

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 494

(Senator Kramer)

Finance

Health and Government Operations

**Health Care Facilities – Dialysis Treatment Services – Training (David Selby
Dialysis Parity Act)**

This bill prohibits a “health care facility” from providing peritoneal dialysis or hemodialysis treatment services unless the individual performing the procedure is trained in the technique being performed. “Health care facility” includes a kidney dialysis center, a facility operated by the Maryland Department of Health (MDH) or a health officer, and a health care provider’s office. Each violation of this prohibition is subject to a civil penalty of up to \$5,000. MDH must adopt regulations to carry out the bill. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: According to the National Kidney Foundation, dialysis is a medical procedure that removes waste from blood and regulates blood pressure when the kidneys cannot. In hemodialysis, blood is pumped through an external kidney machine and returned to the body through tubes. In peritoneal dialysis, cleansing fluid is inserted into the body through a catheter, which assists the body in cleansing blood more naturally.

A nurse or a patient care technician generally performs dialysis treatments and is responsible for starting and ending each treatment and monitoring patients before, during, and after treatment. These individuals typically receive in-depth training prior to performing dialysis treatments.

Licensure of Kidney Dialysis Centers in Maryland

MDH's Office of Health Care Quality (OHCQ) *licenses* all freestanding kidney dialysis centers under its regulations regarding freestanding ambulatory care facilities. A "kidney dialysis center" means a facility that provides hemodialysis or chronic peritoneal dialysis, but it does not include a center or service owned or operated by a hospital. Under these regulations, a kidney dialysis center must be in compliance with all applicable federal, State, and local laws and regulations and must also submit a Medicare certification as a condition of licensure. The administrator of a kidney dialysis center must ensure that the center has a quality assurance program.

Maryland Kidney Disease Program and Fund

In Maryland, there is a Kidney Disease Program and Fund (KDF), which was established to assist citizens with the costs of treatment for kidney disease as a payor of last resort. To receive funding from KDF, a person must meet medical, residency, and other nonmedical eligibility requirements, as established by MDH. One of these requirements is that a program recipient has to apply for eligibility in Medicaid *and* the Medicare Part B or Part D Program, within 60 days of notification to do so by MDH. KDF is the payor of last resort, which means the program may provide financial assistance to certified Maryland end-stage renal disease patients only after all other federal, State, and private medical insurance coverage has been pursued.

Maryland Commission on Kidney Disease

The Maryland Commission on Kidney Disease promotes quality health care in the field of nephrology and transplantation by certifying dialysis and transplant centers, receiving and resolving complaints from interested parties, and setting standards for the practice of chronic dialysis and transplantation that reflect new and emergent developments. The commission is charged with adopting physical and medical standards for the operation of dialysis and transplant centers. The commission may not adopt any standard that prevents an individual from receiving federal medical or financial aid. MDH is charged with promulgating regulations that implement quality of care standards adopted by the commission to govern nonmedical eligibility criteria for recipients and reimbursement of providers and recovery of KDF expenditures from recipients and third parties.

The commission *certifies* treatment centers that meet the standards it adopts for providing services to recipients. The commission inspects certified facilities annually. Although certification is voluntary, a treatment center must be certified by the commission to receive reimbursement from KDF. However, the commission is not in charge of KDF payments, the level of payment, or how payment is disbursed. Similarly, the commission has no jurisdiction over Medicaid or Medicare payments or standards. Treatment centers must also be licensed by OHCQ in order to treat patients, but this licensure is separate from certification.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

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

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Analysis by: Amberly Holcomb

Direct Inquiries to:
(410) 946-5510
(301) 970-5510