

# SENATE BILL 522

J2, J1

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CF HB 653

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By: ~~Senators Klausmeier, DeGrange, Middleton, Simonaire, Smith, Young, and Zucker~~ Zucker, Bates, Kagan, Robinson, Salling, and Muse

Introduced and read first time: January 29, 2018

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Care Providers – Opioid Prescriptions – ~~Discussion of Information~~**  
3 **Advice Regarding Benefits and Risks**

4 FOR the purpose of requiring certain health care providers to ~~discuss~~ advise certain  
5 ~~information~~ patients of the benefits and risks associated with the prescription of  
6 certain opioids ~~with certain patients or, under certain circumstances, certain parents~~  
7 ~~or guardians at certain times; requiring certain health care providers to obtain a~~  
8 ~~certain written acknowledgment and include the acknowledgment in certain~~  
9 ~~patients' medical records; requiring the Maryland Department of Health to develop~~  
10 ~~and make available a certain model form that includes certain guidelines; making~~  
11 ~~the failure to provide certain patients, parents, and guardians with certain~~  
12 ~~information and obtain a certain written acknowledgment a violation for which~~  
13 ~~certain health occupations boards are authorized to take certain disciplinary actions~~  
14 ~~against certain individuals; making conforming changes; providing that a violation~~  
15 of this Act is grounds for disciplinary action by a certain health occupations board;  
16 and generally relating to the ~~discussion of information~~ advice regarding benefits and  
17 risks associated with opioids that are controlled dangerous substances.

18 BY repealing and reenacting, with amendments,  
19 Article – Health Occupations  
20 Section 1–223  
21 Annotated Code of Maryland  
22 (2014 Replacement Volume and 2017 Supplement)

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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 BY repealing and reenacting, without amendments,  
 2 Article – Health Occupations  
 3 Section 4–315(a)(35), 8–316(a)(36), 14–404(a)(43), and 16–311(a)(8)  
 4 Annotated Code of Maryland  
 5 (2014 Replacement Volume and 2017 Supplement)

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

8 **Article – Health Occupations**

9 1–223.

10 (a) In this section, “controlled dangerous substance” has the meaning stated in §  
 11 5–101 of the Criminal Law Article.

12 ~~(B) (1) BEFORE PRESCRIBING AN OPIOID THAT IS A CONTROLLED~~  
 13 ~~DANGEROUS SUBSTANCE AS TREATMENT FOR PAIN, A HEALTH CARE PROVIDER~~  
 14 ~~SHALL DISCUSS WITH THE PATIENT OR, IF THE PATIENT IS A MINOR, THE PARENT OR~~  
 15 ~~GUARDIAN OF THE PATIENT;~~

16 ~~(I) THE REASONS WHY THE PRESCRIPTION IS NECESSARY;~~

17 ~~(II) THE RISKS ASSOCIATED WITH THE USE OF THE OPIOID,~~  
 18 ~~INCLUDING THE RISK OF:~~

19 ~~1. ADDICTION AND OVERDOSE, EVEN WHEN TAKEN AS~~  
 20 ~~PRESCRIBED;~~

21 ~~2. DEVELOPING A PHYSICAL OR PSYCHOLOGICAL~~  
 22 ~~DEPENDENCE ON THE OPIOID; AND~~

23 ~~3. TAKING MORE OPIOIDS THAN PRESCRIBED;~~

24 ~~(III) THE DANGERS OF TAKING OPIOIDS WITH ALCOHOL,~~  
 25 ~~BENZODIAZEPINES, AND OTHER CENTRAL NERVOUS SYSTEM DEPRESSANTS,~~  
 26 ~~INCLUDING THE DANGER OF FATAL RESPIRATORY DEPRESSION; AND~~

27 ~~(IV) ALTERNATIVE TREATMENTS THAT MAY BE AVAILABLE.~~

28 ~~(2) A HEALTH CARE PROVIDER SHALL DISCUSS THE INFORMATION~~  
 29 ~~AND RISKS DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION BEFORE~~  
 30 ~~ISSUING;~~

~~(I) AN INITIAL PRESCRIPTION FOR AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE; AND~~

~~(II) A THIRD PRESCRIPTION FOR AN OPIOID THAT IS A CONTROLLED DANGEROUS SUBSTANCE IN THE SAME COURSE OF TREATMENT.~~

~~(3) (I) A HEALTH CARE PROVIDER SHALL OBTAIN A WRITTEN ACKNOWLEDGMENT FROM THE PATIENT OR, IF THE PATIENT IS A MINOR, THE PARENT OR GUARDIAN OF THE PATIENT THAT THE PATIENT OR PARENT OR GUARDIAN HAS DISCUSSED THE INFORMATION AND RISKS DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITH THE HEALTH CARE PROVIDER.~~

~~(II) THE HEALTH CARE PROVIDER SHALL INCLUDE A COPY OF THE WRITTEN ACKNOWLEDGMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN THE PATIENT'S MEDICAL RECORD.~~

~~(III) 1. THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE A MODEL FORM FOR HEALTH CARE PROVIDERS TO USE AS THE WRITTEN ACKNOWLEDGMENT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.~~

~~2. THE FORM DEVELOPED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL INCLUDE GUIDELINES FOR HEALTH CARE PROVIDERS FOR ENGAGING IN THE DISCUSSION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(b) (c) (1)~~ On treatment for pain, a health care provider, based on the clinical judgment of the health care provider, shall prescribe:

~~(1) (i)~~ The lowest effective dose of an opioid; and

~~(2) (ii)~~ 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) 1.~~ A substance-related disorder;

~~(ii) 2.~~ Pain associated with a cancer diagnosis;

~~(iii) 3.~~ Pain experienced while the patient is receiving end-of-life, hospice, or palliative care services; or

~~(iv) 4.~~ Chronic pain.

~~(c) (2)~~ The dosage, quantity, and duration of an opioid prescribed under ~~subsection (b) PARAGRAPH (1)~~ of this ~~section~~ ~~SUBSECTION~~ shall be based on an

1 evidence-based clinical guideline for prescribing controlled dangerous substances that is  
2 appropriate for:

3 ~~[(1)]~~ ~~(I)~~ The health care service delivery setting for the patient;

4 ~~[(2)]~~ ~~(II)~~ The type of health care services required by the patient; and

5 ~~[(3)]~~ ~~(III)~~ The age and health status of the patient.

6 **(D) WHEN PRESCRIBING AN OPIOID UNDER SUBSECTION (B) OF THIS**  
7 **SECTION, A HEALTH CARE PROVIDER SHALL ADVISE THE PATIENT OF THE BENEFITS**  
8 **AND RISKS ASSOCIATED WITH THE PRESCRIBED OPIOID.**

9 ~~(d)~~ **(E)** A violation of ~~[(subsection (b) OR (D) of]~~ this section is grounds for  
10 disciplinary action by the health occupations board that regulates the health care provider  
11 who commits the violation.

12 4–315.

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

18 (35) Fails to comply with § 1–223 of this article.

19 8–316.

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

24 (36) Fails to comply with § 1–223 of this article.

25 14–404.

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

30 (43) Fails to comply with § 1–223 of this article.

31 16–311.

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

7 (8) Prescribes or distributes a controlled dangerous substance to any other  
8 person in violation of the law, including in violation of § 1–223 of this article;

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2018.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.