
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **1180** Session of
2013

INTRODUCED BY VANCE, MENSCH, BAKER, WARD, STACK, GORDNER,
VULAKOVICH, SOLOBAY, GREENLEAF, TOMLINSON, WAUGH, FERLO AND
BROWNE, NOVEMBER 18, 2013

REFERRED TO PUBLIC HEALTH AND WELFARE, NOVEMBER 18, 2013

AN ACT

1 Providing for prescription drug monitoring; creating the
2 Prescription Drug Monitoring Board; establishing the
3 Achieving Better Care by Monitoring All Prescriptions
4 Program; and providing for unlawful acts and penalties.

5 TABLE OF CONTENTS

- 6 Section 1. Short title.
7 Section 2. Purpose.
8 Section 3. Definitions.
9 Section 4. Prescription Drug Monitoring Board.
10 Section 5. Powers and duties of board
11 Section 6. Establishment of program.
12 Section 7. Requirements for dispensers.
13 Section 8. Requirements for prescribers.
14 Section 9. Access to prescription information.
15 Section 10. Unlawful act and penalties.
16 Section 11. Program funding.
17 Section 12. Admissibility.
18 Section 13. Annual report.

1 Section 14. Regulations.

2 Section 15. Concurrent jurisdiction.

3 Section 16. Effective date.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Achieving
8 Better Care by Monitoring All Prescriptions Program (ABC-MAP)
9 Act.

10 Section 2. Purpose.

11 This act is intended to increase the quality of patient care
12 by giving prescribers and dispensers access to a patient's
13 prescriptive history through an electronic data system that will
14 alert medical professionals to potential dangers for purposes of
15 making treatment determinations. The act further intends that
16 patients will have a thorough and easily obtainable record of
17 prescriptions for purposes of making educated and thoughtful
18 health care decisions. Additionally, the act seeks to aid
19 regulatory and law enforcement agencies in the detection and
20 prevention of fraud, drug abuse and the criminal diversion of
21 controlled substances.

22 Section 3. Definitions.

23 The following words and phrases when used in this act shall
24 have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Board." The Prescription Drug Monitoring Board established
27 in section 4.

28 "Controlled substance." A drug, substance or immediate
29 precursor included in the act of April 14, 1972 (P.L.233,
30 No.64), known as The Controlled Substance, Drug, Device and

1 Cosmetic Act, or the Controlled Substances Act (Public Law 91-
2 513, 84 Stat. 1236).

3 "Department." The Department of Health of the Commonwealth.

4 "Dispense." To deliver a controlled substance, other drug or
5 device to a patient by or pursuant to the lawful order of a
6 prescriber.

7 "Dispenser." A person lawfully authorized to dispense in
8 this Commonwealth, including mail order and Internet sales of
9 pharmaceuticals. The term does not include any of the following:

10 (1) A licensed health care facility or long-term care
11 pharmacy that distributes the controlled substance, other
12 drug or device for the purpose of inpatient hospital or long-
13 term care facility administration.

14 (2) A correctional facility if the confined person
15 cannot lawfully visit a prescriber outside the correctional
16 facility without being escorted by a corrections officer.

17 (3) An authorized person who administers a controlled
18 substance, other drug or device.

19 (4) A wholesale distributor of a controlled substance.

20 (5) A licensed provider in the LIFE program.

21 (6) A provider of hospice as defined in act of July 19,
22 1979 (P.L.130, No.48), known as the Health Care Facilities
23 Act.

24 (7) A prescriber at a health care facility licensed by
25 this Commonwealth if the quantity of controlled substances
26 dispensed is limited to an amount adequate to treat the
27 patient for a maximum of 24 hours with not more than two 24-
28 hour cycles within any 15-day period.

29 (8) A veterinarian.

30 "Licensed health care facility." A health care facility that

1 is licensed under Article X of the act of June 13, 1967 (P.L.31,
2 No.21), known as the Public Welfare Code, or the act of July 19,
3 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

4 "LIFE program." The program of medical and supportive
5 services known as Living Independently For Elders.

6 "Prescriber." A person who is licensed, registered or
7 otherwise lawfully authorized to distribute, dispense or to
8 administer a controlled substance, other drug or device in the
9 course of professional practice or research in this
10 Commonwealth. The term does not include a veterinarian.

11 "Program." The Achieving Better Care by Monitoring All
12 Prescriptions Program (ABC-MAP) created in section 6.
13 Section 4. Prescription Drug Monitoring Board.

14 (a) Creation.--The Prescription Drug Monitoring Board is
15 created in the Department of Health. The board shall administer
16 the program. The department shall perform budgetary, accounting,
17 procurement and other support services.

18 (b) Board composition.--The board shall consist of the
19 following individuals or their designees:

- 20 (1) Secretary of Health, who shall serve as chairperson.
- 21 (2) Secretary of Public Welfare.
- 22 (3) Secretary of Drug and Alcohol Programs.
- 23 (4) Secretary of State.
- 24 (5) The Insurance Commissioner.
- 25 (6) Secretary of Aging.
- 26 (7) The Commissioner of Pennsylvania State Police.
- 27 (8) The Attorney General.

28 (c) Term limits.--Each member of the board shall serve for
29 the duration of their elected or appointed position.

30 (d) Meetings.--The board shall meet at least once a year for

1 the purpose of assessing the costs and benefits of the program
2 and effectuating any necessary changes.

3 Section 5. Powers and duties of board.

4 The board shall have the following powers and duties:

5 (1) Evaluate and secure a vendor of an electronic
6 prescription monitoring system for the purpose of carrying
7 out the provisions of this act.

8 (2) Appoint an advisory group comprised of dispensers,
9 prescribers, law enforcement and individuals with expertise
10 considered important to the operation of the program. All
11 members shall have unique perspectives and will provide input
12 and recommendations to the board regarding the establishment
13 and maintenance of the program. The advisory group shall not
14 exceed twelve members.

15 (3) Modify the list of required controlled substances to
16 be reported based on the benefit to the citizens of this
17 Commonwealth.

18 (4) Phase in an enforcement process so that dispensers
19 and prescribers may transition and have adequate time to make
20 the necessary changes to their operating systems.

21 (5) Develop protocols and policies to:

22 (i) Require more frequent reporting of data should
23 technology permit and so long as there is little or no
24 fiscal impact to the Commonwealth or those reporting.

25 (ii) Evaluate the information in the program.

26 (iii) Allow for authorized department personnel to
27 conduct internal reviews, analyses and interpret program
28 data.

29 (iv) Safeguard the release of information to
30 authorized users and department personnel and ensure the

1 privacy and confidentiality of patients and patient
2 information.

3 (v) Aid prescribers in identifying at-risk
4 individuals and referring them to drug addiction
5 treatment professionals and programs.

6 (vi) Refer prescription monitoring information to
7 law enforcement or the appropriate licensing board in the
8 Department of State.

9 (vii) Train, educate and instruct prescribers and
10 dispensers on the use of the system.

11 (viii) Permit individuals employed by prescribers
12 and dispensers to query the program as designees.

13 (ix) Keep pace with technological advances that
14 facilitate the interoperability of the program with other
15 states' prescription drug monitoring programs and
16 electronic health information systems.

17 (x) Evaluate the costs and benefits of the program.

18 (xi) Convene the advisory group at least annually.

19 (xii) Operate and maintain the program on a daily
20 basis.

21 (xiii) Review the program for the purpose of
22 compiling statistics, research and educational materials
23 and outreach.

24 Section 6. Establishment of program.

25 (a) General rule.--The board shall establish and oversee and
26 the department shall administer the Achieving Better Care by
27 Monitoring All Prescriptions Program.

28 (b) Program components.--This program shall:

29 (1) Provide an electronic web-based data system of
30 controlled substances prescribed and dispensed in this

1 Commonwealth.

2 (2) Be easily accessible by prescribers, dispensers and
3 patients.

4 (3) Provide training and support for those using the
5 data system.

6 (4) Contain processes for prescribers to refer patients
7 to substance abuse treatment.

8 (5) Contain processes for referral of prescribers,
9 dispensers or patients to law enforcement or the appropriate
10 licensing board if necessary.

11 (c) Program queries.--The program shall maintain a record of
12 database queries that contains all of the following:

13 (1) Identification of each person who requests or
14 receives information from the database.

15 (2) Information provided to each person.

16 (3) Date and time the information is requested and
17 provided.

18 (d) Record retention.--The board shall remove from the
19 program all identifying information more than seven years old
20 from the date of collection. The information shall be destroyed
21 unless a law enforcement agency or a professional licensing or
22 certification agency or board for prescribers or dispensers has
23 submitted a written request to the department for retention of
24 specific information. All requests shall comply with procedures
25 adopted by the board.

26 (e) Good cause exception.--The program shall contain a good
27 cause exception for dispensers and prescribers who are unable to
28 submit the required data electronically and shall allow for the
29 manual submission of data if the dispenser or prescriber does
30 not have Internet access.

1 Section 7. Requirements for dispensers.

2 (a) Submission.--A dispenser shall, according to the format
3 determined by the board, electronically submit information to
4 the program regarding each controlled substance dispensed.

5 (b) Data elements.--All of the following information shall
6 be provided by a dispenser:

7 (1) Full name of the prescriber.

8 (2) Prescriber Drug Enforcement Agency (DEA)
9 registration number.

10 (3) Date prescription was written.

11 (4) Date prescription was dispensed.

12 (5) Full name, date of birth, gender and address of the
13 person for whom the prescription was written and dispensed.

14 (6) The National Drug Code.

15 (7) Drug name and strength.

16 (8) Dosage quantity and days' supply.

17 (9) Dispenser's name, employer, DEA registration number
18 and National Provider Identifier.

19 (10) Method of payment for the prescription.

20 (c) Frequency.--A dispenser shall submit all information
21 required under subsection (b) to the program no later than 72
22 hours after dispensing a controlled substance.

23 Section 8. Requirements for prescribers.

24 (a) Program query.--A prescriber shall query the program:

25 (1) for each new patient for purposes of establishing a
26 base line and a thorough medical record; and

27 (2) if a prescriber believes or has reason to believe,
28 using sound clinical judgment, that a patient may be abusing
29 or diverting drugs.

30 (b) Medical record entries.--A prescriber shall indicate the

1 information obtained from the program in the patient's medical
2 record if:

3 (1) the individual is a new patient; or

4 (2) the prescriber determines a drug should not be
5 prescribed or furnished to a patient based upon the
6 information from the program.

7 (c) Prescriber designee.--Prescribers may designate
8 employees for purposes of accessing the program according to
9 standards established by the board.

10 Section 9. Access to prescription information.

11 (a) Confidentiality.--Except as set forth in subsection (b),
12 prescription information submitted to the program and records of
13 requests to query the data shall be confidential and not subject
14 to disclosure under the act of February 14, 2008 (P.L.6, No.3),
15 known as the Right-to-Know Law.

16 (b) Authorized users.--The following individuals may query
17 the program according to procedures determined by the board and
18 with the following limitations:

19 (1) Prescribers may query the program for:

20 (i) an existing patient; and

21 (ii) prescriptions written using the prescriber's
22 own Drug Enforcement Agency number.

23 (2) Dispensers may query the program for a current
24 patient to whom the dispenser is dispensing or considering
25 dispensing any controlled substance

26 (3) Federal and State law enforcement officials may
27 query the program for:

28 (i) schedule II controlled substances as indicated
29 in the act of April 14, 1972 (P.L.233, No.64), known as
30 The Controlled Substance, Drug, Device and Cosmetic Act

1 and in the manner determined by the Pennsylvania Attorney
2 General pursuant to 28 Pa. Code § 25.131 (relating to
3 every dispensing practitioner); and

4 (ii) all other schedules as long as a search warrant
5 is provided.

6 (4) A grand jury may query the program investigating a
7 criminal violation of a law governing controlled substances.

8 (5) Approved department personnel may query the program
9 for the purpose of:

10 (i) conducting internal reviews related to
11 controlled substance laws; or

12 (ii) engaging in the analysis of controlled
13 substance prescription information as part of the
14 assigned duties and responsibilities of employment.

15 (6) Designated representatives from the Commonwealth or
16 out-of-State agency or board responsible for licensing or
17 certifying prescribers or dispensers whose professional
18 practice was or is regulated by that agency or board for the
19 purpose of conducting administrative investigations or
20 proceedings.

21 (7) Personnel from the Department of Public Welfare
22 engaged in the administration of the medical assistance
23 program.

24 (8) Personnel from the Insurance Department engaged in
25 the administration of the Children's Health Insurance Program
26 (CHIP).

27 (9) Personnel from the Department of Aging engaged in
28 the administration of the Pharmaceutical Assistance Contract
29 for the Elderly (PACE) and the Pharmaceutical Assistance
30 Contract for the Elderly Needs Enhancement Tier (PACENET)

1 programs.

2 (10) A medical examiner or county coroner for the
3 purpose of investigating the death of the individual being
4 queried.

5 (11) A prescription drug monitoring official of a state
6 with which this Commonwealth has an interoperability
7 agreement.

8 (12) Upon providing evidence of identity and within six
9 months from the date of the request, an individual who is the
10 recipient of a controlled substance prescription entered into
11 the program, the individual's parent or guardian if the
12 individual is under 18 years of age or the individual's
13 health care power of attorney.

14 Section 10. Unlawful acts and penalties.

15 (a) Unlawful acts.--A person commits a misdemeanor of the
16 third degree if the person:

17 (1) Knowingly or intentionally releases, publishes or
18 otherwise makes available the information from the program
19 for purposes other than those specified in section 8.

20 (2) Obtains or attempts to obtain information from the
21 program for purposes other than those specified in section 8
22 or by misrepresentation or fraud.

23 (b) Civil violations.--

24 (1) Knowing, intentional and negligent release or use of
25 information from the program shall be subject to a civil
26 penalty of not less than \$2,500 for each offense.

27 (2) Other civil penalties shall be assessed in
28 accordance with department regulations.

29 (c) Collection of penalties.--The department shall be
30 entitled to reasonable attorney fees and costs for successful

1 collection actions and may:

2 (1) Collect any penalty imposed under this section and
3 which is not paid by bringing an action in the court of
4 common pleas of the county in which the person owing the debt
5 resides or in the county where the department is located.

6 (2) Seek legal assistance from the Attorney General,
7 the county or the district attorney of the county in which
8 the action is brought to collect the penalty.

9 (d) Additional sanctions.--A prescriber or dispenser
10 violating provisions of this act shall also be subject to
11 sanctions under the prescriber's or dispenser's professional
12 practice acts and by the appropriate licensing boards.

13 Section 11. Program funding.

14 (a) General rule.--The department may use the money
15 deposited in the General Fund and appropriated to the department
16 to carry out the requirements of this act.

17 (b) Civil penalties.--All civil penalties assessed under
18 this act shall be deposited in the General Fund and appropriated
19 to the department to implement the program.

20 (c) Data fees.--All costs associated with recording and
21 submitting data shall be assumed by the submitting dispenser.

22 (d) Other funding opportunities.--The board may direct the
23 department to pursue Federal funding and grants, both public and
24 private.

25 (e) Fees prohibited.--A dispenser or prescriber shall not be
26 required to pay a fee or tax specifically dedicated to the
27 establishment, operation or maintenance of the program.

28 (f) Transfer of funds.--Any funds currently appropriated
29 shall be redirected and used for the operation of the program.
30 Additional agencies utilizing the system, including licensing

1 boards, may also transfer funds to the department for operation
2 of the program.

3 Section 12. Admissibility.

4 (a) Use of data.--Except as provided in subsection (b), data
5 provided to, maintained in or accessed from the program that may
6 be identified to, or with a particular individual is not subject
7 to discovery, subpoena or similar compulsory process in any
8 civil, judicial, administrative or legislative proceeding, nor
9 shall any individual or organization with lawful access to the
10 data be compelled to testify with regard to the data.

11 (b) Exceptions.--The restrictions in subsection (a) do not
12 apply to:

- 13 (1) a criminal proceeding; or
- 14 (2) a civil, judicial or administrative action brought
15 to enforce the provisions of this act.

16 Section 13. Annual report.

17 Within two years of the effective date of this act and
18 annually thereafter, the board shall submit a report to the
19 General Assembly. The report shall also be made available on the
20 department's publicly accessible Internet website and shall
21 include all of the following:

- 22 (1) The number of times the program has been legally and
23 illegally accessed.
- 24 (2) The rate by which prescribers are utilizing the
25 program.
- 26 (3) Any impact on prescribing practices for controlled
27 substances.
- 28 (4) The cost effectiveness of the frequency of data
29 submission.
- 30 (5) The effectiveness of the interoperability with other

1 states and electronic medical records.

2 (6) Other information as determined by the board.

3 Section 14. Regulations.

4 The department shall promulgate regulations to implement the
5 provisions of this act.

6 Section 15. Concurrent jurisdiction.

7 The Attorney General shall have concurrent prosecutorial
8 jurisdiction with the county district attorney for violations of
9 this act.

10 Section 16. Effective date.

11 This act shall take effect as follows:

12 (1) Section 4 of the act shall take effect in 90 days.

13 (2) This section shall take effect immediately.

14 (3) The remainder of this act shall take effect June 30,
15 2015.