

HOUSE BILL 60

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SB 44/02 - FIN

2003 Regular Session
3r1109
CF 3r0470

By: **Delegates Bromwell, Mandel, Cardin, DeBoy, Goldwater, Haynes, Kach, McIntosh, Nathan-Pulliam, Pendergrass, Redmer, and Zirkin**

Introduced and read first time: January 20, 2003

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substances - Dispensing Monitoring Program**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to
4 establish an electronic monitoring program of certain controlled dangerous
5 substances dispensed in the State; requiring dispensers of certain controlled
6 dangerous substances to report certain data to the Department; requiring the
7 data to be transmitted in an electronic format, subject to waiver; authorizing the
8 Department to provide the data to certain persons; prohibiting authorized
9 persons who receive the data from providing the information to certain others;
10 requiring certain persons who use the data for certain purposes to consider
11 certain factors; requiring that the data and reports from the data be confidential
12 and not public record; establishing certain crimes for failure to provide data to
13 the Department and for disclosing information to an unauthorized person,
14 subject to fine and imprisonment; and generally relating to a monitoring
15 program for dispensing controlled dangerous substances.

16 BY adding to
17 Article - Criminal Law
18 Section 5-506
19 Annotated Code of Maryland
20 (2002 Volume)

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

23 **Article - Criminal Law**

24 5-506.

25 (A) THE DEPARTMENT SHALL ESTABLISH A PROGRAM FOR ELECTRONIC
26 MONITORING OF CONTROLLED DANGEROUS SUBSTANCES LISTED IN SCHEDULES II,
27 III, IV, AND V THAT ARE DISPENSED:

28 (1) IN THE STATE BY AN AUTHORIZED PROVIDER; OR

1 (2) TO AN ADDRESS IN THE STATE BY A PHARMACY LICENSED BY THE
2 STATE BOARD OF PHARMACY.

3 (B) (1) EACH DISPENSER IN THE STATE THAT IS LICENSED BY THE BOARD
4 OF PHARMACY SHALL REPORT TO THE DEPARTMENT THE DATA REQUIRED BY THIS
5 SECTION IN A TIMELY MANNER AS REQUIRED BY THE DEPARTMENT.

6 (2) THE DATA FOR EACH CONTROLLED DANGEROUS SUBSTANCE THAT
7 IS DISPENSED SHALL INCLUDE:

8 (I) THE PATIENT IDENTIFIER;

9 (II) THE DRUG DISPENSED;

10 (III) THE DATE OF DISPENSING;

11 (IV) THE QUANTITY DISPENSED;

12 (V) THE PRESCRIBER;

13 (VI) THE DISPENSER; AND

14 (VII) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

15 (3) EACH DISPENSER SHALL PROVIDE THE DATA IN THE ELECTRONIC
16 FORMAT SPECIFIED BY THE DEPARTMENT UNLESS THE DEPARTMENT HAS GRANTED
17 A WAIVER TO THE SPECIFIC DISPENSER.

18 (4) THIS SUBSECTION DOES NOT REQUIRE REPORTING OF:

19 (I) A DRUG ADMINISTERED DIRECTLY TO A PATIENT; OR

20 (II) A DRUG DISPENSED BY A PRACTITIONER AT A FACILITY
21 LICENSED BY THE DEPARTMENT, IF THE QUANTITY DISPENSED IS LIMITED TO AN
22 AMOUNT ADEQUATE TO TREAT THE PATIENT FOR NOT MORE THAN 48 HOURS.

23 (C) (1) THE DEPARTMENT MAY PROVIDE DATA:

24 (I) TO A DESIGNATED REPRESENTATIVE OF A BOARD
25 RESPONSIBLE FOR THE LICENSING, REGULATION, OR DISCIPLINE OF AN
26 AUTHORIZED PROVIDER;

27 (II) TO ANOTHER WHO IS AUTHORIZED TO PRESCRIBE,
28 ADMINISTER, OR DISPENSE CONTROLLED DANGEROUS SUBSTANCES AND WHO IS
29 INVOLVED IN A SPECIFIC INVESTIGATION INVOLVING A SPECIFIC PERSON;

30 (III) TO A STATE, FEDERAL, OR LOCAL OFFICER RESPONSIBLE FOR
31 ENFORCING THE LAWS OF THE STATE OR THE UNITED STATES RELATING TO DRUGS
32 AND WHO IS ENGAGED IN AN INVESTIGATION INVOLVING A SPECIFIC PERSON;

33 (IV) TO A STATE-OPERATED MEDICAID PROGRAM;

1 (V) IN RESPONSE TO A PROPERLY ISSUED SUBPOENA IN A
2 CRIMINAL INVESTIGATION OR PROSECUTION; OR

3 (VI) TO AN AUTHORIZED PROVIDER WHO REQUESTS INFORMATION
4 AND CERTIFIES THAT THE REQUESTED INFORMATION IS FOR THE PURPOSE OF
5 PROVIDING MEDICAL OR PHARMACEUTICAL TREATMENT TO A CURRENT PATIENT.

6 (2) A PERSON WHO RECEIVES FROM THE DEPARTMENT DATA OR ANY
7 REPORT OBTAINED FROM THE DATA MAY NOT PROVIDE IT TO ANOTHER EXCEPT BY
8 ORDER OF A COURT OF COMPETENT JURISDICTION.

9 (D) THE DEPARTMENT, LAW ENFORCEMENT OFFICERS, COURTS, AND
10 REGULATORY AGENCIES AND OFFICERS WHO USE THE DATA FOR INVESTIGATIVE OR
11 PROSECUTION PURPOSES SHALL CONSIDER THE NATURE OF THE AUTHORIZED
12 PROVIDER'S PRACTICE AND THE CONDITION FOR WHICH THE PATIENT IS BEING
13 TREATED.

14 (E) THE DATA AND ANY REPORT OBTAINED FROM THE DATA ARE
15 CONFIDENTIAL INFORMATION AND ARE NOT PUBLIC RECORD.

16 (F) (1) A DISPENSER MAY NOT KNOWINGLY FAIL TO TRANSMIT DATA TO
17 THE DEPARTMENT AS REQUIRED BY SUBSECTION (B) OF THIS SECTION.

18 (2) A DISPENSER WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
19 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500
20 FOR EACH FAILURE TO SUBMIT DATA.

21 (G) (1) A PERSON MAY NOT KNOWINGLY:

22 (I) DISCLOSE TRANSMITTED DATA TO A PERSON WHO IS NOT
23 AUTHORIZED TO RECEIVE IT UNDER SUBSECTION (C) OF THIS SECTION; OR

24 (II) OBTAIN INFORMATION UNDER THIS SECTION NOT RELATING
25 TO AN INVESTIGATION.

26 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY
27 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2003.