

Chapter 216

(Senate Bill 522)

AN ACT concerning

Health Care Providers – Opioid *and Benzodiazepine* Prescriptions – ~~Discussion of Information Advice Regarding Discussion of Benefits and Risks~~

FOR the purpose of requiring ~~that~~ certain ~~health care providers to discuss~~ ~~advise~~ ~~certain information~~ patients ~~be advised~~ ~~of~~ the benefits and risks associated with the prescription of certain opioids ~~and benzodiazepines under certain circumstances~~ ~~with certain patients or, under certain circumstances, certain parents or guardians at certain times;~~ requiring certain health care providers to obtain a certain written acknowledgment and include the acknowledgment in certain patients' medical records; requiring the Maryland Department of Health to develop and make available a certain model form that includes certain guidelines; making the failure to provide certain patients, parents, and guardians with certain information and obtain a certain written acknowledgment a violation for which certain health occupations boards are authorized to take certain disciplinary actions against certain individuals; making conforming changes; providing that a violation of this Act is grounds for disciplinary action by a certain health occupations board; and generally relating to ~~the discussion of information~~ ~~advice~~ regarding benefits and risks associated with opioids ~~and benzodiazepines~~ that are controlled dangerous substances.

BY repealing and reenacting, with amendments,
 Article – Health Occupations
 Section 1–223
 Annotated Code of Maryland
 (2014 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,
 Article – Health Occupations
 Section 4–315(a)(35), 8–316(a)(36), 14–404(a)(43), and 16–311(a)(8)
 Annotated Code of Maryland
 (2014 Replacement Volume and 2017 Supplement)

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

Article – Health Occupations

1–223.

(a) In this section, “controlled dangerous substance” has the meaning stated in § 5–101 of the Criminal Law Article.

~~(B) (1) BEFORE PRESCRIBING AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE AS TREATMENT FOR PAIN, A HEALTH CARE PROVIDER SHALL DISCUSS WITH THE PATIENT OR, IF THE PATIENT IS A MINOR, THE PARENT OR GUARDIAN OF THE PATIENT:~~

~~(I) THE REASONS WHY THE PRESCRIPTION IS NECESSARY;~~

~~(II) THE RISKS ASSOCIATED WITH THE USE OF THE OPIOID, INCLUDING THE RISK OF:~~

~~1. ADDICTION AND OVERDOSE, EVEN WHEN TAKEN AS PRESCRIBED;~~

~~2. DEVELOPING A PHYSICAL OR PSYCHOLOGICAL DEPENDENCE ON THE OPIOID; AND~~

~~3. TAKING MORE OPIOIDS THAN PRESCRIBED;~~

~~(III) THE DANGERS OF TAKING OPIOIDS WITH ALCOHOL, BENZODIAZEPINES, AND OTHER CENTRAL NERVOUS SYSTEM DEPRESSANTS, INCLUDING THE DANGER OF FATAL RESPIRATORY DEPRESSION; AND~~

~~(IV) ALTERNATIVE TREATMENTS THAT MAY BE AVAILABLE.~~

~~(2) A HEALTH CARE PROVIDER SHALL DISCUSS THE INFORMATION AND RISKS DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION BEFORE ISSUING:~~

~~(I) AN INITIAL PRESCRIPTION FOR AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE; AND~~

~~(II) A THIRD PRESCRIPTION FOR AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE IN THE SAME COURSE OF TREATMENT.~~

~~(3) (I) A HEALTH CARE PROVIDER SHALL OBTAIN A WRITTEN ACKNOWLEDGMENT FROM THE PATIENT OR, IF THE PATIENT IS A MINOR, THE PARENT OR GUARDIAN OF THE PATIENT THAT THE PATIENT OR PARENT OR GUARDIAN HAS DISCUSSED THE INFORMATION AND RISKS DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITH THE HEALTH CARE PROVIDER.~~

~~(H) THE HEALTH CARE PROVIDER SHALL INCLUDE A COPY OF THE WRITTEN ACKNOWLEDGMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN THE PATIENT'S MEDICAL RECORD.~~

~~(HH) 1. THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE A MODEL FORM FOR HEALTH CARE PROVIDERS TO USE AS THE WRITTEN ACKNOWLEDGMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.~~

~~2. THE FORM DEVELOPED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL INCLUDE GUIDELINES FOR HEALTH CARE PROVIDERS FOR ENGAGING IN THE DISCUSSION REQUIRED UNDER PARAGRAPH (I) OF THIS SUBSECTION.~~

~~{(b)}~~ ~~(C)~~ ~~(I)~~ On treatment for pain, a health care provider, based on the clinical judgment of the health care provider, shall prescribe:

~~{(1)}~~ ~~(I)~~ The lowest effective dose of an opioid; and

~~{(2)}~~ ~~(II)~~ A quantity that is no greater than the quantity needed for the expected duration of pain severe enough to require an opioid that is a controlled dangerous substance unless the opioid is prescribed to treat:

~~{(i)}~~ ~~1.~~ A substance-related disorder;

~~{(ii)}~~ ~~2.~~ Pain associated with a cancer diagnosis;

~~{(iii)}~~ ~~3.~~ Pain experienced while the patient is receiving end-of-life, hospice, or palliative care services; or

~~{(iv)}~~ ~~4.~~ Chronic pain.

~~{(c)}~~ ~~(2)~~ The dosage, quantity, and duration of an opioid prescribed under ~~{subsection (b)}~~ ~~PARAGRAPH (1)~~ of this ~~{section}~~ ~~SUBSECTION~~ shall be based on an evidence-based clinical guideline for prescribing controlled dangerous substances that is appropriate for:

~~{(1)}~~ ~~(I)~~ The health care service delivery setting for the patient;

~~{(2)}~~ ~~(II)~~ The type of health care services required by the patient; and

~~{(3)}~~ ~~(III)~~ The age and health status of the patient.

~~(D) (1) WHEN PRESCRIBING AN OPIOID UNDER SUBSECTION (B) OF THIS SECTION, A HEALTH CARE PROVIDER SHALL ADVISE THE PATIENT OF THE BENEFITS~~

~~**AND RISKS ASSOCIATED WITH THE PRESCRIBED OPIOID**~~ **WHEN A PATIENT IS PRESCRIBED AN OPIOID UNDER SUBSECTION (B) OF THIS SECTION, THE PATIENT SHALL BE ADVISED OF THE BENEFITS AND RISKS ASSOCIATED WITH THE OPIOID.**

(2) WHEN A PATIENT IS CO-PRESCRIBED A BENZODIAZEPINE WITH AN OPIOID THAT IS PRESCRIBED UNDER SUBSECTION (B) OF THIS SECTION, THE PATIENT SHALL BE ADVISED OF THE BENEFITS AND RISKS ASSOCIATED WITH THE BENZODIAZEPINE AND THE CO-PRESCRIPTION OF THE BENZODIAZEPINE.

~~(d)~~ **(E)** A violation of ~~subsection (b)~~ **OR (D)** of this section is grounds for disciplinary action by the health occupations board that regulates the health care provider who commits the violation.

4-315.

(a) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:

(35) Fails to comply with § 1-223 of this article.

8-316.

(a) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may deny a license or grant a license, including a license subject to a reprimand, probation, or suspension, to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the applicant or licensee:

(36) Fails to comply with § 1-223 of this article.

14-404.

(a) Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(43) Fails to comply with § 1-223 of this article.

16-311.

(a) Subject to the hearing provisions of § 16-313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or a limited

license to any applicant, reprimand any licensee or holder of a limited license, impose an administrative monetary penalty not exceeding \$50,000 on any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or a limited license if the applicant, licensee, or holder:

(8) Prescribes or distributes a controlled dangerous substance to any other person in violation of the law, including in violation of § 1-223 of this article;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

Approved by the Governor, April 24, 2018.