGATED BY THE FEDERAL OFFICE OF
13 MANAGEMENT AND BUDGET.

14 **SECTION 3.** In Colorado Revised Statutes, 12-32-111, **amend**
15 (1.5) as follows:

16 **12-32-111. Renewal of license.** (1.5) The board shall establish
17 a questionnaire to accompany the renewal form. The BOARD MUST DESIGN
18 THE questionnaire ~~shall be designed~~ to determine if the licensee has acted
19 in violation of, or has been disciplined for actions that might be construed
20 as violations of, this ~~article~~ ARTICLE 32 or that may make the licensee
21 unfit to practice podiatry with reasonable care and safety. THE BOARD
22 SHALL INCLUDE ON THE QUESTIONNAIRE A QUESTION REGARDING
23 WHETHER THE PODIATRIST HAS COMPLIED WITH SECTION 12-32-107.7. The
24 failure of an applicant to answer the questionnaire accurately ~~shall~~
25 ~~constitute~~ CONSTITUTES unprofessional conduct pursuant to section
26 12-32-107.

27 **SECTION 4.** In Colorado Revised Statutes, **add** 12-35-114.5 as

1 follows:

2 **12-35-114.5. Electronic prescribing of controlled substances**

3 **- exceptions - rules.** (1) ON OR AFTER JULY 1, 2023, A DENTIST LICENSED
4 UNDER THIS ARTICLE 35 SHALL PRESCRIBE A CONTROLLED SUBSTANCE, AS
5 DEFINED IN SECTION 18-18-102 (5), THAT IS INCLUDED IN SCHEDULE II, III,
6 OR IV PURSUANT TO PART 2 OF ARTICLE 18 OF TITLE 18, ONLY BY
7 ELECTRONIC PRESCRIPTION TRANSMITTED TO A PHARMACY UNLESS:

8 (a) AT THE TIME OF ISSUING THE PRESCRIPTION, ELECTRONIC
9 PRESCRIBING IS NOT AVAILABLE DUE TO A TEMPORARY TECHNOLOGICAL
10 OR ELECTRICAL FAILURE;

11 (b) THE PRESCRIPTION IS TO BE DISPENSED AT A PHARMACY THAT
12 IS LOCATED OUTSIDE OF THIS STATE;

13 (c) THE PRESCRIBING DENTIST IS DISPENSING THE CONTROLLED
14 SUBSTANCE TO THE PATIENT;

15 (d) THE PRESCRIPTION INCLUDES ONE OR MORE ELEMENTS THAT
16 ARE NOT SUPPORTED BY THE MOST RECENT VERSION OF THE NATIONAL
17 COUNCIL FOR PRESCRIPTION DRUG PROGRAMS SCRIPT STANDARD;

18 (e) THE FEDERAL FOOD AND DRUG ADMINISTRATION REQUIRES THE
19 PRESCRIPTION FOR THE PARTICULAR CONTROLLED SUBSTANCE TO CONTAIN
20 ONE OR MORE ELEMENTS THAT CANNOT BE SATISFIED WITH ELECTRONIC
21 PRESCRIBING;

22 (f) THE PRESCRIPTION IS NOT SPECIFIC TO A PATIENT AND ALLOWS
23 DISPENSING OF THE PRESCRIBED CONTROLLED SUBSTANCE:

24 (I) PURSUANT TO A STANDING ORDER, APPROVED PROTOCOL OF
25 DRUG THERAPY, OR COLLABORATIVE DRUG MANAGEMENT OR
26 COMPREHENSIVE MEDICATION MANAGEMENT PLAN;

27 (II) IN RESPONSE TO A PUBLIC HEALTH EMERGENCY; OR

1 (III) UNDER OTHER CIRCUMSTANCES THAT PERMIT THE DENTIST TO
2 ISSUE A PRESCRIPTION THAT IS NOT PATIENT-SPECIFIC;

3 (g) THE PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE UNDER
4 A RESEARCH PROTOCOL;

5 (h) THE DENTIST WRITES TWENTY-FOUR OR FEWER PRESCRIPTIONS
6 FOR CONTROLLED SUBSTANCES PER YEAR;

7 (i) THE DENTIST IS PRESCRIBING A CONTROLLED SUBSTANCE TO BE
8 ADMINISTERED TO A PATIENT IN A HOSPITAL, NURSING CARE FACILITY,
9 HOSPICE CARE FACILITY, DIALYSIS TREATMENT CLINIC, OR ASSISTED
10 LIVING RESIDENCE OR TO A PERSON WHO IS IN THE CUSTODY OF THE
11 DEPARTMENT OF CORRECTIONS;

12 (j) THE DENTIST REASONABLY DETERMINES THAT THE PATIENT
13 WOULD BE UNABLE TO OBTAIN THE CONTROLLED SUBSTANCE PRESCRIBED
14 ELECTRONICALLY IN A TIMELY MANNER AND THAT THE DELAY WOULD
15 ADVERSELY AFFECT THE PATIENT'S MEDICAL CONDITION; OR

16 (k) THE DENTIST DEMONSTRATES ECONOMIC HARDSHIP IN
17 ACCORDANCE WITH RULES ADOPTED BY THE BOARD PURSUANT TO
18 SUBSECTION (2)(b) OF THIS SECTION.

19 (2) THE BOARD SHALL ADOPT RULES:

20 (a) DEFINING WHAT CONSTITUTES A TEMPORARY TECHNOLOGICAL
21 OR ELECTRICAL FAILURE FOR PURPOSES OF SUBSECTION (1)(a) OF THIS
22 SECTION; AND

23 (b) DEFINING ECONOMIC HARDSHIP FOR PURPOSES OF SUBSECTION
24 (1)(k) OF THIS SECTION AND ESTABLISHING:

25 (I) THE PROCESS FOR A DENTIST TO DEMONSTRATE ECONOMIC
26 HARDSHIP, INCLUDING THE INFORMATION REQUIRED TO BE SUBMITTED TO
27 ALLOW THE BOARD TO MAKE A DETERMINATION;

1 (II) THE PERIOD DURING WHICH THE ECONOMIC HARDSHIP
2 EXCEPTION IS EFFECTIVE, WHICH PERIOD SHALL NOT EXCEED ONE YEAR;

3 AND

4 (III) A PROCESS FOR A DENTIST TO APPLY TO RENEW AN ECONOMIC
5 HARDSHIP EXCEPTION, INCLUDING THE INFORMATION REQUIRED TO BE
6 SUBMITTED THAT DEMONSTRATES THE DENTIST'S CONTINUING NEED FOR
7 THE EXCEPTION.

8 (3) ON AND AFTER JULY 1, 2023, THE BOARD SHALL REQUIRE A
9 DENTIST WHO APPLIES FOR LICENSE RENEWAL IN ACCORDANCE WITH
10 SECTION 12-35-121 TO COMPLETE A QUESTIONNAIRE THAT REQUIRES THE
11 DENTIST TO INDICATE WHETHER THE DENTIST HAS COMPLIED WITH THIS
12 SECTION. THE FAILURE OF AN APPLICANT TO ANSWER THE QUESTIONNAIRE
13 ACCURATELY CONSTITUTES GROUNDS FOR DISCIPLINE PURSUANT TO
14 SECTION 12-35-129.

15 (4) (a) THIS SECTION DOES NOT:

16 (I) CREATE A PRIVATE RIGHT OF ACTION;

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

18 (III) ESTABLISH A STANDARD OF CARE.

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

21 **SECTION 5.** In Colorado Revised Statutes, 12-35-129, **amend**
22 (1)(nn) and (1)(oo); and **add** (1)(pp) as follows:

23 **12-35-129. Grounds for disciplinary action.** (1) The board may
24 take disciplinary action against an applicant or licensee in accordance
25 with section 12-35-129.1 for any of the following causes:

26 (nn) Failing to comply with section 12-35-128.5 regarding the
27 placement of interim therapeutic restorations; ~~or~~

1 (oo) Failing to comply with section 12-35-128.8 regarding the
2 application of silver diamine fluoride; OR

3 (pp) FAILING TO ACCURATELY COMPLETE AND SUBMIT THE
4 QUESTIONNAIRE REQUIRED BY SECTION 12-35-114.5 (3).

5 **SECTION 6.** In Colorado Revised Statutes, 12-36-117.6, **amend**
6 (2) as follows:

7 **12-36-117.6. Prescribing opiates - limitations - repeal.**

8 (2) (a) A physician or physician assistant licensed pursuant to this article
9 36 may prescribe opioids electronically.

10 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2021.

11 **SECTION 7.** In Colorado Revised Statutes, **add** 12-36-117.9 as
12 follows:

13 **12-36-117.9. Electronic prescribing of controlled substances**

14 **- exceptions - rules - definition.** (1) (a) EXCEPT AS PROVIDED IN
15 SUBSECTION (1)(b) OF THIS SECTION, ON OR AFTER JULY 1, 2021, A
16 PHYSICIAN LICENSED UNDER THIS ARTICLE 36 OR A PHYSICIAN ASSISTANT
17 LICENSED UNDER THIS ARTICLE 36 WHO HAS BEEN DELEGATED THE
18 AUTHORITY TO PRESCRIBE MEDICATION SHALL PRESCRIBE A CONTROLLED
19 SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), THAT IS INCLUDED IN
20 SCHEDULE II, III, OR IV PURSUANT TO PART 2 OF ARTICLE 18 OF TITLE 18,
21 ONLY BY ELECTRONIC PRESCRIPTION TRANSMITTED TO A PHARMACY
22 UNLESS:

23 (I) AT THE TIME OF ISSUING THE PRESCRIPTION, ELECTRONIC
24 PRESCRIBING IS NOT AVAILABLE DUE TO A TEMPORARY TECHNOLOGICAL
25 OR ELECTRICAL FAILURE;

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

1 (III) THE PRESCRIBING PHYSICIAN OR PHYSICIAN ASSISTANT IS
2 DISPENSING THE CONTROLLED SUBSTANCE TO THE PATIENT;

3 (IV) THE PRESCRIPTION INCLUDES ONE OR MORE ELEMENTS THAT
4 ARE NOT SUPPORTED BY THE MOST RECENT VERSION OF THE NATIONAL
5 COUNCIL FOR PRESCRIPTION DRUG PROGRAMS SCRIPT STANDARD;

6 (V) THE FEDERAL FOOD AND DRUG ADMINISTRATION REQUIRES
7 THE PRESCRIPTION FOR THE PARTICULAR CONTROLLED SUBSTANCE TO
8 CONTAIN ONE OR MORE ELEMENTS THAT CANNOT BE SATISFIED WITH
9 ELECTRONIC PRESCRIBING;

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

12 (A) PURSUANT TO A STANDING ORDER, APPROVED PROTOCOL OF
13 DRUG THERAPY, OR COLLABORATIVE DRUG MANAGEMENT OR
14 COMPREHENSIVE MEDICATION MANAGEMENT PLAN;

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

16 (C) UNDER OTHER CIRCUMSTANCES THAT PERMIT THE PHYSICIAN
17 OR PHYSICIAN ASSISTANT TO ISSUE A PRESCRIPTION THAT IS NOT
18 PATIENT-SPECIFIC;

19 (VII) THE PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE UNDER
20 A RESEARCH PROTOCOL;

21 (VIII) THE PHYSICIAN OR PHYSICIAN ASSISTANT WRITES
22 TWENTY-FOUR OR FEWER PRESCRIPTIONS FOR CONTROLLED SUBSTANCES
23 PER YEAR;

24 (IX) THE PHYSICIAN OR PHYSICIAN ASSISTANT IS PRESCRIBING A
25 CONTROLLED SUBSTANCE TO BE ADMINISTERED TO A PATIENT IN A
26 HOSPITAL, NURSING CARE FACILITY, HOSPICE CARE FACILITY, DIALYSIS
27 TREATMENT CLINIC, ASSISTED LIVING RESIDENCE, OR LICENSED HOSPICE

1 HOME CARE OR TO A PERSON WHO IS IN THE CUSTODY OF THE DEPARTMENT
2 OF CORRECTIONS;

3 (X) THE PHYSICIAN OR PHYSICIAN ASSISTANT REASONABLY
4 DETERMINES THAT THE PATIENT WOULD BE UNABLE TO OBTAIN THE
5 CONTROLLED SUBSTANCE PRESCRIBED ELECTRONICALLY IN A TIMELY
6 MANNER AND THAT THE DELAY WOULD ADVERSELY AFFECT THE PATIENT'S
7 MEDICAL CONDITION; OR

8 (XI) THE PHYSICIAN OR PHYSICIAN ASSISTANT DEMONSTRATES
9 ECONOMIC HARDSHIP IN ACCORDANCE WITH RULES ADOPTED BY THE
10 BOARD PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION.

11 (b) A PHYSICIAN OR PHYSICIAN ASSISTANT PRACTICING IN A RURAL
12 AREA OF THE STATE OR IN A PRACTICE CONSISTING OF ONLY ONE
13 PHYSICIAN OR PHYSICIAN ASSISTANT SHALL COMPLY WITH THIS
14 SUBSECTION (1) ON OR AFTER JULY 1, 2023.

15 (2) THE BOARD SHALL ADOPT RULES:

16 (a) DEFINING WHAT CONSTITUTES A TEMPORARY TECHNOLOGICAL
17 OR ELECTRICAL FAILURE FOR PURPOSES OF SUBSECTION (1)(a)(I) OF THIS
18 SECTION; AND

19 (b) DEFINING ECONOMIC HARDSHIP FOR PURPOSES OF SUBSECTION
20 (1)(a)(XI) OF THIS SECTION AND ESTABLISHING:

21 (I) THE PROCESS FOR A PHYSICIAN OR PHYSICIAN ASSISTANT TO
22 DEMONSTRATE ECONOMIC HARDSHIP, INCLUDING THE INFORMATION
23 REQUIRED TO BE SUBMITTED TO ALLOW THE BOARD TO MAKE A
24 DETERMINATION;

25 (II) THE PERIOD DURING WHICH THE ECONOMIC HARDSHIP
26 EXCEPTION IS EFFECTIVE, WHICH PERIOD SHALL NOT EXCEED ONE YEAR;

27 AND

1 (III) A PROCESS FOR A PHYSICIAN OR PHYSICIAN ASSISTANT TO
2 APPLY TO RENEW AN ECONOMIC HARDSHIP EXCEPTION, INCLUDING THE
3 INFORMATION REQUIRED TO BE SUBMITTED THAT DEMONSTRATES THE
4 PHYSICIAN'S OR PHYSICIAN ASSISTANT'S CONTINUING NEED FOR THE
5 EXCEPTION.

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

7 (I) CREATE A PRIVATE RIGHT OF ACTION;

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

9 (III) ESTABLISH A STANDARD OF CARE.

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

12 (4) AS USED IN THIS SECTION, "RURAL AREA" MEANS A COUNTY
13 LOCATED IN A NONMETROPOLITAN AREA IN THE STATE THAT:

14 (a) HAS NO MUNICIPALITY WITHIN ITS TERRITORIAL BOUNDARIES
15 WITH FIFTY THOUSAND OR MORE PERMANENT RESIDENTS BASED UPON THE
16 MOST RECENT POPULATION ESTIMATES PUBLISHED BY THE UNITED STATES
17 CENSUS BUREAU; OR

18 (b) SATISFIES ALTERNATE CRITERIA FOR THE DESIGNATION OF A
19 RURAL AREA AS MAY BE PROMULGATED BY THE FEDERAL OFFICE OF
20 MANAGEMENT AND BUDGET.

21 **SECTION 8.** In Colorado Revised Statutes, 12-36-123, **amend**
22 (1)(b) as follows:

23 **12-36-123. Procedure - registration - fees.** (1) (b) The board
24 shall design a questionnaire to accompany the renewal form for the
25 purpose of determining whether a licensee has acted in violation of this
26 ~~article~~ ARTICLE 36 or been disciplined for any action that might be
27 considered a violation of this ~~article~~ ARTICLE 36 or might make the

1 licensee unfit to practice medicine with reasonable care and safety. THE
2 BOARD SHALL INCLUDE ON THE QUESTIONNAIRE A QUESTION REGARDING
3 WHETHER THE LICENSEE HAS COMPLIED WITH SECTION 12-36-117.9. If an
4 applicant fails to answer the questionnaire accurately, ~~such~~ THE failure
5 ~~shall constitute~~ CONSTITUTES unprofessional conduct under section
6 12-36-117 (1)(aa).

7 **SECTION 9.** In Colorado Revised Statutes, 12-38-111.6, **amend**
8 (7.5)(c) as follows:

9 **12-38-111.6. Prescriptive authority - advanced practice nurses**
10 **- limits on opioid prescriptions - repeal.** (7.5) (c) (I) An advanced
11 practice nurse with prescriptive authority pursuant to this section may
12 prescribe opioids electronically.

13 (II) THIS SUBSECTION (7.5)(c) IS REPEALED, EFFECTIVE JULY 1,
14 2021.

15 **SECTION 10.** In Colorado Revised Statutes, **add** 12-38-111.7 as
16 follows:

17 **12-38-111.7. Electronic prescribing of controlled substances**
18 **- exceptions - rules - definition.** (1) (a) EXCEPT AS PROVIDED IN
19 SUBSECTION (1)(b) OF THIS SECTION, ON OR AFTER JULY 1, 2021, AN
20 ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY PURSUANT
21 TO SECTION 12-38-111.6 SHALL PRESCRIBE A CONTROLLED SUBSTANCE, AS
22 DEFINED IN SECTION 18-18-102 (5), THAT IS INCLUDED IN SCHEDULE II, III,
23 OR IV PURSUANT TO PART 2 OF ARTICLE 18 OF TITLE 18, ONLY BY
24 ELECTRONIC PRESCRIPTION TRANSMITTED TO A PHARMACY UNLESS:

25 (I) AT THE TIME OF ISSUING THE PRESCRIPTION, ELECTRONIC
26 PRESCRIBING IS NOT AVAILABLE DUE TO A TEMPORARY TECHNOLOGICAL
27 OR ELECTRICAL FAILURE;

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

3 (III) THE PRESCRIBING ADVANCED PRACTICE NURSE IS DISPENSING
4 THE CONTROLLED SUBSTANCE TO THE PATIENT;

5 (IV) THE PRESCRIPTION INCLUDES ONE OR MORE ELEMENTS THAT
6 ARE NOT SUPPORTED BY THE MOST RECENT VERSION OF THE NATIONAL
7 COUNCIL FOR PRESCRIPTION DRUG PROGRAMS SCRIPT STANDARD;

8 (V) THE FEDERAL FOOD AND DRUG ADMINISTRATION REQUIRES
9 THE PRESCRIPTION FOR THE PARTICULAR CONTROLLED SUBSTANCE TO
10 CONTAIN ONE OR MORE ELEMENTS THAT CANNOT BE SATISFIED WITH
11 ELECTRONIC PRESCRIBING;

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

14 (A) PURSUANT TO A STANDING ORDER, APPROVED PROTOCOL OF
15 DRUG THERAPY, OR COLLABORATIVE DRUG MANAGEMENT OR
16 COMPREHENSIVE MEDICATION MANAGEMENT PLAN;

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

18 (C) UNDER OTHER CIRCUMSTANCES THAT PERMIT THE ADVANCED
19 PRACTICE NURSE TO ISSUE A PRESCRIPTION THAT IS NOT PATIENT-SPECIFIC;

20 (VII) THE PRESCRIPTION IS FOR A CONTROLLED SUBSTANCE UNDER
21 A RESEARCH PROTOCOL;

22 (VIII) THE ADVANCED PRACTICE NURSE WRITES TWENTY-FOUR OR
23 FEWER PRESCRIPTIONS FOR CONTROLLED SUBSTANCES PER YEAR;

24 (IX) THE ADVANCED PRACTICE NURSE IS PRESCRIBING A
25 CONTROLLED SUBSTANCE TO BE ADMINISTERED TO A PATIENT IN A
26 HOSPITAL, NURSING CARE FACILITY, HOSPICE CARE FACILITY, DIALYSIS
27 TREATMENT CLINIC, ASSISTED LIVING RESIDENCE, OR LICENSED HOSPICE

1 HOME CARE OR TO A PERSON WHO IS IN THE CUSTODY OF THE DEPARTMENT
2 OF CORRECTIONS;

3 (X) THE ADVANCED PRACTICE NURSE REASONABLY DETERMINES
4 THAT THE PATIENT WOULD BE UNABLE TO OBTAIN THE CONTROLLED
5 SUBSTANCE PRESCRIBED ELECTRONICALLY IN A TIMELY MANNER AND
6 THAT THE DELAY WOULD ADVERSELY AFFECT THE PATIENT'S MEDICAL
7 CONDITION; OR

8 (XI) THE ADVANCED PRACTICE NURSE DEMONSTRATES ECONOMIC
9 HARDSHIP IN ACCORDANCE WITH RULES ADOPTED BY THE BOARD
10 PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION.

11 (b) AN ADVANCED PRACTICE NURSE PRACTICING IN A RURAL AREA
12 OF THE STATE OR IN A PRACTICE CONSISTING OF ONLY ONE ADVANCED
13 PRACTICE NURSE SHALL COMPLY WITH THIS SUBSECTION (1) ON OR AFTER
14 JULY 1, 2023.

15 (2) THE BOARD SHALL ADOPT RULES:

16 (a) DEFINING WHAT CONSTITUTES A TEMPORARY TECHNOLOGICAL
17 OR ELECTRICAL FAILURE FOR PURPOSES OF SUBSECTION (1)(a)(I) OF THIS
18 SECTION; AND

19 (b) DEFINING ECONOMIC HARDSHIP FOR PURPOSES OF SUBSECTION
20 (1)(a)(XI) OF THIS SECTION AND ESTABLISHING:

21 (I) THE PROCESS FOR AN ADVANCED PRACTICE NURSE TO
22 DEMONSTRATE ECONOMIC HARDSHIP, INCLUDING THE INFORMATION
23 REQUIRED TO BE SUBMITTED TO ALLOW THE BOARD TO MAKE A
24 DETERMINATION;

25 (II) THE PERIOD DURING WHICH THE ECONOMIC HARDSHIP
26 EXCEPTION IS EFFECTIVE, WHICH PERIOD SHALL NOT EXCEED ONE YEAR;

27 AND

1 (III) A PROCESS FOR AN ADVANCED PRACTICE NURSE TO APPLY TO
2 RENEW AN ECONOMIC HARDSHIP EXCEPTION, INCLUDING THE
3 INFORMATION REQUIRED TO BE SUBMITTED THAT DEMONSTRATES THE
4 ADVANCED PRACTICE NURSE'S CONTINUING NEED FOR THE EXCEPTION.

- 5 (3) (a) THIS SECTION DOES NOT:
6 (I) CREATE A PRIVATE RIGHT OF ACTION;
7 (II) SERVE AS THE BASIS OF A CAUSE OF ACTION; OR
8 (III) ESTABLISH A STANDARD OF CARE.

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

11 (4) AS USED IN THIS SECTION, "RURAL AREA" MEANS A COUNTY
12 LOCATED IN A NONMETROPOLITAN AREA IN THE STATE THAT:

13 (a) HAS NO MUNICIPALITY WITHIN ITS TERRITORIAL BOUNDARIES
14 WITH FIFTY THOUSAND OR MORE PERMANENT RESIDENTS BASED UPON THE
15 MOST RECENT POPULATION ESTIMATES PUBLISHED BY THE UNITED STATES
16 CENSUS BUREAU; OR

17 (b) SATISFIES ALTERNATE CRITERIA FOR THE DESIGNATION OF A
18 RURAL AREA AS MAY BE PROMULGATED BY THE FEDERAL OFFICE OF
19 MANAGEMENT AND BUDGET.

20 **SECTION 11.** In Colorado Revised Statutes, 12-38-111, **amend**
21 (3) as follows:

22 **12-38-111. Requirements for professional nurse licensure.**

23 (3) The board shall design a questionnaire to be sent to all licensees who
24 apply for license renewal. Each applicant for license renewal shall
25 complete the board-designed questionnaire. The purpose of the
26 questionnaire is to determine whether a licensee has acted in violation of
27 this ~~article~~ ARTICLE 38 or been disciplined for any action that might be

1 considered a violation of this ~~article~~ ARTICLE 38 or might make the
2 licensee unfit to practice nursing with reasonable care and safety. THE
3 BOARD SHALL INCLUDE ON THE QUESTIONNAIRE A QUESTION REGARDING
4 WHETHER THE LICENSEE HAS COMPLIED WITH SECTION 12-38-111.7. If an
5 applicant fails to answer the questionnaire accurately, ~~such~~ THE failure
6 ~~shall constitute~~ CONSTITUTES grounds for discipline under section
7 12-38-117 (1)(v). The board may include the cost of developing and
8 reviewing the questionnaire in the fee paid under ~~paragraph (e) of~~
9 ~~subsection (1)~~ SUBSECTION (1)(e) of this section. The board may refuse
10 an application for license renewal that does not accompany an accurately
11 completed questionnaire.

12 **SECTION 12.** In Colorado Revised Statutes, 12-40-109.5,
13 **amend** (4)(c) as follows:

14 **12-40-109.5. Use of prescription and nonprescription drugs -**
15 **limits on opioid prescriptions - repeal.** (4) (c) (I) An optometrist
16 licensed pursuant to this article 40 may prescribe opioids electronically.

17 (II) THIS SUBSECTION (4)(c) IS REPEALED, EFFECTIVE JULY 1, 2021.

18 **SECTION 13.** In Colorado Revised Statutes, **add** 12-40-109.9 as
19 follows:

20 **12-40-109.9. Electronic prescribing of controlled substances**
21 **- exceptions - rules - definition.** (1) (a) EXCEPT AS PROVIDED IN
22 SUBSECTION (1)(b) OF THIS SECTION, ON OR AFTER JULY 1, 2021, AN
23 OPTOMETRIST LICENSED UNDER THIS ARTICLE 40 SHALL PRESCRIBE A
24 CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5), THAT IS
25 INCLUDED IN SCHEDULE II, III, OR IV PURSUANT TO PART 2 OF ARTICLE 18
26 OF TITLE 18, ONLY BY ELECTRONIC PRESCRIPTION TRANSMITTED TO A
27 PHARMACY UNLESS:

1 (I) AT THE TIME OF ISSUING THE PRESCRIPTION, ELECTRONIC
2 PRESCRIBING IS NOT AVAILABLE DUE TO A TEMPORARY TECHNOLOGICAL
3 OR ELECTRICAL FAILURE;

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

6 (III) THE PRESCRIBING OPTOMETRIST IS DISPENSING THE
7 CONTROLLED SUBSTANCE TO THE PATIENT;

8 (IV) THE PRESCRIPTION INCLUDES ONE OR MORE ELEMENTS THAT
9 ARE NOT SUPPORTED BY THE MOST RECENT VERSION OF THE NATIONAL
10 COUNCIL FOR PRESCRIPTION DRUG PROGRAMS SCRIPT STANDARD;

11 (V) THE FEDERAL FOOD AND DRUG ADMINISTRATION REQUIRES
12 THE PRESCRIPTION FOR THE PARTICULAR CONTROLLED SUBSTANCE TO
13 CONTAIN ONE OR MORE ELEMENTS THAT CANNOT BE SATISFIED WITH
14 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
22 OPTOMETRIST 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 OPTOMETRIST WRITES TWENTY-FOUR OR FEWER
26 PRESCRIPTIONS FOR CONTROLLED SUBSTANCES PER YEAR;

27 (IX) THE OPTOMETRIST IS PRESCRIBING A CONTROLLED

1 SUBSTANCE TO BE ADMINISTERED TO A PATIENT IN A HOSPITAL, NURSING
2 CARE FACILITY, HOSPICE CARE FACILITY, DIALYSIS TREATMENT CLINIC, OR
3 ASSISTED LIVING RESIDENCE OR TO A PERSON WHO IS IN THE CUSTODY OF
4 THE DEPARTMENT OF CORRECTIONS;

5 (X) THE OPTOMETRIST REASONABLY DETERMINES THAT THE
6 PATIENT WOULD BE UNABLE TO OBTAIN THE CONTROLLED SUBSTANCE
7 PRESCRIBED ELECTRONICALLY IN A TIMELY MANNER AND THAT THE DELAY
8 WOULD ADVERSELY AFFECT THE PATIENT'S MEDICAL CONDITION; OR

9 (XI) THE OPTOMETRIST DEMONSTRATES ECONOMIC HARDSHIP IN
10 ACCORDANCE WITH RULES ADOPTED BY THE BOARD PURSUANT TO
11 SUBSECTION (2)(b) OF THIS SECTION.

12 (b) AN OPTOMETRIST PRACTICING IN A RURAL AREA OF THE STATE
13 OR IN A PRACTICE CONSISTING OF ONLY ONE OPTOMETRIST SHALL COMPLY
14 WITH THIS SUBSECTION (1) ON OR AFTER JULY 1, 2023.

15 (2) THE BOARD SHALL ADOPT RULES:

16 (a) DEFINING WHAT CONSTITUTES A TEMPORARY TECHNOLOGICAL
17 OR ELECTRICAL FAILURE FOR PURPOSES OF SUBSECTION (1)(a)(I) OF THIS
18 SECTION; AND

19 (b) DEFINING ECONOMIC HARDSHIP FOR PURPOSES OF SUBSECTION
20 (1)(a)(XI) OF THIS SECTION AND ESTABLISHING:

21 (I) THE PROCESS FOR AN OPTOMETRIST TO DEMONSTRATE
22 ECONOMIC HARDSHIP, INCLUDING THE INFORMATION REQUIRED TO BE
23 SUBMITTED TO ALLOW THE BOARD TO MAKE A DETERMINATION;

24 (II) THE PERIOD DURING WHICH THE ECONOMIC HARDSHIP
25 EXCEPTION IS EFFECTIVE, WHICH PERIOD SHALL NOT EXCEED ONE YEAR;

26 AND

27 (III) A PROCESS FOR AN OPTOMETRIST TO APPLY TO RENEW AN

1 ECONOMIC HARDSHIP EXCEPTION, INCLUDING THE INFORMATION REQUIRED
2 TO BE SUBMITTED THAT DEMONSTRATES THE OPTOMETRIST'S CONTINUING
3 NEED FOR THE EXCEPTION.

- 4 (3) (a) THIS SECTION DOES NOT:
5 (I) CREATE A PRIVATE RIGHT OF ACTION;
6 (II) SERVE AS THE BASIS OF A CAUSE OF ACTION; OR
7 (III) ESTABLISH A STANDARD OF CARE.
8 (b) A VIOLATION OF THIS SECTION DOES NOT CONSTITUTE
9 NEGLIGENCE PER SE OR CONTRIBUTORY NEGLIGENCE PER SE.

10 (4) AS USED IN THIS SECTION, "RURAL AREA" MEANS A COUNTY
11 LOCATED IN A NONMETROPOLITAN AREA IN THE STATE THAT:

- 12 (a) HAS NO MUNICIPALITY WITHIN ITS TERRITORIAL BOUNDARIES
13 WITH FIFTY THOUSAND OR MORE PERMANENT RESIDENTS BASED UPON THE
14 MOST RECENT POPULATION ESTIMATES PUBLISHED BY THE UNITED STATES
15 CENSUS BUREAU; OR
16 (b) SATISFIES ALTERNATE CRITERIA FOR THE DESIGNATION OF A
17 RURAL AREA AS MAY BE PROMULGATED BY THE FEDERAL OFFICE OF
18 MANAGEMENT AND BUDGET.

19 **SECTION 14.** In Colorado Revised Statutes, 12-40-113, **amend**
20 (1)(b) as follows:

21 **12-40-113. License renewal - requirements - fee - failure to**
22 **pay.** (1) (b) The board shall establish a questionnaire to accompany the
23 renewal form. ~~Said~~ THE BOARD MUST DESIGN THE questionnaire ~~shall be~~
24 ~~designed~~ to determine if the licensee has acted in violation of or has been
25 disciplined for actions that might be considered as violations of this
26 ~~article~~ ARTICLE 40 or that might make the licensee unfit to practice
27 optometry with reasonable care and safety. THE BOARD SHALL INCLUDE

1 ON THE QUESTIONNAIRE A QUESTION REGARDING WHETHER THE LICENSEE
2 HAS COMPLIED WITH SECTION 12-40-109.9. Failure of the applicant to
3 answer the questionnaire accurately ~~shall be~~ IS considered unprofessional
4 conduct as specified in section 12-40-118.

5 **SECTION 15.** In Colorado Revised Statutes, 12-42.5-120,
6 **amend** (1) as follows:

7 **12-42.5-120. Prescription required - exception - dispensing**
8 **opiate antagonists - definitions.** (1) (a) Except as provided in section
9 18-18-414 ~~C.R.S.~~, and subsections (2) and (3) of this section, an order is
10 required prior to dispensing any prescription drug. Orders shall be readily
11 retrievable within the appropriate statute of limitations.

12 (b) A PHARMACIST WHO RECEIVES AN ORDER FOR A CONTROLLED
13 SUBSTANCE THAT IS INCLUDED IN SCHEDULE II, III, OR IV FROM A
14 PODIATRIST, DENTIST, PHYSICIAN, PHYSICIAN ASSISTANT, ADVANCED
15 PRACTICE NURSE, OR OPTOMETRIST, WHICH ORDER IS NOT TRANSMITTED
16 ELECTRONICALLY TO THE PHARMACIST, IS NOT REQUIRED TO VERIFY THE
17 APPLICABILITY OF AN EXCEPTION TO ELECTRONIC PRESCRIBING OF
18 CONTROLLED SUBSTANCES UNDER SECTION 12-32-107.7, 12-35-114.5,
19 12-36-117.9, 12-38-111.7, OR 12-40-109.9 AND MAY DISPENSE THE
20 CONTROLLED SUBSTANCE PURSUANT TO A WRITTEN, ORAL, OR
21 FACSIMILE-TRANSMITTED ORDER THAT IS OTHERWISE VALID AND
22 CONSISTENT WITH THE REQUIREMENTS OF CURRENT LAW.

23 **SECTION 16. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2020 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.