COLORADO REVISED STATUTES
TITLE 12. PROFESSIONS AND OCCUPATIONS - HEALTH CARE
ARTICLE 42.5. PHARMACISTS, PHARMACY BUSINESSES, AND PHARMACEUTICALS
PART 4. ELECTRONIC MONITORING OF PRESCRIPTION DRUGS

C.R.S. §12-42.5-401 (2016)

12-42.5-401. Legislative declaration

(1) The general assembly finds, determines, and declares that:

(a) Prescription drug abuse occurs in this country to an extent that exceeds or rivals the abuse of illicit drugs;

(b) Prescription drug abuse occurs at times due to the deception of the authorized practitioners where patients seek controlled substances for treatment and the practitioner is unaware of the patient's other medical providers and treatments;

(c) Electronic monitoring of prescriptions for controlled substances provides a mechanism whereby practitioners can discover the extent of each patient's requests for drugs and whether other providers have prescribed similar substances during a similar period of time;

(d) Electronic monitoring of prescriptions for controlled substances provides a mechanism for law enforcement officials and regulatory boards to efficiently investigate practitioner behavior that is potentially harmful to the public.

HISTORY: Source: L. 2012: Entire article added with relocations, (HB 12-1311), ch. 281, p. 1590, § 1, effective July 1.

C.R.S. §12-42.5-402 (2016)

12-42.5-402. Definitions

As used in this part 4, unless the context otherwise requires:

(1) "Board" means the state board of pharmacy created in section 12-42.5-103.

(1.5) "Controlled substance" means any schedule II, III, IV, or V drug as listed in sections 18-18-204, 18-18-205, 18-18-206, and 18-18-207, C.R.S.

(2) "Division" means the division of professions and occupations in the department of regulatory agencies.

(3) "Drug abuse" or "abuse" means utilization of a controlled substance for nonmedical purposes or in a manner that does not meet generally accepted standards of medical practice.

(4) "Prescription drug outlet" or "pharmacy" means:

(a) Any resident or nonresident pharmacy outlet registered or licensed pursuant to this article where prescriptions are compounded and dispensed; and

(b) Any federally owned and operated pharmacy registered with the federal drug enforcement administration.

(5) "Program" means the electronic prescription drug monitoring program developed or procured by the board in accordance with section 12-42.5-403.

HISTORY: Source: L. 2012: Entire article added with relocations, (HB 12-1311), ch. 281, p. 1590, § 1, effective July 1.L. 2014: (1) and (4) amended and (1.5) added, (HB 14-1283), ch. 239, p. 882, § 1, effective May 21.

C.R.S. §12-42.5-403 (2016)

12-42.5-403. Prescription drug use monitoring program - registration required - rules

(1) The board shall develop or procure a prescription controlled substance electronic program to track information regarding prescriptions for controlled substances dispensed in Colorado, including the following information:

(a) The date the prescription was dispensed;

(b) The name of the patient and the practitioner;

(c) The name and amount of the controlled substance;

(d) The method of payment;

(e) The name of the dispensing pharmacy; and

(f) Any other data elements necessary to determine whether a patient is visiting multiple practitioners or pharmacies, or both, to receive the same or similar medication.

(1.5) (a) By January 1, 2015, or by an earlier date determined by the director of the division, every practitioner in this state who holds a current registration issued by the federal drug enforcement administration and every pharmacist shall register and maintain a user account with the program.

(b) When registering with the program or at any time thereafter, a practitioner or pharmacist may authorize up to three designees to access the program under section 12-42.5-404 (3) (b), (3) (c), or (3) (d), as applicable, on behalf of the practitioner or pharmacist if:

(I) (A) The authorized designee of the practitioner is employed by, or is under contract with, the same professional practice as the practitioner; or

(B) The authorized designee of the pharmacist is employed by, or is under contract with, the same prescription drug outlet as the pharmacist; and

(II) The practitioner or pharmacist takes reasonable steps to ensure that the designee is sufficiently competent in the use of the program; and

(III) The practitioner or pharmacist remains responsible for:

(A) Ensuring that access to the program by the practitioner's designee is limited to the purposes authorized in section 12-42.5-404 (3) (b) or (3) (c) or that access to the program by the pharmacist's designee is limited to the purposes authorized in section 12-42.5-404 (3) (d), as the case may be, and that access to the program occurs in a manner that protects the confidentiality of the information obtained from the program; and

(B) Any negligent breach of confidentiality of information obtained from the program by the practitioner's or pharmacist's designee.

(c) A practitioner or pharmacist is subject to penalties pursuant to section 12-42.5-406 for violating the requirements of paragraph (b) of this subsection (1.5).

(d) Any individual authorized as a designee of a practitioner or pharmacist pursuant to paragraph (b) of this subsection (1.5) shall register as a designee of a practitioner or pharmacist with the program for program data access in accordance with section 12-42.5-404 (3) (b), (3) (c), or (3) (d), as applicable, and board rules.

(2) Each practitioner and each dispensing pharmacy shall disclose to a patient receiving a controlled substance that his or her identifying prescription information will be entered into the program database and may be accessed for limited purposes by specified individuals.

(3) The board shall establish a method and format for prescription drug outlets to convey the necessary information to the board or its designee. The method must not require more than a one-time entry of data per patient per prescription by a prescription drug outlet.

(4) The division may contract with any individual or public or private agency or organization in carrying out the data collection and processing duties required by this part 4.

HISTORY: Source: L. 2012: Entire article added with relocations, (HB 12-1311), ch. 281, p. 1591, § 1, effective July 1.L. 2014: (1.5) added, (HB 14-1283), ch. 239, p. 882, § 2, effective May 21.

C.R.S. §12-42.5-404 (2016)

12-42.5-404. Program operation - access - rules

(1) The board shall operate and maintain the program.

(2) The board shall adopt all rules necessary to implement the program.

(3) The program is available for query only to the following persons or groups of persons:

(a) Board staff responsible for administering the program;

(b) Any practitioner with the statutory authority to prescribe controlled substances, or an individual designated by the practitioner to act on his or her behalf in accordance with section 12-42.5-403 (1.5) (b), to the extent the query relates to a current patient of the practitioner to whom the practitioner is prescribing or considering prescribing any controlled substance;

(c) A practitioner, or an individual designated by the practitioner to act on his or her behalf in accordance with section 12-42.5-403 (1.5) (b), engaged in a legitimate program to monitor a patient's drug abuse;

(c.5) The medical director, or his or her designee, at a facility that treats addiction with controlled substances, if an individual in treatment at the facility gives permission to the facility to access his or her program records;

(d) A pharmacist, an individual designated by a pharmacist in accordance with section 12-42.5-403 (1.5) (b) to act on his or her behalf, or a pharmacist licensed in another state, to the extent the information requested relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing a controlled substance or to whom the pharmacist is providing clinical patient care services;

(e) Law enforcement officials so long as the information released is specific to an individual patient, pharmacy, or practitioner and is part of a bona fide investigation, and the request for information is accompanied by an official court order or subpoena;

(f) The individual who is the recipient of a controlled substance prescription so long as the information released is specific to the individual;

(g) State regulatory boards within the division and the director of the division so long as the information released is specific to an individual practitioner and is part of a bona fide investigation, and the request for information is accompanied by an official court order or subpoena;

(h) A resident physician with an active physician training license issued by the Colorado medical board pursuant to section 12-36-122 and under the supervision of a licensed physician.

(i) The department of public health and environment for purposes of population-level analysis, but any use of program data by the department is subject to the federal "Health Insurance Portability and Accountability Act of 1996", Pub.L. 104-191, as amended, and implementing federal regulations, including the requirement to remove any identifying data unless exempted from the requirement.

(4) The board shall not charge a practitioner or pharmacy who transmits data in compliance with the operation and maintenance of the program a fee for the transmission of the data.

(5) The board, the department of public health and environment, or the department of health care policy and financing, pursuant to a written agreement that ensures compliance with this part 4, may provide data to qualified personnel of a public or private entity for the purpose of bona fide research or education so long as the data does not identify a recipient of, a practitioner who prescribed, or a prescription drug outlet that dispensed, a prescription drug.

(6) The board shall provide a means of sharing information about individuals whose information is recorded in the program with out-of-state health care practitioners and law enforcement officials that meet the requirements of paragraph (b), (c), or (e) of subsection (3) of this section.

(7) The board shall develop criteria for indicators of misuse, abuse, and diversion of controlled substances and, based on those criteria, provide unsolicited reports of dispensed controlled substances to prescribing practitioners and dispensing pharmacies for purposes of education and intervention to prevent and reduce occurrences of controlled substance misuse, abuse, and diversion. In developing the criteria, the board shall consult with the Colorado dental board, Colorado medical board, state board of nursing, state board of optometry, Colorado podiatry board, and state board of veterinary medicine.

HISTORY: Source: L. 2012: Entire article added with relocations, (HB 12-1311), ch. 281, p. 1592, § 1, effective July 1.L. 2014: (3)(b), (3) (c), (3) (d), (3)(e), (3)(g), and (5) amended and (3)(i) and (7) added, (HB 14-1283), ch. 239, p. 883, § 3, effective May 21; (3)(c.5) added, (HB 14-1173), ch. 291, p. 1192, § 4, effective May 31.

C.R.S. §12-42.5-405 (2016)

12-42.5-405. Prescription drug monitoring fund - creation - gifts, grants, and donations - fee

(1) The board may seek and accept funds from any public or private entity for the purposes of implementing and maintaining the program. The board shall transmit any funds it receives to the state treasurer, who shall credit the same to the prescription drug monitoring fund, which fund is hereby created. The moneys in the fund are subject to annual appropriation by the general assembly for the sole purpose of implementing and maintaining the program. The moneys in the fund must not be

transferred to or revert to the general fund at the end of any fiscal year.

(2) After implementing the program, the board shall seek gifts, grants, and donations on an annual basis for the purpose of maintaining the program. The board shall report annually to the health and human services committee of the senate and the health and environment committee of the house of representatives, or any successor committees, regarding the gifts, grants, and donations requested, of whom they were requested, and the amounts received.

(3) If, based upon the appropriations for the direct and indirect costs of the program, there are insufficient funds to maintain the program, the division may collect an annual fee of no more than seventeen dollars and fifty cents for the fiscal years 2011-12 and 2012-13, twenty dollars for the fiscal years 2013-14 and 2014-15, and twenty-five dollars for each fiscal year thereafter, from an individual who holds a license from the division that authorizes him or her to prescribe a controlled substance, as defined in section 18-18-102 (5), C.R.S. The division shall set the fee pursuant to section 24-34-105, C.R.S., and shall collect the fee in conjunction with the license renewal fees collected pursuant to section 24-34-105, C.R.S. Moneys collected pursuant to this subsection (3) are credited to the prescription drug monitoring fund created in subsection (1) of this section.

HISTORY: Source: L. 2012: Entire article added with relocations, (HB 12-1311), ch. 281, p. 1593, § 1, effective July 1.

C.R.S. §12-42.5-406 (2016)

12-42.5-406. Violations - penalties

A person who knowingly releases, obtains, or attempts to obtain information from the program in violation of this part 4 shall be punished by a civil fine of not less than one thousand dollars and not more than ten thousand dollars for each violation. Fines paid shall be deposited in the general fund.

HISTORY: Source: L. 2012: Entire article added with relocations, (HB 12-1311), ch. 281, p. 1593, § 1, effective July 1.

C.R.S. §12-42.5-407 (2016)

12-42.5-407. Prescription drug outlets - prescribers - responsibilities - liability

(1) A prescription drug outlet shall submit information in the manner required by the board.

(2) A practitioner who has, in good faith, written a prescription for a controlled substance to a patient is not liable for information submitted to the program. A practitioner or prescription drug outlet who has, in good faith, submitted the required information to the program is not liable for participation in the program.

HISTORY: Source: L. 2012: Entire article added with relocations, (HB 12-1311), ch. 281, p. 1593, § 1, effective July 1.

C.R.S. §12-42.5-408 (2016)

12-42.5-408. Exemption - waiver

(1) A hospital licensed or certified pursuant to section 25-1.5-103, C.R.S., a prescription drug outlet located within the hospital that is dispensing a controlled substance for a chart order or dispensing less than or equal to a twenty-four-hour supply of a controlled substance, and emergency medical services personnel certified pursuant to section 25-3.5-203, C.R.S., are exempt from the reporting provisions of this part 4. A hospital prescription drug outlet licensed pursuant to section 12-42.5-112 shall comply with the provisions of this part 4 for controlled substances dispensed for outpatient care that have more than a twenty-four-hour supply.

(2) A prescription drug outlet that does not report controlled substance data to the program due to a lack of electronic automation of the outlet's business may apply to the board for a waiver from the reporting requirements.

HISTORY: Source: L. 2012: Entire article added with relocations, (HB 12-1311), ch. 281, p. 1594, § 1, effective July 1.

C.R.S. §12-42.5-408.5 (2016)

12-42.5-408.5. Examination and analysis of prescription drug monitoring program - recommendations to executive director

(1) The executive director of the department of regulatory agencies shall create a prescription drug monitoring program task force or consult with and request assistance from the Colorado team assembled by the governor's office to develop a strategic plan to reduce prescription drug abuse, or its successor group, in order to:

(a) Examine issues, opportunities, and weaknesses of the program, including how personal information is secured in the program and whether inclusion of personal identifying information in the program and access to that information is necessary; and

(b) Make recommendations to the executive director on ways to make the program a more effective tool for practitioners and pharmacists in order to reduce prescription drug abuse in this state.

(2) If the executive director convenes a task force or obtains assistance from the Colorado team, the applicable group shall submit annual reports to the executive director and the general assembly

detailing its findings and recommendations. Notwithstanding section 24-1-136 (11), C.R.S., the requirement in this section to report to the general assembly continues indefinitely.

(3) If the executive director convenes a task force, the members of the task force serve on a voluntary basis and are not entitled to compensation or expense reimbursement.

HISTORY: Source: L. 2014: Entire section added, (HB 14-1283), ch. 239, p. 885, § 4, effective May 21.

C.R.S. §12-42.5-409 (2016)

12-42.5-409. Repeal of part

This part 4 is repealed, effective July 1, 2021. Prior to its repeal, the department of regulatory agencies shall review the functions of the board and the program under this part 4 as provided in section 24-34-104, C.R.S.

HISTORY: Source: L. 2012: Entire article added with relocations, (HB 12-1311), ch. 281, p. 1594, § 1, effective July 1.