

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Session, 2021

H. B. 22-68

A BILL FOR AN ACT

To establish a Prescription Drug Monitoring Program in the Commonwealth of the Northern Mariana Islands; and for other purposes.

BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings and Purpose.** The Legislature finds that most U.S.
2 states have implemented Prescription Drug Monitoring Programs (PDMPs) for the
3 efficient monitoring and reporting of controlled, and in some cases, non-controlled
4 prescription medications dispensed within the state. The Legislature finds that
5 while most U.S. states use data from their PDMPs primarily to detect and deter
6 diversion of controlled substances, identify persons who may have substance use
7 disorder for referral to evidence-based interventions and treatment, and informing
8 public health initiatives by outlining drug trends, the CNMI is positioned to take
9 the use of PDMPs a step further by monitoring all prescription drug dispensing to
10 allow prescribers and dispensers to better monitor the care and treatment of their
11 patients. The Legislature finds that access to patient prescription history is essential
12 for patient safety, allows providers to make better informed treatment decisions,

1 and improves the quality of health care. Therefore, the Legislature finds that a
2 PDMP shall be established in the CNMI to collect information about dispensed
3 controlled and non-controlled prescription drugs to assist in reducing non-
4 evidence-based use of those drugs, thereby improving patient safety and quality
5 of care.

6 The Legislature further finds that the Commonwealth Healthcare
7 Corporation (CHCC) is the largest healthcare provider in the CNMI, overseeing the
8 only hospital and emergency room, and health centers on Tinian and Rota, in
9 addition to other outpatient, ancillary and public health services. The Legislature
10 finds that the CHCC, as the largest single organization of prescribers and
11 dispensers, and as an autonomous agency of the CNMI government, is best suited
12 to oversee the operation of the CNMI PDMP. Therefore, the purpose of this
13 legislation is to establish a prescription drug monitoring program in the CNMI, as
14 a corporate power of the CHCC.

15 **Section 2. Enactment.** The following is hereby enacted subject to
16 codification by the CNMI Law Revision Commission:

17 “101. Definitions. For the purposes of this Act, the following terms are
18 defined as follows:

19 (a) “Commonwealth Healthcare Corporation” means the
20 corporation established in 3 CMC §2823 and that is responsible for
21 the implementation of this Act.

- 1 (b) "Controlled Substance" means a prescribed drug or substance
- 2 listed in Schedules II, III, IV or V of 6 CMC §2115 to §2122.
- 3 (c) "Qualified Delegate" means an individual who is employed by,
- 4 and acts as, an agent, pursuant to requirements of the
- 5 Commonwealth Healthcare Corporation, to submit, request, or
- 6 receive PDMP data on behalf of an individual, health care facility or
- 7 other entity who is otherwise authorized to submit, request, or
- 8 receive PDMP data.
- 9 (d) "Dispense" means the interpretation, preparation, and delivery
- 10 of a Prescription Drug to a patient or ultimate user.
- 11 (e) "Dispenser" means a person, authorized in the jurisdiction in
- 12 which the person is practicing, to dispense a prescription drug to the
- 13 ultimate user by or pursuant to the prescription drug order of a
- 14 prescriber.
- 15 (f) "Drug" means:
- 16 (i) Any substance recognized as a drug in the official
- 17 compendium, or supplement thereto, designated by the
- 18 Federal Food, Drug, and Cosmetic Act for use in the
- 19 diagnosis, cure, mitigation, treatment, or prevention of
- 20 disease in humans.

- 1 (ii) Any substance intended for use in the diagnosis, cure,
- 2 mitigation, treatment, or prevention of disease in humans.
- 3 (iii) Any substance other than food intended to affect the
- 4 structure or any function of the body of humans.
- 5 (g) "Hospice" means a program of palliative and supportive care
- 6 for terminally ill persons and their families and/or caregivers.
- 7 (h) "Patient" means an individual for whom a prescription is issued
- 8 or for whom a prescriber directly dispenses a prescription drug.
- 9 (i) "Prescribe" means to direct, designate, or order the use of a drug
- 10 and the manner of using the drug.
- 11 (j) "Prescriber" means a health care professional authorized in the
- 12 jurisdiction in which the professional is practicing to prescribe a
- 13 prescription drug to a patient.
- 14 (k) "Prescription Drug" means a drug that is required under Federal
- 15 law to be labeled with either of the following statements prior to
- 16 being Dispensed: (1) "Rx Only"; (2) "Caution: Federal law restricts
- 17 this drug to use by, or on the order of, a licensed veterinarian"; or a
- 18 drug that is required by any applicable Federal or State law or rule
- 19 to be dispensed pursuant only to a Prescription Drug Order.
- 20 (l) "Prescription Drug Monitoring Program" or "PDMP" means a
- 21 program that collects, manages, analyzes, and provides information

1 regarding prescription drugs, including but not limited to the PDMP
2 established by this Act.

3 (m) “Prescription Drug Order” means a lawful order from a
4 prescriber for a prescription drug for a patient.

5 (n) “Ultimate User” means a person who lawfully possesses a
6 prescription drug for personal use or for the use of a member of his
7 or her household.

8 102. Prescription Drug Monitoring Program Established.

9 (a) The Commonwealth Healthcare Corporation shall establish and
10 maintain an electronic Prescription Drug Monitoring Program for
11 the monitoring of all prescription drugs dispensed in the CNMI or
12 dispensed to an address in the CNMI.

13 (b) The Commonwealth Healthcare Corporation may contract with
14 another government agency or private vendor to establish and
15 maintain the electronic monitoring system pursuant to the rules and
16 regulations promulgated by the Commonwealth Healthcare
17 Corporation.

18 (c) The Commonwealth Healthcare Corporation may establish an
19 advisory group to provide input and advice regarding the
20 establishment, administration, and evaluation of the PDMP.

21 103. Mandatory Data Reporting.

1 (a) Each dispenser or qualified delegate shall submit to the CNMI
2 Prescription Drug Monitoring Program information regarding each
3 prescription drug dispensed.

4 (b) Unless a waiver is granted under subsection (e), each dispenser
5 required to report under subsection (a) of this section shall submit
6 by electronic means to the CNMI PDMP information that shall
7 include, but is not be limited to:

- 8 (i) The patient's name, address, and date of birth;
- 9 (ii) The name of the ultimate user, if different from the
10 patient, when reporting a controlled substance;
- 11 (iii) The name and address of the pharmacy dispensing the
12 prescription;
- 13 (iv) The date the prescription drug order is issued;
- 14 (v) The date the prescription drug order is filled;
- 15 (vi) The name of the drug dispensed or the National Drug
16 Code number of the drug dispensed;
- 17 (vii) The strength of the drug dispensed;
- 18 (viii) The quantity of the drug dispensed and the number of
19 days' supply;
- 20 (ix) The prescriber's and dispenser's name;

- 1 (x) The prescriber's and dispenser's National Provider
- 2 Identifier number;
- 3 (xi) The prescriber's and dispenser's Drug Enforcement
- 4 Administration number when reporting a controlled
- 5 substance; and
- 6 (xii) Any other information as determined by CHCC.
- 7 (c) Each dispenser shall submit the required information on all
- 8 prescription drugs dispensed in the CNMI or dispensed to an address
- 9 in the CNMI in accordance with transmission methods and
- 10 frequency established by the Commonwealth Healthcare
- 11 Corporation.
- 12 (d) An individual may be both a dispenser and prescriber for the
- 13 purposes of this Act, and in these circumstances, is subject to the
- 14 requirements of both dispensers and prescribers.
- 15 (e) The Commonwealth Healthcare Corporation may issue a
- 16 limited-time waiver to a dispenser, which, due to unforeseen
- 17 circumstances which interfere with electronic submission, is unable
- 18 to submit prescription information by electronic means. Such waiver
- 19 may permit the dispenser to submit prescription information by
- 20 paper form or other means, provided all information required in
- 21 subsection (a) of this section is submitted in this alternative format.

1 104. Registration with the Prescription Drug Monitoring Program.

2 (a) All prescribers and dispensers who issue prescription drug orders
3 or dispense prescription drugs in the CNMI shall register with the
4 prescription drug monitoring program either upon the initial
5 registration or renewal of the individual's CNMI professional
6 license or certification.

7 105. Querying the Prescription Drug Monitoring Program.

8 (a) A prescriber or prescriber's qualified delegate shall query the
9 prescription drug monitoring program prior to initially prescribing
10 or personally dispensing a controlled substance to a patient. If the
11 patient's course of treatment continues for more than ninety (90)
12 days after the date of the initial prescription, the prescriber or
13 prescriber's designee shall make periodic requests for prescription
14 drug monitoring program information, no less frequently than
15 annually or until the course of treatment has ended.

16 (b) A dispenser or a dispenser's delegate shall query the prescription
17 drug monitoring program prior to dispensing a controlled substance
18 to the patient.

19 (c) The requirements listed in (a) and (b) of this section shall not
20 apply if one of the following conditions is met:

- 1 (i) The prescription drug is a controlled substance which is
- 2 prescribed or dispensed to a patient currently receiving
- 3 hospice care.
- 4 (ii) If it is not possible to query the prescription drug
- 5 monitoring program in a timely manner due to an emergency
- 6 situation.
- 7 (iii) The PDMP system is not operational at the time the
- 8 query is attempted.
- 9 (d) A prescriber or dispenser may query the Prescription Drug
- 10 Monitoring Program for information on a patient as detailed in rules
- 11 and regulations promulgated pursuant to this Act.
- 12 106. Confidentiality.
- 13 (a) Information submitted to the PDMP shall be confidential and
- 14 not subject to public or open records laws, except as provided in
- 15 Section 107.
- 16 (b) The Commonwealth Healthcare Corporation shall establish and
- 17 enforce policies and procedures to ensure that the privacy and
- 18 confidentiality of patients are maintained and that patient
- 19 information collected, recorded, transmitted, and stored pursuant to
- 20 the PDMP is protected and not disclosed to persons except as
- 21 provided in Section 107.

1 (c) The Commonwealth Healthcare Corporation shall establish and
2 maintain a process for verifying the credentials and authorizing the
3 use of data collected by the PDMP by those individuals as allowed
4 for in Section 107.

5 107. Access to and Use of Prescription Drug Monitoring Program Data.

6 (a) The Commonwealth Healthcare Corporation may use
7 prescription monitoring information for statistical analysis,
8 research, public policy, PDMP or provider evaluation, or
9 educational purposes.

10 (b) The Commonwealth Healthcare Corporation is further
11 authorized to provide information in the PDMP upon request to the
12 following individuals:

13 (i) Persons authorized to prescribe or dispense prescription
14 drugs, for the purpose of providing medical or
15 pharmaceutical care for their patients or for reviewing
16 information regarding prescriptions that have been issued or
17 dispensed by the requester.

18 (ii) A patient who requests the patient's own prescription
19 monitoring information, the legal representative of such a
20 patient, or the parent of a minor, in accordance with

1 procedures established by the Commonwealth Healthcare
2 Corporation.

3 (iii) The CNMI Health Care Professions Licensing Board if
4 the request is pursuant to an investigation or is pursuant to
5 the agency's official duties and responsibilities.

6 (iv) Local, state, and federal law enforcement or
7 prosecutorial officials responsible for the administration,
8 investigation, or enforcement of the laws governing
9 controlled substances for criminal cases pursuant to their
10 official duties. Law enforcement or prosecutorial officials
11 seeking information from the Prescription Drug Monitoring
12 Program must include a warrant in any request for
13 information.

14 (v) The CNMI Medicaid Agency regarding Medicaid
15 program recipients and Medicaid program providers for the
16 purposes of medical provider quality evaluation, drug
17 utilization review, beneficiary health outcomes
18 improvement, and investigations of fraud, waste and abuse.

19 (vi) Public or private entities for the purpose of research or
20 education as approved by the Commonwealth Healthcare
21 Corporation in accordance with local and federal rules.

1 (vii) Other disclosures as permitted in rules and regulations
2 promulgated by the Commonwealth Healthcare
3 Corporation.

4 (c) The Commonwealth Healthcare Corporation is authorized to
5 proactively send unsolicited reports to prescribers or dispensers,
6 which may include flags of potentially harmful prescribing or
7 dispensing activity, and, for prescribers, may include comparison to
8 median or average prescribing activity of other prescribers in the
9 CNMI.

10 (d) The Commonwealth Healthcare Corporation shall not disclose
11 PDMP data in response to a subpoena or other method of discovery
12 or compelled production in a civil proceeding. PDMP data and audit
13 trail information shall not be admissible as evidence in a civil
14 proceeding.

15 (e) The Commonwealth Healthcare Corporation shall review
16 information submitted to the PDMP. Such reviews, which may link
17 PDMP data with other data sets, should include, but are not limited
18 to:

19 (i) A review to identify information that appears to indicate
20 if a person may be obtaining prescriptions in a manner that
21 suggests that the patient may have a substance use disorder.

1 When such information is identified, the Commonwealth
2 Healthcare Corporation may confidentially contact the
3 patient with information regarding evidence-based treatment
4 options and other services which may benefit patients with a
5 substance use disorder.

6 (ii) A review to identify ways to improve clinical decision-
7 making and practices.

8 (iii) A review to identify information that appears to indicate
9 if a violation of law or breach of professional standards may
10 have occurred. Whenever such information is identified, the
11 Commonwealth Healthcare Corporation should notify the
12 professional who may have violated legal or professional
13 standards and may also notify the CNMI Healthcare
14 Professionals Licensing Board.

15 108. Information Exchange with Other Prescription Drug Monitoring
16 Programs.

17 (a) The Commonwealth Healthcare Corporation may provide
18 prescription monitoring information to other states' and territories'
19 prescription drug monitoring programs, and the information may be
20 used by those programs consistent with this subchapter.

1 (b) The Commonwealth Healthcare Corporation may request and
2 receive prescription monitoring information from other states' and
3 territories' prescription drug monitoring programs and may use the
4 information as permitted under this subchapter.

5 (c) The Commonwealth Healthcare Corporation may develop the
6 capability to transmit information to other prescription drug
7 monitoring programs and receive information from other
8 prescription drug monitoring programs.

9 (d) The Commonwealth Healthcare Corporation may enter into
10 written agreements with other states' and territories' prescription
11 drug monitoring programs for the purpose of describing the terms
12 and conditions for sharing prescription information under this
13 subchapter.

14 109. Immunity.

15 (a) Unless there is a finding of reckless disregard, gross negligence,
16 malice, or criminal intent, the Commonwealth Healthcare
17 Corporation shall not be subject to civil liability, administrative
18 action, or other legal or equitable relief for the:

19 (i) failure to possess PDMP data that was not reported to the
20 Commonwealth Healthcare Corporation;

21 (ii) release or use of PDMP data that was factually incorrect;

1 (iii) unlawful access to PDMP data by an individual, health
2 care facility or entity, or unlawful disclosure or use of PDMP
3 data by an individual, health care facility, or entity who
4 requested and received PDMP data pursuant to Section 107.

5 (b) Unless the CHCC finds a lack of good faith, a dispenser or
6 qualified delegate is not subject to civil liability, administrative
7 action, or other legal or equitable relief for reporting data to the
8 PDMP pursuant to Section 103.

9 (c) Unless the CHCC finds a lack of good faith, a prescriber,
10 dispenser, pharmacist, or other individual, agency, or entity in
11 proper possession of PDMP information pursuant to this Act is not
12 subject to civil liability, administrative action, or other legal or
13 equitable relief for accessing, using, or disclosing PDMP
14 information pursuant to Sections 105 and 107.

15 110. Unlawful Acts and Penalties.

16 (a) Administrative Sanctions.

17 (i) A dispenser who knowingly fails to submit prescription
18 monitoring information to the Commonwealth Healthcare
19 Corporation as required by this Act, or who knowingly
20 submits incorrect prescription information, shall be referred
21 to the appropriate professional licensing or regulatory board

1 for administrative sanctions and may be subject to an
2 administrative penalty levied by that professional licensing
3 or regulatory board of no more than \$250.00 per violation.
4 Each such failure to submit prescription monitoring
5 information shall count as a separate violation.

6 (ii) A dispenser who knowingly fails to correct or amend
7 prescription monitoring information submitted to the
8 Commonwealth Healthcare Corporation after notification by
9 the Commonwealth Healthcare Corporation shall be referred
10 to the appropriate professional licensing or regulatory board
11 for administrative sanctions and may be subject to an
12 administrative penalty levied by the that professional
13 licensing or regulatory board of no more than \$250.00 per
14 violation. Each such failure to correct or amend prescription
15 monitoring information shall count as a separate violation.

16 (iii) A prescriber, dispenser, or delegate who knowingly
17 fails to register with the PDMP as required by this Act shall
18 be referred to the appropriate professional licensing or
19 regulatory board for administrative sanctions and may be
20 subject to an administrative penalty levied by the appropriate

1 professional licensing or regulatory board of no more than
2 \$500.00.

3 (iv) A prescriber or dispenser who knowingly fails to query
4 the PDMP as required by this Act shall be referred to the
5 appropriate licensing or regulatory board for administrative
6 sanctions and may be subject to an administrative penalty
7 levied by the appropriate professional licensing or regulatory
8 board of no more than \$250.00 per violation. Each such
9 failure to query the PDMP shall count as a separate violation.

10 (b) Criminal Penalties.

11 (i) A person, agency, or entity authorized to receive
12 prescription monitoring information, or audit trail
13 information pursuant to this Act who knowingly discloses
14 such information in violation of this Act shall be subject to
15 punishment by imprisonment for not more than three (3)
16 years or a fine of not more than \$3,000, or both.

17 (ii) A person, agency, or entity authorized to receive
18 prescription monitoring information or audit trail
19 information pursuant to this Act who knowingly uses such
20 information in a manner or for a purpose in violation of this
21 Act shall be subject to punishment by imprisonment for not

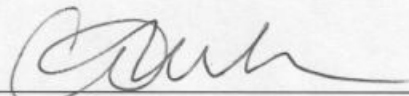
1 more than five (5) years or a fine of not more than \$5,000,
2 or both.

3 (iii) A person, agency, or entity authorized to receive
4 prescription monitoring information or audit trail
5 information pursuant to this Act who knowingly requests
6 such information in violation of this Act shall be subject to
7 punishment by imprisonment for not more than five (5) years
8 or a fine of not more than \$5,000, or both.

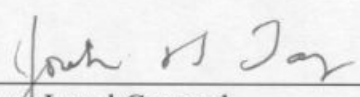
9 (iv) A person, agency, or entity not authorized to receive
10 prescription monitoring information or audit trail
11 information pursuant to this Act who obtains or attempts to
12 obtain such information by fraud or deceit from the PDMP
13 or from a person authorized to receive such information
14 under this Act shall be subject to punishment by
15 imprisonment for not more than five (5) years or a fine of
16 not more than \$10,000, or both.

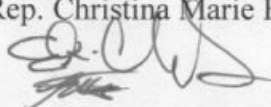
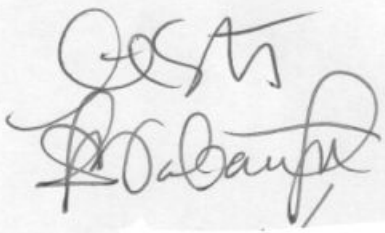
17 (v) A person, agency, or entity not authorized to receive
18 prescription monitoring information or audit trail
19 information pursuant to this Act knowingly discloses or uses
20 such information in violation of this Act shall be subject to


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