

HB 1102 -- PRESCRIPTION DRUG MONITORING PROGRAM

SPONSOR: Frederick

This bill establishes the "Prescription Drug Monitoring Program Act." In its main provisions, the bill:

- (1) Requires the Department of Health and Senior Services to establish and maintain a program to monitor the prescribing and dispensing of all Schedule II through Schedule IV controlled substances. The department shall use an existing data aggregation platform through the State Data Center within the Office of Administration to establish the Prescription Drug Monitoring Program (PDMP);
- (2) The department shall ensure the privacy and security of personal information while only aggregating necessary and appropriate information related to the prescribing or dispensing of Schedule II through Schedule IV controlled substances. The aggregated information from each prescriber and dispenser data source shall remain segregated from any other data source. All submitted prescription and dispensation information shall be kept confidential with specified exceptions. Beginning August 28, 2019, the department shall maintain an individual's prescription and dispensation information for a maximum of 180 days, after which such information shall be deleted from the PDMP;
- (3) Allows the department to issue a waiver to a dispenser who is unable to submit the required information electronically and allows a dispenser to submit the required information by paper form or other means. The department shall reimburse each dispenser for the fees of transmitting the information required;
- (4) Requires the department to notify appropriate law enforcement or agencies if it has reasonable cause to believe that there may have been a violation in the law or a breach of professional standards;
- (5) Any person who unlawfully and knowingly accesses or discloses prescription and dispensation monitoring information or prescribers and dispensers who knowingly fail to submit the required information or who knowingly submit incorrect information shall be subject to penalties and shall be guilty of a class A misdemeanor. Any persons authorized to have prescription or dispensation information who knowingly disclose such information or who use it in a manner and for a purpose in violation of the act shall be guilty of a class E felony. Additionally, this act provides a private cause of action for persons whose data has been disclosed to an unauthorized person. Recovery under this cause of action for

negligent disclosure shall include liquidated damages of \$25,000 and compensatory economic and non-economic damages, attorney fees, and court costs. Punitive damages are available for intentional and malicious unauthorized disclosure. Neither the sovereign nor the official immunity doctrines shall apply to a person or department authorized to have private medical information who discloses such information to unauthorized parties;

(6) The department shall annually provide to the General Assembly a report as to the number of controlled substances dispensed, broken down by drug, the number of incidents of fraudulent prescriptions identified, and any other pertinent information requested by the General Assembly;

(7) The department shall create and implement educational courses regarding the provisions of this act and, when appropriate, shall work with associations for impaired professionals to ensure the intervention, treatment, and ongoing monitoring of individuals who have been identified as being addicted to substances monitored by this act;

(8) The provisions of this act shall not apply to Schedules II, III, and IV controlled substances prescribed or dispensed where the ultimate user is an individual under 18; and

(9) The provisions of this act shall preempt all ordinances, rules, and regulations of political subdivisions relating to the prescription and dispensation of all Schedule II, III, and IV controlled substances.

The provisions of this act shall expire on August 28, 2023.

This bill is similar to HB 1892 (2016) and similar to HCS SS SCS SB 63 & 111, HCS HB 130, and HCS HB 816 (2015).