

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1005 Session of 2019

INTRODUCED BY COX, BERNSTINE, BROWN, IRVIN, KIRKLAND, MASSER, MILLARD, MURT, NEILSON, PICKETT, PYLE, READSHAW, SAYLOR, STRUZZI, ZIMMERMAN AND HEFFLEY, APRIL 9, 2019

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 24, 2019

AN ACT

1 Amending the act of October 27, 2014 (P.L.2911, No.191),
2 entitled "An act providing for prescription drug monitoring;
3 creating the ABC-MAP Board; establishing the Achieving Better
4 Care by Monitoring All Prescriptions Program; and providing
5 for unlawful acts and penalties," further providing for
6 purpose, for definitions, for powers and duties of board and
7 for establishment of program; and providing for requirements <--
8 for first responder agencies and hospital emergency
9 departments and for requirements for coroners and medical <--
10 examiners; AND FURTHER PROVIDING FOR ACCESS TO PRESCRIPTION <--
11 INFORMATION.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 2 of the act of October 27, 2014
15 (P.L.2911, No.191), known as the Achieving Better Care by
16 Monitoring All Prescriptions Program (ABC-MAP) Act, is amended
17 to read:

18 Section 2. Purpose.

19 This act is intended to increase the quality of patient care
20 by giving prescribers and dispensers access to a patient's
21 prescription medication history, including, but not limited to,

1 any history of a drug-related overdose event, through an  
2 electronic system that will alert medical professionals to  
3 potential dangers for purposes of making treatment  
4 determinations. The act further intends that patients will have  
5 a thorough and easily obtainable record of their prescriptions  
6 for purposes of making educated and thoughtful health care  
7 decisions. Additionally, the act seeks to aid regulatory and law  
8 enforcement agencies in the detection and prevention of fraud,  
9 drug abuse and the criminal diversion of controlled substances.

10 Section 2. Section 3 of the act is amended by adding  
11 definitions to read:

12 Section 3. Definitions.

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

16 \* \* \*

17 ~~"Drug related overdose death." An incident where an over~~ <--  
18 ~~the counter drug, prescription or controlled substance or~~  
19 ~~illegal substance is the primary or secondary cause of death of~~  
20 ~~an individual or may have been a contributing factor to the~~  
21 ~~death of an individual.~~

22 ~~"Drug related overdose event." As follows:~~

23 ~~(1) An incidence of a physical state resulting from~~  
24 ~~intentionally or unintentionally consuming or administering a~~  
25 ~~toxic or otherwise harmful level of an over the counter drug,~~  
26 ~~prescription or controlled substance or illegal substance~~  
27 ~~that may be suspected by any of the following:~~

28 ~~(i) An observation of symptoms requiring medical~~  
29 ~~response.~~

30 ~~(ii) A clinical suspicion of a drug overdose.~~

~~(iii) A positive urine toxicology screen for a controlled substance or a negative urine toxicology screen if there are no other conditions to explain the clinical symptoms.~~

~~(2) The term may include, but is not limited to, any of the following events that resulted from consuming drugs:~~

~~(i) Central nervous system depression resulting in a decreased heart rate and breathing, loss of consciousness or death.~~

~~(ii) Stimulant effects resulting in an increased or irregular heart rate, agitation or hypertension.~~

~~(iii) Hallucinations, seizures or unresponsiveness.~~

"DRUG-RELATED OVERDOSE EVENT." AN INCIDENCE OF A PHYSICAL STATE RESULTING FROM INTENTIONALLY OR UNINTENTIONALLY CONSUMING OR ADMINISTERING A TOXIC OR OTHERWISE HARMFUL LEVEL OF CONTROLLED PRESCRIPTION MEDICATION OR ILLEGAL SUBSTANCE THAT MAY BE SUSPECTED BY ANY OF THE FOLLOWING:

(1) AN OBSERVATION OF SYMPTOMS REQUIRING AN EMERGENT MEDICAL RESPONSE.

(2) A CLINICAL SUSPICION OF A DRUG OVERDOSE.

"First responder." A firefighter, law enforcement officer or emergency medical services provider.

"First responder agency." A Federal, State, local governmental or nongovernmental agency that employs first responders. The term includes an emergency medical services agency as defined in 35 Pa.C.S. § 8103 (relating to definitions).

\* \* \*

"SINGLE COUNTY AUTHORITY." THE AGENCY DESIGNATED TO PLAN AND COORDINATE DRUG AND ALCOHOL PREVENTION, INTERVENTION AND

1 TREATMENT SERVICES FOR A GEOGRAPHIC AREA, WHICH MAY CONSIST OF  
2 ONE OR MORE COUNTIES, AND TO ADMINISTER THE PROVISIONS OF SUCH  
3 SERVICES FUNDED THROUGH THE AGENCY.

4 \* \* \*

5 ~~Section 3. Section 5 of the act is amended to read:~~ <--

6 SECTION 3. SECTION 5(5)(V) OF THE ACT IS AMENDED AND THE <--  
7 PARAGRAPH IS AMENDED BY ADDING SUBPARAGRAPHS TO READ:

8 Section 5. Powers and duties of board.

9 The board shall have the following powers and duties:

10 ~~(1) Evaluate and secure a vendor of an electronic <--~~  
11 ~~prescription monitoring system for the purpose of carrying~~  
12 ~~out the provisions of this act.~~

13 ~~(2) Appoint an advisory group comprised of dispensers,~~  
14 ~~prescribers, law enforcement officials, addiction~~  
15 ~~specialists, patient and privacy advocates and individuals~~  
16 ~~with expertise considered important to the operation of the~~  
17 ~~program. All members shall have varying perspectives and will~~  
18 ~~provide input and recommendations to the board regarding the~~  
19 ~~establishment and maintenance of the program. The advisory~~  
20 ~~group shall not exceed 12 members.~~

21 ~~(3) Create a written notice to be used by prescribers~~  
22 ~~and used or displayed by dispensers to provide notice to~~  
23 ~~patients that information regarding prescriptions for~~  
24 ~~controlled substances and drug related overdose events is~~  
25 ~~being collected by the program and that the patient has a~~  
26 ~~right to review and correct the information with the program.~~  
27 ~~The notice must include all of the following:~~

28 ~~(i) The manner in which the patient may access the~~  
29 ~~patient's personal information. The notice shall state~~  
30 ~~that one time quarterly patient access shall be at no~~

1           ~~cost.~~

2           ~~(ii) An explanation of the program and the program's~~  
3 ~~authorized users.~~

4           ~~(iii) The program's record retention policies.~~

5           ~~(iv) An explanation that prescription information is~~  
6 ~~confidential and is not subject to the act of February~~  
7 ~~14, 2008 (P.L.6, No.3), known as the Right to Know Law.~~

8           ~~(v) Any cost associated with accessing the~~  
9 ~~information more than once during each calendar quarter.~~

10          ~~(4) Phase in an enforcement process so that dispensers~~  
11 ~~and prescribers may transition and have adequate time to make~~  
12 ~~the necessary changes to their operating systems.~~

13          \* \* \*

<--

14          (5) Develop policies and procedures to:

15          ~~(i) Require more frequent reporting of prescription~~ <--  
16 ~~medication information under section 7 should technology~~  
17 ~~permit and so long as there is little or no fiscal impact~~  
18 ~~to the Commonwealth or those required to report. Any~~  
19 ~~change in the frequency of reporting shall be made in~~  
20 ~~collaboration with the Board of Pharmacy and the Board of~~  
21 ~~Pharmacy's members to ensure that a pharmacy is able to~~  
22 ~~accommodate the change.~~

23          ~~(ii) Evaluate the information in the system.~~

24          ~~(iii) Allow for authorized department personnel to~~  
25 ~~conduct internal reviews, analyses and interpret the data~~  
26 ~~contained in the system.~~

27          ~~(iv) Safeguard the release of information to~~  
28 ~~authorized users and department personnel and ensure the~~  
29 ~~privacy and confidentiality of patients and patient~~  
30 ~~information.~~

1 \* \* \* <--

2 (v) Aid prescribers AND FIRST RESPONDERS in <--  
3 identifying at-risk individuals and referring them to  
4 SINGLE COUNTY AUTHORITIES, drug addiction treatment <--  
5 professionals and programs.

6 (v.1) Aid prescribers AND FIRST RESPONDERS in <--  
7 identifying individuals with a history of drug overdoses  
8 in order to provide alternative treatment options.

9 ~~(vi) Establish professionally developed criteria,~~ <--  
10 ~~with the advice of the advisory group, that generates~~  
11 ~~referrals of prescription monitoring information to the~~  
12 ~~appropriate licensing board in the Department of State. A~~  
13 ~~referral may only be generated when the system produces~~  
14 ~~an alert that there is a pattern of irregular data for a~~  
15 ~~dispenser or prescriber which appears to deviate from the~~  
16 ~~clinical standard.~~

17 ~~(vii) Provide training to prescribers and dispensers~~  
18 ~~on the use of the system.~~

19 ~~(viii) Assist professional organizations whose~~  
20 ~~members prescribe, monitor or treat patients or dispense~~  
21 ~~controlled substances to patients to develop educational~~  
22 ~~programs for those members relating to prescribing~~  
23 ~~practices, pharmacology, controlled substance abuse and~~  
24 ~~clinical standards, including:~~

25 ~~(A) identification of those at risk for~~  
26 ~~controlled substance abuse; and~~

27 ~~(B) referral and treatment options for patients.~~

28 ~~(ix) Permit individuals employed by prescribers,~~  
29 ~~pharmacies and dispensers to query the system as~~  
30 ~~designees so long as each individual designee has a~~

1 ~~unique identifier when accessing the system and set~~  
2 ~~explicit standards to qualify individuals authorized to~~  
3 ~~query the system and to ensure the security of the system~~  
4 ~~when used by a designee.~~

5 ~~(x) Keep pace with technological advances that~~  
6 ~~facilitate the interoperability of the system with other~~  
7 ~~states' prescription drug monitoring systems and~~  
8 ~~electronic health information systems.~~

9 ~~(xi) Evaluate the costs and benefits of the program.~~

10 ~~(xii) Convene the advisory group at least annually.~~

11 ~~(xiii) Direct the department to operate and maintain~~  
12 ~~the program on a daily basis.~~

13 ~~(xiv) Review the program for the purpose of~~  
14 ~~compiling statistics, research and educational materials~~  
15 ~~and outreach.~~

16 ~~(xv) Identify any controlled substance that has been~~  
17 ~~shown to have limited or no potential for abuse and~~  
18 ~~therefore should not be reported to the program.~~

19 ~~(xvi) Require and ensure registration of all~~  
20 ~~prescribers and dispensers with the program.~~

21 \* \* \*

<--

22 (xvii) Identify additional medications that could  
23 assist prescribers in making treatment options for  
24 patients who are at risk for a substance use disorder.

25 Section 4. Section 6(b)(1) of the act is amended and the  
26 ~~section~~ SUBSECTION is amended by adding paragraphs to read: <--  
27 Section 6. Establishment of program.

28 \* \* \*

29 (b) Program components.--The program shall:

30 (1) Provide an electronic system of controlled

1 substances prescribed and dispensed in this Commonwealth and  
2 of drug-related overdose events that occurred in this  
3 Commonwealth.

4 \* \* \*

5 (6) Establish a protocol for hospital emergency  
6 departments and first responder agencies to ensure data  
7 submitted to the system with respect to drug-related overdose  
8 events is not duplicative.

9 (7) Provide drug-related overdose death event  
10 information, including any drugs that contributed to the  
11 overdose, on the patient's program record.

12 \* \* \*

13 Section 5. The act is amended by adding ~~sections~~ A SECTION <--  
14 to read:

15 Section 7.1. Requirements for first responder agencies and  
16 hospital emergency departments.

17 (a) Submission.--A first responder agency or hospital  
18 emergency department shall, in the format determined by the  
19 department, electronically submit drug-related overdose event  
20 information to the department.

21 (b) Data elements.--All of the following information THAT IS <--  
22 AVAILABLE AND REASONABLY ABLE TO BE IDENTIFIED DURING A REVIEW  
23 OF THE INDIVIDUAL'S MEDICAL RECORDS shall be provided by a first  
24 responder agency or hospital emergency department:

25 (1) The full name, date of birth, gender and address of  
26 ~~an~~ THE individual who experienced a drug-related overdose <--  
27 event.

28 (2) The date and time of the drug-related overdose  
29 event.

30 (3) The address where the individual was picked up or



1 where the drug-related overdose event took place.

2 (4) Whether an emergency opioid antagonist was  
3 administered to the individual.

4 (5) The location where the emergency opioid antagonist  
5 was administered, if available.

6 (6) The amount of emergency opioid antagonist  
7 administered, if available.

8 (7) Whether the drug-related overdose event resulted in  
9 death.

10 (8) The suspected or confirmed drug involved in the  
11 drug-related overdose event.

12 (c) Frequency.--A first responder agency or hospital  
13 emergency department shall submit all information required under  
14 subsection (b) to the program no later than 72 hours after a <--  
15 drug related overdose event was reported 14 DAYS AFTER THE <--  
16 COMPLETION OF THE ACUTE EPISODE OF CARE.

17 (d) Definition.--As used in this section, the term  
18 "emergency opioid antagonist" means a medication approved by the  
19 United States Food and Drug Administration to reverse the  
20 effects of an opioid drug.

21 Section 7.2. Requirements for coroners and medical examiners. <--

22 (a) Submission. A county coroner or medical examiner in  
23 this Commonwealth shall electronically submit data, in the  
24 format published under subsection (c), on a drug related  
25 overdose death to the department within five business days of  
26 finalizing the cause and manner of the drug related overdose  
27 death.

28 (b) Contents of data. In complying with subsection (a), a  
29 county coroner or medical examiner shall provide all of the  
30 following information to the department:

1 ~~(1) Demographic information of the decedent, including~~  
2 ~~but not limited to, the full name, address and date of birth~~  
3 ~~of the decedent.~~

4 ~~(2) The toxicology report.~~

5 ~~(3) The autopsy report.~~

6 ~~(4) The circumstances of the drug related overdose~~  
7 ~~death.~~

8 ~~(c) Publication. The department shall transmit a notice of~~  
9 ~~the format for data submission under subsection (a) to the~~  
10 ~~Legislative Reference Bureau for publication in the Pennsylvania~~  
11 ~~Bulletin within 30 days of the effective date of this~~  
12 ~~subsection.~~

13 ~~(d) Public reports. The department shall use the data~~  
14 ~~submitted under subsection (a) to compile publicly available~~  
15 ~~reports containing statistics and patterns relating to drug~~  
16 ~~related overdose deaths on a quarterly basis to help identify~~  
17 ~~threats to public health and safety.~~

18 ~~(e) Liability. Any individual who, in good faith, provides~~  
19 ~~data to the department under this section shall not be subject~~  
20 ~~to any civil or criminal liability as a result of providing the~~  
21 ~~data.~~

22 Section 6. Section 9 heading of the act is amended to read:

23 SECTION 6. SECTION 9 HEADING AND (B) (3) OF THE ACT ARE <--  
24 AMENDED AND SUBSECTION (B) IS AMENDED BY ADDING A PARAGRAPH TO  
25 READ:

26 Section 9. Access to prescription information and drug-related  
27 overdose event information.

28 \* \* \*

29 (B) AUTHORIZED USERS.--THE FOLLOWING INDIVIDUALS MAY QUERY <--  
30 THE SYSTEM ACCORDING TO PROCEDURES DETERMINED BY THE BOARD AND

1 WITH THE FOLLOWING LIMITATIONS:

2 \* \* \*

3 (3) (I) THE OFFICE OF ATTORNEY GENERAL SHALL QUERY THE  
4 SYSTEM ON BEHALF OF ALL LAW ENFORCEMENT AGENCIES,  
5 INCLUDING, BUT NOT LIMITED TO, THE OFFICE OF THE ATTORNEY  
6 GENERAL AND FEDERAL, STATE AND LOCAL LAW ENFORCEMENT  
7 AGENCIES FOR:

8 (A) SCHEDULE II CONTROLLED SUBSTANCES AS  
9 INDICATED IN THE ACT OF APRIL 14, 1972 (P.L.233,  
10 NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG,  
11 DEVICE AND COSMETIC ACT, AND IN THE MANNER DETERMINED  
12 BY THE PENNSYLVANIA ATTORNEY GENERAL PURSUANT TO 28  
13 PA. CODE § 25.131 (RELATING TO EVERY DISPENSING  
14 PRACTITIONER);

15 (B) ALL OTHER SCHEDULES UPON RECEIPT OF A COURT  
16 ORDER OBTAINED BY THE REQUESTING LAW ENFORCEMENT  
17 AGENCY. UPON RECEIPT OF A MOTION UNDER THIS CLAUSE,  
18 THE COURT MAY ENTER AN EX PARTE ORDER GRANTING THE  
19 MOTION IF THE LAW ENFORCEMENT AGENCY HAS DEMONSTRATED  
20 BY A PREPONDERANCE OF THE EVIDENCE THAT:

21 (I) THE MOTION PERTAINS TO A PERSON WHO IS  
22 THE SUBJECT OF AN ACTIVE CRIMINAL INVESTIGATION  
23 WITH A REASONABLE LIKELIHOOD OF SECURING AN  
24 ARREST OR PROSECUTION IN THE FORESEEABLE FUTURE;  
25 AND

26 (II) THERE IS REASONABLE SUSPICION THAT A  
27 CRIMINAL ACT HAS OCCURRED.

28 (II) DATA OBTAINED BY A LAW ENFORCEMENT AGENCY UNDER  
29 THIS PARAGRAPH SHALL ONLY BE USED TO ESTABLISH PROBABLE  
30 CAUSE TO OBTAIN A SEARCH WARRANT OR ARREST WARRANT.

1 (III) REQUESTS MADE TO THE OFFICE OF ATTORNEY  
2 GENERAL TO QUERY THE SYSTEM UNDER THIS PARAGRAPH SHALL BE  
3 MADE IN A FORM OR MANNER PRESCRIBED BY THE OFFICE OF  
4 ATTORNEY GENERAL AND SHALL INCLUDE THE COURT ORDER, WHEN  
5 APPLICABLE. EACH INDIVIDUAL DESIGNEE OF THE OFFICE OF  
6 ATTORNEY GENERAL SHALL HAVE A UNIQUE IDENTIFIER WHEN  
7 ACCESSING THE SYSTEM.

8 (IV) THE OFFICE OF ATTORNEY GENERAL SHALL NOT QUERY  
9 THE SYSTEM FOR INFORMATION REGARDING A DRUG-RELATED  
10 OVERDOSE EVENT.

11 \* \* \*

12 (12) AN AUTHORIZED EMPLOYEE OF A COUNTY OR MUNICIPAL  
13 HEALTH DEPARTMENT MAY QUERY THE SYSTEM IF THE EMPLOYEE HAS A  
14 UNIQUE IDENTIFIER WHEN ACCESSING THE SYSTEM AND THE EMPLOYEE  
15 ACCESSES THE SYSTEM FOR ANY OF THE FOLLOWING PURPOSES:

16 (I) DEVELOPING EDUCATIONAL PROGRAMS RELATING TO  
17 PRESCRIBING PRACTICES AND CONTROLLED SUBSTANCE ABUSE.

18 (II) IDENTIFYING AT-RISK INDIVIDUALS FOR THE PURPOSE  
19 OF CONNECTING THEM WITH ADDICTION TREATMENT PROFESSIONALS  
20 AND PROGRAMS, INCLUDING SINGLE COUNTY AUTHORITIES.

21 (III) COMPILING EPIDEMIOLOGICAL DATA TO ENSURE THE  
22 SECURITY OF THE SYSTEM WHEN AN AUTHORIZED EMPLOYEE OF A  
23 COUNTY OR MUNICIPAL HEALTH DEPARTMENT ACCESSES THE  
24 SYSTEM.

25 \* \* \*

26 Section 7. This act shall take effect in 180 days.