



Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Damean W.E. Freas, D.O., Chair

2022 SESSION POSITION PAPER

BILL NO.: SB 865 – Controlled Dangerous Substances and Treatment of Chronic Pain and Long-Term Oxygen Use Patients (Continuity of Care Act of 2022)
COMMITTEE: Senate Education, Health, and Environmental Affairs
POSITION: Letter of Opposition

TITLE: Controlled Dangerous Substances and Treatment of Chronic Pain and Long-Term Oxygen Use Patients (Continuity of Care Act of 2022)

POSITION & RATIONALE:

The Maryland Board of Physicians (the Board) is respectfully submitting this letter of opposition for Senate Bill (SB) 865 – Controlled Dangerous Substances and Treatment of Chronic Pain and Long-Term Oxygen Use Patients (Continuity of Care Act of 2022). SB 865 will mandate that health care providers make a good-faith effort to maintain a previously prescribed dosage of and regimen for a controlled dangerous substance for a patient who loses access to their original prescribing health care provider and seeks a continuance of a prescription. SB 865 will also alter the limits on prescribing opioids described in Health Occupations Article § 1-223 from an evidence-based clinical guideline to the prescriber’s clinical judgment.

The Board respects that individuals living with chronic pain or on long-term oxygen may have specific health care needs, and those needs are important to address. In fact, this is one of the reasons the Board does not support codifying standards of care. Instead, standard of care cases that come before the Board are determined on a case-by-case basis by utilizing appropriate peer review, which allows the Board to make decisions specific to each individual set of circumstances rather than making blanket determinations. The current requirement that dosage, quantity and duration of opioids prescribed for the treatment of pain must be based on evidence-based clinical guidelines allows the Board to remain flexible in its approach to discipline as such guidelines evolve over time, without requiring constant statutory changes.

SB 865 will replace the evidence-based clinical guideline requirement found in Health Occupations (H.O.) Article § 1-223(c) with the prescriber’s clinical judgment. Such a change will present a major barrier to the Board when pursuing cases involving improper prescribing of opioids. Even in cases where opioids were prescribed in dosages or durations well outside of clinical guidelines and where the independent peer reviewers all agree that such prescribing was inappropriate, the health

care provider will be shielded from disciplinary action by the argument that such prescribing was within their clinical judgment and therefore not subject to the limitations identified in H.O. § 1-223.

In addition, the language proposed in SB 865 on page 4, lines 16 through 22, will actively require health care providers to attempt to maintain previously prescribed dosages of opioids and other controlled dangerous substances for new patients even in cases where those original prescriptions are well beyond what is safe or appropriate. Such a provision will remove the ability of health care providers to make informed and evidence-based decisions for their patients, and could even subject providers to potential disciplinary action for acting in the best interests of their patients.

Finally, the Board believes that the language proposed in SB 865 on page 4, lines 10 through 12, is redundant. All disciplinary action is “possible” and at the discretion of the Board.

Based on these concerns, the Board must respectfully oppose SB 865.

Thank you for your consideration. For more information, please contact Matthew Dudzic, Health Policy Analyst, Maryland Board of Physicians, 410-764-5042.

Sincerely,

A handwritten signature in blue ink, appearing to read "Damean W. E. Freas".

Damean W. E. Freas, D.O.
Chair, Maryland Board of Physicians

The opinion of the Board expressed in this document does not necessarily reflect that of the Maryland Department of Health or the Administration.