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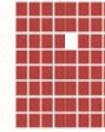
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Maryland Chapter
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TO: The Honorable Thomas M. Middleton, Chair
Members, Senate Finance Committee
The Honorable Katherine Klausmeier

FROM: Pamela Metz Kasemeyer
J. Steven Wise
Danna L. Kauffman
Richard A. Tabuteau

DATE: March 20, 2018

RE: **OPPOSE** – Senate Bill 1083 – *Public Health – Prescription Drug Monitoring Program – Revisions*

The Maryland State Medical Society, the Maryland Chapter of the American College of Emergency Physicians, the Maryland Chapter of the American Congress of Obstetricians and Gynecologists, the Mid-Atlantic Association of Community Health Centers, and the Maryland Chapter of the American Academy of Pediatrics wish to register their **opposition** to Senate Bill 1083.

Senate Bill 1083 proposes to amend and expand Maryland's Prescription Drug Monitoring Program (PDMP) to require, instead of authorizing, PDMP to review prescription monitoring data for indications of possible misuse or abuse of a monitored prescription drug or a possible violation of law or breach of professional standards by a prescriber or dispenser. If the PDMP determines there is a *possible* violation of law or breach of professional standards, the bill authorizes the PDMP to notify the appropriate law enforcement agency or health occupations board and requires the program to provide the agency or board with the data necessary for an investigation. While the PDMP must take specified factors into account regarding a possible violation of law or breach of professional standards, it nonetheless provides authority for the PDMP to directly refer cases to law enforcement or professional boards without review by the technical advisory committee.

While the members of these organizations applaud the sponsors for their dedication to addressing this very real public health crisis, they assert that the provisions of Senate Bill 1083 are premature and will undermine not only the objectives of the PDMP but may also negatively impact the Maryland Department of Health's (MDH) efforts to enhance the enforcement activities of the Office of Controlled Substances Administration (OCSA). Senate Bill 1083 has the potential to generate unsupported investigations and disciplinary actions based on incomplete or inaccurate data. As or more important, it will negatively impact the current workplan of MDH and its contractor CRISP to continue its careful, quality focused, methodical build out of the PDMP capabilities.

In its September 18th letter to the Senate and House Committee leadership addressing the status of the implementation of providing education and notice of a possible violation of law or a possible breach of professional standards and whether the authority of the PDMP should be expanded, MDH clearly stated that for the next 12 months, the Department intends to focus on fulfilling its three primary initiatives with respect to the PDMP: (1) achieving 100% compliance with the July 1, 2017, PDMP mandatory registration requirement of

Controlled Dangerous Substance (CDS) prescribers and pharmacists; (2) continuing outreach and education efforts on CDS prescriptions to lower the number of unnecessary or inappropriate prescriptions in Maryland; and (3) preparing for and achieving compliance with the July 1, 2018, PDMP use and dispensing mandate.

Further, MDH noted that OCSA has expanded its enforcement efforts to enable the Department to identify CDS non-compliance, provide data analysis, and to conduct case investigations that may result in action against a registrant's CDS registration. These actions may include disciplinary actions, such as educational awareness warnings, corrective action plans, CDS restrictions, revocation of registration, and referral for action by the Office of the Inspector General, Medicaid Fraud Office, Office of the Attorney General, Drug Enforcement Administration, and other relevant entities.

Senate Bill 1083 fails to recognize the technical and capacity limitations of the PDMP that are still being addressed as well as MDH's continued efforts to enhance the operational coordination and effectiveness of OCSA and the PDMP to ensure that OCSA is able to carry out its statutory enforcement responsibilities. MDH must be permitted to continue its current workplan for program implementation before there is any consideration of requirements for mandatory data analysis or authority for direct referral to law enforcement or the professional boards.

Furthermore, in addition to the provisions of the legislation as introduced, an amendment is being requested to authorize access to PDMP data by local health departments. This amendment has created significant concern amongst providers that have not weighed in on this legislation such as hospice, palliative care and oncologists. The strong objection to local health departments arises out of numerous concerns including but not limited to: a lack of defined parameters that provide a basis for their data request; no limitation on how the data may be used; and a lack of expertise capable of appropriately analyzing the data to account for a particular specialty, circumstances, patient type, and/or location of a provider. Allowing unfettered access to PDMP data by local health departments will not advance legitimate enforcement activities and has the potential to create an untenable chilling effect on legitimate prescribing practices, thereby denying patients appropriate medical care and in many instances forcing patients to seek illicit drugs. Attached to this testimony are two articles, one by an emergency department physician and another by a patient who is also a nurse. Both articles articulate the complicated challenges that face physicians and patients as they seek to provide access to medically necessary services while addressing the increasing epidemic of substance abuse and overdose.

The above-named organizations are strong advocates for an accessible and accurate PDMP that can serve as a valuable tool to inform clinical decisions. They wish to continue to actively partner with both the Administration and General Assembly in identifying meaningful and effective approaches to reducing the incidences of addiction and overdose deaths. Senate Bill 1083 does not advance those objectives and may have a counter-productive impact on their attainment as does the amendment to allow local health departments access to PDMP data. An unfavorable report is respectfully requested.

For more information call:

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