
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,
BROWNE AND WILLIAMS, NOVEMBER 18, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 7, 2014

AN ACT

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

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6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

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

12 Section 2. Purpose.

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

24 Section 3. Definitions.

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

28 "Addiction specialist." A physician licensed by the State
29 Board of Medicine and certified by the American Board of
30 Addiction Medicine.

1 "Board." The ABC-MAP Board established in section 4.

2 "Controlled substance." A drug, substance or immediate
3 precursor included in the act of April 14, 1972 (P.L.233,
4 No.64), known as The Controlled Substance, Drug, Device and
5 Cosmetic Act, or the Controlled Substances Act (Public Law 91-
6 513, 84 Stat. 1236).

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

8 "Dispense." To deliver a controlled substance, other drug or
9 device to a patient by or pursuant to the lawful order of a
10 prescriber.

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

14 (1) A licensed health care facility that distributes the
15 controlled substance for the purpose of administration in the
16 licensed health care facility.

17 (2) A correctional facility or its contractors if the
18 confined person cannot lawfully visit a prescriber outside
19 the correctional facility without being escorted by a
20 corrections officer.

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

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

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

25 (6) A provider of hospice as defined in the act of July
26 19, 1979 (P.L.130, No.48), known as the Health Care
27 Facilities Act.

28 (7) A prescriber at a LICENSED health care facility <--
29 ~~licensed by this Commonwealth~~ if the quantity of controlled <--
30 substances dispensed is limited to an amount adequate to

1 treat the patient for a maximum of ~~24 hours with not more~~ <--
2 ~~than two 24 hour cycles within any 15 day period~~ FIVE DAYS <--
3 AND DOES NOT ALLOW FOR A REFILL.

4 (8) A veterinarian.

5 "Licensed health care facility." A health care facility that
6 is licensed under Article X of the act of June 13, 1967 (P.L.31,
7 No.21), known as the Public Welfare Code, or the act of July 19,
8 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

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

11 "PHARMACY." AS DEFINED IN THE ACT OF SEPTEMBER 27, 1961 <--
12 (P.L.1700, NO.699), KNOWN AS THE PHARMACY ACT.

13 "Prescriber." A person who is licensed, registered or
14 otherwise lawfully authorized to distribute, dispense or to
15 administer a controlled substance, other drug or device in the
16 course of professional practice or research in this
17 Commonwealth. The term does not include a veterinarian.

18 "Program." The Achieving Better Care by Monitoring All
19 Prescriptions Program (ABC-MAP) ~~created~~ ESTABLISHED in section <--
20 6.

21 "SYSTEM." THE PROGRAM'S ELECTRONIC PRESCRIPTION MONITORING <--
22 SYSTEM WITH A DATABASE COMPONENT.

23 Section 4. ABC-MAP Board.

24 (a) Creation.--The ABC-MAP Board is created in the
25 Department of Health. ~~The board shall establish the program. The~~ <--
26 ~~department shall operate the program by performing budgetary,~~
27 ~~accounting, procurement and other support services as directed~~
28 ~~by the board.~~

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

- 1 (1) THE Secretary of Health, who shall serve as <--
2 chairperson.
- 3 (2) THE Secretary of ~~Public Welfare~~ HUMAN SERVICES. <--
4 (3) THE Secretary of Drug and Alcohol Programs. <--
5 (4) THE Secretary of State. <--
6 (5) The Insurance Commissioner.
7 (6) THE Secretary of Aging. <--
8 (7) The Commissioner of THE Pennsylvania State Police. <--
9 (8) The Attorney General.
10 (9) The Physician General, if the Secretary of Health is
11 not a physician.

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

14 (d) Meetings.--The board shall meet at least once a year for
15 the purpose of assessing the costs and benefits of the program
16 and effectuating any necessary changes. The board may meet more
17 frequently at the discretion of the chairperson.

18 Section 5. Powers and duties of board.

19 The board shall have the following powers and duties:

20 (1) Evaluate and secure a vendor of an electronic
21 prescription monitoring system for the purpose of carrying
22 out the provisions of this act.

23 (2) Appoint an advisory group comprised of dispensers,
24 prescribers, law enforcement OFFICIALS, addiction <--
25 specialists, patient and privacy advocates and individuals
26 with expertise considered important to the operation of the
27 program. All members shall have ~~unique~~ VARYING perspectives <--
28 and will provide input and recommendations to the board
29 regarding the establishment and maintenance of the program.
30 The advisory group shall not exceed ~~twelve~~ 12 members. <--

1 (3) ~~Provide~~ CREATE A written notice TO BE USED BY <--
2 PRESCRIBERS AND USED OR DISPLAYED BY DISPENSERS TO PROVIDE
3 NOTICE to patients that information regarding prescriptions
4 for controlled substances is being collected by the ~~ABC MAP~~ <--
5 program and that the patient has a right to ~~annually~~ review <--
6 and correct the information ~~at no charge to the patient. The~~ <--
7 ~~manner of notice may be determined by the board with the~~
8 ~~advice of the advisory group~~ WITH THE PROGRAM. The notice <--
9 must include all of the following:
10 (i) The manner in which the patient may access the
11 patient's personal information ~~using a form or online~~ <--
12 ~~access~~. THE NOTICE SHALL STATE THAT ONE-TIME ANNUAL <--
13 PATIENT ACCESS SHALL BE AT NO COST.
14 (ii) An explanation of the program and the program's
15 authorized users.
16 (iii) ~~Record~~ THE PROGRAM'S RECORD retention <--
17 policies.
18 (iv) An explanation that prescription information is
19 confidential and is not subject to the act of February
20 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.
21 (V) ANY COST ASSOCIATED WITH ACCESSING THE <--
22 INFORMATION MORE THAN ONCE ~~ANNUALLY~~ DURING EACH CALENDAR <--
23 QUARTER.
24 (4) Phase in an enforcement process so that dispensers
25 and prescribers may transition and have adequate time to make
26 the necessary changes to their operating systems.
27 (5) Develop ~~protocols and~~ policies AND PROCEDURES to: <--
28 (i) Require more frequent reporting of ~~data~~ <--
29 PRESCRIPTION MEDICATION INFORMATION UNDER SECTION 7 <--
30 should technology permit and so long as there is little

1 or no fiscal impact to the Commonwealth or those
2 ~~reporting~~ REQUIRED TO REPORT. Any change in the frequency <--
3 of reporting shall be made in collaboration with the
4 Board of Pharmacy and the Board of Pharmacy's members to
5 ensure that a pharmacy is able to accommodate the change.

6 (ii) Evaluate the information in the ~~program~~ SYSTEM. <--

7 (iii) Allow for authorized department personnel to
8 conduct internal reviews, analyses and interpret ~~program~~ <--
9 ~~data~~ THE DATA CONTAINED IN THE SYSTEM. <--

10 (iv) Safeguard the release of information to
11 authorized users and department personnel and ensure the
12 privacy and confidentiality of patients and patient
13 information.

14 (v) Aid prescribers in identifying at-risk
15 individuals and referring them to drug addiction
16 treatment professionals and programs.

17 (vi) Establish professionally developed criteria,
18 with the advice of the advisory group, that generates <--
19 referrals of prescription monitoring information to the
20 appropriate licensing board in the Department of State. <--
21 ~~only~~ A REFERRAL MAY ONLY BE GENERATED when the system <--
22 produces an alert that there is a pattern of irregular
23 data ~~deviating~~ FOR A DISPENSER OR PRESCRIBER WHICH <--
24 APPEARS TO DEVIATE from the clinical standard.

25 (vii) ~~Train, educate and instruct~~ PROVIDE TRAINING <--
26 TO prescribers and dispensers on the use of the system.

27 (VIII) ASSIST PROFESSIONAL ORGANIZATIONS WHOSE <--
28 MEMBERS PRESCRIBE, MONITOR OR TREAT PATIENTS OR DISPENSE
29 CONTROLLED SUBSTANCES TO PATIENTS TO DEVELOP EDUCATIONAL
30 PROGRAMS FOR THOSE MEMBERS RELATING TO PRESCRIBING

1 PRACTICES, PHARMACOLOGY, CONTROLLED SUBSTANCE ABUSE AND
2 ~~CLINICAL STANDARDS, INCLUDING IDENTIFICATION OF THOSE AT~~ <--
3 ~~RISK FOR CONTROLLED SUBSTANCE ABUSE AND REFERRAL AND~~
4 ~~TREATMENT OPTIONS FOR PATIENTS.~~ CLINICAL STANDARDS, <--
5 INCLUDING:
6 (A) IDENTIFICATION OF THOSE AT RISK FOR CONTROLLED
7 SUBSTANCE ABUSE; AND
8 (B) REFERRAL AND TREATMENT OPTIONS FOR PATIENTS.
9 ~~(viii)~~ (IX) Permit individuals employed by <--
10 prescribers, PHARMACIES and dispensers to query the <--
11 ~~program~~ SYSTEM as designees SO LONG AS EACH INDIVIDUAL <--
12 DESIGNEE HAS A UNIQUE IDENTIFIER WHEN ACCESSING THE
13 DATABASE and set explicit standards to qualify
14 individuals authorized to query the ~~program~~ SYSTEM and to <--
15 ensure the security of the system when used by a
16 designee.
17 ~~(ix)~~ (X) Keep pace with technological advances that <--
18 facilitate the interoperability of the ~~program~~ SYSTEM <--
19 with other states' prescription drug monitoring ~~programs~~ <--
20 SYSTEMS and electronic health information systems. <--
21 ~~(x)~~ (XI) Evaluate the costs and benefits of the <--
22 program.
23 ~~(xi)~~ (XII) Convene the advisory group at least <--
24 annually.
25 ~~(xii)~~ (XIII) Direct the department to operate and <--
26 maintain the program on a daily basis.
27 ~~(xiii)~~ (XIV) Review the program for the purpose of <--
28 compiling statistics, research and educational materials
29 and outreach.
30 (XV) IDENTIFY ~~A~~ ANY CONTROLLED SUBSTANCE THAT HAS <--

1 BEEN SHOWN TO HAVE LIMITED OR NO POTENTIAL FOR ABUSE AND
2 THEREFORE SHOULD NOT BE REPORTED TO THE PROGRAM.

3 Section 6. Establishment of program.

4 (a) General rule.--The board shall establish and oversee and <--
5 ~~the department shall administer the Achieving Better Care by~~
6 ~~Monitoring All Prescriptions Program.~~ THE PROGRAM. THE <--
7 DEPARTMENT SHALL ADMINISTER THE PROGRAM BY PERFORMING BUDGETARY,
8 ACCOUNTING, PROCUREMENT AND OTHER SUPPORT SERVICES AS DIRECTED
9 BY THE BOARD.

10 (b) Program components.--~~This~~ THE program shall: <--

11 (1) Provide an electronic ~~data~~ system of controlled <--
12 substances prescribed and dispensed in this Commonwealth.

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

15 (3) PROVIDE AN ACCESSIBLE WEBSITE, ~~INCLUDING FORMS THAT~~ <--
16 ~~CAN BE USED BY A PATIENT TO REQUEST A COPY OF OR ACCESS TO~~
17 WHERE A PATIENT MAY ELECTRONICALLY REQUEST OR DOWNLOAD A FORM <--
18 TO REQUEST A COPY OF THE PATIENT'S PROGRAM RECORD.

19 ~~(3)~~ (4) Provide training and support for those using the <--
20 ~~data~~ system. <--

21 ~~(4)~~ (5) Contain processes for prescribers to refer <--
22 patients to substance abuse treatment.

23 (c) ~~Program~~ SYSTEM queries.--The program shall maintain a <--
24 record of ~~database~~ SYSTEM queries that contains all of the <--
25 following:

26 (1) ~~Identification~~ THE IDENTITY of each person who <--
27 requests or receives information from the ~~database~~ SYSTEM. <--

28 (2) ~~Information~~ THE INFORMATION provided to each person <--
29 WHO REQUESTS OR RECEIVES INFORMATION FROM THE DATABASE. <--

30 (3) ~~Date~~ THE DATE and time the information is requested <--

1 and provided.

2 (d) Record retention.--The board shall remove from the
3 ~~program~~ SYSTEM all identifying information more than ~~three~~ SEVEN <--
4 years old from the date of collection. The information shall be
5 destroyed unless a law enforcement agency or a professional
6 licensing or certification agency or board for prescribers or
7 dispensers has submitted a written request to the department for
8 retention of specific information for cause. The information may
9 be kept for an additional period of one year and all requests
10 shall comply with procedures adopted by the board. The
11 department may not grant more than two extensions regarding the
12 retention of the same identified specific information UNLESS <--
13 REQUIRED TO DO SO BY COURT ORDER.

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

19 (f) Expiration.--Current pharmacy reporting requirements to
20 the Attorney General shall expire and shall no longer be
21 enforceable upon the full implementation of the program. ANY <--
22 DATA THAT HAS BEEN REPORTED TO THE OFFICE OF ATTORNEY GENERAL
23 PURSUANT TO 28 PA. CODE § 25.131 (RELATING TO EVERY DISPENSING
24 PRACTITIONER) THAT SATISFIES THE RETENTION REQUIREMENTS OF
25 SUBSECTION (D) SHALL BE TRANSFERRED TO THE PROGRAM.

26 Section 7. Requirements for dispensers AND PHARMACIES. <--

27 (a) Submission.--A dispenser OR PHARMACY shall, according to <--
28 the format determined by the board, electronically submit
29 information to the ~~program~~ SYSTEM regarding each controlled <--
30 substance dispensed.

1 (b) Data elements.--All of the following information shall
2 be provided by a dispenser OR PHARMACY: <--

3 (1) ~~Full~~ THE FULL name of the prescriber. <--

4 (2) ~~Prescriber~~ THE PRESCRIBER'S Drug Enforcement Agency <--
5 (DEA) registration number.

6 (3) ~~Date~~ THE DATE THE prescription was written. <--

7 (4) ~~Date~~ THE DATE THE prescription was dispensed. <--

8 (5) ~~Full~~ THE FULL name, date of birth, gender and <--
9 address of the person for whom the prescription was written
10 and dispensed.

11 (6) The National Drug Code.

12 (7) ~~Dosage quantity and days'~~ DAYS' supply. <--

13 (8) THE DEA registration number and National Provider <--
14 Identifier OF THE DISPENSER OR PHARMACY. <--

15 (9) ~~Method~~ THE METHOD of payment for the prescription. <--

16 (c) Frequency.--A dispenser OR PHARMACY shall submit all <--
17 information required under subsection (b) to the ~~program~~ SYSTEM <--
18 no later than 72 hours after dispensing a controlled substance.

19 (D) DISPENSER DESIGNEE.--DISPENSERS MAY DESIGNATE OTHER <--
20 PHARMACY EMPLOYEES FOR PURPOSES OF ACCESSING THE ~~PROGRAM~~ SYSTEM <--
21 ACCORDING TO STANDARDS ESTABLISHED BY THE BOARD.

22 Section 8. Requirements for prescribers.

23 (a) ~~Program~~ SYSTEM query.--A prescriber shall query the <--
24 ~~program~~ SYSTEM: <--

25 (1) for each patient the first time the patient is
26 prescribed a controlled substance by the prescriber for
27 purposes of establishing a base line and a thorough medical
28 record; ~~and~~ OR <--

29 (2) if a prescriber believes or has reason to believe,
30 using sound clinical judgment, that a patient may be abusing

1 or diverting drugs.

2 (b) Medical record entries.--A prescriber shall indicate the
3 information obtained from the ~~program~~ SYSTEM in the patient's <--
4 medical record if:

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

6 (2) the prescriber determines a drug should not be
7 prescribed or furnished to a patient based upon the
8 information from the ~~program~~ SYSTEM. <--

9 (c) Prescriber designee.--Prescribers may designate
10 employees for purposes of accessing the ~~program~~ SYSTEM according <--
11 to standards established by the board. In assigning a designee,
12 a prescriber shall give preference to a professional nurse
13 licensed by the State Board of Nursing.

14 (d) Nonviolation.--A prescriber or dispenser who, ~~using a~~ <--
15 ~~sound standard of care~~ in the exercise of SOUND clinical <--
16 judgment, does not believe that a patient is abusing or
17 diverting controlled substances shall not be in violation of
18 this act for not seeking or obtaining information from the
19 ~~program~~ SYSTEM prior to prescribing or dispensing so long as the <--
20 prescriber or dispenser is otherwise in compliance.

21 (E) IMMUNITY.--A PRESCRIBER OR DISPENSER WHO HAS SUBMITTED <--
22 OR RECEIVED INFORMATION FROM THE ~~PROGRAM~~ SYSTEM IN ACCORDANCE <--
23 WITH THIS SECTION AND SECTION 7, AND HAS HELD THE INFORMATION IN
24 CONFIDENCE AS REQUIRED BY SECTION 9, SHALL NOT BE HELD CIVILLY
25 LIABLE OR DISCIPLINED IN A LICENSING BOARD ACTION FOR SUBMITTING
26 THE INFORMATION OR NOT SEEKING OR OBTAINING INFORMATION FROM THE
27 ~~PROGRAM~~ SYSTEM PRIOR TO PRESCRIBING OR DISPENSING A CONTROLLED <--
28 SUBSTANCE.

29 Section 9. Access to prescription information.

30 (a) Confidentiality.--Except as set forth in subsection (b),

1 prescription information submitted to the ~~program~~ SYSTEM and <--
2 records of requests to query the ~~data~~ SYSTEM shall be <--
3 confidential and not subject to disclosure under the act of
4 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

5 (b) Authorized users.--The following individuals may query
6 the ~~program~~ SYSTEM according to procedures determined by the <--
7 board and with the following limitations:

8 (1) Prescribers may query the ~~program~~ SYSTEM for: <--

9 (i) an existing patient; and

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

12 (2) Dispensers may query the ~~program~~ SYSTEM for a <--
13 current patient to whom the dispenser is dispensing or
14 considering dispensing any controlled substance.

15 (3) (i) ~~Federal and State law enforcement officials may~~ <--

16 ~~query the program for:~~ THE OFFICE OF ATTORNEY GENERAL <--

17 SHALL QUERY THE ~~PROGRAM~~ SYSTEM ON BEHALF OF ALL LAW <--

18 ENFORCEMENT AGENCIES, INCLUDING, BUT NOT LIMITED TO, THE

19 OFFICE OF THE ATTORNEY GENERAL AND FEDERAL, STATE AND

20 LOCAL LAW ENFORCEMENT AGENCIES FOR:

21 (A) Schedule II controlled substances as
22 indicated in the act of April 14, 1972 (P.L.233,
23 No.64), known as The Controlled Substance, Drug,
24 Device and Cosmetic Act and in the manner determined
25 by the Pennsylvania Attorney General pursuant to 28
26 Pa. Code § 25.131 (relating to every dispensing
27 practitioner); and

28 (B) all other schedules upon receipt of a court
29 order OBTAINED BY THE REQUESTING LAW ENFORCEMENT <--

30 AGENCY. Upon receipt of a motion under this clause,

1 the court may enter an ex parte order granting the
2 motion if the law enforcement agency has demonstrated
3 by a preponderance of the evidence that:

4 (I) the motion pertains to a person who is
5 the subject of an active criminal investigation
6 with a reasonable likelihood of securing an
7 arrest or prosecution in the foreseeable future;
8 and

9 (II) there is reasonable suspicion that a
10 criminal act has occurred.

11 (ii) Data obtained ~~under this paragraph may~~ BY A LAW <--
12 ENFORCEMENT AGENCY UNDER THIS PARAGRAPH SHALL only be
13 used ~~by a law enforcement official~~ to establish probable <--
14 cause to obtain a search warrant or arrest warrant.

15 (III) REQUESTS MADE TO THE OFFICE OF ATTORNEY <--
16 GENERAL TO QUERY THE PROGRAM SYSTEM UNDER THIS PARAGRAPH <--
17 SHALL BE MADE IN A FORM OR MANNER PRESCRIBED BY THE
18 OFFICE OF ATTORNEY GENERAL AND SHALL INCLUDE THE COURT
19 ORDER, WHEN APPLICABLE. EACH INDIVIDUAL DESIGNEE OF THE <--
20 OFFICE OF ATTORNEY GENERAL SHALL HAVE A UNIQUE IDENTIFIER
21 WHEN ACCESSING THE DATABASE.

22 (4) ~~A~~ THE OFFICE OF ATTORNEY GENERAL SHALL QUERY THE <--
23 PROGRAM SYSTEM ON BEHALF OF A grand jury ~~may query the~~ <--
24 ~~program if~~ investigating a criminal violation of a law
25 governing controlled substances.

26 (5) Approved department personnel may query the ~~program~~ <--
27 SYSTEM for the purpose of: <--

28 (i) conducting internal reviews related to
29 controlled substance laws; or

30 (ii) engaging in the analysis of controlled

1 substance prescription information as part of the
2 assigned duties and responsibilities of employment.

3 (6) Designated representatives from the Commonwealth or
4 out-of-State agency or board responsible for licensing or
5 certifying prescribers or dispensers whose professional
6 practice was or is regulated by that agency or board for the
7 purpose of conducting administrative investigations or
8 proceedings.

9 ~~(7) Personnel from the Department of Public Welfare~~ <--
10 ~~engaged in the administration of the medical assistance~~
11 ~~program.~~

12 ~~(8) Personnel from the Insurance Department engaged in~~
13 ~~the administration of the Children's Health Insurance Program~~
14 ~~(CHIP).~~

15 ~~(9) Personnel from the Department of Aging engaged in~~
16 ~~the administration of the Pharmaceutical Assistance Contract~~
17 ~~for the Elderly (PACE) and the Pharmaceutical Assistance~~
18 ~~Contract for the Elderly Needs Enhancement Tier (PACENET)~~
19 ~~programs.~~

20 (7) DESIGNATED COMMONWEALTH PERSONNEL WHO ARE <--
21 RESPONSIBLE FOR THE DEVELOPMENT AND EVALUATION OF QUALITY
22 IMPROVEMENT STRATEGIES, PROGRAM INTEGRITY INITIATIVES OR
23 CONDUCTING INTERNAL COMPLIANCE REVIEWS AND DATA REPORTING FOR
24 THE MEDICAL ASSISTANCE PROGRAM, CHILDREN'S HEALTH INSURANCE
25 PROGRAM (CHIP), PHARMACEUTICAL ASSISTANCE CONTRACT FOR THE
26 ELDERLY (PACE) OR PHARMACEUTICAL ASSISTANCE CONTRACT FOR THE
27 ELDERLY NEEDS ENHANCEMENT TIER (PACENET).

28 (8) PERSONNEL FROM THE DEPARTMENT OF DRUG AND ALCOHOL
29 PROGRAMS ENGAGED IN THE ADMINISTRATION OF THE METHADONE DEATH
30 AND INCIDENT REVIEW TEAM.

1 ~~(10)~~ (9) A medical examiner or county coroner for the <--
2 purpose of investigating the death of the individual WHOSE <--
3 RECORD IS being queried.

4 ~~(11)~~ (10) A prescription drug monitoring official, <--
5 dispenser or prescriber of a state with which this
6 Commonwealth has an interoperability agreement.

7 ~~(12)~~ (11) Upon providing evidence of identity and within <--
8 30 days from the date of the request, an individual who is
9 the recipient of a controlled substance prescription entered
10 into the ~~program~~ SYSTEM, the individual's parent or guardian <--
11 if the individual is under 18 years of age or the
12 individual's health care power of attorney.

13 (C) ACCESS FOR ACTIVE INVESTIGATION.--IN THE CASE WHERE A <--
14 LAW ENFORCEMENT AGENCY HAS ACCESSED THE DATABASE FOR AN ACTIVE
15 INVESTIGATION, THE INFORMATION ABOUT THAT QUERY SHALL BE
16 WITHHELD FROM THE INDIVIDUAL SUBJECT TO THE QUERY FOR A PERIOD
17 OF SIX MONTHS AFTER THE CONCLUSION OF THE INVESTIGATION.

18 Section 10. Unlawful acts and penalties.

19 ~~(a) Unlawful acts. A person commits a misdemeanor of the <--
20 second degree if the person:~~

21 ~~(1) Knowingly or intentionally releases, publishes or
22 otherwise makes available the information from the program
23 for purposes other than those specified in sections 8 and 9.~~

24 ~~(2) Obtains or attempts to obtain information from the
25 program for purposes other than those specified in sections 8
26 and 9 or by misrepresentation or fraud.~~

27 (A) UNLAWFUL ACTS.-- <--

28 (1) A PERSON COMMITS A MISDEMEANOR OF THE FIRST DEGREE
29 IF THE PERSON KNOWINGLY OR INTENTIONALLY OBTAINS OR ATTEMPTS
30 TO OBTAIN INFORMATION FROM THE ~~PROGRAM~~ SYSTEM FOR PURPOSES <--

1 OTHER THAN THOSE SPECIFIED IN SECTION 8 OR 9 OR BY
2 MISREPRESENTATION OR FRAUD.

3 (2) A PERSON COMMITS A FELONY OF THE THIRD DEGREE IF THE
4 PERSON KNOWINGLY OR INTENTIONALLY RELEASES, PUBLISHES, SELLS,
5 TRANSFERS OR OTHERWISE MAKES AVAILABLE OR ATTEMPTS TO
6 RELEASE, PUBLISH, SELL, TRANSFER OR OTHERWISE MAKE AVAILABLE
7 THE INFORMATION FROM THE PROGRAM SYSTEM FOR PURPOSES OTHER <--
8 THAN THOSE SPECIFIED IN SECTIONS 8 AND 9.

9 (b) Criminal violations.--Each violation under subsection
10 (a) shall constitute a separate offense.

11 (c) Civil violations.--

12 (1) Knowing, intentional and negligent release or use of
13 information from the program SYSTEM shall be subject to a <--
14 civil penalty of not less than \$2,500 for each offense.

15 (2) Other civil penalties shall be assessed in
16 accordance with department regulations.

17 (d) Collection of penalties.--The department ~~shall be~~ <--
18 ~~entitled to reasonable attorney fees and costs for successful~~
19 ~~collection actions and~~ may:

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

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

27 (e) Additional sanctions.--A prescriber or dispenser
28 violating provisions of this act shall also be subject to
29 sanctions under the prescriber's or dispenser's professional
30 practice acts and by the appropriate licensing boards.

1 Section 11. Program funding.

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

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

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

10 (d) Other funding opportunities.--The board may direct the
11 department to pursue Federal funding and grants, both public and
12 private.

13 (e) Fees prohibited.--A dispenser or prescriber shall not be
14 required to pay a fee or tax specifically dedicated to the
15 establishment, operation or maintenance of the program. NO FEE <--
16 SHALL BE ASSESSED TO THE PATIENT BY THE DISPENSER OR PRESCRIBER
17 DUE TO THE NEED TO SUBMIT INFORMATION TO THE PROGRAM SYSTEM. <--

18 (f) Transfer of funds.--Any funds currently appropriated
19 shall be redirected and used for the operation of the program.
20 Additional agencies utilizing the system, including licensing
21 boards, may also transfer funds to the department for operation
22 of the program.

23 ~~Section 12. Admissibility.~~ <--

24 ~~(a) Use of data. Except as provided in subsection (b), data~~
25 ~~provided to, maintained in or accessed from the program that may~~
26 ~~be identified to, or with a particular individual is not subject~~
27 ~~to discovery, subpoena or similar compulsory process in any~~
28 ~~civil, judicial, administrative or legislative proceeding, nor~~
29 ~~shall any individual or organization with lawful access to the~~
30 ~~data be compelled to testify with regard to the data.~~

1 ~~(b) Exceptions. The restrictions in subsection (a) do not~~
2 ~~apply to:~~

3 ~~(1) a criminal proceeding; or~~

4 ~~(2) a civil, judicial or administrative action brought~~
5 ~~to enforce the provisions of this act.~~

6 Section ~~13~~ 12. Annual ~~report~~ REPORTS. <--

7 (A) BOARD REPORT.--Within two years of the effective date of <--
8 this act and annually thereafter, the board shall submit a
9 report to the General Assembly. The report shall also be made
10 available on the department's publicly accessible Internet
11 website and shall include all of the following:

12 (1) The number of times the ~~program~~ SYSTEM has been <--
13 legally and illegally accessed.

14 (2) The rate ~~by~~ AT which prescribers are utilizing the <--
15 ~~program~~ SYSTEM. <--

16 (3) Any impact on prescribing practices for controlled
17 substances.

18 (4) The cost effectiveness of the frequency of data
19 submission.

20 (5) The effectiveness of the interoperability with other
21 states and electronic medical records.

22 (6) THE NUMBER OF LAW ENFORCEMENT ACCESSES VIA SECTION <--
23 9(B) (3) AND THE NUMBER OF SEARCH WARRANTS ISSUED AS A RESULT.

24 ~~(6)~~ (7) Other information as determined by the board. <--

25 (B) OTHER REPORT.--WITHIN TWO YEARS OF THE EFFECTIVE DATE OF <--
26 THIS ACT AND ANNUALLY THEREAFTER, THE OFFICE OF ATTORNEY GENERAL
27 IN CONJUNCTION WITH LAW ENFORCEMENT SHALL SUBMIT AN ANNUAL
28 REPORT TO THE GENERAL ASSEMBLY.

29 Section ~~14~~ 13. Regulations. <--

30 The department shall promulgate regulations to implement the

1 provisions of this act.

2 Section ~~15~~ 14. Concurrent jurisdiction. <--

3 The Attorney General shall have concurrent prosecutorial
4 jurisdiction with the county district attorney for violations of
5 this act.

6 SECTION 39. EXPIRATION. <--

7 THIS ACT SHALL EXPIRE JUNE 30, 2022.

8 Section ~~16~~ ~~15~~ 40. Effective date. <--

9 This act shall take effect as follows:

10 (1) Section 4 of ~~the~~ THIS act shall take effect in 90 <--
11 days.

12 (2) This section shall take effect immediately.

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