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By: **Delegates Mandel, Burns, Frush, Heller, Hubbard, Kaiser, Kohl, Lee, Madaleno, Marriott, Menes, Montgomery, Parker, Pendergrass, Ramirez, Trueschler, and F. Turner**

Introduced and read first time: February 2, 2006

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2 **Prescription Safety Act**

3 FOR the purpose of authorizing electronic transmission of prescriptions; requiring a  
4 prescription to contain certain elements; requiring certain health occupation  
5 boards to ensure compliance with certain requirements; providing that a  
6 pharmacist is not responsible for ensuring compliance with certain  
7 requirements; requiring the Secretary of Health and Mental Hygiene to work  
8 with the health occupation boards and health practitioner professional  
9 associations to provide certain education; requiring the health occupation  
10 boards to provide continuing education credits for a certain purpose and to  
11 investigate certain complaints for possible disciplinary action; requiring the  
12 State Board of Pharmacy to establish standards for certifying certain software  
13 applications and to certify a software application that meets the standards;  
14 requiring an individual or corporation to obtain certification of the software  
15 application before seeking a tax credit; authorizing the Secretary, the Board, or  
16 their agents to inspect certain prescription records for the purpose of auditing  
17 prescriber compliance with certain requirements or investigating certain  
18 complaints; authorizing the Board to take certain actions under certain  
19 circumstances; authorizing a credit against the State income tax in a certain  
20 amount and subject to a certain limit for the purchase of a certain software  
21 application; establishing certain requirements for the tax credit; providing for  
22 the application of certain provisions of this Act; providing for the termination of  
23 certain provisions of this Act; and generally relating to the safety of  
24 prescriptions and incentives for electronic transmission of prescriptions.

25 BY repealing and reenacting, with amendments,  
26 Article - Health - General  
27 Section 21-220  
28 Annotated Code of Maryland  
29 (2005 Replacement Volume and 2005 Supplement)

30 BY adding to  
31 Article - Health Occupations

1 Section 12-205(d)  
2 Annotated Code of Maryland  
3 (2005 Replacement Volume)

4 BY repealing and reenacting, with amendments,  
5 Article - Health Occupations  
6 Section 12-413  
7 Annotated Code of Maryland  
8 (2005 Replacement Volume)

9 BY adding to  
10 Article - Tax - General  
11 Section 10-726  
12 Annotated Code of Maryland  
13 (2004 Replacement Volume and 2005 Supplement)

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

16 **Article - Health - General**

17 21-220.

18 (a) A drug that is intended for use by human beings and is in any of the  
19 following classifications may be dispensed by a pharmacist only on a written,  
20 ELECTRONICALLY TRANSMITTED, or oral prescription from a health practitioner  
21 authorized by law to prescribe the drug:

22 (1) A habit-forming drug to which § 21-218(b)(1) of this subtitle applies.

23 (2) A drug that because of its toxicity or other potentiality for harmful  
24 effect, the method of its use, or the collateral measures necessary to its use, is not safe  
25 for use except under the supervision of a health practitioner who is authorized by law  
26 to administer such a drug.

27 (3) A drug that is limited by an approved application under § 355 of the  
28 federal act or § 21-223 of this subtitle to use under the professional supervision of a  
29 health practitioner authorized by law to administer such a drug.

30 (b) (1) A prescription may be written, ELECTRONICALLY TRANSMITTED, or  
31 oral. However, a pharmacist may not dispense a drug on an oral prescription unless  
32 the pharmacist promptly writes out and files the prescription.

33 (2) A prescription for a controlled dangerous substance within the  
34 meaning of Title 5 of the Criminal Law Article may not be written on a preprinted  
35 prescription form that states the name, quantity, or strength of the controlled  
36 dangerous substance.

1 (3) When a prescription is written, a separate prescription form is  
2 required for each controlled dangerous substance. If a pharmacist is otherwise  
3 satisfied that a prescription is valid the pharmacist may fill the prescription if the  
4 pharmacist promptly writes out and files a prescription for each substance and also  
5 files the original prescription.

6 (4) A prescription shall be legible.

7 (5) EACH PRESCRIPTION SHALL CONTAIN:

8 (I) THE FULL NAME AND DOSAGE FORM OF THE DRUG SPELLED  
9 OUT, WITH NO ABBREVIATIONS;

10 (II) THE STRENGTH OF THE DRUG EXPRESSED IN, AS APPLICABLE:

11 1. METRIC UNITS; OR

12 2. STANDARDIZED INTERNATIONAL UNITS;

13 (III) THE WORDS "UNIT" OR "INTERNATIONAL UNIT" INSTEAD OF "U"  
14 OR "UI";

15 (IV) THE WORDS "DAILY" OR "EVERY OTHER DAY" INSTEAD OF "QD",  
16 "QD", "QOD", OR "QOD";

17 (V) THE QUANTITY IN NUMERICAL NOTATION AND, FOR A  
18 CONTROLLED DANGEROUS SUBSTANCE, TEXTUAL NOTATION;

19 (VI) THE REASON FOR PRESCRIBING THE DRUG;

20 (VII) THE AGE OF THE PATIENT;

21 (VIII) THE WEIGHT OF A CHILD UNDER AGE 14 EXPRESSED IN  
22 KILOGRAMS;

23 (IX) A LEADING ZERO PRECEDING ALL DECIMAL POINTS;

24 (X) NO TRAILING ZEROS AFTER A DECIMAL ON NONORAL  
25 PRESCRIPTIONS;

26 (XI) THE NAME OF THE PRESCRIBER PRINTED LEGIBLY, TYPED,  
27 STAMPED, OR CIRCLED;

28 (XII) THE DATE OF ISSUANCE;

29 (XIII) A RELIABLE MEANS TO CONTACT THE PRESCRIBER FOR  
30 CLARIFICATION OR QUESTIONS; AND

31 (XIV) NO APOTHECARY ABBREVIATIONS.

1           (6)    (I)    THE HEALTH OCCUPATION BOARDS THAT OVERSEE HEALTH  
2 PRACTITIONERS AUTHORIZED BY LAW TO PRESCRIBE DRUGS SHALL ENSURE  
3 COMPLIANCE WITH THE REQUIREMENTS OF PARAGRAPH (5) OF THIS SUBSECTION.

4           (II)   A PHARMACIST IS NOT RESPONSIBLE FOR ENSURING  
5 COMPLIANCE WITH THE REQUIREMENTS OF PARAGRAPH (5) OF THIS SUBSECTION.

6           (7)    (I)    THE SECRETARY SHALL WORK WITH THE HEALTH  
7 OCCUPATION BOARDS AND HEALTH PRACTITIONER PROFESSIONAL ASSOCIATIONS  
8 TO EDUCATE PRESCRIBERS, PHARMACISTS, AND THE PUBLIC CONCERNING THE  
9 REQUIREMENTS OF THIS SUBSECTION.

10           (II)   THE HEALTH OCCUPATION BOARDS SHALL:

11                           1.    PROVIDE CONTINUING EDUCATION CREDITS FOR  
12 TRAINING CONCERNING THE REQUIREMENTS OF THIS SUBSECTION; AND

13                           2.    INVESTIGATE FOR POSSIBLE DISCIPLINARY ACTION ANY  
14 COMPLAINT REGARDING THE FORMAT OR CONTENT OF A PRESCRIPTION.

15   (c)    A pharmacist may not refill and dispense a prescription unless the refilling  
16 is authorized by:

17           (1)    The health practitioner's specification in the original prescription as  
18 to how many times it may be refilled; or

19           (2)    An oral order of the health practitioner that promptly is written out  
20 and filed by the pharmacist.

21   (d)    The dispensing of a drug without complying with the requirements of this  
22 section is the dispensing of a misbranded drug.

23   (e)    (1)    A drug that is subject to the prescription requirements of this section  
24 is misbranded if, at any time before it is dispensed, its label does not bear the  
25 statement "Caution: Federal Law Prohibits Dispensing Without Prescription", or  
26 "Caution: State Law Prohibits Dispensing Without Prescription".

27           (2)    A drug to which the prescription requirements of this section do not  
28 apply is misbranded if, at any time before it is dispensed, its label bears the caution  
29 statement quoted in paragraph (1) of this subsection.

30   (f)    (1)    The prescription requirements of this section do not apply to any  
31 drug that is exempted under a rule or regulation adopted by the Secretary.

32           (2)    The Secretary, by rule or regulation, may exempt any drug from the  
33 requirements of this section if the Secretary finds that, as to the drug, the  
34 requirements of this section are not necessary for the protection of the public health.

1 (3) The Secretary, by rule and regulation, may exempt from the  
2 requirements of this section any drug that is removed from the prescription  
3 requirements of the federal act by a rule or regulation adopted under that act.

4

**Article - Health Occupations**

5 12-205.

6 (D) (1) THE BOARD SHALL ESTABLISH STANDARDS FOR CERTIFYING  
7 SOFTWARE APPLICATIONS THAT TRANSMIT PRESCRIPTIONS ELECTRONICALLY  
8 FROM A HEALTH PRACTITIONER AUTHORIZED BY LAW TO PRESCRIBE DRUGS TO A  
9 PHARMACY.

10 (2) THE BOARD SHALL CERTIFY A SOFTWARE APPLICATION THAT MEETS  
11 THE STANDARDS ESTABLISHED BY THE BOARD.

12 (3) AN INDIVIDUAL OR CORPORATION SHALL OBTAIN CERTIFICATION  
13 OF A SOFTWARE APPLICATION THAT TRANSMITS PRESCRIPTIONS ELECTRONICALLY  
14 BEFORE SEEKING A TAX CREDIT FOR THE SOFTWARE APPLICATION UNDER § 10-726  
15 OF THE TAX - GENERAL ARTICLE.

16 12-413.

17 (a) During business hours, the Secretary, the Board, or the agents of either  
18 may enter any permit holder's pharmacy and inspect for compliance with federal and  
19 State laws and regulations:

20 (1) Any drugs or devices, dentifrices, domestic remedies, and toilet  
21 articles that are in the pharmacy;

22 (2) Any records or publications that are required to be kept by a  
23 pharmacy under this title;

24 (3) PRESCRIPTION RECORDS, FOR THE PURPOSE OF:

25 (I) AUDITING PRESCRIBER COMPLIANCE WITH THE  
26 REQUIREMENTS FOR PRESCRIPTION FORMAT AND CONTENT OF § 21-220 OF THE  
27 HEALTH - GENERAL ARTICLE; OR

28 (II) INVESTIGATING A COMPLAINT FROM A PHARMACIST, A  
29 HEALTH CARE PRACTITIONER, OR A CONSUMER REGARDING PRESCRIPTION FORMAT  
30 AND CONTENT; and

31 [(3)] (4) The facility.

32 (b) At the direction of the Secretary, the Board, the Chief of the Division of  
33 Drug Control, or their agents may enter a permit holder's pharmacy at any time and  
34 investigate with law enforcement officers pursuant to a valid warrant.

1 (c) A person may not hinder an inspection or an investigation conducted under  
2 this section.

3 (D) IF A PHARMACY INSPECTION UNCOVERS A PATTERN OF NONCOMPLIANCE  
4 WITH THE REQUIREMENTS FOR PRESCRIPTION FORMAT AND CONTENT OF § 21-220  
5 OF THE HEALTH - GENERAL ARTICLE, THE BOARD:

6 (1) MAY TAKE DISCIPLINARY ACTION, IN ACCORDANCE WITH §§ 12-409  
7 THROUGH 12-412 OF THIS SUBTITLE;

8 (2) MAY REFER THE MATTER FOR POSSIBLE DISCIPLINARY ACTION TO A  
9 HEALTH OCCUPATIONS BOARD THAT LICENSES HEALTH PRACTITIONERS  
10 AUTHORIZED BY LAW TO PRESCRIBE DRUGS; AND

11 (3) MAY PUBLISH ITS FINDINGS IN A NEWSPAPER OR ON THE BOARD'S  
12 WEBSITE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
14 read as follows:

15 **Article - Tax - General**

16 10-726.

17 (A) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR  
18 CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN  
19 AMOUNT EQUAL TO 50% OF THE PURCHASE PRICE OF A SOFTWARE APPLICATION  
20 PURCHASED DURING THE TAXABLE YEAR, THAT TRANSMITS PRESCRIPTIONS  
21 ELECTRONICALLY TO A PHARMACY.

22 (B) (1) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS  
23 SECTION MAY NOT EXCEED THE LESSER OF:

24 (I) THE STATE INCOME TAX FOR THAT TAXABLE YEAR; OR

25 (II) \$1,000.

26 (2) THE UNUSED AMOUNT OF THE CREDIT MAY NOT BE CARRIED OVER  
27 TO ANY OTHER TAXABLE YEAR.

28 (C) (1) TO QUALIFY FOR THE CREDIT UNDER THIS SECTION, AN INDIVIDUAL  
29 OR CORPORATION MUST RECEIVE A STATEMENT FROM THE STATE BOARD OF  
30 PHARMACY CERTIFYING THAT THE SOFTWARE APPLICATION FOR WHICH THE  
31 INDIVIDUAL OR CORPORATION IS SEEKING THE TAX CREDIT MEETS THE STANDARDS  
32 OF THE BOARD FOR ELECTRONIC TRANSMISSION OF PRESCRIPTIONS.

33 (2) AN INDIVIDUAL OR CORPORATION SHALL FILE PROOF OF  
34 CERTIFICATION BY THE STATE BOARD OF PHARMACY IN THE MANNER REQUIRED BY  
35 THE COMPTROLLER.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 2006. Section 2 of this Act shall be applicable to all taxable years beginning  
3 after December 31, 2005, but before January 1, 2010. Section 2 shall remain effective  
4 for a period of 4 years and, at the end of June 30, 2010, with no further action  
5 required by the General Assembly, Section 2 of this Act shall be abrogated and of no  
6 further force and effect.