

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1486 (Delegate Johnson, *et al.*)  
Health and Government Operations

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Public Health – Non–Controlled Substance Prescription Record System Program

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This bill establishes the NCS Prescription Record System Program under the Maryland Health Care Commission (MHCC) to improve patient safety and reduce health care costs by allowing a prescriber and prescriber delegate to access the noncontrolled substance (NCS) prescription drug history of a patient, including drugs prescribed by other prescribers. The bill also establishes the NCS Prescription Record System Program Advisory Committee, with specified membership, to provide clinical and operational recommendations to MHCC. By April 15, 2022, MHCC must submit a plan for funding the program to the General Assembly for approval. The program and advisory committee terminate if the plan is not submitted or approved by this date.

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Fiscal Summary

**State Effect:** MHCC can convene the advisory committee, submit required annual reports, and submit the required plan using existing budgeted resources, as discussed below. Revenues are not affected.

**Local Effect:** The bill does not directly affect local governmental operations or finances.

**Small Business Effect:** Potential meaningful, to the extent the program is implemented.

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## Analysis

### Bill Summary:

#### *Maryland Health Care Commission Requirements*

MHCC must establish by regulation standards for selecting a prescription information system (PIS) that may electronically transmit NCS prescription drug information. The standards must require a PIS to (1) meet the privacy and security control and technical performance standards established by MHCC; (2) comply with each required privacy and security control and technical performance standard during the period of recognition by MHCC; (3) accept NCS prescription drug information submitted by dispensers; (4) transmit this NCS prescription drug information to the State-designated health information exchange (HIE); and (5) meet and maintain compliance with any other standard established by MHCC.

MHCC must determine (1) the categories of prescribers and dispensers required to participate in and comply with the requirements of the program and those who are excluded; (2) the time period within which a dispenser must transmit information on a dispensed NCS prescription drug to a PIS; and (3) the method by which patients may opt out of the program.

MHCC must annually report on the program to the Senate Finance Committee and the House Health and Government Operations Committee, beginning January 1, 2021.

#### *Dispenser Requirements*

After dispensing an NCS prescription drug, a dispenser must submit all required information on the prescription to the program within the time period established by MHCC. A dispenser may not submit information on an NCS prescription drug from a prescriber who is excluded from the program. A dispenser must submit the required information electronically using a PIS.

#### *State-designated Health Information Exchange Requirements*

The State-designated HIE must accept and store NCS prescription drug information submitted through a PIS and make NCS prescription drug information available to prescribers, pharmacists, prescriber delegates, and pharmacist delegates in accordance with regulations.

The State-designated HIE may not charge a fee or other expense for the transmission or retrieval of NCS prescription drug information within the program or make available or

store NCS prescription drug information for any individual who has opted out of the program or the State-designated HIE.

#### *Notice to Consumers*

Each dispenser and prescriber who participates in the program must provide specified notice to consumers, by an appropriate method.

MHCC must post information on the program on its website, as specified.

#### *NCS Prescription Record System Program Advisory Committee*

The advisory committee must meet at least quarterly and must make policy and operational recommendations to MHCC regarding the establishment and operation of the program and recommendations regarding which health care practitioners who dispense or prescribe NCS prescription drugs should be excluded from the program. A member of the advisory committee may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations.

**Current Law/Background:** Chapter 166 of 2011 established the Prescription Drug Monitoring Program (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). When a dispenser fills a prescription for a monitored drug, the dispenser must electronically submit to PDMP identifying information for the patient, prescriber, dispenser, and drug within three business days of dispensing.

MHCC designated the Chesapeake Regional Information System for our Patients (CRISP) as the statewide HIE in 2009, and the infrastructure became operational in 2010. An HIE allows clinical information to move electronically among disparate health information systems. CRISP offers tools aimed at improving the facilitation of care for the region's health care providers. CRISP is the platform for PDMP. Consumers can opt out of having their information included in the HIE. However, CDS information remains available to health care providers.

Although data on CDS prescriptions is readily available, Maryland health care providers currently do not have access to 100% of prescription data for patients. Surescripts, an HIE and electronic clearinghouse, provides a subscription service to access about 80% of NCS prescription records.

According to MHCC, obtaining accurate medication history from patients and/or their caregivers is often challenging due to language or cultural differences, clinical status, and limited access to patient records. The bill is intended to address medication discrepancies that can lead to adverse drug events and unnecessary health care utilization, particularly among vulnerable populations with comorbidities. A secure NCS data repository accessible to treating providers that is integrated within their existing health information technology solutions can further bridge information gaps and promote patient safety.

**State Expenditures:** MHCC advises that it could appoint and convene the advisory committee by January 1, 2021. Advisory committee meetings would continue for approximately 10 to 12 months to establish guidelines for the operation and funding of the program. MHCC could then submit the required plan for funding to the General Assembly by January 1, 2022 (this plan is required to be submitted by April 15, 2022).

This analysis does not reflect any potential cost to implement the program, which could be significant.

**Small Business Effect:** If the program is implemented, a dispenser must submit all required information on a dispensed NCS prescription to the program electronically (with specified exceptions). Prescribers and dispensers must provide specified notice about the program to consumers. Prescribers gain access to more complete medication history for their patients.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 752 (Senator Rosapepe) - Finance.

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

**Fiscal Note History:** First Reader - March 5, 2020  
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