

HOUSE BILL 1338

J1

9lr3130
CF 9lr3199

By: **Delegate Barron**

Introduced and read first time: February 15, 2019

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Prescription Monitoring Data – Health Care Facility**

3 FOR the purpose of requiring the Prescription Drug Monitoring Program to disclose
4 prescription monitoring data, in accordance with certain regulations, to the medical
5 director or authorized administrator of certain health care facilities, or the medical
6 director's or authorized administrator's designee for the purpose of providing certain
7 treatment to certain patients or certain prospective patients; and generally relating
8 to the Prescription Drug Monitoring Program.

9 BY repealing and reenacting, without amendments,
10 Article – Health – General
11 Section 19–114(a) and (d) and 21–2A–06(a)
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2018 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Health – General
16 Section 21–2A–06(b)
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2018 Supplement)

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

21 **Article – Health – General**

22 19–114.

23 (a) In this Part II of this subtitle the following words have the meanings
24 indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (d) (1) “Health care facility” means:
- 2 (i) A hospital, as defined in § 19–301 of this title;
- 3 (ii) A limited service hospital, as defined in § 19–301 of this title;
- 4 (iii) A related institution, as defined in § 19–301 of this title;
- 5 (iv) An ambulatory surgical facility;
- 6 (v) An inpatient facility that is organized primarily to help in the
7 rehabilitation of disabled individuals, through an integrated program of medical and other
8 services provided under competent professional supervision;
- 9 (vi) A home health agency, as defined in § 19–401 of this title;
- 10 (vii) A hospice, as defined in § 19–901 of this title;
- 11 (viii) A freestanding medical facility, as defined in § 19–3A–01 of this
12 title; and
- 13 (ix) Any other health institution, service, or program for which this
14 Part II of this subtitle requires a certificate of need.
- 15 (2) “Health care facility” does not include:
- 16 (i) A hospital or related institution that is operated, or is listed and
17 certified, by the First Church of Christ Scientist, Boston, Massachusetts;
- 18 (ii) For the purpose of providing an exception to the requirement for
19 a certificate of need under § 19–120 of this subtitle, a facility to provide comprehensive care
20 constructed by a provider of continuing care, as defined in § 10–401 of the Human Services
21 Article, if:
- 22 1. Except as provided under § 19–123 of this subtitle, the
23 facility is for the exclusive use of the provider’s subscribers who have executed continuing
24 care agreements and paid entrance fees that are at least equal to the lowest entrance fee
25 charged for an independent living unit or an assisted living unit before entering the
26 continuing care community, regardless of the level of care needed by the subscribers at the
27 time of admission;
- 28 2. The facility is located on the campus of the continuing care
29 community; and
- 30 3. The number of comprehensive care nursing beds in the
31 community does not exceed:

1 A. 24 percent of the number of independent living units in a
2 community having less than 300 independent living units; or

3 B. 20 percent of the number of independent living units in a
4 community having 300 or more independent living units;

5 (iii) For the purpose of providing an exception to the requirement for
6 a certificate of need under § 19–120 of this subtitle, a facility to provide comprehensive care
7 that:

8 1. Is owned and operated by the Maryland Department of
9 Veterans Affairs; and

10 2. Restricts admissions to individuals who meet the
11 residency requirements established by the Maryland Department of Veterans Affairs and
12 are:

13 A. Veterans who were discharged or released from the armed
14 forces of the United States under honorable conditions;

15 B. Former members of a reserve component of the armed
16 forces of the United States; or

17 C. Nonveteran spouses of eligible veterans;

18 (iv) Except for a facility to provide kidney transplant services or
19 programs, a kidney disease treatment facility, as defined by rule or regulation of the United
20 States Department of Health and Human Services;

21 (v) Except for kidney transplant services or programs, the kidney
22 disease treatment stations and services provided by or on behalf of a hospital or related
23 institution; or

24 (vi) The office of one or more individuals licensed to practice dentistry
25 under Title 4 of the Health Occupations Article, for the purposes of practicing dentistry.

26 21–2A–06.

27 (a) Prescription monitoring data:

28 (1) Are confidential and privileged, and not subject to discovery, subpoena,
29 or other means of legal compulsion in civil litigation;

30 (2) Are not public records; and

31 (3) Except as provided in subsections (b), (c), (d), and (f) of this section or
32 as otherwise provided by law, may not be disclosed to any person.

1 (b) The Program shall disclose prescription monitoring data, in accordance with
2 regulations adopted by the Secretary, to:

3 (1) A prescriber, or a licensed health care practitioner authorized by the
4 prescriber, in connection with the medical care of a patient;

5 (2) A dispenser, or a licensed health care practitioner authorized by the
6 dispenser, in connection with the dispensing of a monitored prescription drug;

7 (3) A federal law enforcement agency or a State or local law enforcement
8 agency, on issuance of a subpoena, for the purpose of furthering an existing bona fide
9 individual investigation;

10 (4) The State Board of Physicians, on issuance of an administrative
11 subpoena voted on by a quorum of a disciplinary panel, as defined in § 14–101 of the Health
12 Occupations Article, for the purposes of furthering an existing bona fide investigation of an
13 individual;

14 (5) A licensing entity other than the State Board of Physicians, on issuance
15 of an administrative subpoena voted on by a quorum of the board of the licensing entity,
16 for the purposes of furthering an existing bona fide individual investigation;

17 (6) A rehabilitation program under a health occupations board, on issuance
18 of an administrative subpoena;

19 (7) A patient with respect to prescription monitoring data about the
20 patient;

21 (8) Subject to subsection (i) of this section, the authorized administrator of
22 another state's prescription drug monitoring program;

23 (9) The following units of the Department, on approval of the Secretary, for
24 the purpose of furthering an existing bona fide individual investigation:

25 (i) The Office of the Chief Medical Examiner;

26 (ii) The Maryland Medical Assistance Program;

27 (iii) The Office of the Inspector General;

28 (iv) The Office of Health Care Quality; and

29 (v) The Office of Controlled Substances Administration;

30 (10) The technical advisory committee established under § 21–2A–07 of this
31 subtitle for the purposes set forth in subsections (c), (d), and (e) of this section; [or]

1 **(11) THE MEDICAL DIRECTOR OR AUTHORIZED ADMINISTRATOR OF A**
2 **HEALTH CARE FACILITY, AS DEFINED IN § 19–114 OF THIS ARTICLE, OR THE**
3 **MEDICAL DIRECTOR’S OR AUTHORIZED ADMINISTRATOR’S DESIGNEE, FOR THE**
4 **PURPOSE OF PROVIDING MEDICAL OR PHARMACEUTICAL TREATMENT TO A PATIENT**
5 **OR PROSPECTIVE PATIENT OF THE HEALTH CARE FACILITY; OR**

6 **[(11)] (12)** The following entities, on approval of the Secretary and for the
7 purpose of furthering an existing bona fide individual case review:

8 (i) The State Child Fatality Review Team or a local child fatality
9 review team established under Title 5, Subtitle 7 of this article, on request from the chair
10 of the State or local team;

11 (ii) A local drug overdose fatality review team established under §
12 5–902 of this article, on request from the chair of the local team;

13 (iii) The Maternal Mortality Review Program established under §
14 13–1203 of this article, on request from the Program; and

15 (iv) A medical review committee described in § 1–401(b)(3) of the
16 Health Occupations Article, on request from the committee.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2019.