

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 80

(Chair, Finance Committee)(By Request - Departmental -
Health and Mental Hygiene)

Finance

Health and Government Operations

Public Health - Prescription Drug Monitoring Program - Disclosure of
Prescription Monitoring Data

This departmental bill adds the Division of Drug Control (DDC) to the list of entities to which the Prescription Drug Monitoring Program (PDMP) must disclose prescription monitoring data. Data must be disclosed, on approval of the Secretary of Health and Mental Hygiene, for the purpose of furthering an existing *bona fide* individual investigation.

Fiscal Summary

State Effect: Potential minimal savings may accrue for the Department of Health and Mental Hygiene (DHMH) beginning in FY 2014 to the extent that the efficiency of DDC investigations is enhanced. No effect on revenues.

Local Effect: None.

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

Analysis

Current Law: Chapter 166 of 2011 (SB 883) established PDMP to monitor the prescribing and dispensing of Schedule II through V controlled dangerous substances (CDS). Chapter 166 also established an Advisory Board on Prescription Drug Monitoring, which, among other duties, must report annually to the Governor and the General Assembly and provide oversight of the program.

The mission of PDMP is to (1) assist prescribers, dispensers, and public health professionals in the identification and prevention of prescription drug abuse and the identification and investigation of unlawful prescription drug diversion and (2) promote a balanced use of prescription drug monitoring data. For each monitored prescription drug dispensed, a dispenser must electronically submit data to PDMP. The program must disclose prescription monitoring data to:

- a prescriber, or a licensed health care practitioner authorized by the prescriber, in connection with the medical care of a patient;
- a dispenser, or a licensed health care practitioner authorized by the dispenser, in connection with the dispensing of a monitored prescription drug;
- a federal, State, or local law enforcement agency, on issuance of a subpoena, for an existing *bona fide* individual investigation;
- a licensing entity, on issuance of an administrative subpoena voted on by a quorum of the board of the licensing entity, for purposes of a *bona fide* individual investigation;
- a rehabilitation program under a health occupations board on issuance of an administrative subpoena;
- a patient with respect to prescription monitoring data about the patient;
- an authorized administrator of another state PDMP;
- specific units of DHMH on approval of the Secretary of Health and Mental Hygiene for the purpose of furthering an existing *bona fide* individual investigation; or
- the technical advisory committee of the program.

Background: PDMP is not yet operational. DHMH's Alcohol and Drug Abuse Administration has partnered with the Chesapeake Regional Information System for Our Patients (CRISP) to implement the program. CRISP is formally designated as Maryland's statewide health information exchange by the Maryland Health Care Commission. CRISP recently issued a request for proposal soliciting a partner to provide PDMP technology solutions. PDMP anticipates becoming fully operational as soon as September 2013.

DDC, part of DHMH's Laboratories Administration, registers practitioners and establishments to legally manufacture, distribute, dispense, or otherwise handle CDS in Maryland. DDC also conducts CDS inspections for pharmacies and nonpharmacy sites. In fiscal 2012, DDC processed 17,996 CDS permits, conducted 687 CDS and other site inspections, and performed 373 pharmacy inspections.

Permit holders must allow DDC inspectors to access and inspect their prescription records, which are typically presented in hard copy format. According to DHMH, review

of hard copy records results in time-consuming analysis of prescription data. By adding DDC to the list of DHMH units authorized to receive prescription monitoring data (along with the Office of the Chief Medical Examiner, the Maryland Medical Assistance Program, the Office of the Inspector General, and the Office of Health Care Quality, which currently have such authorizations), DDC inspectors will have more timely access to electronic reports of prescription drug monitoring data, which could enhance efficiency and reduce travel time.

Access to PDMP data will also assist DDC in identifying, monitoring, and investigating practitioners alleged to be engaged in prescribing or dispensing CDS that are not intended for a legitimate medical purpose. Furthermore, DHMH indicates that fraudulent prescriptions have become a growing problem in Maryland. Currently, there is no tool available to determine how many fraudulent CDS prescriptions are being filled in various pharmacies. Access to PDMP data would allow DDC to assess the extent of fraudulent activity and report such activity to law enforcement officials.

In its *Interim Report to the Maryland General Assembly* dated July 18, 2012, the Advisory Board on Prescription Drug Monitoring recommended that the PDMP statute be amended to allow DDC to request PDMP data pursuant to an existing *bona fide* individual investigation.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - January 15, 2013
ncs/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Prescription Drug Monitoring Program - Disclosure

BILL NUMBER: SB 80

PREPARED BY: Department of Health and Mental Hygiene

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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

The proposed legislation will have no impact on small business in Maryland.