

# **SB166\_MACDS-NACDS\_FAV**

Uploaded by: Locklair, Cailey

Position: FAV



February 13, 2020

Maryland Senate Finance Committee  
3 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: Chain Pharmacy Supports SB 166 – Legislation for the Electronic Prescribing of Controlled Substance**

Dear Chairwoman Kelley, Vice Chairman Feldman, and Honorable Members of the Senate Finance Committee:

On behalf of the 780 chain pharmacies operating in the state of Maryland, the National Association of Chain Drug Stores (NACDS) and the Maryland Association of Chain Drug Stores (MACDS) urge members of the Maryland Senate Finance Committee (Committee) to support SB 166. This important legislation would require controlled substance prescriptions to be dispensed on an electronic prescription except in limited, special circumstances. Considering that electronic prescribing improves the safety and security of prescribing processes, chain pharmacy strongly supports policies like those encompassed in SB 166 and in similar laws enacted in 25 states<sup>1</sup> across the country that promote the use of this beneficial technology. We therefore urge members of the Committee to advance this bill.

Across the nation, there continues to be substantial growth in the adoption and utilization of electronic prescribing. Recent data indicates that 1.91 billion prescriptions were issued electronically in the United States last year (accounting for 85% of all prescriptions), of which 115 million were for controlled substances (which account for only 31% of controlled substance prescriptions.)<sup>2</sup> While these are promising statistics, there is room to further improve the rate of electronic prescribing, particularly with controlled substance prescriptions, which data shows lag behind overall adoption of this beneficial technology. In Maryland, Surescripts data from December 2019 shows that nearly every pharmacy (97% to be exact) is enabled to receive electronic controlled substance prescriptions. In stark contrast, only 32.2% of prescribers are similarly enabled and using this beneficial technology when issuing controlled substances prescriptions, which is well below the 47.8% national average of prescribers who otherwise electronically prescribe controlled substances.

Recognizing the important role of electronic prescribing in helping to curb the opioid crisis, Congress enacted in 2018 federal legislation requiring controlled substances prescriptions covered under Medicare Part D to be electronically transmitted starting in 2021.<sup>3</sup> We encourage lawmakers in Maryland to build upon this effort and extend the mandate to apply to all prescriptions issued in their state—not just those covered by Medicare.

As mentioned earlier, electronic prescribing technologies have numerous advantages over prescriptions issued in alternate formats, which benefit both patients and healthcare providers alike. For controlled

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<sup>1</sup> To date, laws have been enacted requiring electronic prescribing in the following states: AL, AR, CA, CO, CT, DE, IN, IA, KS, KY, MA, ME, MO, NC, NV, NY, OK, PA, RI, SC, TN, TX, VA, WA, & WY.

<sup>2</sup> The Surescripts *2018 National Progress Report* is available here: <https://surescripts.com/news-center/national-progress-report-2018/>

<sup>3</sup> The *Support for Patients and Communities Act* (H.R. 6) was enacted to include the *Every Prescription Conveyed Securely Act*, legislation requiring Schedule II through V controlled substances prescriptions covered under Medicare Part D to be electronically transmitted starting in 2021.

substances in particular, electronic prescribing of controlled substances adds new dimensions of safety and security. Electronic controlled substance prescriptions cannot be altered, cannot be copied, and are electronically trackable. Furthermore, the federal DEA rules for electronic controlled substances prescriptions establish strict security measures, such as two-factor authentication, that reduce the likelihood of fraudulent prescribing. Notably, when the state of New York implemented an e-prescribing mandate in 2016, the New York State Department of Health reported a 70% reduction in the rate of lost or stolen prescription forms.<sup>4</sup>

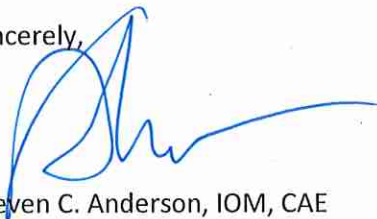
A study conducted at a Johns Hopkins Medication outpatient pharmacy found that 89% of handwritten opioid prescriptions failed to meet best practice guidelines or were missing information that would otherwise be prompted by an electronic prescribing system. By comparison, not a single prescription in that study issued electronically contained these types of errors.<sup>5</sup> In fact, electronic prescribing has been shown to reduce medication errors in the ambulatory setting by as much as seven-fold.<sup>6</sup>

In general, electronic prescribing enables numerous other benefits for improved patient care and outcomes. This technology allows prescribers to track whether the prescription was filled and how often it is refilled. Additionally, electronic prescribing tools enable clinical decision-making at point of care: when electronic prescribing is part of a healthcare provider's electronic health record system, prescriptions can be checked for interactions with patient medications, health conditions, and allergies.

Electronic prescribing also helps drive down healthcare costs, both through the use of tools that allow for greater price transparency at the point of prescribing and enhanced formulary compliance and through helping to reduce otherwise costly medication errors. By reducing medication errors to as little as a seventh of their previous level, the associated cost savings due to improved patient outcomes and decreased patient visits are estimated to be between \$140 billion and \$240 billion over 10 years.<sup>7</sup> These substantial savings result from the decrease in adverse drug events, mostly due to reduced visits to primary care offices and emergency rooms.

Given that electronic prescribing practices serve important public health goals of reducing opportunities for prescription drug diversion and abuse and broadly improving patient outcomes and care, NACDS strongly urges Maryland lawmakers to advance this legislation. We appreciate the opportunity to convey the perspectives of the chain pharmacy community on this important issue and welcome the opportunity to work with members of the Maryland legislature on this and other issues that promote high-quality healthcare and improve public health.

Sincerely,



Steven C. Anderson, IOM, CAE  
President and Chief Executive Officer  
National Association of Chain Drug Stores



Cailey E. Locklair  
President  
Maryland Association of Chain Drug Stores

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<sup>4</sup> Remarks of Anita Murray, Deputy Director, New York State Department of Health at the Harold Rogers Prescription Drug Monitoring Program National Meeting (September 6, 2017)

<sup>5</sup> [http://www.hopkinsmedicine.org/news/media/releases/researchers\\_find\\_handwritten\\_opioid\\_prescriptions\\_are\\_more\\_prone\\_to\\_mistakes](http://www.hopkinsmedicine.org/news/media/releases/researchers_find_handwritten_opioid_prescriptions_are_more_prone_to_mistakes)

<sup>6</sup> "Electronic Prescribing: Improving the Efficiency and Accuracy of Prescribing in the Ambulatory Care Setting," *Perspect Health Inf Manag.*; 2014 Spring; 11(Spring) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3995494/>

<sup>7</sup> "Electronic Prescribing: Improving the Efficiency and Accuracy of Prescribing in the Ambulatory Care Setting," *Perspect Health Inf Manag.*; 2014 Spring; 11(Spring) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3995494/>

# **SenKelley\_FAV\_SB166**

Uploaded by: Senator Kelley, Senator Kelley

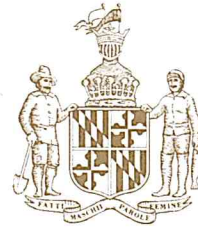
Position: FAV



**SENATOR DELORES G. KELLEY**  
*Legislative District 10*  
Baltimore County

—  
*Chair*  
Finance Committee

—  
Executive Nominations Committee  
Rules Committee  
Legislative Policy Committee



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Delores.Kelley@senate.state.md.us

**THE SENATE OF MARYLAND**  
ANNAPOLIS, MARYLAND 21401

**TESTIMONY OF SENATOR DELORES G. KELLEY**

**REGARDING SENATE BILL 166 - DRUGS AND DEVICES - ELECTRONIC  
PRESCRIPTIONS - CONTROLLED DANGEROUS SUBSTANCES**

**BEFORE THE SENATE FINANCE COMMITTEE**

**ON FEBRUARY 20, 2020**

**Mr. Vice Chair and Members:**

**Senate Bill 166 is here to add needed safety and security to the  
prescribing of controlled dangerous substances, and to bring Maryland  
prescribing practices in line with best practices in states which are ahead of us  
on this important issue.**

**When it comes to the opioid crisis, many prescribers still prefer old  
fashioned pen and paper. But pen and paper make it too hard to stop this**

**healthcare problem. I know all of you are well-aware of the enormity of this crisis in Maryland so I will spare you the statistics regarding death and drug overdoses. I'm sure you'll hear that from someone else during the hearing on this bill. But electronic prescribing is a tool that can help mitigate this epidemic, and that is mandated by SB 166.**

**In Maryland, law enforcement officials and investigators continue to deal with issues such as the stealing of prescription pads, illegal printing of prescription pads, alteration of prescriptions, and patients seeing multiple physicians on the same day and getting multiple prescriptions filled. National statistics indicate that more than 10% of prescriptions are fraudulent diversions for opiates. Elsewhere this problem is being addressed at the federal and state levels, but Maryland is far behind. At the federal level, legislation signed in 2018 requires mandatory e-prescribing for Medicare Part D by 2021. Therefore as part of a multipronged approach to attack this crisis, we should join the numerous other states that have adopted mandatory use of e-prescribing for controlled substances.**

**The General Assembly has made fighting the opioid crisis a priority, and mandating the use of e-prescribing for controlled substances has a chance to make a real and immediate impact on stopping opioid abuse. We need to use every tool in the tool box to reverse this trend and make e-prescribing of controlled substances the law in our state.**

**Electronic prescribing reduces errors. Such prescriptions cannot be altered or copied, and are electronically trackable. When New York State moved to its electronic prescribing mandate for all controlled and dangerous substances, there was an immediate 70% drop in the rate of lost or stolen prescription forms. Electronic prescribing also reduces greatly the number of prescriptions that go unfilled and improves patient adherence to needed medication schedules, so that patient outcomes are better. Electronic prescribing saves time, and unnecessary patient travel to the prescriber's office to pick up a hard copy of a prescription, while reducing errors related to unclear handwriting of the prescriber.**

**Finally, in 2018, Congress enacted federal legislation requiring that prescriptions for controlled substances covered under Medicare Part D be electronically transmitted by 2021. Colleagues, lets follow suit for all controlled substances prescribed in Maryland. Let's give a favorable report to SB 166.**

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**ACNM\_FWA\_SB166**

Uploaded by: Elliott, Robyn

Position: FWA



**Committee:** Senate Finance Committee  
**Bill number:** SB 166  
**Title:** Drugs and Devices – Electronic Prescriptions – Controlled Dangerous Substances  
**Hearing Date:** February 20, 2020  
**Position:** Support with Amendment

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The Maryland Affiliate of the American College of Nurse Midwives (ACNM) supports *Senate Bill 166 – Drugs and Devices – Electronic Prescriptions – Controlled Dangerous Substances* with an amendment. The bill would require prescribers to issue electronic prescriptions for controlled dangerous substances (CDS). There would be some exceptions which would allow the prescriber to issue CDS prescription in writing.

Last year, ACNM opposed the eprescribing bill when it was originally introduced. However, ACNM worked with the proponents and other stakeholders on amendments that addressed implementation issues on the provider side. By the end of the last session, ACNM supported the bill with the negotiated amendments. This year's legislation reflects the amendments negotiated last year by the providers with one minor exception. Last year's bill allowed for a two-year implementation time period, while it is only one year in this year's legislation. *We request an amendment to allow a two-year implementation date.*

Thank you for your consideration of our testimony. If we can provide any further information, please contact Robyn Elliott at [relliott@policypartners.net](mailto:relliott@policypartners.net) or (443) 926-3443.

**MNA\_FWA\_SB 166**

Uploaded by: Elliott, Robyn

Position: FWA



**Committee:** Senate Finance Committee

**Bill Number:** Senate Bill 166

**Title:** Drugs and Devices – Electronic Prescriptions – Controlled Dangerous Substances

**Hearing Date:** February 20, 2020

**Position:** Support with Amendment

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The Maryland Nurses Association (MNA) supports *Senate Bill 166 – Drugs and Devices – Electronic Prescriptions – Controlled Dangerous Substances* with an amendment. The bill requires prescribers to issue only electronic prescriptions, with some narrow exceptions when written is appropriate, for controlled dangerous substances.

MNA opposed this legislation when it was initially introduced last year. However, we worked with the proponents and other stakeholders in negotiating the bill. By the end of session, MNA agreed to amendments that addressed the implementation issues raised by providers. This year’s legislation includes all of provider amendments with one minor exception. *In last year’s bill, there was a two-year implementation date. It was shortened to one-year in this year’s bill, so we ask that it be changed back to a two-year implementation period.*

On page 10 in line 19, strike “2020” and replace with “2021.”

If we can provide any additional information as the Committee considers this issue, please contact Robyn Elliott at (443) 926-3443 or [relliott@policypartners.net](mailto:relliott@policypartners.net).



# **Board of Nursing\_FWA\_SB0166**

Uploaded by: Evans, Karen

Position: FWA



# Board of Nursing

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

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## 2020 SESSION POSITION PAPER

**BILL NO:** Senate Bill 166  
**COMMITTEE:** Finance  
**POSITION:** Support with Amendments

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**TITLE:** Drugs and Devices – Electronic Prescriptions – Controlled Dangerous Substances

**BILL ANALYSIS:** This bill requires health practitioners, with prescriptive authority, to prescribe controlled dangerous substances through electronic means. Written amendments in the Criminal Law have included the addition of ‘electronic prescriptions’ alongside the current standards of written and oral prescriptions. Additional provisions in the Health – General Law include: exceptions for health practitioners that cannot electronically prescribe controlled dangerous substances, authorizations for the Secretary of Health to issue waivers, and regulations in which the pharmacist must follow.

**POSITION AND RATIONALE:** **The Board of Nursing supports this bill with the proposed amendments below.**

The Board is concerned that the Bill will affect and/or change prescriptive authority standards for Advanced Practice Registered Nurses (APRNs). Currently APRNs licensed in the State of Maryland are authorized to prescribe Schedule II – V controlled substances. There is additional concern regarding the ambiguity around language regarding the broad classification of medications in Title 5 of the Criminal Law Article.

We are proposing amendments to eliminate the requirement of a Health Occupations Board to discipline a health practitioner, and instead, allow for it to be an option at the discretion of the Board.

Thank you for your consideration of the Board’s position.

For more information, please contact Rhonda Scott, Deputy Director, at (410) – 585 – 1953 ([rhonda.scott2@maryland.gov](mailto:rhonda.scott2@maryland.gov)) or Karen E. B. Evans, Executive Director, at (410) – 585 – 1914 ([karene.evans@maryland.gov](mailto:karene.evans@maryland.gov))

AMENDMENT NO. 1

On Page 8, in line 24, strike “**SHALL**” and substitute “**MAY**”.

*The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.*

# **Board of Physicians\_INFO\_SB0166**

Uploaded by: Hawk, Wynee

Position: FWA





# Board of Physicians

*Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary*

February 20, 2020

Senator Delores G. Kelley, Chair  
Senate Finance Committee  
2 West, Miller Senate Office Building  
Annapolis, Maryland 21401

Re: SB 166 - Drugs and Devices-Electronic Prescriptions - Controlled Dangerous Substances -  
Letter of Information

Dear Chair Kelley:

This bill authorizes prescription drugs and devices, including controlled dangerous substances, to be prescribed electronically by amending the Criminal Law and Health General Articles. In some situations the bill makes electronic prescribing the required means of prescribing in some settings with limited exceptions, for individuals in settings such as nursing or assisted living facilities or for those receiving care in a hospice program or in an outpatient renal dialysis if the prescription is related to that care, and for a prescription written by a veterinarian.

The bill establishes a waiver process based on regulations developed by the Health Secretary and in collaboration with the Maryland Health Care Commission. Further the bill authorizes the Health Secretary to adopt another set of regulations that would among other things determine which health occupation boards would be required to take disciplinary action against a health care practitioner who violates the requirements of this law.

To conform with and be consistent with the disciplinary provisions in the Maryland Medical Practice Act, the Board of Physicians requests that on page 8, line 24 of the bill, the word "SHALL" be stricken and replaced by the word "MAY".

Consequently, the Board has no other issues with SB 166 with the above noted amendment.

Sincerely,

Mark Woodard  
Health Policy Analyst II

**MedChi\_FWA\_SB0166**

Uploaded by: Kaufman, Danna

Position: FWA

# MedChi

*The Maryland State Medical Society*

1211 Cathedral Street  
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Fax: 410.547.0915

1.800.492.1056

www.medchi.org

TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee

FROM: Danna L. Kauffman  
Pamela Metz Kasemeyer  
J. Steven Wise  
Richard A. Tabuteau  
410-244-7000

DATE: February 20, 2020

RE: **SUPPORT WITH AMENDMENT** – Senate Bill 166 – *Drugs and Devices – Electronic Prescriptions – Controlled Dangerous Substances*

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The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **supports with an amendment**. Senate Bill 166, which mandates that controlled dangerous substances (CDS) must be prescribed using an electronic prescription. The bill includes several exemptions for when an electronic prescription is not required and, instead, can be prescribed either through verbal or written means.

Approximately twenty-one states mandate e-prescribing for CDS (some are in effect; others have a future effective date). Several others have legislation pending to require it for CDS. MedChi supports e-prescribing for CDS and believes that it will further assist in efforts to curb opioid abuse and diversion.

MedChi, however, does request that the effective date be moved to January 1, 2022. Allowing additional time will lessen the burden on physicians and other providers who may not already be e-prescribing CDS. It would also allow the Secretary of Health and the Maryland Health Care Commission the opportunity to establish a waiver process and determine the exemptions for low-volume prescribing. It is important to note that e-prescribing of CDS is not equivalent to non-CDS e-prescribing. Physicians and other providers who do not currently have an electronic health record (EHR) will need to purchase one. In addition, the federal Drug Enforcement Agency has established a multi-step process prior to a physician or other provider e-prescribing a CDS. This process requires ID proofing, two-way authentication, and a secure access control, all which can be time consuming.

On page 11, line 15, strike “2021” and substitute “2022”.

# **Kaiser Permanente\_FWA\_SB 166**

Uploaded by: Lininger, Brett

Position: FWA





Mid-Atlantic Permanente Medical Group, P.C.  
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc  
2101 East Jefferson Street  
Rockville, Maryland 20852

February 20, 2020

The Honorable Delores G. Kelley  
Senate Finance Committee  
3 East, Miller Senate Office Building  
11 Bladen Street  
Annapolis, Maryland 21401

RE: SB 166 – Support

Dear Chair Kelley and Members of the Committee:

Kaiser Permanente respectfully supports and offers an amendment to SB 166, Drugs and Devices - Electronic Prescriptions - Controlled Dangerous Substances.

Kaiser Permanente is the largest private integrated health care delivery system in the United States, delivering health care to over 12 million members in eight states and the District of Columbia.<sup>1</sup> Kaiser Permanente of the Mid-Atlantic States, which operates in Maryland, provides and coordinates complete health care services for approximately 755,000 members. In Maryland, we deliver care to over 430,000 members.

This bill requires a health practitioner to issue a prescription for a controlled dangerous substance (CDS) electronically, except under certain circumstances. A pharmacist may dispense a drug pursuant to a written or oral prescription for a CDS that meets the exception requirements, and a pharmacist is not required to verify that the prescription is an authorized exception to the electronic prescription requirement. Kaiser Permanente already prescribes electronically for prescriptions issued internally and is working to allow e-prescribing to dispensers external to KP as well.

KP is requesting an amendment to strike lines 22 through 24 on page 7, which reads “This subsection may not be construed to limit the right of a patient to designate a specific pharmacy to dispense a prescribed drug or device to the individual.” From diagnosis to clinical and treatment management, our patients’ care is coordinated, and most often occurs, at Kaiser Permanente. Our prescribers communicate directly with pharmacy staff for dispensing and clinical interventions through our integrated systems. Many members may use contracted network pharmacies and even pharmacies not within the covered network as outlined in their benefits. They can easily access information about participating pharmacies. However, our strategy is to encourage and

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<sup>1</sup> Kaiser Permanente comprises Kaiser Foundation Health Plan, Inc., the nation’s largest not-for-profit health plan, and its health plan subsidiaries outside California and Hawaii; the not-for-profit Kaiser Foundation Hospitals, which operates 39 hospitals and over 650 other clinical facilities; and the Permanente Medical Groups, self-governed physician group practices that exclusively contract with Kaiser Foundation Health Plan and its health plan subsidiaries to meet the health needs of Kaiser Permanente’s members.

maintain care coordination within our facilities, including KP pharmacies, and this offers us the ability to enhance medication adherence, clinical outcomes, patient safety, affordability and quality of care. We prefer our patients use a Kaiser Permanente pharmacy and are concerned the proposed language would promote otherwise. Indeed, it may be perceived as trying to expand our network. For this reason, we strongly favor the language be silent on the construction of subsection 21-220(c). This text was not included in HB 409/SB 469 of 2019, a previous version of this legislation.

Thank you for the opportunity to comment. Please feel free to contact Wayne Wilson at Wayne.D.Wilson@kp.org or (301) 816-5991 with questions.

Sincerely,

Wayne D. Wilson  
Vice President, Government Programs and External Relations  
Kaiser Foundation Health Plan of Mid-Atlantic States, Inc.

AMENDMENT TO SENATE BILL 166  
(First Reading File Bill)

On page 7, strike lines 22 through 24, inclusive.

**MPS\_FWA\_SB166**

Uploaded by: Tompsett, Tommy

Position: FWA



February 6, 2020

The Honorable Delores G. Kelley  
Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis, MD 21401

RE: Support with Amendments – SB 166: Drugs and Devices - Electronic Prescriptions -  
Controlled Dangerous Substances

Dear Chairman Kelley and Honorable Members of the Committee:

The Maryland Psychiatric Society (MPS) is a state medical organization whose physician members specialize in the diagnosis, treatment, and prevention of mental illnesses including substance use disorders. Formed more than sixty years ago to support the needs of psychiatrists and their patients, MPS works to ensure available, accessible and comprehensive quality mental health resources for all Maryland citizens; and strives through public education to dispel the stigma and discrimination of those suffering from a mental illness. As the district branch of the American Psychiatric Association covering the state of Maryland excluding the D.C. suburbs, MPS represents over 700 psychiatrists as well as physicians currently in psychiatric training.

MPS supports House Bill 512: Drugs and Devices - Electronic Prescriptions - Controlled Dangerous Substances (HB 512), but asks the committee to consider exempting practitioners who consult with the United States Department of Defense (DOD) facilities. Currently, military pharmacies do not accept electronic CDS prescriptions, this includes CDS prescriptions sent via fax. Thus, paper prescriptions are still needed for those patients. Maryland has a great many military families stationed at Fort Meade, Fort Detrick, NSA, Joint Airbase Andrews, the Naval Academy, Aberdeen Proving Grounds, among others. Allowing this exemption would greatly help those patients as a DOD pharmacy does not have a no copay and no prior authorization is required, which is much more convenient for the patient.

MPS suggests the amendment read as follows:

On page 7, in line 11 strike “OR”; on the same page , in line 21 after “CONDITION” insert “OR”; in the next line insert “(XV) THE PRESCRIPTION IS TO BE DISPENSED U.S. DEPARTMENT OF DEFENSE MILITARY PHARMANCY”.

With the amendment adopted, MPS would then ask the committee for a favorable report of HB 512. If you have any questions with regard to this testimony, please feel free to contact Thomas Tompsett Jr. at [tommy.tompsett@mdlobbyist.com](mailto:tommy.tompsett@mdlobbyist.com).

Respectfully submitted,  
The Legislative Action Committee for the Maryland Psychiatric Society

**MD Dept of Health\_FWA\_SB0166**

Uploaded by: Ye, Webster

Position: FWA



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

February 20, 2020

The Honorable Delores G. Kelley, Chair  
 Senate Finance Committee  
 3 East, Miller Senate Office Building  
 Annapolis, Maryland 21401

**RE: Letter of Support with Amendments – SB 166 - Drugs and Devices - Electronic Prescriptions - Controlled Dangerous Substances**

Dear Chair Kelley and Committee Members:

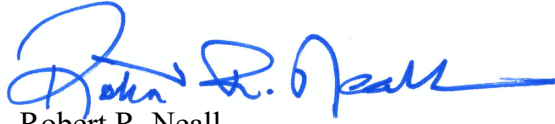
The Maryland Department of Health (MDH) submits this letter of support with amendments for Senate Bill 166 (SB 166) - Drugs and Devices - Electronic Prescriptions - Controlled Dangerous Substances. This bill is very similar to MDH’s departmental bill, House Bill 692 - Drugs and Devices - Electronic Prescriptions - Controlled Dangerous Substances. MDH thanks Sen. Kelley for being the Senate sponsor on this important topic and Del. Barron for sponsoring HB 512.

MDH respectfully requests that the Committee adopt the attached amendments, which are drafted to the latest version to be worked on in the House Health and Government Operations Committee. MDH has and continues to work closely with Delegate Barron, HB 512’s sponsor, and stakeholders to rework the electronic prescriptions bill from last session and come to a consensus. Below is a chart outlining the differences between HB 512, HB 692, and SB 166. We believe that the House will adopt a version of HB692 in HB512 with additional technical amendments.

Differences in the Bills	SB166	HB512	HB692
CR 5-101	Not incorporated	Defines “electronic prescribing”	Defines “electronic prescribing” <b>with more detail.</b>
HG 21-220(E)	Health Occupations “ <b>shall</b> ” take action	Health Occupations “ <b>may</b> ” take action	Health Occupations “ <b>may</b> ” take action
HG 21-220(b)(1)	Not incorporated	<b>Adds language</b> “or made through an electronic prescription”	Not incorporated
HG 21-220(c)	Not incorporated	Not incorporated	<b>Adds incarcerated individuals</b>
HG 21-220	Not incorporated	Defines “electronic prescribing”	Defines “electronic prescribing”
Work Group	<b>Requires a work group</b>	Not incorporated	Not incorporated

If you have additional questions, please contact the Director of Governmental Affairs, Webster Ye, at (410) 260-3190 or [webster.ye@maryland.gov](mailto:webster.ye@maryland.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert R. Neall", with a long horizontal flourish extending to the right.

Robert R. Neall  
Secretary

## MDH Proposed Amendments to Senate Bill 166

### Amendment 1:

On page 2, in line 2, after “Section”, insert “5-101,”.

On page 2, after line 12, insert  
“5-101.”

a. In this title the following words have the meanings indicated.

#### **(P-1) “ELECTRONIC PRESCRIPTION” MEANS A PRESCRIPTION THAT:**

- 1. IS GENERATED ON AN ELECTRONIC APPLICATION AND TRANSMITTED AS AN ELECTRONIC DATA FILE; AND**
- 2. IF THE PRESCRIPTION IS FOR A CONTROLLED DANGEROUS SUBSTANCE, COMPLIES WITH THE REQUIREMENTS OF 21 C.F.R. PART 1306, AS AMENDED FROM TIME TO TIME.”**

RATIONALE: Conforms SB 166 to HB 692 and HB 512. Per discussion with stakeholders after the House bill hearing and at the suggestion of Delegate Barron, to allow for less recodification if federal regulations change.

### Amendment 2:

On page 5, in line 4, after “ELECTRONIC PRESCRIPTION,” insert “AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE.”

RATIONALE: Conforms SB 166 to HB 692 and HB 512.

### Amendment 3:

On page 5, in line 17, after “oral”, insert “OR MADE THROUGH AN ELECTRONIC PRESCRIPTION”.

RATIONALE: Aligns SB 166 with HB 512.

### Amendment 4:

On page 5, in line 23 – after “PRESCRIPTION”, strike “ELECTRONICALLY” and substitute “USING AN ELECTRONIC PRESCRIPTION FOR A CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE”.

RATIONALE: As drafted, the provision mandates e-prescribing of all prescriptions issued by a prescriber with a CDS registration, not just the CDS prescriptions written by that individual.

### Amendment 5:

On page 5, after line 30 – insert “(III) – THE PRESCRIPTION IS ISSUED BY A HEALTH CARE PRACTITIONER OUTSIDE THE STATE;” and renumber accordingly.

RATIONALE: If a prescription is valid in the state in which it is created, such as Virginia, then a Maryland pharmacy should be able to fill it within the clinical discretion of the pharmacist.



Amendment 6:

On page 5, in line 31 – strike “**(III) THE PRESCRIBING ENTITY AND DISPENSING ENTITY OF THE DRUG OR DEVICE ARE THE SAME;**” and substitute “**(IV) THE PRESCRIBING HEALTH CARE PRACTITIONER ALSO DISPENSES THE DRUG;**”.

RATIONALE: Technical amendment suggested by the MDH’s Attorney General. Entities do not prescribe or dispense CDS; individual practitioners do. There are no CDS that are medical devices.

Amendment 7:

On page 6, in line 6, strike “OR”

On page 6, in line 8, after “PROVIDED;”, insert “OR”

On page 6, after line 8, insert “**4. IS INCARCERATED IN A STATE CORRECTIONAL FACILITY, AS DEFINED IN § 1-101 OF THE CORRECTIONAL SERVICES ARTICLE;**”.

RATIONALE: Exception requested by DPSCS.

Amendment 8:

On page 6, strike in their entirety lines 18 through lines 25, inclusive.

RATIONALE: The DEA regulations require a prescription for CDS to specifically state a patient's name and address (21 CFR 1306.05(a)). Therefore, this exception would never be applicable and should be removed.

Amendment 9:

On page 8, in line 24, after “ARTICLE”, strike “SHALL” and substitute “MAY”.

RATIONALE: Conforms SB 166 to HB 512 and 692.

Amendment 10:

On page 9, line 16, strike the brackets around “or”

On page 9, line 18, strike “; or” and substitute “.”

On page 9, strike line 19 – Strike this line.

RATIONALE: It is not necessary or appropriate, as lines 15 through 16 already address the issue.

Amendment 11:

On page 10, strike lines 4 through lines 25, inclusive.

On page 10, in line 26, after “SECTION”, strike “3” and substitute “2”.

On page 10, in line 27, strike after “2021.” through line 29, inclusive.

RATIONALE: Conforms to HB 512 and HB 692. Workgroup no longer needed.

**Attorney General\_INF\_SB0166**

Uploaded by: O'Connor, Patricia

Position: INFO

**BRIAN E. FROSH**  
*Attorney General*



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February 20, 2020

To: The Honorable Delores G. Kelley  
Chair, Finance Committee

From: The Office of the Attorney General

Re: Senate Bill 166 (Drugs and Devices - Electronic Prescriptions - Controlled Dangerous Substances): Letter of information, with amendments

The Office of the Attorney General thanks the Chair, this bill's sponsor, for accepting the attached amendments that address our concerns about the bill, and asks that the Committee approve the amendments.

cc: Chair Kelley, Sponsor

**MHCC\_INFO\_SB0166**

Uploaded by: Renfrew, Megan

Position: INFO

STATE OF MARYLAND



Andrew N. Pollak  
CHAIR

Ben Steffen  
EXECUTIVE DIRECTOR

## MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215  
TELEPHONE: 410-764-3460 FAX: 410-358-1236

February 20, 2020

The Honorable Delores G. Kelley  
Chair, Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, MD 21401

### **RE: SB 166 – Drugs and Devices – Electronic Prescriptions – Controlled Dangerous Substances - INFORMATION**

Dear Chair Kelley:

The Maryland Health Care Commission (Commission) would like to provide the Senate Finance Committee with information related to Senate Bill 166. The Commission recognizes the importance of electronic prescriptions. The Commission encourages the Senate Finance Committee to conform this bill with the text of HB 692 Drugs and Devices – Electronic Prescriptions – Controlled Dangerous Substances (with the amendments recommended by the Maryland Department of Health).

The U.S. Drug Enforcement Agency gave health practitioners permission to transmit controlled dangerous substance (CDS) prescriptions electronically in 2010. In 2017, the Federal Government declared the opioid addiction epidemic a nationwide public health emergency. In 2018, Congress passed the Substance Use–Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (H.R.6 - 115th Congress). The SUPPORT for Patients and Communities Act requires electronic prescribing for CDS under Medicare Part D by January 1, 2021. A number of states have implemented mandates that require CDS prescriptions to be transmitted electronically. New York first mandated electronic CDS in 2016, followed by Pennsylvania, Arizona, Iowa, Massachusetts, North Carolina, Oklahoma, and Rhode Island. In September 2018, California passed a law that requires electronic prescribing for all medications, which takes effect on January 1, 2022.

All hospitals and pharmacies in Maryland have adopted electronic prescribing; however, around 15 percent of physicians have not adopted the technology. Many of the physicians that have not adopted electronic prescribing practice in small or solo practices. A sizeable number are near retirement or provide psychiatric treatment where electronic prescribing has been slower to take root. SB 166 allows the Secretary to adopt regulations to provide waivers for physicians with exceptional circumstances. The

*Note: The Maryland Health Care Commission is an independent State agency. The position of the Commission may differ from the Maryland Department of Health*

The Honorable Delores Kelley

February 18, 2020

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Commission does not believe that a formal stakeholder workgroup is required to study, evaluate, and make recommendations relating to the implementation of the electronic prescriptions given the high rate of adoption of this technology. The Commission's long-standing history of collaborating with stakeholders in regulation development enable it to engage stakeholders as needed to identify challenges and solutions related to electronic prescribing. The Commission has submitted a \$50,000 fiscal note on this bill for a contract to support a formal stakeholder workgroup.

I hope you find this information useful. Please feel free to contact me at (410) 764-3566 or [Ben.Steffen@maryland.gov](mailto:Ben.Steffen@maryland.gov), or Megan Renfrew, Government Affairs and Special Projects, at (410) 764-3483 or [Megan.Renfrew@maryland.gov](mailto:Megan.Renfrew@maryland.gov) if you have any questions.

Sincerely,



Ben Steffen  
Executive Director  
Maryland Health Care Commission

*Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.*