

# SENATE BILL 752

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By: **Senator Rosapepe**

Introduced and read first time: February 3, 2020

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Non–Controlled Dangerous Substance Prescription Record**  
3 **System Program**

4 FOR the purpose of establishing the NCDS Prescription Record System Program under the  
5 Maryland Health Care Commission; providing for the purpose of the Program;  
6 requiring the Commission to implement the Program; requiring the Commission to  
7 establish standards for selecting a certain prescription information system and any  
8 other means for the transmission of certain information within the Program;  
9 requiring that certain standards include certain requirements; requiring the  
10 Commission to consider certain information to the extent practicable when making  
11 a certain determination; requiring the Commission to make certain determinations;  
12 requiring a certain dispenser to submit certain information to the Program within a  
13 certain period of time; prohibiting a dispenser from submitting certain information  
14 to the Program; requiring a dispenser to submit certain information electronically  
15 using a certain method; requiring the State–designated health information exchange  
16 to accept and store certain information and make certain information available to  
17 certain persons; prohibiting the State–designated health information exchange from  
18 charging a certain fee or other expense or making available or storing certain  
19 information; requiring each certain dispenser and prescriber to provide consumers  
20 certain information in a certain manner; requiring the Commission to post certain  
21 information on its website; establishing the NCDS Prescription Record System  
22 Program Advisory Committee; providing for the purpose of the Advisory Committee;  
23 providing for the composition, chair, and terms of the Advisory Committee; requiring  
24 the Advisory Committee to meet at least quarterly; requiring the Advisory  
25 Committee to make certain recommendations; prohibiting a member of the Advisory  
26 Committee from receiving certain compensation, but authorizing the reimbursement  
27 of certain expenses; requiring the Commission, in consultation with the Secretary of  
28 Health, to adopt certain regulations; requiring the Commission to annually report to  
29 certain committees of the General Assembly on the Program beginning on a certain  
30 date; defining certain terms; specifying the terms of the initial members of the  
31 Advisory Committee; requiring the Commission to submit a certain plan to the

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 General Assembly for approval; providing for the termination of certain provisions  
2 of this Act under certain circumstances; and generally relating to the NCDS  
3 Prescription Record System Program.

4 BY adding to

5 Article – Health – General

6 Section 21–2D–01 through 21–2D–07 to be under the new subtitle “Subtitle 2D.  
7 NCDS Prescription Record System Program”

8 Annotated Code of Maryland

9 (2019 Replacement Volume)

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

12 **Article – Health – General**

13 **SUBTITLE 2D. NCDS PRESCRIPTION RECORD SYSTEM PROGRAM.**

14 **21–2D–01.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
16 INDICATED.

17 (B) “ADVISORY COMMITTEE” MEANS THE NCDS PRESCRIPTION RECORD  
18 SYSTEM PROGRAM ADVISORY COMMITTEE.

19 (C) “BOARD–CERTIFIED” MEANS BEING CERTIFIED BY ONE OF THE  
20 FOLLOWING PUBLIC OR PRIVATE CERTIFYING BOARDS:

21 (1) THE AMERICAN BOARD OF MEDICAL SPECIALTIES;

22 (2) THE AMERICAN OSTEOPATHIC ASSOCIATION CERTIFYING  
23 BOARD;

24 (3) THE ROYAL COLLEGE OF PHYSICIANS AND SURGEONS OF  
25 CANADA; OR

26 (4) THE COLLEGE OF FAMILY PHYSICIANS OF CANADA.

27 (D) “COMMISSION” MEANS THE MARYLAND HEALTH CARE COMMISSION.

28 (E) (1) “DISPENSE” MEANS THE PROCEDURE THAT RESULTS IN THE  
29 RECEIPT OF A PRESCRIPTION OR NONPRESCRIPTION DRUG OR DEVICE BY A  
30 PATIENT OR THE PATIENT’S AGENT AND THAT ENTAILS:

1           **(I) THE INTERPRETATION OF AN AUTHORIZED PRESCRIBER'S**  
2 **PRESCRIPTION FOR A DRUG OR DEVICE;**

3           **(II) THE SELECTION AND LABELING OF THE PRESCRIBED DRUG**  
4 **OR DEVICE IN ACCORDANCE WITH THE PRESCRIPTION; AND**

5           **(III) THE MEASURING AND PACKAGING OF THE PRESCRIBED**  
6 **DRUG OR DEVICE IN ACCORDANCE WITH FEDERAL AND STATE LAWS.**

7           **(2) "DISPENSE" DOES NOT INCLUDE:**

8           **(I) DIRECT ADMINISTRATION OF A PRESCRIPTION DRUG TO A**  
9 **PATIENT BY A HEALTH CARE PRACTITIONER; OR**

10           **(II) DISTRIBUTION OF A PRESCRIPTION DRUG SAMPLE TO A**  
11 **PATIENT BY A HEALTH CARE PRACTITIONER.**

12           **(F) "DISPENSER" HAS THE MEANING STATED IN § 21-2A-01 OF THIS TITLE.**

13           **(G) "HEALTH CARE PRACTITIONER" MEANS AN INDIVIDUAL WHO IS**  
14 **LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH**  
15 **OCCUPATIONS ARTICLE TO PROVIDE MEDICAL SERVICES IN THE ORDINARY**  
16 **COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.**

17           **(H) "NCDS PRESCRIPTION DRUG" MEANS A PRESCRIPTION DRUG, AS**  
18 **DEFINED IN § 21-201 OF THIS TITLE, THAT IS NOT A CONTROLLED DANGEROUS**  
19 **SUBSTANCE UNDER TITLE 5, SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE.**

20           **(I) "PHARMACIST" MEANS AN INDIVIDUAL WHO IS LICENSED UNDER TITLE**  
21 **12 OF THE HEALTH OCCUPATIONS ARTICLE TO DISPENSE A MONITORED**  
22 **PRESCRIPTION DRUG.**

23           **(J) "PRESCRIBER" MEANS A LICENSED HEALTH CARE PRACTITIONER**  
24 **AUTHORIZED BY LAW TO PRESCRIBE NCDS PRESCRIPTION DRUGS.**

25           **(K) "PRESCRIBER DELEGATE" MEANS AN INDIVIDUAL WHO IS:**

26           **(1) AUTHORIZED BY A PRESCRIBER TO REQUEST OR ACCESS**  
27 **PRESCRIPTION MONITORING DATA; AND**

28           **(2) EMPLOYED BY OR UNDER CONTRACT WITH THE SAME**  
29 **PROFESSIONAL PRACTICE AS THE PRESCRIBER.**

1           (L)    “PRESCRIPTION INFORMATION SYSTEM” MEANS THE SYSTEM AND ANY  
2 OTHER MEANS SELECTED BY THE COMMISSION FOR THE TRANSMISSION OF NCDS  
3 PRESCRIPTION DRUG INFORMATION.

4           (M)   “PROGRAM” MEANS THE NCDS PRESCRIPTION RECORD SYSTEM  
5 PROGRAM.

6           (N)   “STATE-DESIGNATED HEALTH INFORMATION EXCHANGE” MEANS THE  
7 HEALTH INFORMATION EXCHANGE DESIGNATED BY THE COMMISSION UNDER §  
8 19-143 OF THIS ARTICLE.

9   **21-2D-02.**

10          (A)   THERE IS AN NCDS PRESCRIPTION RECORD SYSTEM PROGRAM  
11 UNDER THE MARYLAND HEALTH CARE COMMISSION.

12          (B)   THE PURPOSE OF THE PROGRAM IS TO IMPROVE PATIENT SAFETY AND  
13 REDUCE HEALTH CARE COSTS BY ALLOWING A PRESCRIBER AND PRESCRIBER  
14 DELEGATE TO ACCESS THE NCDS PRESCRIPTION DRUG HISTORY OF A PATIENT,  
15 INCLUDING DRUGS PRESCRIBED BY OTHER PRESCRIBERS.

16          (C)   THE COMMISSION SHALL IMPLEMENT THE PROGRAM.

17   **21-2D-03.**

18          (A)   THE COMMISSION SHALL ESTABLISH BY REGULATION STANDARDS FOR  
19 SELECTING A PRESCRIPTION INFORMATION SYSTEM THAT MAY ELECTRONICALLY  
20 TRANSMIT NCDS PRESCRIPTION DRUG INFORMATION, AND ANY OTHER MEANS FOR  
21 THE TRANSMISSION OF NCDS PRESCRIPTION DRUG INFORMATION WITHIN THE  
22 PROGRAM.

23          (B)   THE STANDARDS DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION  
24 SHALL REQUIRE A PRESCRIPTION INFORMATION SYSTEM TO:

25               (1)   MEET THE PRIVACY AND SECURITY CONTROL AND TECHNICAL  
26 PERFORMANCE STANDARDS ESTABLISHED BY THE COMMISSION;

27               (2)   COMPLY WITH EACH REQUIRED PRIVACY AND SECURITY  
28 CONTROL AND TECHNICAL PERFORMANCE STANDARD DURING THE PERIOD OF  
29 RECOGNITION BY THE COMMISSION;

30               (3)   ACCEPT NCDS PRESCRIPTION DRUG INFORMATION SUBMITTED  
31 BY DISPENSERS;

1           (4) TRANSMIT THE NCDS PRESCRIPTION DRUG INFORMATION  
2 SUBMITTED BY DISPENSERS TO THE STATE-DESIGNATED HEALTH INFORMATION  
3 EXCHANGE; AND

4           (5) MEET AND MAINTAIN COMPLIANCE WITH ANY OTHER STANDARD  
5 ESTABLISHED BY THE COMMISSION.

6           (C) TO THE EXTENT PRACTICABLE, WHEN DETERMINING WHETHER TO  
7 SELECT A PRESCRIPTION INFORMATION SYSTEM, THE COMMISSION SHALL:

8           (1) CONSIDER THE EXTENT TO WHICH THE PRESCRIPTION  
9 INFORMATION SYSTEM IS BEING USED BY DISPENSERS AND PRESCRIBERS; AND

10          (2) MINIMIZE ANY ADVERSE IMPACTS OF IMPLEMENTATION ON  
11 DISPENSERS AND PRESCRIBERS.

12 **21-2D-04.**

13          (A) THE COMMISSION SHALL DETERMINE:

14           (1) THE CATEGORIES OF PRESCRIBERS AND DISPENSERS WHO ARE:

15            (I) REQUIRED TO PARTICIPATE IN AND COMPLY WITH THE  
16 REQUIREMENTS OF THE PROGRAM; AND

17            (II) EXCLUDED FROM PARTICIPATING IN THE PROGRAM;

18          (2) THE TIME PERIOD WITHIN WHICH A DISPENSER SHALL TRANSMIT  
19 INFORMATION ON A DISPENSED NCDS PRESCRIPTION DRUG TO A PRESCRIPTION  
20 INFORMATION SYSTEM; AND

21          (3) THE METHOD BY WHICH PATIENTS MAY OPT OUT OF THE  
22 PROGRAM.

23          (B) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
24 PARAGRAPH, AFTER DISPENSING AN NCDS PRESCRIPTION DRUG, A DISPENSER  
25 SHALL SUBMIT ALL REQUIRED INFORMATION ON THE PRESCRIPTION TO THE  
26 PROGRAM WITHIN THE TIME PERIOD ESTABLISHED BY THE COMMISSION.

27            (II) A DISPENSER MAY NOT SUBMIT INFORMATION ON AN  
28 NCDS PRESCRIPTION DRUG FROM A PRESCRIBER WHO IS EXCLUDED FROM THE  
29 PROGRAM.

1           **(2) A DISPENSER SHALL SUBMIT THE REQUIRED INFORMATION ON A**  
2 **DISPENSED NCDS PRESCRIPTION DRUG UNDER PARAGRAPH (1) OF THIS**  
3 **SUBSECTION ELECTRONICALLY USING A PRESCRIPTION INFORMATION SYSTEM.**

4           **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2)(II) OF THIS**  
5 **SUBSECTION, THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE SHALL:**

6                   **(I) ACCEPT AND STORE NCDS PRESCRIPTION DRUG**  
7 **INFORMATION SUBMITTED THROUGH A PRESCRIPTION INFORMATION SYSTEM**  
8 **UNDER THIS SUBTITLE; AND**

9                   **(II) MAKE NCDS PRESCRIPTION DRUG INFORMATION**  
10 **AVAILABLE TO PRESCRIBERS, PHARMACISTS, PRESCRIBER DELEGATES, AND**  
11 **PHARMACIST DELEGATES IN ACCORDANCE WITH REGULATIONS.**

12           **(2) THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE**  
13 **MAY NOT:**

14                   **(I) CHARGE ANY OF THE FOLLOWING A FEE OR OTHER**  
15 **EXPENSE FOR THE TRANSMISSION OR RETRIEVAL OF NCDS PRESCRIPTION DRUG**  
16 **INFORMATION WITHIN THE PROGRAM:**

17                           **1. A DISPENSER OR PRESCRIBER; OR**

18                           **2. A PRESCRIPTION INFORMATION SYSTEM; OR**

19                   **(II) MAKE AVAILABLE OR STORE NCDS PRESCRIPTION DRUG**  
20 **INFORMATION FOR ANY INDIVIDUAL WHO HAS OPTED OUT OF THE PROGRAM OR**  
21 **THE STATE-DESIGNATED HEALTH INFORMATION EXCHANGE.**

22 **21-2D-05.**

23           **(A) EACH DISPENSER AND PRESCRIBER WHO PARTICIPATES IN THE**  
24 **PROGRAM SHALL PROVIDE CONSUMERS:**

25                   **(1) NOTICE THAT INFORMATION ON AN NCDS PRESCRIPTION DRUG**  
26 **DISPENSED OR PRESCRIBED BY THE DISPENSER OR PRESCRIBER WILL BE**  
27 **SUBMITTED TO THE PROGRAM UNLESS THE CONSUMER OPTS OUT OF THE**  
28 **PROGRAM OR THE PRESCRIBER IS EXCLUDED FROM THE PROGRAM;**

29                   **(2) A DESCRIPTION OF HOW THE PROGRAM MAY USE THE RECORD**  
30 **OF A DISPENSED OR PRESCRIBED NCDS PRESCRIPTION DRUG;**

1           **(3) NOTICE THAT NCDS PRESCRIPTION DRUG INFORMATION WILL**  
2 **BE SHARED WITH HEALTH CARE PRACTITIONERS ENGAGED IN THE PATIENT'S CARE**  
3 **UNLESS THE CONSUMER OPTS OUT OF THE PROGRAM OR THE HEALTH CARE**  
4 **PRACTITIONER IS EXCLUDED FROM THE PROGRAM;**

5           **(4) THE WEBSITE THROUGH WHICH THE PATIENT MAY OPT OUT OF**  
6 **PARTICIPATION IN THE PROGRAM; AND**

7           **(5) ANY INFORMATION REQUIRED BY THE COMMISSION, AFTER**  
8 **CONSULTATION WITH THE ADVISORY COMMITTEE.**

9           **(B) EACH DISPENSER AND PRESCRIBER SHALL PROVIDE THE**  
10 **INFORMATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION BY POSTING A**  
11 **SIGN IN A LOCATION CONSPICUOUS TO THE CONSUMER AT THE DISPENSER'S OR**  
12 **PRESCRIBER'S PLACE OF BUSINESS AND BY OTHER APPROPRIATE METHODS.**

13           **(C) THE COMMISSION SHALL POST INFORMATION ON THE PROGRAM ON**  
14 **ITS WEBSITE, INCLUDING:**

15           **(1) A DESCRIPTION OF HOW AN INDIVIDUAL CAN OPT OUT OF THE**  
16 **PROGRAM; AND**

17           **(2) A LINK TO THE FORM THAT MUST BE USED BY A CONSUMER TO**  
18 **OPT OUT OF THE PROGRAM LOCATED ON THE WEBSITE OF THE**  
19 **STATE-DESIGNATED HEALTH INFORMATION EXCHANGE.**

20 **21-2D-06.**

21           **(A) THERE IS AN NCDS PRESCRIPTION RECORD SYSTEM PROGRAM**  
22 **ADVISORY COMMITTEE.**

23           **(B) THE PURPOSE OF THE ADVISORY COMMITTEE IS TO PROVIDE**  
24 **CLINICAL AND OPERATIONAL RECOMMENDATIONS TO THE COMMISSION IN THE**  
25 **DEVELOPMENT AND IMPLEMENTATION OF THE PROGRAM.**

26           **(C) THE ADVISORY COMMITTEE CONSISTS OF:**

27           **(1) THE FOLLOWING MEMBERS DESIGNATED BY THE COMMISSION:**

28           **(I) ONE BOARD-CERTIFIED FAMILY MEDICINE PHYSICIAN**  
29 **LICENSED AND PRACTICING IN THE STATE, NOMINATED BY THE MARYLAND**  
30 **ACADEMY OF FAMILY MEDICINE;**

1 (II) ONE BOARD-CERTIFIED INTERNAL MEDICINE PHYSICIAN  
2 LICENSED AND PRACTICING IN THE STATE, NOMINATED BY THE MARYLAND  
3 CHAPTER OF THE AMERICAN COLLEGE OF PHYSICIANS;

4 (III) ONE PHYSICIAN LICENSED AND PRACTICING IN THE  
5 STATE, NOMINATED BY MEDCHI;

6 (IV) ONE ENDOCRINOLOGIST LICENSED AND PRACTICING IN  
7 THE STATE WHO TREATS PATIENTS WITH DIABETES, NOMINATED BY THE  
8 MID-ATLANTIC CHAPTER OF THE AMERICAN COLLEGE OF CLINICAL  
9 ENDOCRINOLOGISTS;

10 (V) ONE PSYCHIATRIST LICENSED AND PRACTICING IN THE  
11 STATE, NOMINATED BY THE MARYLAND PSYCHIATRIC SOCIETY;

12 (VI) ONE MEMBER NOMINATED BY THE ATTORNEY GENERAL;

13 (VII) ONE MEMBER WITH EXPERTISE IN HEALTH INFORMATION  
14 TECHNOLOGY, NOMINATED BY THE MARYLAND CHAPTER OF THE HEALTHCARE  
15 INFORMATION AND MANAGEMENT SYSTEMS SOCIETY;

16 (VIII) ONE PHARMACIST LICENSED AND PRACTICING IN THE  
17 STATE, NOMINATED BY THE MARYLAND PHARMACISTS ASSOCIATION;

18 (IX) ONE REPRESENTATIVE OF THE PRESCRIPTION DRUG  
19 MONITORING PROGRAM, NOMINATED BY THE DEPUTY SECRETARY FOR  
20 BEHAVIORAL HEALTH;

21 (X) ONE RESIDENT OF THE STATE WHO HAS EXPERIENCE WITH  
22 HEALTH ISSUES IMPACTING CONSUMERS, NOMINATED BY THE SECRETARY OF  
23 HEALTH; AND

24 (XI) ONE RESIDENT OF THE STATE WHO HAS EXPERTISE IN  
25 HEALTH INFORMATION TECHNOLOGY AND CYBERSECURITY, NOMINATED BY THE  
26 SECRETARY OF INFORMATION TECHNOLOGY; AND

27 (2) ONE MEMBER OF THE COMMISSION, DESIGNATED BY THE CHAIR  
28 OF THE COMMISSION.

29 (D) THE MEMBER OF THE COMMISSION DESIGNATED TO SERVE ON THE  
30 ADVISORY COMMITTEE SHALL SERVE AS THE CHAIR OF THE ADVISORY  
31 COMMITTEE.



1 (E) (1) THE TERM OF A MEMBER DESIGNATED UNDER SUBSECTION  
2 (C)(1) OF THIS SECTION IS 4 YEARS.

3 (2) THE TERMS OF MEMBERS DESIGNATED UNDER SUBSECTION  
4 (C)(1) OF THIS SECTION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED  
5 FOR MEMBERS OF THE ADVISORY COMMITTEE ON OCTOBER 1, 2020.

6 (3) AT THE END OF A TERM, A MEMBER DESIGNATED UNDER  
7 SUBSECTION (C)(1) OF THIS SECTION CONTINUES TO SERVE UNTIL A SUCCESSOR IS  
8 DESIGNATED AND QUALIFIES.

9 (4) A MEMBER WHO IS DESIGNATED AFTER A TERM HAS BEGUN  
10 SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS  
11 DESIGNATED AND QUALIFIES.

12 (5) A MEMBER DESIGNATED UNDER SUBSECTION (C)(1) OF THIS  
13 SECTION MAY SERVE NOT MORE THAN TWO CONSECUTIVE 4-YEAR TERMS.

14 (F) THE ADVISORY COMMITTEE SHALL MEET AT LEAST QUARTERLY.

15 (G) THE ADVISORY COMMITTEE SHALL:

16 (1) MAKE POLICY AND OPERATIONAL RECOMMENDATIONS TO THE  
17 COMMISSION REGARDING THE ESTABLISHMENT AND OPERATION OF THE  
18 PROGRAM; AND

19 (2) MAKE RECOMMENDATIONS REGARDING WHICH HEALTH CARE  
20 PRACTITIONERS WHO DISPENSE OR PRESCRIBE NCDS PRESCRIPTION DRUGS  
21 SHOULD BE EXCLUDED FROM THE PROGRAM.

22 (H) A MEMBER OF THE ADVISORY COMMITTEE:

23 (1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE  
24 ADVISORY COMMITTEE; BUT

25 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
26 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

27 21-2D-07.

28 (A) THE COMMISSION, IN CONSULTATION WITH THE SECRETARY, SHALL  
29 ADOPT REGULATIONS TO IMPLEMENT THIS SUBTITLE.

1           **(B) BEGINNING JANUARY 1, 2021, THE COMMISSION SHALL ANNUALLY**  
2 **REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND**  
3 **GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE**  
4 **STATE GOVERNMENT ARTICLE, ON THE PROGRAM.**

5           SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
6 members of the NCDS Prescription Record System Program Advisory Committee shall  
7 expire as follows:

8           (1)     three members in 2023;

9           (2)     three members in 2024;

10          (3)     three members in 2025; and

11          (4)     two members in 2026.

12          SECTION 3. AND BE IT FURTHER ENACTED, That:

13          (a)     The Maryland Health Care Commission shall submit a plan for funding the  
14 NCDS Prescription Record System Program to the General Assembly for approval.

15          (b)     If the Maryland Health Care Commission does not submit a plan in  
16 accordance with this section or the General Assembly does not approve a plan submitted  
17 by the Maryland Health Care Commission on or before April 15, 2022, Sections 1 and 2 of  
18 this Act, with no further action required by the General Assembly, shall be abrogated and  
19 of no further force and effect.

20          SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2020.