

HOUSE BILL 1486

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CF SB 752

By: **Delegates Johnson, Pendergrass, Acevero, Arikan, Hill, Kelly, Kerr, Kipke, Krebs, R. Lewis, Parrott, Saab, Shetty, Szeliga, and Valderrama**

Introduced and read first time: February 7, 2020

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Non–Controlled Substance Prescription Record System**
3 **Program**

4 FOR the purpose of establishing the NCS Prescription Record System Program under the
5 Maryland Health Care Commission; providing for the purpose of the Program;
6 requiring the Commission to implement the Program; requiring the Commission to
7 establish standards for selecting a certain prescription information system and any
8 other means for the transmission of certain information within the Program;
9 requiring that certain standards include certain requirements; requiring the
10 Commission to consider certain information to the extent practicable when making
11 a certain determination; requiring the Commission to make certain determinations;
12 requiring a certain dispenser to submit certain information to the Program within a
13 certain period of time; prohibiting a dispenser from submitting certain information
14 to the Program; requiring a dispenser to submit certain information electronically
15 using a certain method; requiring the State–designated health information exchange
16 to accept and store certain information and make certain information available to
17 certain persons; prohibiting the State–designated health information exchange from
18 charging a certain fee or other expense or making available or storing certain
19 information; requiring each certain dispenser and prescriber to provide consumers
20 certain information in a certain manner; requiring the Commission to post certain
21 information on its website; establishing the NCS Prescription Record System
22 Program Advisory Committee; providing for the purpose of the Advisory Committee;
23 providing for the composition, chair, and terms of the Advisory Committee; requiring
24 the Advisory Committee to meet at least quarterly; requiring the Advisory
25 Committee to make certain recommendations; prohibiting a member of the Advisory
26 Committee from receiving certain compensation, but authorizing the reimbursement
27 of certain expenses; requiring the Commission, in consultation with the Secretary of
28 Health, to adopt certain regulations; requiring the Commission to annually report to
29 certain committees of the General Assembly on the Program beginning on a certain
30 date; defining certain terms; specifying the terms of the initial members of the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Advisory Committee; requiring the Commission to submit a certain plan to the
2 General Assembly for approval; providing for the termination of certain provisions
3 of this Act under certain circumstances; and generally relating to the NCS
4 Prescription Record System Program.

5 BY adding to

6 Article – Health – General

7 Section 21–2D–01 through 21–2D–07 to be under the new subtitle “Subtitle 2D. NCS
8 Prescription Record System Program”

9 Annotated Code of Maryland

10 (2019 Replacement Volume)

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

13 **Article – Health – General**

14 **SUBTITLE 2D. NCS PRESCRIPTION RECORD SYSTEM PROGRAM.**

15 **21–2D–01.**

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) “ADVISORY COMMITTEE” MEANS THE NCS PRESCRIPTION RECORD
19 SYSTEM PROGRAM ADVISORY COMMITTEE.

20 (C) “COMMISSION” MEANS THE MARYLAND HEALTH CARE COMMISSION.

21 (D) (1) “DISPENSE” MEANS THE PROCEDURE THAT RESULTS IN THE
22 RECEIPT OF A PRESCRIPTION OR NONPRESCRIPTION DRUG OR DEVICE BY A
23 PATIENT OR THE PATIENT’S AGENT AND THAT ENTAILS:

24 (I) THE INTERPRETATION OF AN AUTHORIZED PRESCRIBER’S
25 PRESCRIPTION FOR A DRUG OR DEVICE;

26 (II) THE SELECTION AND LABELING OF THE PRESCRIBED DRUG
27 OR DEVICE IN ACCORDANCE WITH THE PRESCRIPTION; AND

28 (III) THE MEASURING AND PACKAGING OF THE PRESCRIBED
29 DRUG OR DEVICE IN ACCORDANCE WITH FEDERAL AND STATE LAWS.

30 (2) “DISPENSE” DOES NOT INCLUDE:

31 (I) DIRECT ADMINISTRATION OF A PRESCRIPTION DRUG TO A

1 PATIENT BY A HEALTH CARE PRACTITIONER; OR

2 (II) DISTRIBUTION OF A PRESCRIPTION DRUG SAMPLE TO A
3 PATIENT BY A HEALTH CARE PRACTITIONER.

4 (E) "DISPENSER" HAS THE MEANING STATED IN § 21-2A-01 OF THIS TITLE.

5 (F) "HEALTH CARE PRACTITIONER" MEANS AN INDIVIDUAL WHO IS
6 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH
7 OCCUPATIONS ARTICLE TO PROVIDE MEDICAL SERVICES IN THE ORDINARY
8 COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

9 (G) "NCS PRESCRIPTION DRUG" MEANS A PRESCRIPTION DRUG, AS
10 DEFINED IN § 21-201 OF THIS TITLE, THAT IS NOT A CONTROLLED DANGEROUS
11 SUBSTANCE UNDER TITLE 5, SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE.

12 (H) "PHARMACIST" MEANS AN INDIVIDUAL WHO IS LICENSED UNDER TITLE
13 12 OF THE HEALTH OCCUPATIONS ARTICLE TO DISPENSE A MONITORED
14 PRESCRIPTION DRUG.

15 (I) "PRESCRIBER" MEANS A LICENSED HEALTH CARE PRACTITIONER
16 AUTHORIZED BY LAW TO PRESCRIBE NCS PRESCRIPTION DRUGS.

17 (J) "PRESCRIBER DELEGATE" MEANS AN INDIVIDUAL WHO IS:

18 (1) AUTHORIZED BY A PRESCRIBER TO REQUEST OR ACCESS
19 PRESCRIPTION MONITORING DATA; AND

20 (2) EMPLOYED BY OR UNDER CONTRACT WITH THE SAME
21 PROFESSIONAL PRACTICE AS THE PRESCRIBER.

22 (K) "PRESCRIPTION INFORMATION SYSTEM" MEANS THE SYSTEM AND ANY
23 OTHER MEANS SELECTED BY THE COMMISSION FOR THE TRANSMISSION OF NCS
24 PRESCRIPTION DRUG INFORMATION.

25 (L) "PROGRAM" MEANS THE NCS PRESCRIPTION RECORD SYSTEM
26 PROGRAM.

27 (M) "STATE-DESIGNATED HEALTH INFORMATION EXCHANGE" MEANS THE
28 HEALTH INFORMATION EXCHANGE DESIGNATED BY THE COMMISSION UNDER §
29 19-143 OF THIS ARTICLE.

30 21-2D-02.

1 **(A) THERE IS AN NCS PRESCRIPTION RECORD SYSTEM PROGRAM UNDER**
2 **THE MARYLAND HEALTH CARE COMMISSION.**

3 **(B) THE PURPOSE OF THE PROGRAM IS TO IMPROVE PATIENT SAFETY AND**
4 **REDUCE HEALTH CARE COSTS BY ALLOWING A PRESCRIBER AND PRESCRIBER**
5 **DELEGATE TO ACCESS THE NCS PRESCRIPTION DRUG HISTORY OF A PATIENT,**
6 **INCLUDING DRUGS PRESCRIBED BY OTHER PRESCRIBERS.**

7 **(C) THE COMMISSION SHALL IMPLEMENT THE PROGRAM.**

8 **21-2D-03.**

9 **(A) THE COMMISSION SHALL ESTABLISH BY REGULATION STANDARDS FOR**
10 **SELECTING A PRESCRIPTION INFORMATION SYSTEM THAT MAY ELECTRONICALLY**
11 **TRANSMIT NCS PRESCRIPTION DRUG INFORMATION, AND ANY OTHER MEANS FOR**
12 **THE TRANSMISSION OF NCS PRESCRIPTION DRUG INFORMATION WITHIN THE**
13 **PROGRAM.**

14 **(B) THE STANDARDS DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION**
15 **SHALL REQUIRE A PRESCRIPTION INFORMATION SYSTEM TO:**

16 **(1) MEET THE PRIVACY AND SECURITY CONTROL AND TECHNICAL**
17 **PERFORMANCE STANDARDS ESTABLISHED BY THE COMMISSION;**

18 **(2) COMPLY WITH EACH REQUIRED PRIVACY AND SECURITY**
19 **CONTROL AND TECHNICAL PERFORMANCE STANDARD DURING THE PERIOD OF**
20 **RECOGNITION BY THE COMMISSION;**

21 **(3) ACCEPT NCS PRESCRIPTION DRUG INFORMATION SUBMITTED**
22 **BY DISPENSERS;**

23 **(4) TRANSMIT THE NCS PRESCRIPTION DRUG INFORMATION**
24 **SUBMITTED BY DISPENSERS TO THE STATE-DESIGNATED HEALTH INFORMATION**
25 **EXCHANGE; AND**

26 **(5) MEET AND MAINTAIN COMPLIANCE WITH ANY OTHER STANDARD**
27 **ESTABLISHED BY THE COMMISSION.**

28 **(C) TO THE EXTENT PRACTICABLE, WHEN DETERMINING WHETHER TO**
29 **SELECT A PRESCRIPTION INFORMATION SYSTEM, THE COMMISSION SHALL:**

30 **(1) CONSIDER THE EXTENT TO WHICH THE PRESCRIPTION**

1 INFORMATION SYSTEM IS BEING USED BY DISPENSERS AND PRESCRIBERS; AND

2 (2) MINIMIZE ANY ADVERSE IMPACTS OF IMPLEMENTATION ON
3 DISPENSERS AND PRESCRIBERS.

4 21-2D-04.

5 (A) THE COMMISSION SHALL DETERMINE:

6 (1) THE CATEGORIES OF PRESCRIBERS AND DISPENSERS WHO ARE:

7 (I) REQUIRED TO PARTICIPATE IN AND COMPLY WITH THE
8 REQUIREMENTS OF THE PROGRAM; AND

9 (II) EXCLUDED FROM PARTICIPATING IN THE PROGRAM;

10 (2) THE TIME PERIOD WITHIN WHICH A DISPENSER SHALL TRANSMIT
11 INFORMATION ON A DISPENSED NCS PRESCRIPTION DRUG TO A PRESCRIPTION
12 INFORMATION SYSTEM; AND

13 (3) THE METHOD BY WHICH PATIENTS MAY OPT OUT OF THE
14 PROGRAM.

15 (B) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
16 PARAGRAPH, AFTER DISPENSING AN NCS PRESCRIPTION DRUG, A DISPENSER
17 SHALL SUBMIT ALL REQUIRED INFORMATION ON THE PRESCRIPTION TO THE
18 PROGRAM WITHIN THE TIME PERIOD ESTABLISHED BY THE COMMISSION.

19 (II) A DISPENSER MAY NOT SUBMIT INFORMATION ON AN NCS
20 PRESCRIPTION DRUG FROM A PRESCRIBER WHO IS EXCLUDED FROM THE
21 PROGRAM.

22 (2) A DISPENSER SHALL SUBMIT THE REQUIRED INFORMATION ON A
23 DISPENSED NCS PRESCRIPTION DRUG UNDER PARAGRAPH (1) OF THIS
24 SUBSECTION ELECTRONICALLY USING A PRESCRIPTION INFORMATION SYSTEM.

25 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2)(II) OF THIS
26 SUBSECTION, THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE SHALL:

27 (I) ACCEPT AND STORE NCS PRESCRIPTION DRUG
28 INFORMATION SUBMITTED THROUGH A PRESCRIPTION INFORMATION SYSTEM
29 UNDER THIS SUBTITLE; AND

1 **(II) MAKE NCS PRESCRIPTION DRUG INFORMATION**
2 **AVAILABLE TO PRESCRIBERS, PHARMACISTS, PRESCRIBER DELEGATES, AND**
3 **PHARMACIST DELEGATES IN ACCORDANCE WITH REGULATIONS.**

4 **(2) THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE**
5 **MAY NOT:**

6 **(I) CHARGE ANY OF THE FOLLOWING A FEE OR OTHER**
7 **EXPENSE FOR THE TRANSMISSION OR RETRIEVAL OF NCS PRESCRIPTION DRUG**
8 **INFORMATION WITHIN THE PROGRAM:**

9 1. **A DISPENSER OR PRESCRIBER; OR**

10 2. **A PRESCRIPTION INFORMATION SYSTEM; OR**

11 **(II) MAKE AVAILABLE OR STORE NCS PRESCRIPTION DRUG**
12 **INFORMATION FOR ANY INDIVIDUAL WHO HAS OPTED OUT OF THE PROGRAM OR**
13 **THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE.**

14 **21-2D-05.**

15 **(A) EACH DISPENSER AND PRESCRIBER WHO PARTICIPATES IN THE**
16 **PROGRAM SHALL PROVIDE CONSUMERS, BY AN APPROPRIATE METHOD:**

17 **(1) NOTICE THAT INFORMATION ON AN NCS PRESCRIPTION DRUG**
18 **DISPENSED OR PRESCRIBED BY THE DISPENSER OR PRESCRIBER WILL BE**
19 **SUBMITTED TO THE PROGRAM UNLESS THE CONSUMER OPTS OUT OF THE**
20 **PROGRAM OR THE PRESCRIBER IS EXCLUDED FROM THE PROGRAM;**

21 **(2) A DESCRIPTION OF HOW THE PROGRAM MAY USE THE RECORD**
22 **OF A DISPENSED OR PRESCRIBED NCS PRESCRIPTION DRUG;**

23 **(3) NOTICE THAT NCS PRESCRIPTION DRUG INFORMATION WILL BE**
24 **SHARED WITH HEALTH CARE PRACTITIONERS ENGAGED IN THE PATIENT'S CARE**
25 **UNLESS THE CONSUMER OPTS OUT OF THE PROGRAM OR THE HEALTH CARE**
26 **PRACTITIONER IS EXCLUDED FROM THE PROGRAM;**

27 **(4) THE WEBSITE THROUGH WHICH THE PATIENT MAY OPT OUT OF**
28 **PARTICIPATION IN THE PROGRAM; AND**

29 **(5) ANY INFORMATION REQUIRED BY THE COMMISSION, AFTER**
30 **CONSULTATION WITH THE ADVISORY COMMITTEE.**

1 **(B) THE COMMISSION SHALL POST INFORMATION ON THE PROGRAM ON**
2 **ITS WEBSITE, INCLUDING:**

3 **(1) A DESCRIPTION OF HOW AN INDIVIDUAL CAN OPT OUT OF THE**
4 **PROGRAM; AND**

5 **(2) A LINK TO THE FORM THAT MUST BE USED BY A CONSUMER TO**
6 **OPT OUT OF THE PROGRAM LOCATED ON THE WEBSITE OF THE**
7 **STATE-DESIGNATED HEALTH INFORMATION EXCHANGE.**

8 **21-2D-06.**

9 **(A) THERE IS AN NCS PRESCRIPTION RECORD SYSTEM PROGRAM**
10 **ADVISORY COMMITTEE.**

11 **(B) THE PURPOSE OF THE ADVISORY COMMITTEE IS TO PROVIDE**
12 **CLINICAL AND OPERATIONAL RECOMMENDATIONS TO THE COMMISSION IN THE**
13 **DEVELOPMENT AND IMPLEMENTATION OF THE PROGRAM.**

14 **(C) THE ADVISORY COMMITTEE CONSISTS OF:**

15 **(1) THE FOLLOWING MEMBERS DESIGNATED BY THE COMMISSION:**

16 **(I) ONE PRIMARY CARE PHYSICIAN LICENSED AND**
17 **PRACTICING IN THE STATE, NOMINATED BY THE MARYLAND ACADEMY OF FAMILY**
18 **MEDICINE;**

19 **(II) ONE PRIMARY CARE PHYSICIAN LICENSED AND**
20 **PRACTICING IN THE STATE, NOMINATED BY THE MARYLAND CHAPTER OF THE**
21 **AMERICAN COLLEGE OF PHYSICIANS;**

22 **(III) ONE PHYSICIAN LICENSED AND PRACTICING IN THE**
23 **STATE, NOMINATED BY MEDCHI;**

24 **(IV) ONE EMERGENCY MEDICINE PHYSICIAN LICENSED AND**
25 **PRACTICING IN THE STATE, NOMINATED BY THE MARYLAND AMERICAN COLLEGE**
26 **OF EMERGENCY PHYSICIANS;**

27 **(V) ONE ENDOCRINOLOGIST LICENSED AND PRACTICING IN**
28 **THE STATE WHO TREATS PATIENTS WITH DIABETES, NOMINATED BY THE**
29 **MID-ATLANTIC CHAPTER OF THE AMERICAN COLLEGE OF CLINICAL**
30 **ENDOCRINOLOGISTS;**

1 (VI) ONE PSYCHIATRIST LICENSED AND PRACTICING IN THE
2 STATE, NOMINATED BY THE MARYLAND PSYCHIATRIC SOCIETY;

3 (VII) ONE MEMBER NOMINATED BY THE ATTORNEY GENERAL;

4 (VIII) ONE MEMBER WITH EXPERTISE IN HEALTH INFORMATION
5 TECHNOLOGY, NOMINATED BY THE MARYLAND CHAPTER OF THE HEALTHCARE
6 INFORMATION AND MANAGEMENT SYSTEMS SOCIETY;

7 (IX) ONE PHARMACIST LICENSED AND PRACTICING IN THE
8 STATE, NOMINATED BY THE MARYLAND PHARMACISTS ASSOCIATION;

9 (X) ONE REPRESENTATIVE OF THE PRESCRIPTION DRUG
10 MONITORING PROGRAM, NOMINATED BY THE SECRETARY OF HEALTH;

11 (XI) ONE RESIDENT OF THE STATE WHO HAS EXPERIENCE WITH
12 HEALTH ISSUES IMPACTING CONSUMERS, NOMINATED BY THE SECRETARY OF
13 HEALTH; AND

14 (XII) ONE RESIDENT OF THE STATE WHO HAS EXPERTISE IN
15 HEALTH INFORMATION TECHNOLOGY AND CYBERSECURITY, NOMINATED BY THE
16 SECRETARY OF INFORMATION TECHNOLOGY; AND

17 (2) ONE MEMBER OF THE COMMISSION, DESIGNATED BY THE CHAIR
18 OF THE COMMISSION.

19 (D) THE MEMBER OF THE COMMISSION DESIGNATED TO SERVE ON THE
20 ADVISORY COMMITTEE SHALL SERVE AS THE CHAIR OF THE ADVISORY
21 COMMITTEE.

22 (E) (1) THE TERM OF A MEMBER DESIGNATED UNDER SUBSECTION
23 (C)(1) OF THIS SECTION IS 4 YEARS.

24 (2) THE TERMS OF MEMBERS DESIGNATED UNDER SUBSECTION
25 (C)(1) OF THIS SECTION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED
26 FOR MEMBERS OF THE ADVISORY COMMITTEE ON OCTOBER 1, 2020.

27 (3) AT THE END OF A TERM, A MEMBER DESIGNATED UNDER
28 SUBSECTION (C)(1) OF THIS SECTION CONTINUES TO SERVE UNTIL A SUCCESSOR IS
29 DESIGNATED AND QUALIFIES.

30 (4) A MEMBER WHO IS DESIGNATED AFTER A TERM HAS BEGUN
31 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS

1 DESIGNATED AND QUALIFIES.

2 (5) A MEMBER DESIGNATED UNDER SUBSECTION (C)(1) OF THIS
3 SECTION MAY SERVE NOT MORE THAN TWO CONSECUTIVE 4-YEAR TERMS.

4 (F) THE ADVISORY COMMITTEE SHALL MEET AT LEAST QUARTERLY.

5 (G) THE ADVISORY COMMITTEE SHALL:

6 (1) MAKE POLICY AND OPERATIONAL RECOMMENDATIONS TO THE
7 COMMISSION REGARDING THE ESTABLISHMENT AND OPERATION OF THE
8 PROGRAM; AND

9 (2) MAKE RECOMMENDATIONS REGARDING WHICH HEALTH CARE
10 PRACTITIONERS WHO DISPENSE OR PRESCRIBE NCS PRESCRIPTION DRUGS
11 SHOULD BE EXCLUDED FROM THE PROGRAM.

12 (H) A MEMBER OF THE ADVISORY COMMITTEE:

13 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE
14 ADVISORY COMMITTEE; BUT

15 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
16 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

17 21-2D-07.

18 (A) THE COMMISSION, IN CONSULTATION WITH THE SECRETARY, SHALL
19 ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

20 (B) BEGINNING JANUARY 1, 2021, THE COMMISSION SHALL ANNUALLY
21 REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND
22 GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE
23 STATE GOVERNMENT ARTICLE, ON THE PROGRAM.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
25 members of the NCS Prescription Record System Program Advisory Committee shall expire
26 as follows:

27 (1) three members in 2023;

28 (2) three members in 2024;

29 (3) three members in 2025; and

1 (4) four members in 2026.

2 SECTION 3. AND BE IT FURTHER ENACTED, That:

3 (a) The Maryland Health Care Commission shall submit a plan for funding the
4 NCS Prescription Record System Program to the General Assembly for approval.

5 (b) If the Maryland Health Care Commission does not submit a plan in
6 accordance with this section or the General Assembly does not approve a plan submitted
7 by the Maryland Health Care Commission on or before April 15, 2022, Sections 1 and 2 of
8 this Act, with no further action required by the General Assembly, shall be abrogated and
9 of no further force and effect.

10 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2020.