

HOUSE BILL 1432

J2, J1

EMERGENCY BILL

7lr0136

By: **Chair, Health and Government Operations Committee (By Request – Departmental – Health and Mental Hygiene) and Delegates Bromwell, Kipke, Hayes, Reznik, Wilkins, Morhaim, Platt, Malone, Pena-Melnyk, B. Wilson, Folden, Pendergrass, Angel, Barron, Cullison, Hill, Kelly, Krebs, Metzgar, Miele, Morales, Morgan, Rosenberg, Saab, Sample-Hughes, Szeliga, West, and K. Young**

Introduced and read first time: February 10, 2017

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2017

CHAPTER _____

1 AN ACT concerning

2 **Health Care Providers – Prescription Opioids – Limits on Prescribing**
3 **(The Prescriber Limits Act of 2017)**

4 FOR the purpose of ~~authorizing the Department of Health and Mental Hygiene to take~~
5 ~~certain action relating to a controlled dangerous substances registration under~~
6 ~~certain circumstances; prohibiting health care providers from prescribing to a~~
7 ~~patient more than a certain number of days' supply of certain opioid controlled~~
8 ~~dangerous substances under certain circumstances~~ requiring health care providers
9 to prescribe a certain dosage and a certain quantity of an opioid unless the opioid is
10 prescribed to treat a certain disorder or certain pain; requiring the dosage, quantity,
11 and duration of certain prescribed opioids to be based on a certain guideline;
12 providing that a violation of a certain provision of this Act is grounds for disciplinary
13 action by a certain health occupations board; requiring certain health occupations
14 boards to adopt certain regulations; ~~authorizing certain health occupations boards~~
15 ~~to take certain disciplinary actions against certain individuals for a violation of~~
16 ~~certain provisions of this Act; defining a certain term; making this Act an emergency~~
17 ~~measure; and generally relating to the prescribing of opioid controlled dangerous~~
18 ~~substances.~~

19 ~~BY repealing and reenacting, with amendments,~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Article – Criminal Law~~
2 ~~Section 5–307(a)~~
3 ~~Annotated Code of Maryland~~
4 ~~(2012 Replacement Volume and 2016 Supplement)~~

5 BY adding to
6 Article – Health Occupations
7 Section 1–223, 4–315(a)(35), 8–316(a)(36), and 14–404(a)(43)
8 Annotated Code of Maryland
9 (2014 Replacement Volume and 2016 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article – Health Occupations
12 Section 4–315(a)(33) and (34), 8–316(a)(34)(ii) and (35), 14–404(a)(41)(ii) and (42),
13 and 16–311(a)(8)
14 Annotated Code of Maryland
15 (2014 Replacement Volume and 2016 Supplement)

16 Preamble

17 WHEREAS, The number of overdose deaths in the United States involving opioids
18 rose from 28,647 in 2014 to 33,091 in 2015; and

19 WHEREAS, The number of overdose deaths in the United States involving heroin
20 rose from 10,574 in 2014 to 12,990 in 2015; and

21 WHEREAS, The rise in overdose deaths is attributable to the surge of opioid
22 dependence that has emerged in Maryland over the past two decades, stemming from a
23 dramatic increase in the number of opioid medications prescribed by the medical
24 community and the influx of cheap, potent heroin and fentanyl; and

25 WHEREAS, The epidemic of opioid dependence represents an urgent and growing
26 public health threat, cutting across all demographics and geographical areas in Maryland,
27 and also represents a serious threat to the security and economic well-being of the State;
28 and

29 WHEREAS, The State is undertaking numerous efforts to combat the opioid
30 epidemic, and the Medicaid program received expenditure authority under § 1115 of the
31 federal Social Security Act to expand the State's current substance use treatment efforts to
32 allow the State to claim matching federal funds for residential substance use disorder
33 treatment in nonpublic Institutions for Mental Diseases; and

34 WHEREAS, It is the intent of the General Assembly that the State Board of Dental
35 Examiners, State Board of Nursing, State Board of Physicians, and State Board of Podiatric
36 Medical Examiners shall work to educate practitioners to ensure that the residents of
37 Maryland are aware of the risks associated with the use of opioid drugs, including the risks

1 of dependence, addiction, and overdose, and the dangers of taking an opioid drug with
2 alcohol, benzodiazepines, and other depressants; now, therefore,

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
4 That the Laws of Maryland read as follows:

5 ~~Article – Criminal Law~~

6 ~~5-307.~~

7 ~~(a) Subject to the notice and hearing provisions of § 5-308 of this subtitle, the~~
8 ~~Department may deny a registration to any applicant, suspend or revoke a registration, or~~
9 ~~refuse to renew a registration if the Department finds that the applicant or registrant:~~

10 ~~(1) has materially falsified an application filed in accordance with or~~
11 ~~required by this title;~~

12 ~~(2) has been convicted of a crime under federal law or the law of any state~~
13 ~~relating to a controlled dangerous substance;~~

14 ~~(3) has had federal registration suspended or revoked and may no longer~~
15 ~~manufacture, distribute, or dispense a controlled dangerous substance; [or]~~

16 ~~(4) has violated this title; OR~~

17 ~~(5) HAS FAILED TO COMPLY WITH THE OPIOID PRESCRIBING~~
18 ~~LIMITATION ESTABLISHED UNDER § 1-223 OF THE HEALTH OCCUPATIONS~~
19 ~~ARTICLE.~~

20 Article – Health Occupations

21 1-223.

22 (A) IN THIS SECTION, “CONTROLLED DANGEROUS SUBSTANCE” HAS THE
23 MEANING STATED IN § 5-101 OF THE CRIMINAL LAW ARTICLE.

24 ~~(B) ON THE INITIAL CONSULTATION OR TREATMENT FOR PAIN, A HEALTH~~
25 ~~CARE PROVIDER MAY NOT PRESCRIBE TO A PATIENT MORE THAN A 7 DAY SUPPLY~~
26 ~~OF AN OPIOID THAT IS A SCHEDULE II OR SCHEDULE III CONTROLLED DANGEROUS~~
27 ~~SUBSTANCE UNLESS THE OPIOID IS PRESCRIBED TO TREAT:~~

28 ~~(1) A SUBSTANCE RELATED DISORDER;~~

29 ~~(2) PAIN ASSOCIATED WITH A CANCER DIAGNOSIS; OR~~

1 ~~(3) PAIN EXPERIENCED WHILE THE PATIENT IS RECEIVING~~
2 ~~END-OF-LIFE, HOSPICE, OR PALLIATIVE CARE FOR AN INCURABLE ILLNESS.~~

3 (B) ON TREATMENT FOR PAIN, A HEALTH CARE PROVIDER, BASED ON THE
4 CLINICAL JUDGMENT OF THE HEALTH CARE PROVIDER, SHALL PRESCRIBE:

5 (1) THE LOWEST EFFECTIVE DOSE OF AN OPIOID; AND

6 (2) A QUANTITY THAT IS NO GREATER THAN THE QUANTITY NEEDED
7 FOR THE EXPECTED DURATION OF PAIN SEVERE ENOUGH TO REQUIRE AN OPIOID
8 THAT IS A CONTROLLED DANGEROUS SUBSTANCE UNLESS THE OPIOID IS
9 PRESCRIBED TO TREAT:

10 (I) A SUBSTANCE-RELATED DISORDER;

11 (II) PAIN ASSOCIATED WITH A CANCER DIAGNOSIS;

12 (III) PAIN EXPERIENCED WHILE THE PATIENT IS RECEIVING
13 END-OF-LIFE, HOSPICE, OR PALLIATIVE CARE SERVICES; OR

14 (IV) CHRONIC PAIN.

15 (C) THE DOSAGE, QUANTITY, AND DURATION OF AN OPIOID PRESCRIBED
16 UNDER SUBSECTION (B) OF THIS SECTION SHALL BE BASED ON AN EVIDENCE-BASED
17 CLINICAL GUIDELINE FOR PRESCRIBING CONTROLLED DANGEROUS SUBSTANCES
18 THAT IS APPROPRIATE FOR:

19 (1) THE HEALTH CARE SERVICE DELIVERY SETTING FOR THE
20 PATIENT;

21 (2) THE TYPE OF HEALTH CARE SERVICES REQUIRED BY THE
22 PATIENT; AND

23 (3) THE AGE AND HEALTH STATUS OF THE PATIENT.

24 ~~(D)~~ (D) A VIOLATION OF SUBSECTION (B) OF THIS SECTION IS GROUNDS
25 FOR DISCIPLINARY ACTION BY THE HEALTH OCCUPATIONS BOARD THAT REGULATES
26 THE HEALTH CARE PROVIDER WHO COMMITS THE VIOLATION.

27 ~~(D) THE FOLLOWING HEALTH OCCUPATIONS BOARDS THAT REGULATE~~
28 ~~HEALTH CARE PROVIDERS WHO HAVE THE AUTHORITY TO PRESCRIBE CONTROLLED~~
29 ~~DANGEROUS SUBSTANCES THAT ARE OPIOIDS SHALL ADOPT REGULATIONS AS~~
30 ~~NECESSARY TO IMPLEMENT THIS SECTION;~~

1 ~~(1) THE STATE BOARD OF PHYSICIANS;~~

2 ~~(2) THE STATE BOARD OF NURSING;~~

3 ~~(3) THE STATE BOARD OF DENTAL EXAMINERS; AND~~

4 ~~(4) THE STATE BOARD OF PODIATRIC MEDICAL EXAMINERS.~~

5 4-315.

6 (a) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may
7 deny a general license to practice dentistry, a limited license to practice dentistry, or a
8 teacher's license to practice dentistry to any applicant, reprimand any licensed dentist,
9 place any licensed dentist on probation, or suspend or revoke the license of any licensed
10 dentist, if the applicant or licensee:

11 (33) Fails to comply with any Board order; [or]

12 (34) Willfully and without legal justification, fails to cooperate with a lawful
13 investigation conducted by the Board; OR

14 **(35) FAILS TO COMPLY WITH ~~THE OPIOID PRESCRIBING LIMITATION~~**
15 **~~ESTABLISHED UNDER § 1-223 OF THIS ARTICLE.~~**

16 8-316.

17 (a) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may
18 deny a license or grant a license, including a license subject to a reprimand, probation, or
19 suspension, to any applicant, reprimand any licensee, place any licensee on probation, or
20 suspend or revoke the license of a licensee if the applicant or licensee:

21 (34) When acting in a supervisory position, directs another nurse to delegate
22 a nursing task to an individual when that nurse reasonably believes:

23 (ii) The patient's condition does not allow delegation of the nursing
24 task; [or]

25 (35) Has misappropriated the property of a patient or a facility; OR

26 **(36) FAILS TO COMPLY WITH ~~THE OPIOID PRESCRIBING LIMITATION~~**
27 **~~ESTABLISHED UNDER § 1-223 OF THIS ARTICLE.~~**

28 14-404.

29 (a) Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary
30 panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may

1 reprimand any licensee, place any licensee on probation, or suspend or revoke a license if
2 the licensee:

3 (41) Performs a cosmetic surgical procedure in an office or a facility that is
4 not:

5 (ii) Certified to participate in the Medicare program, as enacted by
6 Title XVIII of the Social Security Act; [or]

7 (42) Fails to submit to a criminal history records check under § 14–308.1 of
8 this title; **OR**

9 (43) **FAILS TO COMPLY WITH ~~THE OPIOID PRESCRIBING LIMITATION~~**
10 **~~ESTABLISHED UNDER § 1–223 OF THIS ARTICLE.~~**

11 16–311.

12 (a) Subject to the hearing provisions of § 16–313 of this subtitle, the Board, on the
13 affirmative vote of a majority of its members then serving, may deny a license or a limited
14 license to any applicant, reprimand any licensee or holder of a limited license, impose an
15 administrative monetary penalty not exceeding \$50,000 on any licensee or holder of a
16 limited license, place any licensee or holder of a limited license on probation, or suspend or
17 revoke a license or a limited license if the applicant, licensee, or holder:

18 (8) Prescribes or distributes a controlled dangerous substance to any other
19 person in violation of the law, **INCLUDING IN VIOLATION OF ~~THE OPIOID PRESCRIBING~~**
20 **~~LIMITATION ESTABLISHED UNDER § 1–223 OF THIS ARTICLE;~~**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
22 measure, is necessary for the immediate preservation of the public health or safety, has
23 been passed by a ye and nay vote supported by three–fifths of all the members elected to
24 each of the two Houses of the General Assembly, and shall take effect from the date it is
25 enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.