

The Honorable Thomas V. Mike Miller, Jr.
Senate President
State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 333 – *Prescription Drug Monitoring Program*.

This bill requires the Department of Health and Mental Hygiene (DHMH), in consultation with a newly established Advisory Board on Prescription Drug Monitoring, to establish a centralized prescription drug monitoring program that electronically collects and stores data concerning controlled prescription drugs. Pharmacists dispensing Schedule I through IV controlled substances in the State would be required to submit to the program data regarding each prescription including the date and quantity of the drug dispensed, the prescribing physician, and a patient identifier.

Implementation of the program is contingent on the Advisory Board's ability to obtain federal, private, or State funds. Implementation, however, is not contingent on the Board receiving full or even a majority of the necessary funding. If federal or private funds do not cover the entire cost of the program, DHMH may be required to fund the remaining costs. Assuming federal funding is obtained, DHMH federal and general fund expenditures could increase by \$1 million in fiscal year 2007, including a one-time cost of \$500,000 to design and implement the database. The bill specifically prohibits DHMH from seeking funds through fees from providers.

Aside from the serious fiscal implications of Senate Bill 333, there are several policy concerns with this bill. First, and most alarming, is the potential encroachment on adequate pain management. While it is important to decrease the number of Maryland adults and adolescents who are engaging in prescription drug abuse and diversion, it is essential to ensure that legitimate pain management would not be hampered for individuals who are suffering from chronic and debilitating diseases. Senate Bill 333 could have a chilling effect on providers prescribing pain management. Prescribers are already fearful of inappropriate or unfounded scrutiny of their prescribing practices. The provisions of this bill may exacerbate untreated or inadequately treated pain management. Unfortunately, even after numerous amendments, this bill focuses on law enforcement, not treatment.

Second, Senate Bill 333 does not adequately address patient confidentiality. Although the Legislature removed the prescriber's diagnosis code from the database, many prescription medications are commonly linked to certain ailments. Unfortunately, there are stigmas associated with certain diseases. In addition, a patient's medical condition will be available to a multidisciplinary consultation team, established in this bill. This bill opens the doors to non-medical individuals accessing confidential physician-patient information since it does not specifically state who is an authorized recipient.

Third, this legislation is problematic because it can be interpreted as providing the federal Drug Enforcement Agency (DEA) and others with unfettered access to the