

SENATE BILL 522

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CF HB 653

By: **Senators Klausmeier, DeGrange, Middleton, Simonaire, Smith, Young, and Zucker**

Introduced and read first time: January 29, 2018

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Providers – Opioid Prescriptions – Discussion of Information and**
3 **Risks**

4 FOR the purpose of requiring certain health care providers to discuss certain information
5 and risks associated with the prescription of certain opioids with certain patients or,
6 under certain circumstances, certain parents or guardians at certain times;
7 requiring certain health care providers to obtain a certain written acknowledgment
8 and include the acknowledgment in certain patients' medical records; requiring the
9 Maryland Department of Health to develop and make available a certain model form
10 that includes certain guidelines; making the failure to provide certain patients,
11 parents, and guardians with certain information and obtain a certain written
12 acknowledgment a violation for which certain health occupations boards are
13 authorized to take certain disciplinary actions against certain individuals; making
14 conforming changes; and generally relating to the discussion of information and risks
15 associated with opioids that are controlled dangerous substances.

16 BY repealing and reenacting, with amendments,
17 Article – Health Occupations
18 Section 1–223
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2017 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Health Occupations
23 Section 4–315(a)(35), 8–316(a)(36), 14–404(a)(43), and 16–311(a)(8)
24 Annotated Code of Maryland
25 (2014 Replacement Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health Occupations

1-223.

(a) In this section, “controlled dangerous substance” has the meaning stated in § 5–101 of the Criminal Law Article.

(B) (1) BEFORE PRESCRIBING AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE AS TREATMENT FOR PAIN, A HEALTH CARE PROVIDER SHALL DISCUSS WITH THE PATIENT OR, IF THE PATIENT IS A MINOR, THE PARENT OR GUARDIAN OF THE PATIENT:

(I) THE REASONS WHY THE PRESCRIPTION IS NECESSARY;

(II) THE RISKS ASSOCIATED WITH THE USE OF THE OPIOID, INCLUDING THE RISK OF:

1. ADDICTION AND OVERDOSE, EVEN WHEN TAKEN AS PRESCRIBED;

2. DEVELOPING A PHYSICAL OR PSYCHOLOGICAL DEPENDENCE ON THE OPIOID; AND

3. TAKING MORE OPIOIDS THAN PRESCRIBED;

(III) THE DANGERS OF TAKING OPIOIDS WITH ALCOHOL, BENZODIAZEPINES, AND OTHER CENTRAL NERVOUS SYSTEM DEPRESSANTS, INCLUDING THE DANGER OF FATAL RESPIRATORY DEPRESSION; AND

(IV) ALTERNATIVE TREATMENTS THAT MAY BE AVAILABLE.

(2) A HEALTH CARE PROVIDER SHALL DISCUSS THE INFORMATION AND RISKS DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION BEFORE ISSUING:

(I) AN INITIAL PRESCRIPTION FOR AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE; AND

(II) A THIRD PRESCRIPTION FOR AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE IN THE SAME COURSE OF TREATMENT.

(3) (I) A HEALTH CARE PROVIDER SHALL OBTAIN A WRITTEN ACKNOWLEDGMENT FROM THE PATIENT OR, IF THE PATIENT IS A MINOR, THE

1 PARENT OR GUARDIAN OF THE PATIENT THAT THE PATIENT OR PARENT OR
2 GUARDIAN HAS DISCUSSED THE INFORMATION AND RISKS DESCRIBED UNDER
3 PARAGRAPH (1) OF THIS SUBSECTION WITH THE HEALTH CARE PROVIDER.

4 (II) THE HEALTH CARE PROVIDER SHALL INCLUDE A COPY OF
5 THE WRITTEN ACKNOWLEDGMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
6 PARAGRAPH IN THE PATIENT'S MEDICAL RECORD.

7 (III) 1. THE DEPARTMENT SHALL DEVELOP AND MAKE
8 AVAILABLE A MODEL FORM FOR HEALTH CARE PROVIDERS TO USE AS THE WRITTEN
9 ACKNOWLEDGMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

10 2. THE FORM DEVELOPED UNDER SUBSUBPARAGRAPH 1
11 OF THIS SUBPARAGRAPH SHALL INCLUDE GUIDELINES FOR HEALTH CARE
12 PROVIDERS FOR ENGAGING IN THE DISCUSSION REQUIRED UNDER PARAGRAPH (1)
13 OF THIS SUBSECTION.

14 [(b)] (C) (1) On treatment for pain, a health care provider, based on the
15 clinical judgment of the health care provider, shall prescribe:

16 [(1)] (I) The lowest effective dose of an opioid; and

17 [(2)] (II) A quantity that is no greater than the quantity needed for the
18 expected duration of pain severe enough to require an opioid that is a controlled dangerous
19 substance unless the opioid is prescribed to treat:

20 [(i)] 1. A substance-related disorder;

21 [(ii)] 2. Pain associated with a cancer diagnosis;

22 [(iii)] 3. Pain experienced while the patient is receiving
23 end-of-life, hospice, or palliative care services; or

24 [(iv)] 4. Chronic pain.

25 [(c)] (2) The dosage, quantity, and duration of an opioid prescribed under
26 [subsection (b)] PARAGRAPH (1) of this [section] SUBSECTION shall be based on an
27 evidence-based clinical guideline for prescribing controlled dangerous substances that is
28 appropriate for:

29 [(1)] (I) The health care service delivery setting for the patient;

30 [(2)] (II) The type of health care services required by the patient; and

31 [(3)] (III) The age and health status of the patient.

1 (d) A violation of [subsection (b) of] this section is grounds for disciplinary action
2 by the health occupations board that regulates the health care provider who commits the
3 violation.

4 4–315.

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

10 (35) Fails to comply with § 1–223 of this article.

11 8–316.

12 (a) Subject to the hearing provisions of § 8–317 of this subtitle, the Board may
13 deny a license or grant a license, including a license subject to a reprimand, probation, or
14 suspension, to any applicant, reprimand any licensee, place any licensee on probation, or
15 suspend or revoke the license of a licensee if the applicant or licensee:

16 (36) Fails to comply with § 1–223 of this article.

17 14–404.

18 (a) Subject to the hearing provisions of § 14–405 of this subtitle, a disciplinary
19 panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may
20 reprimand any licensee, place any licensee on probation, or suspend or revoke a license if
21 the licensee:

22 (43) Fails to comply with § 1–223 of this article.

23 16–311.

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

30 (8) Prescribes or distributes a controlled dangerous substance to any other
31 person in violation of the law, including in violation of § 1–223 of this article;

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2018.