

HOUSE BILL 316

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By: **Delegates Hill, Bagnall, Carr, Charles, Cullison, Ebersole, Feldmark, Haynes, Kelly, Kittleman, Krebs, Krimm, R. Lewis, Miller, Shetty, Smith, Terrasa, and C. Watson**

Introduced and read first time: January 20, 2020

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Schedule II Controlled Dangerous Substances – Partial Filling**
3 **of Prescriptions**

4 FOR the purpose of authorizing a certain authorized provider to partially fill a prescription
5 for a controlled dangerous substance listed in Schedule II in a quantity less than the
6 prescribed amount on request of the patient; authorizing a certain authorized
7 provider to fill the remaining portion of a partially filled prescription if the remaining
8 portion is dispensed within a certain time period and by a certain authorized
9 provider; requiring a certain authorized provider who partially fills a prescription
10 for a controlled dangerous substance listed in Schedule II to promptly write out and
11 file a certain record and make a certain record available to the prescribing authorized
12 provider or a certain pharmacist on request; requiring certain entities to treat a
13 certain prescription in a certain manner for a certain purpose; requiring certain
14 regulations to require a certain prescription to be treated in a certain manner for a
15 certain purpose; and generally relating to the partial filling of prescriptions for
16 Schedule II controlled dangerous substances.

17 BY repealing and reenacting, with amendments,
18 Article – Criminal Law
19 Section 5–501
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2019 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Health – General
24 Section 15–118
25 Annotated Code of Maryland
26 (2019 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Insurance
3 Section 15–118.1
4 Annotated Code of Maryland
5 (2017 Replacement Volume and 2019 Supplement)

6 BY adding to
7 Article – State Personnel and Pensions
8 Section 2–503(e)
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2019 Supplement)

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

13 **Article – Criminal Law**

14 5–501.

15 (a) Except as provided in subsection (b) of this section, a person may not dispense
16 a controlled dangerous substance without a written prescription from an authorized
17 provider if the substance is:

18 (1) listed in Schedule II; and

19 (2) a drug to which § 21–220 of the Health – General Article applies.

20 (b) A controlled dangerous substance to which subsection (a) of this section
21 applies may be dispensed without a written prescription by:

22 (1) an authorized provider who:

23 (i) is not a pharmacist; and

24 (ii) dispenses the controlled dangerous substance directly to an
25 ultimate user; or

26 (2) a pharmacist if:

27 (i) an emergency exists;

28 (ii) the pharmacist dispenses the drug under regulations of the
29 Department on an oral prescription that the pharmacist reduces promptly to writing and
30 keeps on file; and

31 (iii) federal law authorizes the oral prescription.

1 (c) A prescription for a controlled dangerous substance listed in Schedule II shall
2 be kept on file in conformity with the requirements for records and inventories under §
3 5-306 of this title.

4 (d) A person may not refill a prescription for a controlled dangerous substance
5 listed in Schedule II.

6 **(E) (1) AN AUTHORIZED PROVIDER AUTHORIZED TO DISPENSE A
7 CONTROLLED DANGEROUS SUBSTANCE UNDER STATE LAW MAY FILL A
8 PRESCRIPTION FOR A CONTROLLED DANGEROUS SUBSTANCE LISTED IN SCHEDULE
9 II IN A QUANTITY LESS THAN THE PRESCRIBED AMOUNT ON REQUEST OF THE
10 PATIENT.**

11 **(2) AN AUTHORIZED PROVIDER AUTHORIZED TO DISPENSE A
12 CONTROLLED DANGEROUS SUBSTANCE UNDER STATE LAW MAY FILL THE
13 REMAINING PORTION OF A PRESCRIPTION THAT HAS BEEN PARTIALLY FILLED
14 UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE REMAINING PORTION IS
15 DISPENSED:**

16 **(I) WITHIN 60 DAYS AFTER THE PRESCRIPTION WAS PARTIALLY
17 FILLED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND**

18 **(II) BY:**

19 **1. THE SAME AUTHORIZED PROVIDER THAT PARTIALLY
20 FILLED THE PRESCRIPTION UNDER PARAGRAPH (1) OF THIS SUBSECTION; OR**

21 **2. AN AUTHORIZED PROVIDER AUTHORIZED TO
22 DISPENSE A CONTROLLED DANGEROUS SUBSTANCE UNDER STATE LAW THAT
23 RECEIVES A TRANSFERRED PRESCRIPTION FROM THE AUTHORIZED PROVIDER
24 THAT PARTIALLY FILLED THE PRESCRIPTION UNDER PARAGRAPH (1) OF THIS
25 SUBSECTION, IF THE TRANSFERRING AUTHORIZED PROVIDER HAS NOTED HOW
26 MUCH OF THE PRESCRIPTION WAS INITIALLY DISPENSED.**

27 **(3) AN AUTHORIZED PROVIDER WHO PARTIALLY FILLS A
28 PRESCRIPTION UNDER THIS SUBSECTION SHALL:**

29 **(I) PROMPTLY WRITE OUT AND FILE A RECORD OF THE
30 PARTIALLY FILLED PRESCRIPTION INDICATING:**

31 **1. THAT THE PRESCRIPTION WAS PARTIALLY FILLED;**

32 **2. THE QUANTITY DISPENSED; AND**

1 **3. IF THE PRESCRIPTION WAS TRANSFERRED TO OR**
2 **FROM THE AUTHORIZED PROVIDER UNDER PARAGRAPH (2)(II)2 OF THIS**
3 **SUBSECTION, THE NAME AND BUSINESS ADDRESS OF THE AUTHORIZED PROVIDER**
4 **TO OR FROM WHICH THE PRESCRIPTION WAS TRANSFERRED; AND**

5 **(II) ON REQUEST, MAKE THE RECORD FILED UNDER ITEM (I) OF**
6 **THIS PARAGRAPH ACCESSIBLE TO THE PRESCRIBING AUTHORIZED PROVIDER OR**
7 **THE PHARMACIST DISPENSING THE CONTROLLED DANGEROUS SUBSTANCE UNDER**
8 **SUBSECTION (B) OF THIS SECTION.**

9 **Article – Health – General**

10 15–118.

11 (a) (1) Unless the prescriber directs otherwise on the form or on an attached
12 signed certification of need, the generic form of the drug authorized under § 12–504 of the
13 Health Occupations Article shall be used to fill the prescription.

14 (2) If the appropriate generic drug is not generally available, the
15 Department may waive the requirement for generic substitution under paragraph (1) of
16 this subsection.

17 (b) (1) Except as provided under paragraph (2) of this subsection, the Program
18 shall establish maximum reimbursement levels for the drug products for which there is a
19 generic equivalent authorized under § 12–504 of the Health Occupations Article, based on
20 the cost of the generic product.

21 (2) If a prescriber directs a specific brand name drug, the reimbursement
22 level shall be based on the cost of the brand name product.

23 (c) (1) Except as provided under paragraph (4) of this subsection and unless
24 the change is made by an emergency regulation, the Program shall notify all pharmacies
25 under contract with the Program in writing of changes in the Pharmaceutical Benefit
26 Program rules or requirements at least 30 days before the change is effective.

27 (2) Changes that require 30 days' advance written notice under paragraph
28 (1) of this subsection are:

29 (i) Exclusion of coverage for classes of drugs as specified by contract;

30 (ii) Changes in prior or preauthorization procedures; and

31 (iii) Selection of new prescription claims processors.

32 (3) If the Program fails to provide advance notice as required under
33 paragraph (1) of this subsection, it shall honor and pay in full any claim under the Program

1 rules or requirements that existed before the change for 30 days after the postmarked date
2 of the notice.

3 (4) Notwithstanding any other provision of law, the notice requirements of
4 this subsection do not apply to the addition of new generic drugs authorized under §
5 12-504 of the Health Occupations Article.

6 **(D) A MANAGED CARE ORGANIZATION SHALL TREAT A PRESCRIPTION**
7 **FILLED IN PARTS UNDER § 5-501(E) OF THE CRIMINAL LAW ARTICLE AS IF THE**
8 **PRESCRIPTION HAD BEEN FILLED AT ONE TIME FOR THE PURPOSE OF CHARGING OR**
9 **COLLECTING A COPAYMENT, COINSURANCE PAYMENT, OR ANY OTHER**
10 **COST-SHARING PAYMENT FOR THE PRESCRIPTION.**

11 **[(d)] (E)** The Secretary shall adopt regulations to carry out the provisions of this
12 section.

13 **[(e)] (F)** Except for a prescription for a prescription drug that contains a
14 substance listed in Schedule II or that is determined by the Secretary to present an
15 emerging threat in the State because of increasing abuse or diversion, the provisions of §
16 21-220(b)(1) of this article shall apply to the Program.

17 **Article - Insurance**

18 **15-118.1.**

19 **(A) IN THIS SUBSECTION, "CARRIER" MEANS:**

20 **(1) AN INSURER;**

21 **(2) A NONPROFIT HEALTH SERVICE PLAN;**

22 **(3) A HEALTH MAINTENANCE ORGANIZATION;**

23 **(4) A DENTAL PLAN ORGANIZATION; OR**

24 **(5) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS**
25 **SUBJECT TO REGULATION BY THE STATE.**

26 **(B) A CARRIER SHALL TREAT A PRESCRIPTION FILLED IN PARTS UNDER §**
27 **5-501(E) OF THE CRIMINAL LAW ARTICLE AS THE CARRIER WOULD TREAT THE**
28 **PRESCRIPTION IF IT HAD BEEN FILLED AT ONE TIME FOR THE PURPOSES OF**
29 **CHARGING OR COLLECTING A COPAYMENT, COINSURANCE PAYMENT, OR ANY OTHER**
30 **COST-SHARING PAYMENT FOR THE PRESCRIPTION.**

31 **Article - State Personnel and Pensions**

1 2-503.

2 **(E) THE REGULATIONS ADOPTED BY THE SECRETARY SHALL REQUIRE**
3 **THAT A PRESCRIPTION FILLED IN PARTS UNDER § 5-501(E) OF THE CRIMINAL LAW**
4 **ARTICLE BE TREATED AS IF THE PRESCRIPTION HAD BEEN FILLED AT ONE TIME FOR**
5 **THE PURPOSES OF CHARGING OR COLLECTING A COPAYMENT, COINSURANCE**
6 **PAYMENT, OR ANY OTHER COST-SHARING PAYMENT FOR THE PRESCRIPTION.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2020.