

**HOUSE . . . . . No. 4879**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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An Act relative to the enhancement of the prescription monitoring program..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Said chapter 94C, as appearing in the 2008 Official Edition, is hereby  
2 amended by inserting after section 24 the following section:-

3           Section 24A. (a) The department shall establish and maintain an electronic system to  
4 monitor the prescribing and dispensing of all schedule II to V, inclusive, controlled substances  
5 and certain additional drugs by all professionals licensed to prescribe or dispense such  
6 substances. For the purposes of this section, “additional drugs” shall mean substances  
7 determined by the department that demonstrate a bona fide potential of abuse.

8           The department shall enter into reciprocal agreements with other states to share  
9 prescription drug monitoring information if the other state's prescription drug monitoring  
10 program is comparable with the program as set forth in this section.

11           (b) The requirements of this section shall not apply to the dispensing of controlled  
12 substances to inpatients in a hospital.

13           (c) Each pharmacy that delivers a schedule II to V, inclusive, controlled substance to the  
14 ultimate user shall submit to the department, by electronic means, information regarding each  
15 prescription dispensed for a drug included pursuant to subsection (a) as required by rules and  
16 regulations promulgated by the department. Each pharmacy shall submit the information in  
17 accordance with transmission methods and frequency promulgated by the department, but at  
18 least once every 7 days. The department may issue a waiver to a pharmacy that is unable to  
19 submit prescription information by electronic means. Such waiver shall permit the pharmacy to  
20 submit prescription information by other means promulgated by the department: provided,  
21 however, that all information required in this section is submitted in this alternative format.

22           (d) Prescription information submitted to the department pursuant to this section shall be  
23 confidential and exempt from disclosure under chapter 66 and clause Twenty-sixth of section 7  
24 of chapter 4 and not subject to public or open records laws. The department shall maintain  
25 procedures to ensure that the privacy and confidentiality of patients and patient information  
26 collected, recorded, transmitted and maintained is not disclosed to persons except as provided for  
27 in this chapter.

28           (e) The department shall review the prescription and dispensing monitoring information.  
29 If there is reasonable cause to believe a violation of law or breach of professional standards may  
30 have occurred, the department shall notify the appropriate law enforcement or professional  
31 licensing, certification or regulatory agency or entity, and provide prescription information  
32 required for an investigation.

33           (f) The department shall, upon request, provide data from the prescription monitoring  
34 program to the following:-

35 (1) persons authorized to prescribe or dispense controlled substances, for the purpose of  
36 providing medical or pharmaceutical care for their patients;

37 (2) individuals who request their own prescription monitoring information in accordance  
38 with procedures established under chapter 66A;

39 (3) persons authorized to act on behalf of state boards and regulatory agencies that  
40 supervise or regulate a profession that is authorized to prescribe controlled substances; provided,  
41 that the data request is in connection with a bona fide specific controlled substance or additional  
42 drug related investigation;

43 (4) local, state and federal law enforcement or prosecutorial officials working with the  
44 executive office of public safety engaged in the administration, investigation or enforcement of  
45 the laws governing prescription drugs; provided, however, that the data request is in connection  
46 with a bona fide specific controlled substance or additional drug related investigation;

47 (5) personnel of the executive office of health and human services regarding Medicaid  
48 program recipients; provided, however that the data request is in connection with a bona fide  
49 specific controlled substance or additional drug related investigation; or

50 (6) personnel of the United States attorney, office of the attorney general or the district  
51 attorneys; provided, however, that the data request is in connection with a bona fide specific  
52 controlled substance or additional drug related investigation.

53 (g) The department may provide de-identified, aggregate information to public or private  
54 entities for statistical, research or educational purposes.

55 (h) The department may contract with another agency of this state or with a private  
56 vendor, as necessary, to ensure the effective operation of the prescription monitoring program.  
57 A contractor shall be bound to comply with the provisions regarding confidentiality of  
58 prescription information in this section.

59 (i) The department shall promulgate rules and regulations setting forth the procedures and  
60 methods for implementing this section.

61 (j) The department shall submit an annual report on the effectiveness of the prescription  
62 monitoring program with the clerks of the house and senate, the chairs of the joint committee on  
63 public health, the chairs of the joint committee on health care financing and the chairs of the joint  
64 committee on public safety and homeland security.

65 SECTION 2. Said chapter 94C, as so appearing, is hereby further amended by adding the  
66 following section :-

67 Section 49. The department of public health shall enforce section 24A. To carry out this  
68 purpose, the department shall:-

69 (a) inspect, copy and audit records, inventories of controlled substances and reports  
70 required under said section 24A and rules and regulations adopted under said section;

71 (b) enter the premises of regulated distributors and dispensers during normal business  
72 hours to conduct administrative inspections;

73 (c) assist law enforcement agencies in enforcing this chapter;

74 (d) conduct investigations to enforce this chapter; and

75 (e) present evidence obtained from investigations conducted in conjunction with the  
76 office of the attorney general and the appropriate district attorneys for civil or criminal  
77 prosecution or for administrative action against regulated distributors, dispensers and licensees.

78 SECTION 3. Notwithstanding any general or specific law to the contrary, the department  
79 of public health shall promulgate rules and regulations relative to the prescription monitoring  
80 program established by section 24A of chapter 94C not later than October 1, 2012.

81 SECTION 4. The department of public health shall submit a report on the status of this  
82 act with the clerks of the house and senate, the chairs of the joint committee on public health, the  
83 chairs of the joint committee on health care financing and the chairs of the joint committee on  
84 public safety and homeland security within 90 days of the passage of this act.

85 SECTION 5. Section 1 shall take effect on January 1, 2011.