



DEPARTMENT OF HEALTH

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

March 17, 2020

The Honorable Dolores G. Kelley, Chair
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401-1991

RE: HB0663 – Prescription Drug Monitoring Program – Out-of-State Pharmacists and Discipline Noncompliance – Letter of Support

Dear Chair Kelley and Committee Members:

The Maryland Department of Health (Department) respectfully submits this letter of support for HB0663 – Prescription Drug Monitoring Program – Out-of-State Pharmacists and Discipline Noncompliance.

The Maryland Prescription Drug Monitoring Program (PDMP) serves as an important clinical decision support tool to improve the quality of care provided to Marylanders. Maryland-registered controlled dangerous substances (CDS) prescribers and Maryland-licensed pharmacists are required to access PDMP data in certain prescribing and dispensing situations, in line with best practices. There is currently a gap in Maryland statute preventing certain pharmacists who dispense CDS medications to Maryland patients from legally registering with and accessing PDMP data, which we seek to remedy as well as a persisting statutory gap preventing implementation of a key PDMP provision.

The existing definition of “pharmacist” excludes pharmacists who: 1) are licensed in other states working at a mail-order pharmacy and making decisions about whether to dispense a CDS prescription to a patient at a Maryland address, and 2) who are working at a federal facility in Maryland but licensed as a pharmacist in another state. The PDMP has received numerous requests from pharmacists in both situations.

Federal regulation (21 C.F.R. § 1306.04) states that “a prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” The provision places responsibility not only on the prescriber, but also states that “a corresponding responsibility rests with the pharmacist who fills the prescription.” Therefore, PDMP data access for all pharmacists who may dispense to Maryland patients supports the health and safety of Marylanders as well as conforms to federal regulations.

Out-of-state mail-order pharmacies may lawfully deliver CDS prescriptions to a Maryland address if that pharmacy holds appropriate licensure with the state of Maryland; however, every pharmacist working at that pharmacy may not be individually licensed with the Maryland Board of Pharmacy (Board). Currently, our definition of ‘pharmacist’ prohibits the PDMP from allowing these pharmacists access to Maryland PDMP data.

Similarly, pharmacists employed at federal facilities may be lawfully licensed in a state other than the one in which the federal facility is located. This means that a pharmacist working at a Maryland-based federal facility but lawfully licensed in a state other than Maryland cannot access Maryland PDMP data when making dispensing decisions for Maryland patients.

In 2016, Chapter 147 created a requirement for prescribers of controlled dangerous substance (CDS) and pharmacists to assess PDMP data prior to certain prescribing and dispensing decisions. This mandate is in line with the 2015 CDC Guideline for Prescribing Opioids for Chronic Pain (<https://www.cdc.gov/drugoverdose/prescribing/guideline.html>). The PDMP has implemented the use mandate effective July 1, 2018, is investing in provider education activities to support increased and improved use of PDMP data to optimize care for Maryland patients, and has developed electronic tools to monitor compliance with the requirements of the mandate. Chapter 147 authorized the Health Licensing Boards to enforce compliance with the PDMP use mandate.

Health-General Article §21-2a-09(b)(3) states that “A prescriber or pharmacist who violates [the registration or use mandate] shall be subject to disciplinary action by the appropriate licensing entity.” However, the Board does not have a corresponding disciplinary ground for enforcement purposes within the Health-Occupations article, and thus effectively cannot act on the intended statutory authority in the PDMP use mandate bill

As such, the proposed bill will broaden the definition of pharmacist to more closely align with the definition of prescriber. This change will allow all appropriate pharmacists dispensing CDS to Maryland patients access to PDMP data to make more informed dispensing decisions that will ultimately improve the health of Maryland patients. It would also authorize the Board to impose disciplinary action for failing to comply with the requirements stated in Chapter 147.

I hope this information is useful. If you would like to discuss this further, please contact Director of Governmental Affairs Webster Ye at (410) 260-3190 or webster.ye@maryland.gov.

Sincerely,



Robert R. Neall
Secretary