

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Health and Government Operations --

Introduced by **Senators Miller, Currie, Frosh, Hollinger, and Middleton**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

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

1 confidential and privileged and not subject to certain means of legal compulsion
2 except under certain circumstances; authorizing certain agencies and persons to
3 obtain access to prescription monitoring data under certain circumstances;
4 establishing immunity from ~~civil~~ liability for certain agencies and persons
5 relating to the operation and use of the Program; providing for education and
6 training relating to the Program; establishing penalties for violations of the
7 requirements of the Program; defining certain terms; providing that
8 implementation of the Program is contingent on the Board obtaining certain
9 federal grant money federal, State, or private funds; prohibiting the Program
10 from collecting prescription monitoring data before a certain date; and generally
11 relating to the creation and operation of the Prescription Drug Monitoring
12 Program.

13 BY adding to

14 Article - Health - General

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

16 "Subtitle 2A. Prescription Drug Monitoring Program"

17 Annotated Code of Maryland

18 (2005 Replacement Volume and 2005 Supplement)

19

Preamble

20 WHEREAS, Thousands of Marylanders suffer from chronic pain and other
21 conditions that make access to pain medications and other pharmaceutical therapies
22 necessary and beneficial; and

23 WHEREAS, Increasing numbers of Maryland adults and adolescents are
24 engaging in prescription drug abuse and diversion to the detriment of their health
25 and welfare; and

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

29 WHEREAS, A Prescription Drug Monitoring Program should assist health care
30 professionals and law enforcement professionals in the identification, treatment, and
31 prevention of prescription drug abuse and in the identification and investigation of
32 unlawful prescription drug diversion; and

33 WHEREAS, Data concerning monitored prescription drugs under a Prescription
34 Drug Monitoring Program would be available for research purposes, including
35 research about the effects of the Prescription Drug Monitoring Program itself; now,
36 therefore,

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

1 **Article - Health - General**2 **SUBTITLE 2A. PRESCRIPTION DRUG MONITORING PROGRAM.**

3 21-2A-01.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "AUTHORIZED RECIPIENT" MEANS:

7 (1) A DISPENSER;

8 (2) A PRESCRIBER;

9 (3) A FEDERAL LAW ENFORCEMENT AGENCY;

10 (4) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;

11 (5) A LICENSING ENTITY;

12 (6) THE MARYLAND MEDICAL AND PHARMACEUTICAL ASSISTANCE
13 PROGRAMS;14 (7) A PATIENT WITH RESPECT TO INFORMATION ABOUT THE PATIENT;
15 OR16 (8) ANY PERSON UNDER CONTRACT WITH THE DEPARTMENT
17 CONCERNING THE OPERATION OF THE PROGRAM.18 (C) "BOARD" MEANS THE ADVISORY BOARD ON PRESCRIPTION DRUG
19 MONITORING.20 (D) (1) "DISPENSER" MEANS A PERSON WHO DISPENSES A MONITORED
21 PRESCRIPTION DRUG TO A PATIENT OR THE PATIENT'S AGENT IN THE STATE.22 (2) "DISPENSER" INCLUDES A PERSON OPERATING BY MAIL OR OTHER
23 MEANS FROM A PLACE OF BUSINESS OUTSIDE THE STATE.24 (3) "DISPENSER" DOES NOT INCLUDE A LICENSED HOSPITAL PHARMACY
25 THAT DISPENSES A MONITORED PRESCRIPTION DRUG FOR INPATIENT HOSPITAL
26 CARE.27 (E) "DISPENSES" HAS THE MEANING STATED IN § 12-101 OF THE HEALTH
28 OCCUPATIONS ARTICLE.29 ~~(F) "DRUG OF CONCERN" MEANS A PRESCRIPTION DRUG THAT:~~30 ~~(1) DOES NOT CONTAIN A SUBSTANCE LISTED IN SCHEDULE II~~
31 ~~THROUGH SCHEDULE IV; AND~~

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

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

5 (1) THE DRUG ENFORCEMENT ADMINISTRATION;

6 (2) THE FEDERAL BUREAU OF INVESTIGATION; ~~AND~~

7 (3) A UNITED STATES ATTORNEY'S OFFICE; AND

8 (4) THE OFFICE OF THE INSPECTOR GENERAL OF THE DEPARTMENT OF
 9 HEALTH AND HUMAN SERVICES.

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

13 ~~(I)~~ (H) "MONITORED PRESCRIPTION DRUG" MEANS A PRESCRIPTION DRUG
 14 THAT:

15 ~~(J)~~ (H) CONTAINS A SUBSTANCE LISTED IN SCHEDULE II THROUGH
 16 SCHEDULE IV; ~~OR~~

17 ~~(K)~~ ~~IS A DRUG OF CONCERN.~~

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

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

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

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

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

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

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

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

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

- 1 (2) A SHERIFF'S OFFICE;
- 2 (3) A STATE'S ATTORNEY'S OFFICE; OR
- 3 (4) THE OFFICE OF THE ATTORNEY GENERAL.

4 21-2A-02.

5 (A) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN, IN CONSULTATION
6 WITH THE BOARD, A PRESCRIPTION DRUG MONITORING PROGRAM THAT
7 ELECTRONICALLY COLLECTS AND STORES DATA CONCERNING MONITORED
8 PRESCRIPTION DRUGS.

9 (B) THE SECRETARY MAY:

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

12 (2) CONTRACT WITH ANY QUALIFIED PERSON AS THE SECRETARY
13 DEEMS NECESSARY FOR THE EFFICIENT AND ECONOMICAL OPERATION OF THE
14 PROGRAM.

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

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

18 (1) ASSIST HEALTH CARE PROVIDERS AND LAW ENFORCEMENT
19 PROFESSIONALS IN:

20 (I) THE IDENTIFICATION, TREATMENT, AND PREVENTION OF
21 PRESCRIPTION DRUG ABUSE; AND

22 (II) THE IDENTIFICATION AND INVESTIGATION OF UNLAWFUL
23 PRESCRIPTION DRUG DIVERSION;

24 ~~(1)~~ (2) PROMOTE A BALANCED USE OF PRESCRIPTION MONITORING
25 DATA TO ASSIST APPROPRIATE LAW ENFORCEMENT ACTIVITIES WHILE PRESERVING
26 THE PROFESSIONAL PRACTICE OF HEALTH CARE PROVIDERS AND THE ACCESS OF
27 PATIENTS TO OPTIMAL PHARMACEUTICAL CARE;

28 ~~(2)~~ (3) IDENTIFY THE CIRCUMSTANCES UNDER WHICH PRESCRIPTION
29 MONITORING DATA ARE PROVIDED TO AN AUTHORIZED RECIPIENT, WITH SUCH
30 CIRCUMSTANCES TO PARALLEL AS CLOSELY AS IS APPROPRIATE AN AUTHORIZED
31 RECIPIENT'S AUTHORITY TO ACCESS SIMILAR CONFIDENTIAL INFORMATION UNDER
32 CURRENT FEDERAL AND STATE LAWS AND REGULATIONS;

33 ~~(3)~~ (4) IDENTIFY THE CIRCUMSTANCES UNDER WHICH AN
34 AUTHORIZED RECIPIENT MAY DISCLOSE PRESCRIPTION MONITORING DATA
35 PROVIDED BY THE PROGRAM;

1 ~~(4)~~ (5) IDENTIFY THE CIRCUMSTANCES UNDER WHICH A FEDERAL
2 LAW ENFORCEMENT AGENCY, A STATE OR LOCAL LAW ENFORCEMENT AGENCY, OR A
3 LICENSING ENTITY THAT HAS RECEIVED PRESCRIPTION MONITORING DATA SHALL
4 CONSULT WITH THE MULTIDISCIPLINARY CONSULTATION TEAM ESTABLISHED
5 UNDER § 21-2A-04 OF THIS SUBTITLE ABOUT THE INTERPRETATION OF THE
6 PRESCRIPTION MONITORING DATA;

7 ~~(5)~~ (6) PROMOTE APPROPRIATE ~~AND REAL-TIME, IF FEASIBLE,~~ ACCESS
8 TO PRESCRIPTION MONITORING DATA BY DISPENSERS AND PRESCRIBERS TO HELP
9 PREVENT SUBSTANCE ABUSE AND PRESCRIPTION DRUG DIVERSION;

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

12 ~~(6)~~ ~~DETERMINE A PERIOD OF TIME AFTER WHICH THE INFORMATION~~
13 ~~COLLECTED IN THE DATABASE WILL BE DESTROYED;~~

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

16 ~~(7)~~ (8) ENSURE THAT THE PROGRAM IS DESIGNED TO:

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

20 (II) ~~PROMOTE SUBMISSION OF~~ RECEIVE PRESCRIPTION
21 MONITORING DATA IN A MANNER COMPATIBLE WITH EXISTING DATA SUBMISSION
22 PRACTICES OF DISPENSERS; AND

23 ~~(8)~~ ~~(9)~~ ~~ENSURE, TO THE FULLEST EXTENT POSSIBLE, THAT PATIENT~~
24 ~~CONFIDENTIALITY IS PROTECTED.~~

25 (9) ENSURE THAT:

26 (I) CONFIDENTIAL OR PRIVILEGED PATIENT INFORMATION IS
27 KEPT CONFIDENTIAL; AND

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

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

1 21-2A-03.

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

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

5 (1) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

6 (2) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;

7 (3) THE PRESIDENT OF THE MARYLAND BOARD OF PHARMACY, OR THE
8 PRESIDENT'S DESIGNEE;

9 (4) THE CHAIRMAN OF THE MARYLAND BOARD OF PHYSICIANS, OR THE
10 CHAIRMAN'S DESIGNEE;

11 (5) THE PRESIDENT OF THE MARYLAND BOARD OF NURSING, OR THE
12 PRESIDENT'S DESIGNEE;

13 ~~(5)~~ (6) THE CHAIRMAN OF THE MARYLAND HEALTH CARE
14 COMMISSION, OR THE CHAIRMAN'S DESIGNEE;

15 ~~(6)~~ (7) TWO FOUR PHYSICIANS AND ONE NURSE PRACTITIONER WITH
16 EXPERTISE IN PHYSICAL MEDICINE AND REHABILITATION AREAS OF PRACTICE THAT
17 INVOLVE PAIN MANAGEMENT AND SUBSTANCE ABUSE AND ADDICTION TREATMENT,
18 APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH;

19 (I) THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND,
20 THE MARYLAND STATE MEDICAL SOCIETY, THE MARYLAND PHYSICAL MEDICINE
21 AND REHABILITATION SOCIETY, AND THE MARYLAND SOCIETY OF
22 ANESTHESIOLOGISTS WITH RESPECT TO THE PHYSICIAN APPOINTMENTS; AND

23 (II) THE MARYLAND NURSES ASSOCIATION WITH RESPECT TO THE
24 NURSE PRACTITIONER APPOINTMENT;

25 ~~(7)~~ (8) TWO THREE FOUR PHARMACISTS WHO REPRESENT THE
26 PERSPECTIVE OF INDEPENDENT AND CHAIN PHARMACIES AND PHARMACISTS,
27 APPOINTED BY THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND
28 PHARMACISTS ASSOCIATION, THE MARYLAND ASSOCIATION OF CHAIN DRUG STORES,
29 EPIC PHARMACIES, AND ANY OTHER APPROPRIATE ORGANIZATION;

30 (I) TWO THREE OF WHOM REPRESENT THE PERSPECTIVE OF
31 INDEPENDENT AND CHAIN PHARMACIES AND PHARMACISTS; AND

32 (II) ONE OF WHOM REPRESENTS THE PERSPECTIVE OF HOSPITAL
33 OUTPATIENT PHARMACIES;

34 ~~(8)~~ (9) A FEDERAL LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE
35 SECRETARY AFTER CONSULTATION WITH THE DRUG ENFORCEMENT
36 ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF JUSTICE;

1 ~~(9)~~ (10) A STATE LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE
2 SECRETARY AFTER CONSULTATION WITH THE MARYLAND STATE POLICE;

3 ~~(10)~~ (11) A LOCAL LAW ENFORCEMENT OFFICIAL, APPOINTED BY THE
4 SECRETARY AFTER CONSULTATION WITH THE MARYLAND CHIEFS OF POLICE
5 ASSOCIATION;

6 ~~(11)~~ (12) A PROSECUTOR, APPOINTED BY THE SECRETARY AFTER
7 CONSULTATION WITH THE MARYLAND STATE'S ATTORNEYS ASSOCIATION; AND

8 ~~(12)~~ (13) TWO MARYLAND CITIZENS WHO REPRESENT THE PERSPECTIVE
9 OF PAIN PATIENTS, APPOINTED BY THE SECRETARY FROM A LIST SUBMITTED BY THE
10 MARYLAND PAIN INITIATIVE.

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

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

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

16 (E) THE BOARD SHALL:

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

18 (2) MAKE RECOMMENDATIONS TO THE SECRETARY REGARDING THE
19 DESIGN AND IMPLEMENTATION OF A PRESCRIPTION MONITORING PROGRAM, IN
20 ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE, INCLUDING
21 RECOMMENDATIONS ABOUT:

22 (I) REGULATIONS AND THE NEED FOR ANY FURTHER
23 LEGISLATION CONCERNING THE PROGRAM; AND

24 (II) SOURCES OF FUNDING, INCLUDING GRANT FUNDS UNDER THE
25 HAROLD ROGERS PRESCRIPTION DRUG MONITORING PROGRAM AND OTHER
26 ~~FEDERAL OR STATE PROGRAMS, WITH THE OBJECTIVE OF AVOIDING ANY FEE OR~~
27 ~~ASSESSMENT AGAINST DISPENSERS OR PRESCRIBERS~~ SOURCES OF FEDERAL,
28 PRIVATE, OR STATE FUNDS;

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

34 (II) PROVIDE ANNUALLY TO THE GOVERNOR AND ,IN ACCORDANCE
35 WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY AN
36 ANALYSIS OF THE IMPACT OF THE PROGRAM ON PATIENT ACCESS TO
37 PHARMACEUTICAL CARE AND ON CURBING PRESCRIPTION DRUG DIVERSION IN THE

1 STATE, INCLUDING ANY RECOMMENDATIONS RELATED TO MODIFICATION OR
2 CONTINUATION OF THE PROGRAM; AND

3 (4) PROVIDE ONGOING ADVICE AND CONSULTATION ON THE
4 IMPLEMENTATION AND OPERATION OF THE PROGRAM, INCLUDING
5 RECOMMENDATIONS REGARDING:

6 (I) CHANGES IN THE PROGRAM TO REFLECT ADVANCES IN
7 TECHNOLOGY AND BEST PRACTICES IN THE FIELD OF ELECTRONIC HEALTH
8 RECORDS AND ELECTRONIC PRESCRIPTION MONITORING; AND

9 ~~(II) EMERGING DRUGS OF CONCERN THAT SHOULD BE IDENTIFIED~~
10 ~~AS MONITORED PRESCRIPTION DRUGS; AND~~

11 ~~(II)~~ (II) THE DESIGN AND IMPLEMENTATION OF AN ONGOING
12 EVALUATION COMPONENT OF THE PROGRAM.

13 21-2A-04.

14 (A) THE SECRETARY SHALL APPOINT A MULTIDISCIPLINARY CONSULTATION
15 TEAM ~~WITHIN THE PROGRAM.~~

16 (B) THE MULTIDISCIPLINARY CONSULTATION TEAM SHALL REFLECT THE
17 DIVERSITY AND BALANCE OF PERSPECTIVES REPRESENTED ON THE ~~ADVISORY~~
18 BOARD.

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

20 (1) PROGRAM STAFF;

21 (2) MEMBERS OF THE BOARD; AND

22 (3) ANY CONSULTANTS THAT THE SECRETARY DETERMINES WILL
23 ~~PROVIDE BROAD EXPERIENCE IN PAIN MANAGEMENT, SUBSTANCE ABUSE, AND~~
24 ~~PRESCRIPTION DRUG DIVERSION~~ HELP ACHIEVE THE DIVERSITY AND BALANCE OF
25 PERSPECTIVES REPRESENTED ON THE ~~ADVISORY~~ BOARD.

26 ~~(C)~~ (D) IN ACCORDANCE WITH REGULATION, THE MULTIDISCIPLINARY
27 CONSULTATION TEAM SHALL ASSIST A FEDERAL LAW ENFORCEMENT AGENCY, A
28 STATE OR LOCAL LAW ENFORCEMENT AGENCY, OR A LICENSING ENTITY THAT HAS
29 RECEIVED PRESCRIPTION MONITORING DATA FROM THE PROGRAM IN
30 INTERPRETING THE DATA AND CONSIDERING WHETHER THE DATA, IN THE CONTEXT
31 OF THE NATURE OF A PRESCRIBER'S OR A DISPENSER'S PRACTICE, A PATIENT'S
32 MEDICAL CONDITION, OR ANY OTHER RELEVANT FACTS, SUGGEST THE NEED FOR
33 FURTHER INVESTIGATION.

1 21-2A-05.

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

5 (1) A PATIENT IDENTIFIER;

6 (2) THE PRESCRIPTION DRUG DISPENSED;

7 (3) THE DATE OF DISPENSING;

8 (4) THE QUANTITY DISPENSED;

9 (5) THE PRESCRIBER; AND

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

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

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

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

18 (1) SUBMIT PRESCRIPTION MONITORING DATA BY AN ALTERNATIVE
19 FORM OF SUBMISSION; OR

20 (2) OMIT ONE OR MORE ELEMENTS OF PRESCRIPTION MONITORING
21 DATA.

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

24 (1) THE ESTABLISHMENT, MAINTENANCE, OR ADMINISTRATION OF THE
25 PROGRAM; OR

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

27 21-2A-06.

28 (A) PRESCRIPTION MONITORING DATA:

29 (1) ARE CONFIDENTIAL AND PRIVILEGED, AND NOT SUBJECT TO
30 DISCOVERY, SUBPOENA, OR OTHER MEANS OF LEGAL COMPULSION IN CIVIL
31 LITIGATION;

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

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

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

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

6 (2) IN CONNECTION WITH THE DISPENSING OF A MONITORED
7 PRESCRIPTION DRUG; OR

8 (3) FOR THE PURPOSE OF FURTHERING AN EXISTING BONA FIDE
9 INDIVIDUAL INVESTIGATION.

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

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

16 21-2A-07.

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

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

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

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

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

27 (2) ACTING, OR FAILING TO ACT, ON THE BASIS OF PRESCRIPTION
28 MONITORING DATA PROVIDED BY THE PROGRAM ~~FAILURE TO TAKE ACTION ON THE~~
29 ~~BASIS OF PRESCRIPTION MONITORING DATA PROVIDED BY THE PROGRAM.~~

30 21-2A-08.

31 (A) THE PROGRAM, IN CONSULTATION WITH THE BOARD, SHALL DEVELOP
32 AND IMPLEMENT, OR CONTRACT WITH A VENDOR TO DEVELOP AND IMPLEMENT,
33 EDUCATION AND TRAINING COURSES RELATING TO THE PROGRAM.

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

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

3 (2) ISSUES ARISING IN PRESCRIBING AND DISPENSING MONITORED
4 PRESCRIPTION DRUGS; ~~AND~~

5 (3) ISSUES CONCERNING IDENTIFYING AND TREATING SUBSTANCE
6 ABUSE AND ADDICTION; AND

7 (4) THE ROLE OF MONITORED PRESCRIPTION DRUGS IN THE
8 MANAGEMENT OF PAIN, INCLUDING THE DISTINCTION BETWEEN ADDICTION AND
9 PHYSICAL DEPENDENCE.

10 21-2A-09.

11 (A) A DISPENSER WHO KNOWINGLY FAILS TO SUBMIT PRESCRIPTION
12 MONITORING DATA TO THE PROGRAM AS REQUIRED UNDER THIS SUBTITLE SHALL
13 BE SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500 FOR EACH FAILURE TO
14 SUBMIT REQUIRED INFORMATION.

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That implementation of the
20 Prescription Drug Monitoring Program to be established under § 21-2A-02 of the
21 Health - General Article, as enacted by Section 1 of this Act, is contingent on the
22 Advisory Board on Prescription Drug Monitoring established under § 21-2A-03 of the
23 Health - General Article, as enacted by Section 1 of this Act, obtaining ~~some federal~~
24 ~~grant money in accordance with regulations adopted under § 21-2A-02(d) of the~~
25 ~~Health - General Article federal, private, or State funds to carry out the purposes of~~
26 this Act.

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

31 SECTION ~~2-3, 4.~~ AND BE IT FURTHER ENACTED, That this Act shall take
32 effect October 1, 2006.

