
By: ~~Delegate Kullen~~ Delegates Kullen, Barve, Benson, Boteler, Bromwell, Donoghue, Elliott, Frank, Hammen, Hubbard, Kach, Kohl, Mandel, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rudolph, V. Turner, and Weldon

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Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 29, 2006

CHAPTER _____

1 AN ACT concerning

2 **Prescription Drug Monitoring Program**

3 FOR the purpose of ~~establishing~~ requiring the Department of Health and Mental
 4 Hygiene to establish and maintain a certain Prescription Drug Monitoring
 5 Program within the Department of ~~Health and Mental Hygiene~~; establishing
 6 the powers and duties of the Secretary of Health and Mental Hygiene under the
 7 Program; requiring prescription monitoring data to be destroyed after a certain
 8 time period unless a certain request for retention of certain information is
 9 submitted to the Department; creating a certain Advisory Board on Prescription
 10 Drug Monitoring to assist in the design, implementation, and evaluation of the
 11 Program; establishing the chair, the terms of the members, and the
 12 responsibilities of the Board; ~~creating~~ requiring the Secretary to appoint a
 13 multidisciplinary consultation team to assist in the interpretation of
 14 prescription monitoring data; requiring dispensers to submit electronically
 15 certain information to the Program except in certain circumstances; prohibiting
 16 the Board and the Secretary from charging a fee or imposing an assessment on
 17 certain persons for certain purposes; making prescription monitoring data
 18 confidential and privileged and not subject to certain means of legal compulsion
 19 except under certain circumstances; authorizing certain agencies and persons to
 20 obtain access to prescription monitoring data under certain circumstances;
 21 establishing immunity from ~~civil~~ liability for certain agencies and persons
 22 relating to the operation and use of the Program; providing for education and
 23 training relating to the Program; establishing penalties for violations of the
 24 requirements of the Program; defining certain terms; providing that
 25 implementation of the Program is contingent on the Board obtaining certain

1 federal, State, or private funds; prohibiting the Program from collecting
2 prescription monitoring data before a certain date; and generally relating to the
3 creation and operation of the Prescription Drug Monitoring Program.

4 BY adding to

5 Article - Health - General

6 Section 21-2A-01 through 21-2A-09, inclusive, to be under the new subtitle

7 "Subtitle 2A. Prescription Drug Monitoring Program"

8 Annotated Code of Maryland

9 (2005 Replacement Volume and 2005 Supplement)

10 Preamble

11 WHEREAS, Thousands of Marylanders suffer from chronic pain and other
12 conditions that make access to pain medications and other pharmaceutical therapies
13 necessary and beneficial; and

14 WHEREAS, Increasing numbers of Maryland adults and adolescents are
15 engaging in prescription drug abuse and diversion to the detriment of their health
16 and welfare; and

17 WHEREAS, Maryland should have a Prescription Drug Monitoring Program
18 that supports the lawful use of controlled substances without interfering with
19 legitimate professional practice and patient care; and

20 WHEREAS, A Prescription Drug Monitoring Program should assist health care
21 professionals and law enforcement professionals in the identification, treatment, and
22 prevention of prescription drug abuse and in the identification and investigation of
23 unlawful prescription drug diversion; and

24 WHEREAS, Data concerning monitored prescription drugs under a Prescription
25 Drug Monitoring Program would be available for research purposes, including
26 research about the effects of the Prescription Drug Monitoring Program itself; now,
27 therefore,

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

30 **Article - Health - General**

31 **SUBTITLE 2A. PRESCRIPTION DRUG MONITORING PROGRAM.**

32 21-2A-01.

33 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
34 INDICATED.

35 (B) "AUTHORIZED RECIPIENT" MEANS:

- 1 (1) A DISPENSER;
- 2 (2) A PRESCRIBER;
- 3 (3) A FEDERAL LAW ENFORCEMENT AGENCY;
- 4 (4) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;
- 5 (5) A LICENSING ENTITY;
- 6 (6) THE MARYLAND MEDICAL AND PHARMACEUTICAL ASSISTANCE
7 PROGRAMS;
- 8 (7) A PATIENT WITH RESPECT TO INFORMATION ABOUT THE PATIENT;
9 OR
- 10 (8) ANY PERSON UNDER CONTRACT WITH THE DEPARTMENT
11 CONCERNING THE OPERATION OF THE PROGRAM.

12 (C) "BOARD" MEANS THE ADVISORY BOARD ON PRESCRIPTION DRUG
13 MONITORING.

14 (D) (1) "DISPENSER" MEANS A PERSON WHO DISPENSES A MONITORED
15 PRESCRIPTION DRUG TO A PATIENT OR THE PATIENT'S AGENT IN THE STATE.

16 (2) "DISPENSER" INCLUDES A PERSON OPERATING BY MAIL OR OTHER
17 MEANS FROM A PLACE OF BUSINESS OUTSIDE THE STATE.

18 (3) "DISPENSER" DOES NOT INCLUDE A LICENSED HOSPITAL PHARMACY
19 THAT DISPENSES A MONITORED PRESCRIPTION DRUG FOR INPATIENT HOSPITAL
20 CARE.

21 (E) "DISPENSES" HAS THE MEANING STATED IN § 12-101 OF THE HEALTH
22 OCCUPATIONS ARTICLE.

23 ~~(F) "DRUG OF CONCERN" MEANS A PRESCRIPTION DRUG THAT:~~

24 ~~(1) DOES NOT CONTAIN A SUBSTANCE LISTED IN SCHEDULE II
25 THROUGH SCHEDULE IV; AND~~

26 ~~(2) IS DETERMINED BY THE SECRETARY TO PRESENT AN EMERGING
27 THREAT IN THE STATE BECAUSE OF INCREASING ABUSE OR DIVERSION.~~

28 ~~(G)~~ (F) "FEDERAL LAW ENFORCEMENT AGENCY" MEANS ANY ENTITY
29 WITHIN THE UNITED STATES DEPARTMENT OF JUSTICE, INCLUDING:

- 30 (1) THE DRUG ENFORCEMENT ADMINISTRATION;
- 31 (2) THE FEDERAL BUREAU OF INVESTIGATION; ~~AND~~
- 32 (3) A UNITED STATES ATTORNEY'S OFFICE; AND

1 (4) THE OFFICE OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF
2 HEALTH AND HUMAN SERVICES.

3 ~~(H)~~ (G) "LICENSING ENTITY" MEANS AN ENTITY AUTHORIZED UNDER THE
4 HEALTH OCCUPATIONS ARTICLE TO LICENSE, REGULATE, OR DISCIPLINE A
5 PRESCRIBER OR DISPENSER.

6 ~~(I)~~ (H) "MONITORED PRESCRIPTION DRUG" MEANS A PRESCRIPTION DRUG
7 THAT:

8 ~~(J)~~ (I) CONTAINS A SUBSTANCE LISTED IN SCHEDULE II THROUGH
9 SCHEDULE IV; ~~OR~~

10 ~~(K)~~ (J) ~~IS A DRUG OF CONCERN.~~

11 ~~(L)~~ (I) "PRESCRIBER" MEANS A LICENSED HEALTH CARE PROFESSIONAL
12 WHO IS AUTHORIZED BY LAW TO PRESCRIBE A MONITORED PRESCRIPTION DRUG.

13 ~~(M)~~ (J) "PRESCRIPTION DRUG" HAS THE MEANING STATED IN § 21-201 OF
14 THIS TITLE.

15 ~~(N)~~ (K) "PRESCRIPTION MONITORING DATA" MEANS THE INFORMATION
16 SUBMITTED TO THE PROGRAM.

17 ~~(O)~~ (L) "PROGRAM" MEANS THE PRESCRIPTION DRUG MONITORING
18 PROGRAM ESTABLISHED UNDER THIS SUBTITLE.

19 ~~(P)~~ (M) "SCHEDULE II" MEANS THE LIST OF CONTROLLED DANGEROUS
20 SUBSTANCES SET FORTH IN § 5-403 OF THE CRIMINAL LAW ARTICLE.

21 ~~(Q)~~ (N) "SCHEDULE III" MEANS THE LIST OF CONTROLLED DANGEROUS
22 SUBSTANCES SET FORTH IN § 5-404 OF THE CRIMINAL LAW ARTICLE.

23 ~~(R)~~ (O) "SCHEDULE IV" MEANS THE LIST OF CONTROLLED DANGEROUS
24 SUBSTANCES SET FORTH IN § 5-405 OF THE CRIMINAL LAW ARTICLE.

25 ~~(S)~~ (P) "STATE OR LOCAL LAW ENFORCEMENT AGENCY" MEANS:

26 (1) A STATE, COUNTY, OR MUNICIPAL POLICE DEPARTMENT OR AGENCY;

27 (2) A SHERIFF'S OFFICE;

28 (3) A STATE'S ATTORNEY'S OFFICE; OR

29 (4) THE OFFICE OF THE ATTORNEY GENERAL.

30 21-2A-02.

31 (A) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN, IN CONSULTATION
32 WITH THE BOARD, A PRESCRIPTION DRUG MONITORING PROGRAM THAT

1 ELECTRONICALLY COLLECTS AND STORES DATA CONCERNING MONITORED
2 PRESCRIPTION DRUGS.

3 (B) THE SECRETARY MAY:

4 (1) ASSIGN RESPONSIBILITY FOR THE OPERATION OF THE PROGRAM TO
5 ANY UNIT IN THE DEPARTMENT; AND

6 (2) CONTRACT WITH ANY QUALIFIED PERSON AS THE SECRETARY
7 DEEMS NECESSARY FOR THE EFFICIENT AND ECONOMICAL OPERATION OF THE
8 PROGRAM.

9 (C) THE SECRETARY, IN CONSULTATION WITH THE BOARD, SHALL ADOPT
10 REGULATIONS TO CARRY OUT THIS SUBTITLE.

11 (D) THE REGULATIONS ADOPTED BY THE SECRETARY SHALL:

12 (1) ASSIST HEALTH CARE PROVIDERS AND LAW ENFORCEMENT
13 PROFESSIONALS IN:

14 (I) THE IDENTIFICATION, TREATMENT, AND PREVENTION OF
15 PRESCRIPTION DRUG ABUSE; AND

16 (II) THE IDENTIFICATION AND INVESTIGATION OF UNLAWFUL
17 PRESCRIPTION DRUG DIVERSION;

18 (4) (2) PROMOTE A BALANCED USE OF PRESCRIPTION MONITORING
19 DATA TO ASSIST APPROPRIATE LAW ENFORCEMENT ACTIVITIES WHILE PRESERVING
20 THE PROFESSIONAL PRACTICE OF HEALTH CARE PROVIDERS AND THE ACCESS OF
21 PATIENTS TO OPTIMAL PHARMACEUTICAL CARE;

22 (4) (3) IDENTIFY THE CIRCUMSTANCES UNDER WHICH PRESCRIPTION
23 MONITORING DATA ARE PROVIDED TO AN AUTHORIZED RECIPIENT, WITH SUCH
24 CIRCUMSTANCES TO PARALLEL AS CLOSELY AS IS APPROPRIATE AN AUTHORIZED
25 RECIPIENT'S AUTHORITY TO ACCESS SIMILAR CONFIDENTIAL INFORMATION UNDER
26 CURRENT FEDERAL AND STATE LAWS AND REGULATIONS;

27 (4) (4) IDENTIFY THE CIRCUMSTANCES UNDER WHICH AN
28 AUTHORIZED RECIPIENT MAY DISCLOSE PRESCRIPTION MONITORING DATA
29 PROVIDED BY THE PROGRAM;

30 (4) (5) IDENTIFY THE CIRCUMSTANCES UNDER WHICH A FEDERAL
31 LAW ENFORCEMENT AGENCY, A STATE OR LOCAL LAW ENFORCEMENT AGENCY, OR A
32 LICENSING ENTITY THAT HAS RECEIVED PRESCRIPTION MONITORING DATA SHALL
33 CONSULT WITH THE MULTIDISCIPLINARY CONSULTATION TEAM ESTABLISHED
34 UNDER § 21-2A-04 OF THIS SUBTITLE ABOUT THE INTERPRETATION OF THE
35 PRESCRIPTION MONITORING DATA;

1 ~~(5)~~ (6) PROMOTE APPROPRIATE AND REAL-TIME, IF FEASIBLE, ACCESS
 2 TO PRESCRIPTION MONITORING DATA BY DISPENSERS AND PRESCRIBERS TO HELP
 3 PREVENT SUBSTANCE ABUSE AND PRESCRIPTION DRUG DIVERSION;

4 ~~(6)~~ ~~IDENTIFY THE MECHANISM BY WHICH A PRESCRIPTION DRUG IS~~
 5 ~~IDENTIFIED AS A DRUG OF CONCERN;~~

6 (7) REQUIRE THE BOARD TO APPLY FOR FEDERAL GRANT MONEY, AS
 7 APPROPRIATE;

8 ~~(7)~~ (8) ENSURE THAT THE PROGRAM IS DESIGNED TO:

9 (I) ~~MINIMIZE PREVENT,~~ TO THE FULLEST EXTENT POSSIBLE, THE
 10 BURDEN ON DISPENSERS IN THEIR COMPLIANCE WITH THE REQUIREMENTS OF THIS
 11 SUBTITLE; AND

12 (II) ~~PROMOTE SUBMISSION OF RECEIVE~~ PRESCRIPTION
 13 MONITORING DATA IN A MANNER COMPATIBLE WITH EXISTING DATA SUBMISSION
 14 PRACTICES OF DISPENSERS; AND

15 ~~(8)~~ (9) ~~ENSURE, TO THE FULLEST EXTENT POSSIBLE, THAT PATIENT~~
 16 ~~CONFIDENTIALITY IS PROTECTED~~ ENSURE THAT:

17 (I) CONFIDENTIAL OR PRIVILEGED PATIENT INFORMATION IS
 18 KEPT CONFIDENTIAL; AND

19 (II) RECORDS OR INFORMATION PROTECTED BY THE PRIVILEGE
 20 BETWEEN A HEALTH CARE PROVIDER AND A PATIENT, OR OTHERWISE REQUIRED BY
 21 LAW TO BE HELD CONFIDENTIAL, IS FILED IN A MANNER THAT, EXCEPT AS
 22 OTHERWISE PROVIDED IN § 21-2A-06 OF THIS SUBTITLE, DOES NOT DISCLOSE THE
 23 IDENTITY OF THE PERSON PROTECTED.

24 (E) PRESCRIPTION MONITORING DATA SHALL BE DESTROYED AFTER 2 YEARS,
 25 UNLESS A LAW ENFORCEMENT AGENCY OR A HEALTH OCCUPATIONS BOARD HAS
 26 SUBMITTED A WRITTEN REQUEST TO THE DEPARTMENT FOR RETENTION OF
 27 SPECIFIC INFORMATION.

28 21-2A-03.

29 (A) THERE IS AN ADVISORY BOARD ON PRESCRIPTION DRUG MONITORING IN
 30 THE DEPARTMENT.

31 (B) THE BOARD CONSISTS OF THE FOLLOWING ~~45~~ 21 MEMBERS:

32 (1) THE ATTORNEY GENERAL₂ OR THE ATTORNEY GENERAL'S DESIGNEE;

33 (2) THE SECRETARY₂ OR THE SECRETARY'S DESIGNEE;

34 (3) THE PRESIDENT OF THE MARYLAND BOARD OF PHARMACY₂ OR THE
 35 PRESIDENT'S DESIGNEE;

1 (4) THE CHAIRMAN OF THE MARYLAND BOARD OF PHYSICIANS, OR THE
2 CHAIRMAN'S DESIGNEE;

3 (5) THE PRESIDENT OF THE MARYLAND BOARD OF NURSING, OR THE
4 PRESIDENT'S DESIGNEE;

5 ~~(5)~~ (6) THE CHAIRMAN OF THE MARYLAND HEALTH CARE
6 COMMISSION, OR THE CHAIRMAN'S DESIGNEE;

7 ~~(6)~~ (7) TWO FOUR PHYSICIANS AND ONE NURSE PRACTITIONER WITH
8 EXPERTISE IN PHYSICAL MEDICINE AND REHABILITATION AREAS OF PRACTICE THAT
9 INVOLVE PAIN MANAGEMENT AND SUBSTANCE ABUSE AND ADDICTION TREATMENT,
10 APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH;

11 (I) THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND,
12 THE MARYLAND STATE MEDICAL SOCIETY, THE MARYLAND PHYSICAL MEDICINE
13 AND REHABILITATION SOCIETY, AND THE MARYLAND SOCIETY OF
14 ANESTHESIOLOGISTS WITH RESPECT TO THE PHYSICIAN APPOINTMENTS; AND

15 (II) THE MARYLAND NURSES ASSOCIATION WITH RESPECT TO THE
16 NURSE PRACTITIONER APPOINTMENT;

17 ~~(7)~~ (8) TWO FOUR PHARMACISTS WHO REPRESENT THE PERSPECTIVE
18 OF INDEPENDENT AND CHAIN PHARMACIES AND PHARMACISTS, APPOINTED BY THE
19 SECRETARY AFTER CONSULTATION WITH THE MARYLAND PHARMACISTS
20 ASSOCIATION, THE MARYLAND ASSOCIATION OF CHAIN DRUG STORES, EPIC
21 PHARMACIES, AND ANY OTHER APPROPRIATE ORGANIZATION;

22 (I) THREE OF WHOM REPRESENT THE PERSPECTIVE OF
23 INDEPENDENT AND CHAIN PHARMACIES AND PHARMACISTS; AND

24 (II) ONE OF WHOM REPRESENTS THE PERSPECTIVE OF HOSPITAL
25 OUTPATIENT PHARMACIES;

26 ~~(8)~~ (9) A FEDERAL LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE
27 SECRETARY AFTER CONSULTATION WITH THE DRUG ENFORCEMENT
28 ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF JUSTICE;

29 ~~(9)~~ (10) A STATE LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE
30 SECRETARY AFTER CONSULTATION WITH THE MARYLAND STATE POLICE;

31 ~~(10)~~ (11) A LOCAL LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE
32 SECRETARY AFTER CONSULTATION WITH THE MARYLAND CHIEFS OF POLICE
33 ASSOCIATION;

34 ~~(11)~~ (12) A PROSECUTOR, APPOINTED BY THE SECRETARY AFTER
35 CONSULTATION WITH THE MARYLAND STATE'S ATTORNEYS ASSOCIATION; AND

1 ~~(12)~~ (13) TWO MARYLAND CITIZENS WHO REPRESENT THE PERSPECTIVE
2 OF PAIN PATIENTS, APPOINTED BY THE SECRETARY FROM A LIST SUBMITTED BY THE
3 MARYLAND PAIN INITIATIVE.

4 (C) THE SECRETARY SHALL DESIGNATE THE CHAIR OF THE BOARD.

5 (D) (1) THE TERM OF A MEMBER APPOINTED BY THE SECRETARY IS 3 YEARS.

6 (2) IF A VACANCY OCCURS DURING THE TERM OF AN APPOINTED
7 MEMBER, THE SECRETARY SHALL APPOINT A SUCCESSOR WHO SHALL SERVE UNTIL
8 THE TERM EXPIRES.

9 (E) THE BOARD SHALL:

10 (1) MEET NOT FEWER THAN THREE TIMES ANNUALLY;

11 (2) MAKE RECOMMENDATIONS TO THE SECRETARY REGARDING THE
12 DESIGN AND IMPLEMENTATION OF A PRESCRIPTION MONITORING PROGRAM, IN
13 ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE, INCLUDING
14 RECOMMENDATIONS ABOUT:

15 (I) REGULATIONS AND THE NEED FOR ANY FURTHER
16 LEGISLATION CONCERNING THE PROGRAM; AND

17 (II) SOURCES OF FUNDING, INCLUDING GRANT FUNDS UNDER THE
18 HAROLD ROGERS PRESCRIPTION DRUG MONITORING PROGRAM AND OTHER
19 SOURCES OF FEDERAL, PRIVATE, OR STATE PROGRAMS FUNDS;

20 (3) (I) PROVIDE WITHIN 180 DAYS AFTER ITS FIRST MEETING, IN
21 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AN INTERIM
22 REPORT TO THE GENERAL ASSEMBLY SETTING FORTH THE BOARD'S ANALYSIS AND
23 RECOMMENDATIONS UNDER ITEM (2) OF THIS SUBSECTION REGARDING THE
24 DESIGN, IMPLEMENTATION, AND FUNDING OF THE PROGRAM; AND

25 (II) PROVIDE ANNUALLY TO THE GOVERNOR AND, IN ACCORDANCE
26 WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN
27 ANALYSIS OF THE IMPACT OF THE PROGRAM ON PATIENT ACCESS TO
28 PHARMACEUTICAL CARE AND ON CURBING PRESCRIPTION DRUG DIVERSION IN THE
29 STATE, INCLUDING ANY RECOMMENDATIONS RELATED TO MODIFICATION OR
30 CONTINUATION OF THE PROGRAM; AND

31 (4) PROVIDE ONGOING ADVICE AND CONSULTATION ON THE
32 IMPLEMENTATION AND OPERATION OF THE PROGRAM, INCLUDING
33 RECOMMENDATIONS REGARDING:

34 (I) CHANGES IN THE PROGRAM TO REFLECT ADVANCES IN
35 TECHNOLOGY AND BEST PRACTICES IN THE FIELD OF ELECTRONIC HEALTH
36 RECORDS AND ELECTRONIC PRESCRIPTION MONITORING; AND

1 ~~(H)~~ EMERGING DRUGS OF CONCERN THAT SHOULD BE IDENTIFIED
2 ~~AS MONITORED PRESCRIPTION DRUGS; AND~~

3 ~~(H)~~ (II) THE DESIGN AND IMPLEMENTATION OF AN ONGOING
4 EVALUATION COMPONENT OF THE PROGRAM.

5 21-2A-04.

6 (A) THE SECRETARY SHALL APPOINT A MULTIDISCIPLINARY CONSULTATION
7 TEAM ~~WITHIN THE PROGRAM.~~

8 ~~(B)~~ THE MULTIDISCIPLINARY CONSULTATION TEAM SHALL REFLECT THE
9 DIVERSITY AND BALANCE OF PERSPECTIVES REPRESENTED ON THE BOARD.

10 ~~(B)~~ (C) THE MULTIDISCIPLINARY CONSULTATION TEAM SHALL CONSIST OF:

11 (1) PROGRAM STAFF;

12 (2) MEMBERS OF THE BOARD; AND

13 (3) ANY CONSULTANTS THAT THE SECRETARY DETERMINES WILL
14 ~~PROVIDE BROAD EXPERIENCE IN PAIN MANAGEMENT, SUBSTANCE ABUSE, AND~~
15 ~~PRESCRIPTION DRUG DIVERSION~~ HELP ACHIEVE THE DIVERSITY AND BALANCE OF
16 PERSPECTIVES REPRESENTED ON THE BOARD.

17 ~~(C)~~ (D) IN ACCORDANCE WITH REGULATION, THE MULTIDISCIPLINARY
18 CONSULTATION TEAM SHALL ASSIST A FEDERAL LAW ENFORCEMENT AGENCY, A
19 STATE OR LOCAL LAW ENFORCEMENT AGENCY, OR A LICENSING ENTITY THAT HAS
20 RECEIVED PRESCRIPTION MONITORING DATA FROM THE PROGRAM IN
21 INTERPRETING THE DATA AND CONSIDERING WHETHER THE DATA, IN THE CONTEXT
22 OF THE NATURE OF A PRESCRIBER'S OR A DISPENSER'S PRACTICE, A PATIENT'S
23 MEDICAL CONDITION, OR ANY OTHER RELEVANT FACTS, SUGGEST THE NEED FOR
24 FURTHER INVESTIGATION.

25 21-2A-05.

26 (A) FOR EACH MONITORED PRESCRIPTION DRUG THAT IS DISPENSED, A
27 DISPENSER SHALL SUBMIT TO THE PROGRAM INFORMATION SPECIFIED BY THE
28 SECRETARY, INCLUDING:

29 (1) A PATIENT IDENTIFIER;

30 (2) THE PRESCRIPTION DRUG DISPENSED;

31 (3) THE DATE OF DISPENSING;

32 (4) THE QUANTITY DISPENSED;

33 (5) THE PRESCRIBER; AND

34 (6) THE PHARMACY FROM WHICH THE DRUG IS DISPENSED; ~~AND~~

1 ~~(7) THE PRESCRIBER'S DIAGNOSIS CODE, IF SUCH CODE IS PART OF THE~~
2 ~~ELECTRONIC RECORD CREATED BY THE DISPENSER.~~

3 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A DISPENSER
4 SHALL SUBMIT PRESCRIPTION MONITORING DATA TO THE PROGRAM BY
5 ELECTRONIC SUBMISSION.

6 (C) THE PROGRAM, FOR GOOD CAUSE SHOWN, MAY AUTHORIZE A DISPENSER
7 TO:

8 (1) SUBMIT PRESCRIPTION MONITORING DATA BY AN ALTERNATIVE
9 FORM OF SUBMISSION; OR

10 (2) OMIT ONE OR MORE ELEMENTS OF PRESCRIPTION MONITORING
11 DATA.

12 (D) THE BOARD AND THE SECRETARY MAY NOT CHARGE A FEE OR IMPOSE AN
13 ASSESSMENT ON A HOSPITAL, DISPENSER, OR PRESCRIBER FOR:

14 (1) THE ESTABLISHMENT, MAINTENANCE, OR ADMINISTRATION OF THE
15 PROGRAM; OR

16 (2) THE TRANSMISSION OF INFORMATION TO OR FROM THE PROGRAM.

17 21-2A-06.

18 (A) PRESCRIPTION MONITORING DATA:

19 (1) ARE CONFIDENTIAL AND PRIVILEGED, AND NOT SUBJECT TO
20 DISCOVERY, SUBPOENA, OR OTHER MEANS OF LEGAL COMPULSION IN CIVIL
21 LITIGATION;

22 (2) ARE NOT PUBLIC ~~RECORD~~ RECORDS; AND

23 (3) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (D) OF THIS SECTION
24 OR AS OTHERWISE PROVIDED BY LAW, MAY NOT BE DISCLOSED TO ANY PERSON.

25 (B) THE PROGRAM MAY, IN ACCORDANCE WITH REGULATION, DISCLOSE
26 PRESCRIPTION MONITORING DATA TO AN AUTHORIZED RECIPIENT;

27 (1) IN CONNECTION WITH THE MEDICAL CARE OF A PATIENT;

28 (2) IN CONNECTION WITH THE DISPENSING OF A MONITORED
29 PRESCRIPTION DRUG; OR

30 (3) FOR THE PURPOSE OF FURTHERING AN EXISTING BONA FIDE
31 INDIVIDUAL INVESTIGATION.

32 (C) EXCEPT AS PROVIDED BY REGULATION, AN AUTHORIZED RECIPIENT WHO
33 RECEIVES PRESCRIPTION MONITORING DATA FROM THE PROGRAM MAY NOT
34 DISCLOSE THE DATA.

1 (D) THE PROGRAM MAY DISCLOSE PRESCRIPTION MONITORING DATA AFTER
2 REDACTION OF ALL INFORMATION THAT COULD IDENTIFY A PATIENT, PRESCRIBER,
3 DISPENSER, OR OTHER INDIVIDUAL.

4 21-2A-07.

5 (A) THE DEPARTMENT AND ITS AGENTS AND EMPLOYEES ARE NOT SUBJECT
6 TO LIABILITY ARISING FROM:

7 (1) THE INACCURACY OF ANY INFORMATION SUBMITTED TO THE
8 PROGRAM IN ACCORDANCE WITH THIS SUBTITLE; AND

9 (2) THE UNAUTHORIZED USE OR DISCLOSURE OF PRESCRIPTION
10 MONITORING DATA PROVIDED TO AN AUTHORIZED RECIPIENT.

11 (B) AN AUTHORIZED RECIPIENT, ACTING IN GOOD FAITH, IS NOT SUBJECT TO
12 LIABILITY ARISING SOLELY FROM:

13 (1) REQUESTING OR RECEIVING, OR FAILING TO REQUEST OR RECEIVE,
14 PRESCRIPTION MONITORING DATA FROM THE PROGRAM; OR

15 (2) ACTING, OR FAILING TO ACT, ON THE BASIS OF PRESCRIPTION
16 MONITORING DATA PROVIDED BY THE PROGRAM FAILURE TO TAKE ACTION ON THE
17 BASIS OF PRESCRIPTION MONITORING DATA PROVIDED BY THE PROGRAM.

18 21-2A-08.

19 (A) THE PROGRAM, IN CONSULTATION WITH THE BOARD, SHALL DEVELOP
20 AND IMPLEMENT, OR CONTRACT WITH A VENDOR TO DEVELOP AND IMPLEMENT,
21 EDUCATION AND TRAINING COURSES RELATING TO THE PROGRAM.

22 (B) THE COURSES REQUIRED UNDER SUBSECTION (A) OF THIS SECTION MAY
23 RELATE TO:

24 (1) THE TRANSMISSION, ACCESS, AND USE OF PRESCRIPTION
25 MONITORING DATA;

26 (2) ISSUES ARISING IN PRESCRIBING AND DISPENSING MONITORED
27 PRESCRIPTION DRUGS; ~~AND~~

28 (3) ISSUES CONCERNING IDENTIFYING AND TREATING SUBSTANCE
29 ABUSE AND ADDICTION; AND

30 (4) THE ROLE OF MONITORED PRESCRIPTION DRUGS IN THE
31 MANAGEMENT OF PAIN, INCLUDING THE DISTINCTION BETWEEN ADDICTION AND
32 PHYSICAL DEPENDENCE.

33 21-2A-09.

34 (A) A DISPENSER WHO KNOWINGLY FAILS TO SUBMIT PRESCRIPTION
35 MONITORING DATA TO THE PROGRAM AS REQUIRED UNDER THIS SUBTITLE SHALL

1 BE SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500 FOR EACH FAILURE TO
2 SUBMIT REQUIRED INFORMATION.

3 (B) AN AUTHORIZED RECIPIENT WHO KNOWINGLY DISCLOSES OR USES
4 PRESCRIPTION MONITORING DATA IN VIOLATION OF THIS SUBTITLE SHALL BE
5 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
6 NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

7 SECTION 2. AND BE IT FURTHER ENACTED, That implementation of the
8 Prescription Drug Monitoring Program to be established under § 21-2A-02 of the
9 Health - General Article, as enacted by Section 1 of this Act, is contingent on the
10 Advisory Board on Prescription Drug Monitoring established under § 21-2A-03 of the
11 Health - General Article, as enacted by Section 1 of this Act, obtaining federal,
12 private, or State funds to carry out the purposes of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That the Prescription Drug
14 Monitoring Program to be established under § 21-2A-02 of the Health - General
15 Article, as enacted by Section 1 of this Act, may not collect prescription monitoring
16 data before June 1, 2007.

17 SECTION ~~2. 4.~~ AND BE IT FURTHER ENACTED, That this Act shall take
18 effect October 1, 2006.