
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 99

Session of
2005

INTRODUCED BY LEDERER, YOUNGBLOOD, W. KELLER, MCGEEHAN,
CORRIGAN, GRUCELA, BISHOP, BLACKWELL, WASHINGTON, FABRIZIO,
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BEBKO-JONES, HARHAI, CAWLEY, MARKOSEK, SHANER AND
CALTAGIRONE, JANUARY 25, 2005

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES,
JANUARY 25, 2005

AN ACT

1 Establishing the Prescription Drug Commission in the Department
2 of Health and providing for its powers and duties; and
3 imposing penalties.

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 Prescription
8 Drug Diversion Prevention Plan Act.

9 Section 2. Definitions.

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

13 "Board." The governing body of the Prescription Drug
14 Commission.

15 "Commission." The Prescription Drug Commission established
16 by this act.

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

2 "Secretary." The Secretary of Health of the Commonwealth.

3 Section 3. Commission and governing body.

4 (a) Commission established.--The Prescription Drug
5 Commission is hereby established within the Department of Health
6 to develop and maintain a Prescription Drug Diversion Prevention
7 Plan.

8 (b) Board of commissioners.--The powers of the commission
9 shall be exercised by a board of commissioners. The board shall
10 consist of the following members:

11 (1) The secretary.

12 (2) The Attorney General or a designee.

13 (3) The Commissioner of Professional and Occupational
14 Affairs.

15 (4) The Director of the Bureau of Alcohol and Drug
16 Programs in the department.

17 (5) Seven members appointed by the secretary as follows:

18 (i) One representative from the Pennsylvania
19 Pharmacists Association.

20 (ii) One representative from the State Board of
21 Pharmacy.

22 (iii) One representative from the American Society
23 of Addiction Medicine.

24 (iv) One representative from the Association for
25 Impaired Professionals.

26 (v) One representative from the Pennsylvania
27 District Attorneys Association.

28 (vi) Two private citizens.

29 (6) Additional members appointed by the secretary as are
30 necessary to implement relevant programs authorized by

1 Federal or State law.

2 (c) Term of office.--Except for the secretary, Attorney
3 General, Commissioner of Professional and Occupational Affairs
4 and Director of the Bureau of Alcohol and Drug Programs, members
5 shall serve for a four-year term and may be appointed for no
6 more than one additional consecutive term. The terms of those
7 members who serve by virtue of the public office they hold shall
8 be concurrent with their service in the office from which they
9 derive their membership.

10 (d) Vacancies.--Should any member cease to be affiliated
11 with an organization or agency he is appointed to represent or
12 cease to be a private citizen, his membership on the commission
13 shall terminate immediately and a new member shall be appointed
14 in the same manner as his predecessor to fill the unexpired
15 portion of a term. Other vacancies occurring, except those by
16 the expiration of a term, shall be filled for the balance of the
17 unexpired term in the same manner as the original appointment.

18 (e) Chairman.--The secretary shall serve as chairman of the
19 board. A vice chairman shall be designated by the chairman and
20 shall preside at meetings in the absence of the chairman.

21 (f) Quorum.--A majority of the members shall constitute a
22 quorum, and a vote of the majority of the members present shall
23 be sufficient for all actions.

24 (g) Termination of appointment.--Three consecutive unexcused
25 absences from regular meetings, except for temporary illness, or
26 failure to attend at least 50% of the regularly called meetings
27 in any calendar year shall be considered cause for termination
28 of appointment.

29 (h) Compensation and expenses.--Members who are not
30 Commonwealth officers or State, county or municipal employees

1 shall be paid \$75 a day for attendance at any official meeting.
2 Reasonable expenses incurred by members shall be allowed and
3 paid upon the presentation of itemized vouchers.

4 (i) Advisory committees.--The board may establish advisory
5 committees, in addition to those provided for in this act, as it
6 deems advisable, but only the commission may set policy or take
7 other official action. Members of advisory committees shall
8 serve without compensation but may be reimbursed for necessary
9 travel and other expenses in accordance with applicable law and
10 regulations.

11 (j) Meetings.--All meetings of the board and of its advisory
12 committees, at which formal action is taken, shall conform to 65
13 Pa.C.S. Ch. 7 (relating to open meetings).

14 (k) Records.--The board and any advisory committee
15 established for the purposes of this act shall provide for
16 public access to all records relating to its functions under
17 this act, except records that are required to be kept
18 confidential by any provision of Federal or State law.

19 Section 4. Continuing education and addiction counseling.

20 The board shall have the power and its duty relative to
21 continuing education and addiction counseling shall be to:

22 (1) Set standards and develop regulations for the
23 continuing education of pharmacists licensed by the State
24 Board of Pharmacy.

25 (2) Work with the Association for Impaired Professionals
26 to ensure intervention, treatment and ongoing monitoring.

27 (3) Develop a program to enable individual patients who
28 are identified and have become addicted to prescription
29 medication to receive addiction treatment.

30 (4) Design and promote comprehensive research-based

1 initiatives to assist communities and community-based
2 organizations in reducing illegal use and abuse of
3 prescription drugs.

4 (5) Define, develop and coordinate programs and projects
5 and establish priorities for abuse prevention and education.

6 (6) Promulgate rules and regulations as the commission
7 deems necessary for the proper administration of this act.

8 (7) Upon request, advise and assist the executive and
9 legislative branches of State government in developing
10 policies, plans, programs and budgets for improving the
11 coordination, administration and effectiveness of continuing
12 education of pharmacists and identification, treatment and
13 prevention of prescription drug abuse.

14 (8) Prepare special reports and studies of prescription
15 drug and pharmacy issues upon the request of the Governor or
16 the General Assembly or a standing committee of the General
17 Assembly.

18 (9) Obtain data necessary from all appropriate sources.

19 (10) Request the form and content of records which must
20 be kept by persons and agencies in order to insure the
21 correct reporting of data to the board.

22 (11) Instruct persons and agencies in the installation,
23 maintenance and use of records and in the reporting of data
24 to the board.

25 (12) Process, tabulate, analyze and interpret the data
26 obtained from persons and agencies.

27 (13) Give adequate interpretation of statistics and
28 present the information that may be of value in guiding the
29 policies of the board and of those involved in the continuing
30 education of pharmacists and identification, treatment and

1 prevention of prescription drug abuse.

2 Section 5. Computerized tracking system.

3 The board shall develop a plan for the implementation of a
4 computerized tracking system. The system, at a minimum, shall:

5 (1) Track prescriptions for controlled substances listed
6 in Schedule II, III or IV that are filled by a pharmacy
7 licensed to do business in this Commonwealth.

8 (2) Be designed to provide information regarding the
9 inappropriate use by a patient of controlled substances
10 listed in Schedules II, III and IV to pharmacies,
11 practitioners and appropriate agencies in this Commonwealth
12 to prevent the improper, potentially dangerous or illegal use
13 of controlled substances.

14 (3) Be designed to provide information regarding
15 statistical data relating to the use of controlled substances
16 that is not specific to a particular patient.

17 (4) Allow the board to access information via the
18 computerized tracking system for the purpose of identifying
19 any suspected fraudulent or illegal activity related to the
20 dispensing of controlled substances.

21 Section 6. Violation.

22 (a) Failure to transmit information.--Any licensed pharmacy
23 or pharmacist in this Commonwealth who knowingly fails to
24 transmit information regarding the dispensing of controlled
25 substances to the computerized tracking system as required by
26 the board commits a summary offense. For the purposes of this
27 act, each prescription not transmitted constitutes a separate
28 offense.

29 (b) Disclosure of transmitted information.--A person may not
30 knowingly disclose to a person not authorized under this act any

1 information obtained through the computerized tracking system
2 regarding the dispensing of controlled substances. A violation
3 of this subsection constitutes a summary offense.

4 (c) Notification.--The court shall transmit a certified copy
5 of a conviction for a violation of this section to the State
6 Board of Pharmacy.

7 Section 7. Reporting.

8 The board shall report any activity it reasonably believes is
9 fraudulent or illegal to the appropriate law enforcement agency
10 and occupational licensing or certifying board and provide them
11 with the relevant information obtained from the computerized
12 tracking system.

13 Section 8. Legal use.

14 No system, program or policy developed by the board shall
15 infringe on the legal use of a controlled substance for
16 management of severe or intractable pain.

17 Section 9. Duty of others.

18 It shall be the duty of any entity and every other person or
19 agency dealing with the continuing education of pharmacists and
20 identification, treatment and prevention of prescription drug
21 abuse, when requested by the commission:

22 (1) To install and maintain records and recording
23 systems needed for the correct reporting of statistical data
24 required by the board.

25 (2) To report statistical data to the board at the time
26 and in the manner as the board prescribes.

27 (3) To give to the staff of the board access to
28 statistical data for the purpose of carrying out the duties
29 of the board relative to the continuing education of
30 pharmacists and identification, treatment and prevention of

1 prescription drug abuse.

2 Section 10. Confidentiality of reports.

3 (a) General rule.--Except as otherwise provided in this act,
4 information obtained from the computerized tracking system and
5 reports made to law enforcement or professional licensing boards
6 pursuant to this act shall be confidential and may not be
7 released without the written consent of the person who is the
8 subject of the information obtained. This information may only
9 be released:

10 (1) Upon the request of the person who is the subject of
11 the information or upon the request of his attorney on the
12 subject's behalf.

13 (2) Upon the lawful order of a court of competent
14 jurisdiction.

15 (b) Construction.--This section shall not restrict judges of
16 the courts of this Commonwealth from disclosing information to
17 the Pennsylvania State Police, or any other law enforcement
18 agency, for the purpose of enforcing any provision of this act
19 or any other statute in this Commonwealth. Nothing in this act
20 shall be construed to conflict with the act of April 14, 1972
21 (P.L.221, No.63), known as the Pennsylvania Drug and Alcohol
22 Abuse Control Act.

23 Section 11. Effective date.

24 This act shall take effect in 60 days.