

Chapter 570

(House Bill 1432)

AN ACT concerning

**Health Care Providers – Prescription Opioids – Limits on Prescribing
(The Prescriber Limits Act of 2017)**

FOR the purpose of ~~authorizing the Department of Health and Mental Hygiene to take certain action relating to a controlled dangerous substances registration under certain circumstances; prohibiting health care providers from prescribing to a patient more than a certain number of days' supply of certain opioid controlled dangerous substances under certain circumstances~~ requiring health care providers to prescribe a certain dosage and a certain quantity of an opioid unless the opioid is prescribed to treat a certain disorder or certain pain; requiring the dosage, quantity, and duration of certain prescribed opioids to be based on a certain guideline; providing that a violation of a certain provision of this Act is grounds for disciplinary action by a certain health occupations board; requiring certain health occupations boards to adopt certain regulations; authorizing certain health occupations boards to take certain disciplinary actions against certain individuals for a violation of certain provisions of this Act; defining a certain term; making this Act an emergency measure; and generally relating to the prescribing of opioid controlled dangerous substances.

~~BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–307(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)~~

BY adding to
Article – Health Occupations
Section 1–223, 4–315(a)(35), 8–316(a)(36), and 14–404(a)(43)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 4–315(a)(33) and (34), 8–316(a)(34)(ii) and (35), 14–404(a)(41)(ii) and (42),
and 16–311(a)(8)
Annotated Code of Maryland
(2014 Replacement Volume and 2016 Supplement)

Preamble

WHEREAS, The number of overdose deaths in the United States involving opioids rose from 28,647 in 2014 to 33,091 in 2015; and

WHEREAS, The number of overdose deaths in the United States involving heroin rose from 10,574 in 2014 to 12,990 in 2015; and

WHEREAS, The rise in overdose deaths is attributable to the surge of opioid dependence that has emerged in Maryland over the past two decades, stemming from a dramatic increase in the number of opioid medications prescribed by the medical community and the influx of cheap, potent heroin and fentanyl; and

WHEREAS, The epidemic of opioid dependence represents an urgent and growing public health threat, cutting across all demographics and geographical areas in Maryland, and also represents a serious threat to the security and economic well-being of the State; and

WHEREAS, The State is undertaking numerous efforts to combat the opioid epidemic, and the Medicaid program received expenditure authority under § 1115 of the federal Social Security Act to expand the State's current substance use treatment efforts to allow the State to claim matching federal funds for residential substance use disorder treatment in nonpublic Institutions for Mental Diseases; and

WHEREAS, It is the intent of the General Assembly that the State Board of Dental Examiners, State Board of Nursing, State Board of Physicians, and State Board of Podiatric Medical Examiners shall work to educate practitioners to ensure that the residents of Maryland are aware of the risks associated with the use of opioid drugs, including the risks of dependence, addiction, and overdose, and the dangers of taking an opioid drug with alcohol, benzodiazepines, and other depressants; now, therefore,

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

~~Article—Criminal Law~~

~~§ 307.~~

~~(a) Subject to the notice and hearing provisions of § 5-308 of this subtitle, the Department may deny a registration to any applicant, suspend or revoke a registration, or refuse to renew a registration if the Department finds that the applicant or registrant:~~

~~(1) has materially falsified an application filed in accordance with or required by this title;~~

~~(2) has been convicted of a crime under federal law or the law of any state relating to a controlled dangerous substance;~~

~~(3) has had federal registration suspended or revoked and may no longer manufacture, distribute, or dispense a controlled dangerous substance; [or]~~

~~(4) has violated this title; OR~~

~~(5) HAS FAILED TO COMPLY WITH THE OPIOID PRESCRIBING LIMITATION ESTABLISHED UNDER § 1-223 OF THE HEALTH OCCUPATIONS ARTICLE.~~

Article – Health Occupations

1-223.

(A) IN THIS SECTION, “CONTROLLED DANGEROUS SUBSTANCE” HAS THE MEANING STATED IN § 5-101 OF THE CRIMINAL LAW ARTICLE.

~~(B) ON THE INITIAL CONSULTATION OR TREATMENT FOR PAIN, A HEALTH CARE PROVIDER MAY NOT PRESCRIBE TO A PATIENT MORE THAN A 7-DAY SUPPLY OF AN OPIOID THAT IS A SCHEDULE II OR SCHEDULE III CONTROLLED DANGEROUS SUBSTANCE UNLESS THE OPIOID IS PRESCRIBED TO TREAT:~~

~~(1) A SUBSTANCE-RELATED DISORDER;~~

~~(2) PAIN ASSOCIATED WITH A CANCER DIAGNOSIS; OR~~

~~(3) PAIN EXPERIENCED WHILE THE PATIENT IS RECEIVING END-OF-LIFE, HOSPICE, OR PALLIATIVE CARE FOR AN INCURABLE ILLNESS.~~

(B) ON TREATMENT FOR PAIN, A HEALTH CARE PROVIDER, BASED ON THE CLINICAL JUDGMENT OF THE HEALTH CARE PROVIDER, SHALL PRESCRIBE:

(1) THE LOWEST EFFECTIVE DOSE OF AN OPIOID; AND

(2) A QUANTITY THAT IS NO GREATER THAN THE QUANTITY NEEDED FOR THE EXPECTED DURATION OF PAIN SEVERE ENOUGH TO REQUIRE AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE UNLESS THE OPIOID IS PRESCRIBED TO TREAT:

(I) A SUBSTANCE-RELATED DISORDER;

(II) PAIN ASSOCIATED WITH A CANCER DIAGNOSIS;

(III) PAIN EXPERIENCED WHILE THE PATIENT IS RECEIVING END-OF-LIFE, HOSPICE, OR PALLIATIVE CARE SERVICES; OR

(IV) CHRONIC PAIN.

(C) THE DOSAGE, QUANTITY, AND DURATION OF AN OPIOID PRESCRIBED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE BASED ON AN EVIDENCE-BASED CLINICAL GUIDELINE FOR PRESCRIBING CONTROLLED DANGEROUS SUBSTANCES THAT IS APPROPRIATE FOR:

(1) THE HEALTH CARE SERVICE DELIVERY SETTING FOR THE PATIENT;

(2) THE TYPE OF HEALTH CARE SERVICES REQUIRED BY THE PATIENT; AND

(3) THE AGE AND HEALTH STATUS OF THE PATIENT.

(C) (D) A VIOLATION OF SUBSECTION (B) OF THIS SECTION IS GROUNDS FOR DISCIPLINARY ACTION BY THE HEALTH OCCUPATIONS BOARD THAT REGULATES THE HEALTH CARE PROVIDER WHO COMMITS THE VIOLATION.

~~(D) THE FOLLOWING HEALTH OCCUPATIONS BOARDS THAT REGULATE HEALTH CARE PROVIDERS WHO HAVE THE AUTHORITY TO PRESCRIBE CONTROLLED DANGEROUS SUBSTANCES THAT ARE OPIOIDS SHALL ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS SECTION:~~

~~(1) THE STATE BOARD OF PHYSICIANS;~~

~~(2) THE STATE BOARD OF NURSING;~~

~~(3) THE STATE BOARD OF DENTAL EXAMINERS; AND~~

~~(4) THE STATE BOARD OF PODIATRIC MEDICAL EXAMINERS.~~

4-315.

(a) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:

(33) Fails to comply with any Board order; [or]

(34) Willfully and without legal justification, fails to cooperate with a lawful investigation conducted by the Board; **OR**

(35) FAILS TO COMPLY WITH ~~THE OPIOID PRESCRIBING LIMITATION ESTABLISHED UNDER § 1-223~~ OF THIS ARTICLE.

8-316.

(a) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may deny a license or grant a license, including a license subject to a reprimand, probation, or suspension, to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the applicant or licensee:

(34) When acting in a supervisory position, directs another nurse to delegate a nursing task to an individual when that nurse reasonably believes:

(ii) The patient's condition does not allow delegation of the nursing task; [or]

(35) Has misappropriated the property of a patient or a facility; **OR**

(36) FAILS TO COMPLY WITH ~~THE OPIOID PRESCRIBING LIMITATION ESTABLISHED UNDER § 1-223~~ OF THIS ARTICLE.

14-404.

(a) Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(41) Performs a cosmetic surgical procedure in an office or a facility that is not:

(ii) Certified to participate in the Medicare program, as enacted by Title XVIII of the Social Security Act; [or]

(42) Fails to submit to a criminal history records check under § 14-308.1 of this title; **OR**

(43) FAILS TO COMPLY WITH ~~THE OPIOID PRESCRIBING LIMITATION ESTABLISHED UNDER § 1-223~~ OF THIS ARTICLE.

16-311.

(a) Subject to the hearing provisions of § 16–313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or a limited license to any applicant, reprimand any licensee or holder of a limited license, impose an administrative monetary penalty not exceeding \$50,000 on any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or a limited license if the applicant, licensee, or holder:

(8) Prescribes or distributes a controlled dangerous substance to any other person in violation of the law, **INCLUDING IN VIOLATION OF ~~THE OPIOID PRESCRIBING LIMITATION ESTABLISHED UNDER~~ § 1–223 OF THIS ARTICLE;**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 25, 2017.