

HOUSE BILL 525

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8lr1860

HB 1287/06 – HGO

By: Delegates Kullen, Beitzel, Donoghue, Gilchrist, Kaiser, Mizeur, Pena-Melnyk, Pendergrass, Reznik, Stull, V. Turner, ~~and Weldon~~ Weldon, Benson, Elliott, Hammen, Kach, Kipke, McDonough, Montgomery, Oaks, and Riley

Introduced and read first time: January 30, 2008

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2008

CHAPTER _____

1 AN ACT concerning

2 **Prescription Drug Monitoring Program**
3 **Advisory Council on Prescription Drug Monitoring – Study**

4 ~~FOR the purpose of requiring the Department of Health and Mental Hygiene to~~
5 ~~establish and maintain a certain Prescription Drug Monitoring Program within~~
6 ~~the Department; establishing the powers and duties of the Secretary of Health~~
7 ~~and Mental Hygiene under the Program; requiring prescription monitoring data~~
8 ~~to be destroyed after a certain time period unless a certain request for retention~~
9 ~~of certain information is submitted to the Department; creating a certain~~
10 ~~Advisory Board on Prescription Drug Monitoring to assist in the design,~~
11 ~~implementation, and evaluation of the Program; establishing the chair, the~~
12 ~~terms of the members, and the responsibilities of the Board; requiring the~~
13 ~~Secretary to appoint a multidisciplinary consultation team to assist in the~~
14 ~~interpretation of prescription monitoring data; requiring dispensers to submit~~
15 ~~electronically certain information to the Program except in certain~~
16 ~~circumstances; prohibiting the Board and the Secretary from charging a fee or~~
17 ~~imposing an assessment on certain persons for certain purposes; making~~
18 ~~prescription monitoring data confidential and privileged and not subject to~~
19 ~~certain means of legal compulsion except under certain circumstances;~~
20 ~~authorizing certain agencies and persons to obtain access to prescription~~
21 ~~monitoring data under certain circumstances; establishing immunity from~~
22 ~~liability for certain agencies and persons relating to the operation and use of the~~
23 ~~Program; providing for education and training relating to the Program;~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~establishing penalties for violations of the requirements of the Program;~~
 2 ~~defining certain terms; providing that implementation of the Program is~~
 3 ~~contingent on the Board obtaining certain federal, State, or private funds;~~
 4 ~~prohibiting the Program from collecting prescription monitoring data before a~~
 5 ~~certain date; and generally relating to the creation and operation of the~~
 6 ~~Prescription Drug Monitoring Program.~~ FOR the purpose of establishing an
 7 Advisory Council on Prescription Drug Monitoring in the Department of Health
 8 and Mental Hygiene; establishing the membership and chair of the Council;
 9 requiring the Council to study the establishment of a certain prescription drug
 10 monitoring program; requiring the study to make recommendations to the
 11 Secretary of Health and Mental Hygiene for establishing a prescription drug
 12 monitoring program for certain purposes; requiring the Council to include
 13 certain items in its study and recommendations; requiring the Council to
 14 submit a certain interim report and a certain final report on or before certain
 15 dates; defining a certain term; providing for the termination of this Act; and
 16 generally relating to an Advisory Council on Prescription Drug Monitoring and
 17 a study of a prescription drug monitoring program.

18 BY adding to
 19 Article – Health – General
 20 Section 21-2A-01 ~~through 21-2A-09 to be under the new subtitle “Subtitle 2A-~~
 21 ~~Prescription Drug Monitoring Program to be under the new subtitle~~
 22 “Subtitle 2A. Advisory Council on Prescription Drug Monitoring”
 23 Annotated Code of Maryland
 24 (2005 Replacement Volume and 2007 Supplement)

25 Preamble

26 WHEREAS, Thousands of Marylanders suffer from chronic pain and other
 27 conditions that make access to pain medications and other pharmaceutical therapies
 28 necessary and beneficial; and

29 WHEREAS, Increasing numbers of Maryland adults and adolescents are
 30 engaging in prescription drug abuse and diversion to the detriment of their health and
 31 welfare; and

32 WHEREAS, Maryland should have a Prescription Drug Monitoring Program
 33 that supports the lawful use of controlled substances without interfering with
 34 legitimate professional practice and patient care; and

35 WHEREAS, A Prescription Drug Monitoring Program should assist health care
 36 professionals and law enforcement professionals in the identification, treatment, and
 37 prevention of prescription drug abuse and in the identification and investigation of
 38 unlawful prescription drug diversion; and

39 WHEREAS, Data concerning monitored prescription drugs under a Prescription
 40 Drug Monitoring Program would be available for research purposes, including

1 research about the effects of the Prescription Drug Monitoring Program itself; now,
2 therefore,

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

5 **Article - Health - General**

6 **SUBTITLE 2A. ~~PRESCRIPTION DRUG MONITORING PROGRAM~~ ADVISORY**
7 **COUNCIL ON PRESCRIPTION DRUG MONITORING.**

8 **21-2A-01.**

9 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
10 ~~INDICATED.~~

11 ~~(B) "AUTHORIZED RECIPIENT" MEANS:~~

12 ~~(1) A DISPENSER;~~

13 ~~(2) A PRESCRIBER;~~

14 ~~(3) A FEDERAL LAW ENFORCEMENT AGENCY;~~

15 ~~(4) A STATE OR LOCAL LAW ENFORCEMENT AGENCY;~~

16 ~~(5) A LICENSING ENTITY;~~

17 ~~(6) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;~~

18 ~~(7) A PATIENT WITH RESPECT TO INFORMATION ABOUT THE~~
19 ~~PATIENT; OR~~

20 ~~(8) ANY PERSON UNDER CONTRACT WITH THE DEPARTMENT~~
21 ~~CONCERNING THE OPERATION OF THE PROGRAM.~~

22 ~~(C) "BOARD" MEANS THE ADVISORY BOARD ON PRESCRIPTION DRUG~~
23 ~~MONITORING.~~

24 ~~(D) (1) "DISPENSER" MEANS A PERSON WHO DISPENSES A~~
25 ~~MONITORED PRESCRIPTION DRUG TO A PATIENT OR THE PATIENT'S AGENT IN~~
26 ~~THE STATE.~~

27 ~~(2) "DISPENSER" INCLUDES A PERSON OPERATING BY MAIL OR~~
28 ~~OTHER MEANS FROM A PLACE OF BUSINESS OUTSIDE THE STATE.~~

1 ~~(3) "DISPENSER" DOES NOT INCLUDE A LICENSED HOSPITAL~~
2 ~~PHARMACY THAT DISPENSES A MONITORED PRESCRIPTION DRUG FOR~~
3 ~~INPATIENT HOSPITAL CARE.~~

4 ~~(E) "DISPENSES" HAS THE MEANING STATED IN § 12-101 OF THE~~
5 ~~HEALTH OCCUPATIONS ARTICLE.~~

6 ~~(F) "FEDERAL LAW ENFORCEMENT AGENCY" MEANS:~~

7 ~~(1) ANY ENTITY WITHIN THE UNITED STATES DEPARTMENT OF~~
8 ~~JUSTICE, INCLUDING:~~

9 ~~(I) THE DRUG ENFORCEMENT ADMINISTRATION;~~

10 ~~(H) THE FEDERAL BUREAU OF INVESTIGATION; AND~~

11 ~~(HH) A UNITED STATES ATTORNEY'S OFFICE; OR~~

12 ~~(2) THE OFFICE OF THE INSPECTOR GENERAL OF THE~~
13 ~~DEPARTMENT OF HEALTH AND HUMAN SERVICES.~~

14 ~~(G) "LICENSING ENTITY" MEANS AN ENTITY AUTHORIZED UNDER THE~~
15 ~~HEALTH OCCUPATIONS ARTICLE TO LICENSE, REGULATE, OR DISCIPLINE A~~
16 ~~PRESCRIBER OR DISPENSER.~~

17 ~~(H) "MONITORED PRESCRIPTION DRUG" MEANS A PRESCRIPTION DRUG~~
18 ~~THAT CONTAINS A SUBSTANCE LISTED IN SCHEDULE II THROUGH SCHEDULE~~
19 ~~IV.~~

20 ~~(I) "PRESCRIBER" MEANS A LICENSED HEALTH CARE PROFESSIONAL~~
21 ~~WHO IS AUTHORIZED BY LAW TO PRESCRIBE A MONITORED PRESCRIPTION~~
22 ~~DRUG.~~

23 ~~(J) "PRESCRIPTION DRUG" HAS THE MEANING STATED IN § 21-201 OF~~
24 ~~THIS TITLE.~~

25 ~~(K) "PRESCRIPTION MONITORING DATA" MEANS THE INFORMATION~~
26 ~~SUBMITTED TO THE PROGRAM.~~

27 ~~(L) "PROGRAM" MEANS THE PRESCRIPTION DRUG MONITORING~~
28 ~~PROGRAM ESTABLISHED UNDER THIS SUBTITLE.~~

29 ~~(M) "SCHEDULE II" MEANS THE LIST OF CONTROLLED DANGEROUS~~
30 ~~SUBSTANCES SET FORTH IN § 5-403 OF THE CRIMINAL LAW ARTICLE.~~

1 ~~(N) "SCHEDULE III" MEANS THE LIST OF CONTROLLED DANGEROUS~~
2 ~~SUBSTANCES SET FORTH IN § 5-404 OF THE CRIMINAL LAW ARTICLE.~~

3 ~~(O) "SCHEDULE IV" MEANS THE LIST OF CONTROLLED DANGEROUS~~
4 ~~SUBSTANCES SET FORTH IN § 5-405 OF THE CRIMINAL LAW ARTICLE.~~

5 ~~(P) "STATE OR LOCAL LAW ENFORCEMENT AGENCY" MEANS:~~

6 ~~(1) A STATE, COUNTY, OR MUNICIPAL POLICE DEPARTMENT OR~~
7 ~~AGENCY;~~

8 ~~(2) A SHERIFF'S OFFICE;~~

9 ~~(3) A STATE'S ATTORNEY'S OFFICE; OR~~

10 ~~(4) THE OFFICE OF THE ATTORNEY GENERAL.~~

11 ~~21-2A-02.~~

12 ~~(A) THE DEPARTMENT SHALL ESTABLISH AND MAINTAIN, IN~~
13 ~~CONSULTATION WITH THE BOARD, A PRESCRIPTION DRUG MONITORING~~
14 ~~PROGRAM THAT ELECTRONICALLY COLLECTS AND STORES DATA CONCERNING~~
15 ~~MONITORED PRESCRIPTION DRUGS.~~

16 ~~(B) THE SECRETARY MAY:~~

17 ~~(1) ASSIGN RESPONSIBILITY FOR THE OPERATION OF THE~~
18 ~~PROGRAM TO ANY UNIT IN THE DEPARTMENT; AND~~

19 ~~(2) CONTRACT WITH ANY QUALIFIED PERSON AS THE SECRETARY~~
20 ~~DEEMS NECESSARY FOR THE EFFICIENT AND ECONOMICAL OPERATION OF THE~~
21 ~~PROGRAM.~~

22 ~~(C) THE SECRETARY, IN CONSULTATION WITH THE BOARD, SHALL~~
23 ~~ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.~~

24 ~~(D) THE REGULATIONS ADOPTED BY THE SECRETARY SHALL:~~

25 ~~(1) ASSIST HEALTH CARE PROVIDERS AND LAW ENFORCEMENT~~
26 ~~PROFESSIONALS IN:~~

27 ~~(i) THE IDENTIFICATION, TREATMENT, AND PREVENTION~~
28 ~~OF PRESCRIPTION DRUG ABUSE; AND~~

1 ~~(H) THE IDENTIFICATION AND INVESTIGATION OF~~
2 ~~UNLAWFUL PRESCRIPTION DRUG DIVERSION;~~

3 ~~(2) PROMOTE A BALANCED USE OF PRESCRIPTION MONITORING~~
4 ~~DATA TO ASSIST APPROPRIATE LAW ENFORCEMENT ACTIVITIES WHILE~~
5 ~~PRESERVING THE PROFESSIONAL PRACTICE OF HEALTH CARE PROVIDERS AND~~
6 ~~THE ACCESS OF PATIENTS TO OPTIMAL PHARMACEUTICAL CARE;~~

7 ~~(3) IDENTIFY THE CIRCUMSTANCES UNDER WHICH~~
8 ~~PRESCRIPTION MONITORING DATA ARE PROVIDED TO AN AUTHORIZED~~
9 ~~RECIPIENT, WITH SUCH CIRCUMSTANCES TO PARALLEL AS CLOSELY AS IS~~
10 ~~APPROPRIATE AN AUTHORIZED RECIPIENT'S AUTHORITY TO ACCESS SIMILAR~~
11 ~~CONFIDENTIAL INFORMATION UNDER FEDERAL AND STATE LAWS AND~~
12 ~~REGULATIONS IN EFFECT AT THE TIME THE PROGRAM WAS ESTABLISHED;~~

13 ~~(4) IDENTIFY THE CIRCUMSTANCES UNDER WHICH AN~~
14 ~~AUTHORIZED RECIPIENT MAY DISCLOSE PRESCRIPTION MONITORING DATA~~
15 ~~PROVIDED BY THE PROGRAM;~~

16 ~~(5) IDENTIFY THE CIRCUMSTANCES UNDER WHICH A FEDERAL~~
17 ~~LAW ENFORCEMENT AGENCY, A STATE OR LOCAL LAW ENFORCEMENT AGENCY,~~
18 ~~OR A LICENSING ENTITY THAT HAS RECEIVED PRESCRIPTION MONITORING~~
19 ~~DATA SHALL CONSULT WITH THE MULTIDISCIPLINARY CONSULTATION TEAM~~
20 ~~ESTABLISHED UNDER § 21-2A-04 OF THIS SUBTITLE ABOUT THE~~
21 ~~INTERPRETATION OF THE PRESCRIPTION MONITORING DATA;~~

22 ~~(6) PROMOTE APPROPRIATE AND REAL TIME, IF FEASIBLE,~~
23 ~~ACCESS TO PRESCRIPTION MONITORING DATA BY DISPENSERS AND~~
24 ~~PRESCRIBERS TO HELP PREVENT SUBSTANCE ABUSE AND PRESCRIPTION DRUG~~
25 ~~DIVERSION;~~

26 ~~(7) REQUIRE THE BOARD TO APPLY FOR FEDERAL GRANT~~
27 ~~MONEY, AS APPROPRIATE;~~

28 ~~(8) ENSURE THAT THE PROGRAM IS DESIGNED TO:~~

29 ~~(I) PREVENT, TO THE FULLEST EXTENT POSSIBLE, THE~~
30 ~~BURDEN ON DISPENSERS IN THEIR COMPLIANCE WITH THE REQUIREMENTS OF~~
31 ~~THIS SUBTITLE; AND~~

32 ~~(II) RECEIVE PRESCRIPTION MONITORING DATA IN A~~
33 ~~MANNER COMPATIBLE WITH EXISTING DATA SUBMISSION PRACTICES OF~~
34 ~~DISPENSERS; AND~~

35 ~~(9) ENSURE THAT:~~

1 ~~(I) CONFIDENTIAL OR PRIVILEGED PATIENT INFORMATION~~
2 ~~IS KEPT CONFIDENTIAL; AND~~

3 ~~(II) RECORDS OR INFORMATION PROTECTED BY THE~~
4 ~~PRIVILEGE BETWEEN A HEALTH CARE PROVIDER AND A PATIENT, OR~~
5 ~~OTHERWISE REQUIRED BY LAW TO BE HELD CONFIDENTIAL, IS FILED IN A~~
6 ~~MANNER THAT, EXCEPT AS OTHERWISE PROVIDED IN § 21-2A-06 OF THIS~~
7 ~~SUBTITLE, DOES NOT DISCLOSE THE IDENTITY OF THE PERSON PROTECTED.~~

8 ~~(E) PRESCRIPTION MONITORING DATA SHALL BE DESTROYED AFTER 2~~
9 ~~YEARS, UNLESS A LAW ENFORCEMENT AGENCY OR A HEALTH OCCUPATIONS~~
10 ~~BOARD HAS SUBMITTED A WRITTEN REQUEST TO THE DEPARTMENT FOR~~
11 ~~RETENTION OF SPECIFIC INFORMATION.~~

12 ~~21-2A-03.~~

13 (A) IN THIS SUBTITLE, "COUNCIL" MEANS THE ADVISORY COUNCIL ON
14 PRESCRIPTION DRUG MONITORING.

15 ~~(A)~~ (B) THERE IS AN ADVISORY BOARD COUNCIL ON PRESCRIPTION
16 DRUG MONITORING IN THE DEPARTMENT.

17 ~~(B)~~ (C) THE BOARD COUNCIL CONSISTS OF THE FOLLOWING 21
18 MEMBERS:

19 (1) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S
20 DESIGNEE;

21 (2) THE SECRETARY, OR THE SECRETARY'S DESIGNEE;

22 (3) THE PRESIDENT OF THE MARYLAND BOARD OF PHARMACY,
23 OR THE PRESIDENT'S DESIGNEE;

24 (4) THE CHAIR OF THE MARYLAND BOARD OF PHYSICIANS, OR
25 THE CHAIR'S DESIGNEE;

26 (5) THE PRESIDENT OF THE MARYLAND BOARD OF NURSING, OR
27 THE PRESIDENT'S DESIGNEE;

28 (6) THE CHAIR OF THE MARYLAND HEALTH CARE COMMISSION,
29 OR THE CHAIR'S DESIGNEE;

30 (7) FOUR PHYSICIANS AND ONE NURSE PRACTITIONER WITH
31 EXPERTISE IN AREAS OF PRACTICE THAT INVOLVE PAIN MANAGEMENT AND

1 SUBSTANCE ABUSE AND ADDICTION TREATMENT, APPOINTED BY THE
2 SECRETARY AFTER CONSULTATION WITH:

3 (I) THE MEDICAL AND CHIRURGICAL FACULTY OF
4 MARYLAND, THE MARYLAND STATE MEDICAL SOCIETY, THE MARYLAND
5 PHYSICAL MEDICINE AND REHABILITATION SOCIETY, AND THE MARYLAND
6 SOCIETY OF ANESTHESIOLOGISTS WITH RESPECT TO THE PHYSICIAN
7 APPOINTMENTS; AND

8 (II) THE MARYLAND NURSES COALITION, THE MARYLAND
9 COALITION OF NURSE PRACTITIONERS, THE NURSE PRACTITIONER
10 ASSOCIATION OF MARYLAND, THE MARYLAND ASSOCIATION OF NURSE
11 ANESTHETISTS, AND THE MARYLAND NURSES ASSOCIATION WITH RESPECT TO
12 THE NURSE PRACTITIONER APPOINTMENT;

13 (8) FOUR PHARMACISTS, APPOINTED BY THE SECRETARY AFTER
14 CONSULTATION WITH THE MARYLAND PHARMACISTS ASSOCIATION, THE
15 MARYLAND ASSOCIATION OF CHAIN DRUG STORES, ~~EPIC PHARMACIES~~
16 UNIVERSITY OF MARYLAND SCHOOL OF PHARMACY, AND ANY OTHER
17 APPROPRIATE ORGANIZATION:

18 (I) THREE OF WHOM REPRESENT THE PERSPECTIVE OF
19 INDEPENDENT AND CHAIN PHARMACIES AND PHARMACISTS; AND

20 (II) ONE OF WHOM REPRESENTS THE PERSPECTIVE OF
21 HOSPITAL OUTPATIENT PHARMACIES;

22 ~~(9) A FEDERAL LAW ENFORCEMENT OFFICIAL, APPOINTED BY~~
23 ~~THE SECRETARY AFTER CONSULTATION WITH THE DRUG ENFORCEMENT~~
24 ~~ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF JUSTICE;~~

25 ~~(10)~~ (9) A STATE LAW ENFORCEMENT OFFICIAL, APPOINTED BY
26 THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND STATE POLICE;

27 ~~(11)~~ (10) A LOCAL LAW ENFORCEMENT OFFICIAL, APPOINTED BY
28 THE SECRETARY AFTER CONSULTATION WITH THE MARYLAND CHIEFS OF
29 POLICE ASSOCIATION;

30 ~~(12)~~ (11) A PROSECUTOR, APPOINTED BY THE SECRETARY AFTER
31 CONSULTATION WITH THE MARYLAND STATE'S ATTORNEYS ASSOCIATION; ~~AND~~

32 ~~(13)~~ (12) TWO MARYLAND CITIZENS WHO REPRESENT THE
33 PERSPECTIVE OF PAIN PATIENTS, APPOINTED BY THE SECRETARY FROM A LIST
34 SUBMITTED BY THE MARYLAND PAIN INITIATIVE; AND

1 **(13) ANY OTHER INDIVIDUAL OR REPRESENTATIVE AT THE**
2 **SECRETARY'S DISCRETION.**

3 ~~(C)~~ **(D) THE SECRETARY SHALL DESIGNATE THE CHAIR OF THE BOARD**
4 **COUNCIL.**

5 ~~(D)~~ **(1) THE TERM OF A MEMBER APPOINTED BY THE SECRETARY IS 3**
6 **YEARS.**

7 ~~(2) IF A VACANCY OCCURS DURING THE TERM OF AN APPOINTED~~
8 ~~MEMBER, THE SECRETARY SHALL APPOINT A SUCCESSOR WHO SHALL SERVE~~
9 ~~UNTIL THE TERM EXPIRES.~~

10 **(E) THE BOARD COUNCIL SHALL:**

11 ~~(1) MEET NOT FEWER THAN THREE TIMES ANNUALLY;~~

12 ~~(2) MAKE RECOMMENDATIONS TO THE SECRETARY REGARDING~~
13 ~~THE DESIGN AND IMPLEMENTATION OF THE PROGRAM, IN ACCORDANCE WITH~~
14 ~~THE PROVISIONS OF THIS SUBTITLE, INCLUDING RECOMMENDATIONS ABOUT:~~

15 ~~(i) REGULATIONS AND THE NEED FOR ANY FURTHER~~
16 ~~LEGISLATION CONCERNING THE PROGRAM; AND STUDY THE ESTABLISHMENT~~
17 ~~OF A PRESCRIPTION DRUG MONITORING PROGRAM THAT ELECTRONICALLY~~
18 ~~COLLECTS AND STORES DATA CONCERNING MONITORED PRESCRIPTION DRUGS.~~

19 **(F) THE COUNCIL SHALL MAKE RECOMMENDATIONS TO THE**
20 **SECRETARY FOR ESTABLISHING A PRESCRIPTION DRUG MONITORING PROGRAM**
21 **THAT:**

22 **(1) ASSISTS HEALTH CARE PROVIDERS AND LAW ENFORCEMENT**
23 **PROFESSIONALS IN:**

24 **(i) THE IDENTIFICATION, TREATMENT, AND PREVENTION**
25 **OF PRESCRIPTION DRUG ABUSE; AND**

26 **(ii) THE IDENTIFICATION AND INVESTIGATION OF**
27 **UNLAWFUL PRESCRIPTION DRUG DIVERSION;**

28 **(2) PROMOTES A BALANCED USE OF PRESCRIPTION DRUG**
29 **MONITORING DATA TO ASSIST APPROPRIATE LAW ENFORCEMENT ACTIVITIES**
30 **WHILE PRESERVING THE PROFESSIONAL PRACTICE OF HEALTH CARE**
31 **PROVIDERS AND THE ACCESS OF PATIENTS TO OPTIMAL PHARMACEUTICAL**
32 **CARE; AND**

1 **(3) PROMOTES APPROPRIATE AND REAL-TIME ACCESS TO**
2 **PRESCRIPTION DRUG MONITORING DATA BY DISPENSERS AND PRESCRIBERS TO**
3 **HELP PREVENT SUBSTANCE ABUSE AND PRESCRIPTION DRUG DIVERSION.**

4 **(G) IN ITS STUDY AND RECOMMENDATIONS, THE COUNCIL SHALL:**

5 **(1) IDENTIFY THE PRESCRIPTION DRUGS TO BE MONITORED;**

6 **(2) IDENTIFY THE TYPES OF DISPENSERS THAT SHALL BE**
7 **REQUIRED TO SUBMIT INFORMATION TO A PRESCRIPTION DRUG MONITORING**
8 **PROGRAM;**

9 **(3) DETERMINE THE DATA A DISPENSER MUST SUBMIT TO A**
10 **PRESCRIPTION DRUG MONITORING PROGRAM FOR A MONITORED**
11 **PRESCRIPTION DRUG;**

12 **(4) DETERMINE THE PROCESS FOR SUBMITTING PRESCRIPTION**
13 **DRUG MONITORING DATA TO A PRESCRIPTION DRUG MONITORING PROGRAM;**

14 **(5) SPECIFY RECIPIENTS AUTHORIZED TO RECEIVE**
15 **PRESCRIPTION DRUG MONITORING DATA FROM A PRESCRIPTION DRUG**
16 **MONITORING PROGRAM;**

17 **(6) IDENTIFY THE CIRCUMSTANCES UNDER WHICH**
18 **PRESCRIPTION DRUG MONITORING DATA ARE PROVIDED TO AN AUTHORIZED**
19 **RECIPIENT;**

20 **(7) IDENTIFY THE CIRCUMSTANCES UNDER WHICH AN**
21 **AUTHORIZED RECIPIENT MAY DISCLOSE PRESCRIPTION DRUG MONITORING**
22 **DATA PROVIDED BY A PRESCRIPTION DRUG MONITORING PROGRAM;**

23 **(8) DETERMINE HOW TO ENSURE THAT CONFIDENTIAL OR**
24 **PRIVILEGED PATIENT INFORMATION IS KEPT CONFIDENTIAL;**

25 **(9) DEFINE THE PROCESS FOR INTERPRETING PRESCRIPTION**
26 **DRUG MONITORING DATA FOR DISCIPLINARY OR LAW ENFORCEMENT**
27 **PURPOSES;**

28 **(10) DETERMINE THE MOST EFFICIENT AND EFFECTIVE**
29 **OPERATION OF A PRESCRIPTION DRUG MONITORING PROGRAM;**

30 **(11) DETERMINE THE COST OF AND SOURCES OF FUNDS FOR**
31 **ESTABLISHING AND OPERATING A PRESCRIPTION DRUG MONITORING**
32 **PROGRAM, INCLUDING THE COST OF AND SOURCES OF FUNDS FOR SUBMITTING**

1 AND RECEIVING PRESCRIPTION DRUG MONITORING DATA TO AND FROM THE
2 PROGRAM;

3 (12) DETERMINE WHETHER THE ESTABLISHMENT AND OPERATION
4 OF A PRESCRIPTION DRUG MONITORING PROGRAM IS FEASIBLE WITHOUT
5 ADDITIONAL COST TO DISPENSERS AND AUTHORIZED RECIPIENTS;

6 (13) DETERMINE A TIME LINE FOR ESTABLISHING AND
7 IMPLEMENTING A PRESCRIPTION DRUG MONITORING PROGRAM;

8 (14) IDENTIFY THE TYPES OF EDUCATION AND TRAINING NEEDED
9 TO IMPLEMENT A PRESCRIPTION DRUG MONITORING PROGRAM;

10 (15) DETERMINE THE NEED FOR IMMUNITY FROM LIABILITY IN
11 CONNECTION WITH THE SUBMISSION OR RECEIPT OF PRESCRIPTION DRUG
12 MONITORING DATA; AND

13 (16) DETERMINE THE NEED FOR PENALTIES FOR IMPROPER
14 SUBMISSION OR USE OF PRESCRIPTION DRUG MONITORING DATA.

15 (H) THE COUNCIL SHALL SUBMIT TO THE GOVERNOR AND, IN
16 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
17 GENERAL ASSEMBLY AN INTERIM REPORT ON OR BEFORE DECEMBER 31, 2008,
18 AND A FINAL REPORT ON OR BEFORE DECEMBER 31, 2009 ON THE COUNCIL'S
19 STUDY AND RECOMMENDATIONS.

20 ~~(H) SOURCES OF FUNDING, INCLUDING GRANT FUNDS~~
21 ~~UNDER THE HAROLD ROGERS PRESCRIPTION DRUG MONITORING PROGRAM~~
22 ~~AND OTHER SOURCES OF FEDERAL, PRIVATE, OR STATE FUNDS;~~

23 ~~(3) (I) PROVIDE WITHIN 180 DAYS AFTER ITS FIRST MEETING,~~
24 ~~IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AN~~
25 ~~INTERIM REPORT TO THE GENERAL ASSEMBLY SETTING FORTH THE BOARD'S~~
26 ~~ANALYSIS AND RECOMMENDATIONS UNDER ITEM (2) OF THIS SUBSECTION~~
27 ~~REGARDING THE DESIGN, IMPLEMENTATION, AND FUNDING OF THE PROGRAM;~~
28 ~~AND~~

29 ~~(H) PROVIDE ANNUALLY TO THE GOVERNOR AND, IN~~
30 ~~ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE~~
31 ~~GENERAL ASSEMBLY AN ANALYSIS OF THE IMPACT OF THE PROGRAM ON~~
32 ~~PATIENT ACCESS TO PHARMACEUTICAL CARE AND ON CURBING PRESCRIPTION~~
33 ~~DRUG DIVERSION IN THE STATE, INCLUDING ANY RECOMMENDATIONS RELATED~~
34 ~~TO MODIFICATION OR CONTINUATION OF THE PROGRAM; AND~~

1 ~~(4) PROVIDE ONGOING ADVICE AND CONSULTATION ON THE~~
2 ~~IMPLEMENTATION AND OPERATION OF THE PROGRAM, INCLUDING~~
3 ~~RECOMMENDATIONS REGARDING:~~

4 ~~(I) CHANGES IN THE PROGRAM TO REFLECT ADVANCES IN~~
5 ~~TECHNOLOGY AND BEST PRACTICES IN THE FIELD OF ELECTRONIC HEALTH~~
6 ~~RECORDS AND ELECTRONIC PRESCRIPTION MONITORING; AND~~

7 ~~(II) THE DESIGN AND IMPLEMENTATION OF AN ONGOING~~
8 ~~EVALUATION COMPONENT OF THE PROGRAM.~~

9 ~~21-2A-04.~~

10 ~~(A) THE SECRETARY SHALL APPOINT A MULTIDISCIPLINARY~~
11 ~~CONSULTATION TEAM.~~

12 ~~(B) THE MULTIDISCIPLINARY CONSULTATION TEAM SHALL REFLECT~~
13 ~~THE DIVERSITY AND BALANCE OF PERSPECTIVES REPRESENTED ON THE~~
14 ~~BOARD.~~

15 ~~(C) THE MULTIDISCIPLINARY CONSULTATION TEAM SHALL CONSIST OF:~~

16 ~~(1) PROGRAM STAFF;~~

17 ~~(2) MEMBERS OF THE BOARD; AND~~

18 ~~(3) ANY CONSULTANTS THAT THE SECRETARY DETERMINES WILL~~
19 ~~HELP ACHIEVE THE DIVERSITY AND BALANCE OF PERSPECTIVES REPRESENTED~~
20 ~~ON THE BOARD.~~

21 ~~(D) IN ACCORDANCE WITH REGULATION, THE MULTIDISCIPLINARY~~
22 ~~CONSULTATION TEAM SHALL ASSIST A FEDERAL LAW ENFORCEMENT AGENCY, A~~
23 ~~STATE OR LOCAL LAW ENFORCEMENT AGENCY, OR A LICENSING ENTITY THAT~~
24 ~~HAS RECEIVED PRESCRIPTION MONITORING DATA FROM THE PROGRAM IN~~
25 ~~INTERPRETING THE DATA AND CONSIDERING WHETHER THE DATA, IN THE~~
26 ~~CONTEXT OF THE NATURE OF A PRESCRIBER'S OR A DISPENSER'S PRACTICE, A~~
27 ~~PATIENT'S MEDICAL CONDITION, OR ANY OTHER RELEVANT FACTS, SUGGEST~~
28 ~~THE NEED FOR FURTHER INVESTIGATION.~~

29 ~~21-2A-05.~~

30 ~~(A) FOR EACH MONITORED PRESCRIPTION DRUG THAT IS DISPENSED, A~~
31 ~~DISPENSER SHALL SUBMIT TO THE PROGRAM INFORMATION SPECIFIED BY THE~~
32 ~~SECRETARY, INCLUDING:~~

- 1 (1) ~~A PATIENT IDENTIFIER;~~
- 2 (2) ~~THE PRESCRIPTION DRUG DISPENSED;~~
- 3 (3) ~~THE DATE OF DISPENSING;~~
- 4 (4) ~~THE QUANTITY DISPENSED;~~
- 5 (5) ~~THE PRESCRIBER; AND~~
- 6 (6) ~~THE PHARMACY FROM WHICH THE DRUG IS DISPENSED.~~

7 ~~(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A~~
8 ~~DISPENSER SHALL SUBMIT PRESCRIPTION MONITORING DATA TO THE~~
9 ~~PROGRAM BY ELECTRONIC SUBMISSION.~~

10 ~~(C) THE PROGRAM, FOR GOOD CAUSE SHOWN, MAY AUTHORIZE A~~
11 ~~DISPENSER TO:~~

12 (1) ~~SUBMIT PRESCRIPTION MONITORING DATA BY AN~~
13 ~~ALTERNATIVE FORM OF SUBMISSION; OR~~

14 (2) ~~OMIT ONE OR MORE ELEMENTS OF PRESCRIPTION~~
15 ~~MONITORING DATA.~~

16 ~~(D) THE BOARD AND THE SECRETARY MAY NOT CHARGE A FEE OR~~
17 ~~IMPOSE AN ASSESSMENT ON A HOSPITAL, DISPENSER, OR PRESCRIBER FOR:~~

18 (1) ~~THE ESTABLISHMENT, MAINTENANCE, OR ADMINISTRATION~~
19 ~~OF THE PROGRAM; OR~~

20 (2) ~~THE TRANSMISSION OF INFORMATION TO OR FROM THE~~
21 ~~PROGRAM.~~

22 ~~21-2A-06.~~

23 ~~(A) PRESCRIPTION MONITORING DATA:~~

24 (1) ~~ARE CONFIDENTIAL AND PRIVILEGED, AND NOT SUBJECT TO~~
25 ~~DISCOVERY, SUBPOENA, OR OTHER MEANS OF LEGAL COMPULSION IN CIVIL~~
26 ~~LITIGATION;~~

27 (2) ~~ARE NOT PUBLIC RECORDS; AND~~

1 ~~(3) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (D) OF THIS~~
2 ~~SECTION OR AS OTHERWISE PROVIDED BY LAW, MAY NOT BE DISCLOSED TO ANY~~
3 ~~PERSON.~~

4 ~~(B) THE PROGRAM MAY, IN ACCORDANCE WITH REGULATION,~~
5 ~~DISCLOSE PRESCRIPTION MONITORING DATA TO AN AUTHORIZED RECIPIENT:~~

6 ~~(1) IN CONNECTION WITH THE MEDICAL CARE OF A PATIENT;~~

7 ~~(2) IN CONNECTION WITH THE DISPENSING OF A MONITORED~~
8 ~~PRESCRIPTION DRUG; OR~~

9 ~~(3) FOR THE PURPOSE OF FURTHERING AN EXISTING BONA FIDE~~
10 ~~INDIVIDUAL INVESTIGATION.~~

11 ~~(C) EXCEPT AS PROVIDED BY REGULATION, AN AUTHORIZED RECIPIENT~~
12 ~~WHO RECEIVES PRESCRIPTION MONITORING DATA FROM THE PROGRAM MAY~~
13 ~~NOT DISCLOSE THE DATA.~~

14 ~~(D) THE PROGRAM MAY DISCLOSE PRESCRIPTION MONITORING DATA~~
15 ~~AFTER REDACTION OF ALL INFORMATION THAT COULD IDENTIFY A PATIENT,~~
16 ~~PRESCRIBER, DISPENSER, OR OTHER INDIVIDUAL.~~

17 ~~21-2A-07.~~

18 ~~(A) THE DEPARTMENT AND ITS AGENTS AND EMPLOYEES ARE NOT~~
19 ~~SUBJECT TO LIABILITY ARISING FROM:~~

20 ~~(1) THE INACCURACY OF ANY INFORMATION SUBMITTED TO THE~~
21 ~~PROGRAM IN ACCORDANCE WITH THIS SUBTITLE; AND~~

22 ~~(2) THE UNAUTHORIZED USE OR DISCLOSURE OF PRESCRIPTION~~
23 ~~MONITORING DATA PROVIDED TO AN AUTHORIZED RECIPIENT.~~

24 ~~(B) AN AUTHORIZED RECIPIENT, ACTING IN GOOD FAITH, IS NOT~~
25 ~~SUBJECT TO LIABILITY ARISING SOLELY FROM:~~

26 ~~(1) REQUESTING OR RECEIVING, OR FAILING TO REQUEST OR~~
27 ~~RECEIVE, PRESCRIPTION MONITORING DATA FROM THE PROGRAM; OR~~

28 ~~(2) ACTING, OR FAILING TO ACT, ON THE BASIS OF PRESCRIPTION~~
29 ~~MONITORING DATA PROVIDED BY THE PROGRAM.~~

30 ~~21-2A-08.~~

1 ~~(A) THE PROGRAM, IN CONSULTATION WITH THE BOARD, SHALL~~
2 ~~DEVELOP AND IMPLEMENT, OR CONTRACT WITH A VENDOR TO DEVELOP AND~~
3 ~~IMPLEMENT, EDUCATION AND TRAINING COURSES RELATING TO THE~~
4 ~~PROGRAM.~~

5 ~~(B) THE COURSES REQUIRED UNDER SUBSECTION (A) OF THIS SECTION~~
6 ~~MAY RELATE TO:~~

7 ~~(1) THE TRANSMISSION, ACCESS, AND USE OF PRESCRIPTION~~
8 ~~MONITORING DATA;~~

9 ~~(2) ISSUES ARISING IN PRESCRIBING AND DISPENSING~~
10 ~~MONITORED PRESCRIPTION DRUGS;~~

11 ~~(3) ISSUES CONCERNING IDENTIFYING AND TREATING~~
12 ~~SUBSTANCE ABUSE AND ADDICTION; AND~~

13 ~~(4) THE ROLE OF MONITORED PRESCRIPTION DRUGS IN THE~~
14 ~~MANAGEMENT OF PAIN, INCLUDING THE DISTINCTION BETWEEN ADDICTION~~
15 ~~AND PHYSICAL DEPENDENCE.~~

16 ~~21-2A-09.~~

17 ~~(A) A DISPENSER WHO KNOWINGLY FAILS TO SUBMIT PRESCRIPTION~~
18 ~~MONITORING DATA TO THE PROGRAM AS REQUIRED UNDER THIS SUBTITLE~~
19 ~~SHALL BE SUBJECT TO A CIVIL PENALTY NOT EXCEEDING \$500 FOR EACH~~
20 ~~FAILURE TO SUBMIT REQUIRED INFORMATION.~~

21 ~~(B) AN AUTHORIZED RECIPIENT WHO KNOWINGLY DISCLOSES OR USES~~
22 ~~PRESCRIPTION MONITORING DATA IN VIOLATION OF THIS SUBTITLE SHALL BE~~
23 ~~GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO~~
24 ~~IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$10,000 OR~~
25 ~~BOTH.~~

26 ~~SECTION 2. AND BE IT FURTHER ENACTED, That implementation of the~~
27 ~~Prescription Drug Monitoring Program to be established under § 21-2A-02 of the~~
28 ~~Health General Article, as enacted by Section 1 of this Act, is contingent on the~~
29 ~~Department of Health and Mental Hygiene obtaining federal, private, or State funds~~
30 ~~to carry out the purposes of this Act.~~

31 ~~SECTION 3. AND BE IT FURTHER ENACTED, That the Prescription Drug~~
32 ~~Monitoring Program to be established under § 21-2A-02 of the Health General~~
33 ~~Article, as enacted by Section 1 of this Act, may not collect prescription monitoring~~
34 ~~data before June 1, 2009.~~

HOUSE BILL 525

1 ~~SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 2 of~~
2 ~~this Act, this Act shall take effect October 1, 2008.~~

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 June 1, 2008. It shall remain effective for a period of 2 years and, at the end of May 31,
5 2010, with no further action required by the General Assembly, this Act shall be
6 abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.