

# MedChi

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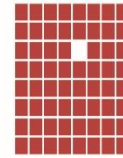
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TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee

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

DATE: February 14, 2019

RE: **SUPPORT ONLY IF AMENDED** – Senate Bill 195 – *Public Health – Prescription Drug Monitoring Program – Revisions*

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On behalf of the Maryland State Medical Society, the Maryland Chapter of the American Academy of Pediatrics, the Maryland Chapter of the American College of Emergency Physicians, and the Mid-Atlantic Association of Community Health Centers, we submit this letter of support for Senate Bill 195 **only** if amended.

Senate Bill 195 is intended to strengthen the Prescription Drug Monitoring Program (PDMP) to help address the escalating incidences of substance abuse, overdoses, and deaths. Senate Bill 195 is a reintroduction of legislation considered last year for which the House and Senate chose to pass different versions late in the Session and were unable to resolve those differences before Session adjourned. Senate Bill 195 reflects the version of the legislation passed by the House, not the Senate. We are requesting the bill be amended to reflect the version passed by the Senate as it amends the one provision of this legislation that is objectionable. That provision, if not amended, serves to undermine the balance of the provisions of the bill, which provide key improvements to the PDMP. Attached you will find a chart that was used in 2018 to compare the similarities and differences of the two versions of the bills considered during the 2018 Session.

The provisions of Senate Bill 195 that strengthen the program include making it mandatory, instead of permissive for the program to analyze the data and provide outreach and education on possible abuse or misuse and possible violations of law or violations of standards of practice. The legislation also eliminates the current requirement that the Technical Advisory Committee (TAC) review every case of possible violation of law or standards of practice before the program can provide education and outreach to prescribers and dispensers and instead requires the PDMP, in determining whether its data methodology appropriately identifies a possible violation of law/breach of professional standards, to obtain clinical guidance from the TAC and to consider the specialty, circumstances, patient type, and location of the prescriber or dispenser. This change will enable the program to more quickly provide outreach and education when indicated.

Unfortunately, there is one provision of Senate Bill 195, related to outside referral, which serves to undermine the balance of the new and stronger provisions of the legislation. Senate Bill 195 authorizes direct referral to the Office of Controlled Substance Administration (OCSA) but does not require review or recommendation for referral by the TAC in making that determination. The TAC was created to provide the

PDMP with multi-specialty clinical expertise to ensure appropriate evaluation of the data. Allowing direct referral to OCSA without TAC review and recommendation 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.

The above-named organizations request the bill be amended to require direct referral to the respective licensing board for further investigation only if the TAC has reviewed the case and finds a probable violation of law or professional standard. As previously stated, these amendments reflect the referral policy adopted by the Senate last year. They recognize the need to ensure that as the PDMP is strengthened it also remains a health care tool for prescribers to encourage and facilitate appropriate prescribing practices. Failing to maintain the PDMP as a health care tool will create many unintended consequences for prescribers who are legitimately prescribing opioids for necessary patient care rather than outliers.

Furthermore, referral to the appropriate licensing board is preferred over referral to OCSA as OCSA only regulates a provider's Controlled Dangerous Substance registration as opposed to the licensing boards which have the authority to act on a provider's license to practice. Licensing boards have the current legal authority to involve law enforcement and other agencies, such as OCSA, and can more quickly prevent a provider from practicing, even during the course of an investigation if warranted.

The above-named organizations recognize the work this Committee has done to strengthen the PDMP program. However, it is critically important that the PDMP remain a clinical tool to provide valuable information to assist clinical decisions by prescribers and dispensers. To that end, the requested amendments which require TAC review and recommendation prior to referral, and referral to licensure boards as opposed to OCSA, are essential to their support of the balance of the provisions of the bill. With the basis for its amendments noted, a favorable report is requested only if the amendments are adopted by the Committee.

**For more information call:**

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