

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 663

(Chair, Health and Government Operations
Committee)(By Request - Departmental - Health)

Health and Government Operations

Finance

Prescription Drug Monitoring Program - Out-of-State Pharmacists and
Discipline for Noncompliance

This departmental bill alters the definition of “pharmacist” to include a pharmacist licensed by another state to dispense monitored prescription drugs for purposes of the Prescription Drug Monitoring Program (PDMP). The bill also adds failure to comply with the requirements of PDMP to disciplinary grounds for dentists, physicians, and physician assistants by the appropriate health occupations board.

Fiscal Summary

State Effect: The Maryland Department of Health (MDH) can handle the bill’s impact with existing budgeted resources. Revenues are not materially affected.

Local Effect: None.

Small Business Effect: MDH has determined that this bill has minimal or no impact on small businesses (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: Chapter 166 of 2011 established PDMP to assist with the identification and prevention of prescription drug abuse and the identification and investigation of unlawful prescription drug diversion. PDMP must monitor the prescribing and dispensing of Schedule II through V controlled dangerous substances (CDS). As of July 1, 2017, all CDS dispensers are required to register with PDMP. As of July 1, 2018, prescribers are

required to (1) request at least the prior four months of prescription monitoring data for a patient before initiating a course of treatment that includes prescribing or dispensing an opioid or a benzodiazepine; (2) request prescription monitoring data for the patient at least every 90 days until the course of treatment has ended; and (3) assess prescription monitoring data before deciding whether to prescribe or dispense – or continue prescribing or dispensing – an opioid or a benzodiazepine. A prescriber is not required to request prescription monitoring data if the opioid or benzodiazepine is prescribed or dispensed to specified individuals and in other specified circumstances.

Prescribers include the following practitioners with CDS prescriptive authority: physicians, physician assistants, dentists, podiatrists, nurse practitioners, and advanced practice nurse midwives.

Under PDMP, if a pharmacist (or pharmacist delegate) has a reasonable belief that a patient may be seeking a monitored prescription drug for any purpose other than the treatment of an existing medical condition, the pharmacist (or pharmacist delegate) has a duty to request prescription monitoring data to determine if the patient has received other prescriptions that indicate misuse, abuse, or diversion of a monitored prescription drug before dispensing a monitored prescription drug to the patient. The pharmacist also has the responsibility described under specified federal law (on purpose of issue of prescription). Failure to comply with the requirements of PDMP is not a disciplinary ground for pharmacists regulated by the State Board of Pharmacy.

However, under the relevant regulations, a prescriber or pharmacist who knowingly discloses or uses prescription drug monitoring data in violation of PDMP is subject to disciplinary action by the appropriate health occupations board.

A nonresident pharmacy is a pharmacy located outside of Maryland that ships, mails, or delivers drugs or devices to a person in Maryland pursuant to prescriptions. A nonresident pharmacy must be operated in compliance with the laws and regulations of the state in which it is located and be in compliance with the laws and regulations of the State Board of Pharmacy. A nonresident pharmacy must have at least one pharmacist who is licensed by the State Board of Pharmacy and designated as “the pharmacist responsible for providing pharmaceutical services to patients in” Maryland.

Background: MDH advises that the bill authorizes pharmacists licensed in other states (who work at nonresident pharmacies dispensing to Maryland addresses) and pharmacists working at federal facilities in Maryland (but who are licensed in another state) to access PDMP data when making dispensing decisions in the care of Maryland patients. This change is in line with the intent of PDMP and pharmacists’ corresponding responsibility under federal law.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2020
md/jc Third Reader - March 14, 2020

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: PDMP Revisions

BILL NUMBER: HB 663

PREPARED BY: Webster Ye

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

OPER does not anticipate fiscal impact on small businesses. There are no actions required by small business nor actions affecting small business relating to this bill.