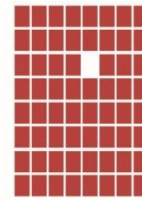




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Maryland Chapter
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EMERGENCY PHYSICIANS

TO: The Honorable Shane E. Pendergrass, Chair
Members, House Health and Government Operations Committee
The Honorable Ereik L. Barron

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

DATE: February 12, 2019

RE: **OPPOSE UNLESS AMENDED** – House Bill 409 – *Drugs and Devices – Electronic Prescriptions – Requirements*

On behalf of the Maryland State Medical Society and the Maryland Chapter of the American College of Emergency Physicians, we **oppose** House Bill 409. House Bill 409 requires a health care practitioner authorized by law to prescribe a drug or device to issue a prescription electronically, except under specified exceptions. We oppose this legislation unless the legislation is amended to provide greater flexibility for prescribers to call-in or provide a written prescription to patients.

House Bill 409 would apply to both non-controlled dangerous substances and controlled dangerous substances (CDS). The rate of e-prescribing has been steadily increasing, with approximately 70% of prescriptions transmitted through e-prescribing. However, there are circumstances where e-prescribing may not be in the best interest of the patient. While House Bill 409 contains many exceptions, we are concerned that the mandate may have the unintended consequence of delaying patient care in certain settings and under certain circumstances. Many of our concerns are grounded in the experience our colleagues have had in other states with mandatory e-prescribing.

First, while e-prescribing may be a reasonable **option** in an office setting, it is not reasonable in an emergency department where patients are often receiving a one-time prescription for an acute condition and who may not have an ongoing relationship with a pharmacy to provide the pharmacy information to the emergency department physician. It is important to note that, once a prescription is sent electronically to a pharmacy, the pharmacy cannot forward the prescription to another pharmacy or provide a printed copy to the patient. Patients may not know the street address of the pharmacy to send the e-prescription. This is especially problematic in urban settings where pharmacies may be near each other. Given that emergency departments may discharge a patient after hours, if the pharmacy requested by the patient is closed, then the patient must wait until the pharmacy re-opens. The only other option for the patient is to return to the emergency department to have the prescription sent to another

pharmacy. This is also true if the pharmacy no longer carries the medication or is out of the medication. Both options present challenges for patients and reduce medication adherence.

Second, e-prescribing does limit a patient's ability to "shop" for the best prescription price. As you have heard, the price of the same drug can vary among pharmacies, requiring patients to now "shop smarter," especially given the fact that a greater number of consumers are paying more out-of-pocket in health care costs despite purchasing insurance.¹ Again, when prescriptions are sent electronically, patients cannot comparatively shop for the better price given that the prescriber only has the option to send the e-prescription to one pharmacy. If the patient decides that the price of the drug is too expensive at one pharmacy, he/she must contact the prescriber to have the prescription sent electronically to another pharmacy. This doesn't account for the fact that the initial pharmacy may already have filled the prescription, wasting both time and possibly the medication if the patient does not ultimately purchase it.

Third, while House Bill 409 contains an exemption to allow a prescriber not to send a prescription electronically if the patient would not receive it in a timely manner and the delay would adversely impact the patient's condition, we need to carefully weigh the intent of this language and the extent of its application. Providing care to patients is 24 hours/7 days a week. Patient care needs occur after hours and on weekends. There are also times where a provider may want to provide a prescription (e.g., antibiotics) to a patient with the advice to only fill the prescription if the patient's condition worsens. This practice avoids a patient from having to come back to the office, pay another co-pay and allows care to be more promptly delivered when necessary.

Fourth, New York has recently expanded its law through blanket waivers to include compounded drugs, drugs with long or complicated directions and non-patient specific prescriptions for an opioid antagonist. Maryland should also consider these exceptions and whether other categories are needed. We would also request that the penalties be removed from the bill and that the deadline for implementation be extended to coincide with the federal requirement (federal law only applies to CDS).

In determining whether to pass House Bill 409, we believe that the above items need further consideration. Again, our concern is that patient care is not unnecessarily restricted by e-prescribing, especially given the increasing rate of e-prescribing currently without the mandate.

For more information call:

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¹ According to the federal Department of Health and Human Services, in the first three months of 2018, 47% of persons were enrolled in a high-deductible plan, up from 43.7% in 2017.