

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 430 (Senator Kelley, *et al.*)
 Finance

Maryland Health Care Commission - Authorized Prescribers - Reporting of
 Financial Gratuities or Incentives

This bill requires each “authorized prescriber” who receives a “financial gratuity or incentive” from a pharmaceutical distributor or manufacturer to file a financial disclosure form with the Maryland Health Care Commission (MHCC) within 30 days after the financial gratuity or incentive is received. MHCC may impose a fine of up to \$1,000 per violation if an authorized prescriber willfully fails to file a financial disclosure form. MHCC must adopt regulations to implement the bill. The bill must be construed to apply only prospectively.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues beginning in FY 2020 to the extent MHCC imposes a fine for failure to file. Special fund expenditures increase by at least \$38,400 beginning in FY 2020 for staff, as discussed below.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	38,400	44,900	46,300	47,800	49,400
Net Effect	(\$38,400)	(\$44,900)	(\$46,300)	(\$47,800)	(\$49,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Authorized prescriber” means any licensed dentist, physician, podiatrist, advanced practice nurse with prescriptive authority, or any other individual authorized to prescribe prescription or nonprescription drugs or devices. “Financial gratuity or incentive” means the provision or payment of anything of value in exchange for the promotion or purchase of products or services, including specified agreements.

Current Law: Under the Health Occupations Article, a health care practitioner (including physicians) may not refer a patient, or direct an employee or a person under contract with the health care practitioner to refer a patient, to a health care entity (1) in which the health care practitioner or the practitioner in combination with the practitioner’s immediate family owns a beneficial interest; (2) in which the practitioner’s immediate family owns a beneficial interest of 3% or greater; or (3) with which the health care practitioner, the practitioner’s immediate family, or the practitioner in combination with the practitioner’s immediate family has a compensation arrangement. This prohibition does not apply to a health care practitioner who refers specified in-office ancillary services or tests.

Background: The federal Patient Protection and Affordable Care Act requires the federal Centers for Medicare and Medicaid Services (CMS) to collect information from certain manufacturers and group purchasing organizations of drugs, devices, biologicals, and medical supplies in order to report information about their financial relationships with physicians and teaching hospitals. CMS displays the data on its public website at <https://openpaymentsdata.cms.gov/>.

There are approximately 37,000 authorized prescribers in Maryland.

State Expenditures: Given the number of licensed prescribers, MHCC may receive a significant number of filings under the bill. Thus, MHCC special fund expenditures increase by *at least* \$38,400 in fiscal 2020, which accounts for bill’s October 1, 2019 effective date. This estimate reflects the cost of hiring one part-time (50%) health policy analyst to adopt regulations to implement the filing requirement, conduct outreach to affected prescribers through the related health occupations boards, receive and maintain filings, and answer questions from prescribers about filing requirements. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. This estimate does not reflect any potential costs associated with enforcing the requirement or imposing fines, which MHCC is authorized to do under the bill.

Position	0.5
Salary and Fringe Benefits	\$31,400
One-time Start-up Expenses	4,890
Ongoing Operating Expenses	<u>2,110</u>
Total FY 2020 Special Fund Expenditures	\$38,400

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

Small Business Effect: Certain prescribers must routinely submit financial disclosure forms and may be subject to a fine of up to \$1,000 for failure to file.

Additional Information

Prior Introductions: None.

Cross File: HB 696 (Delegate Pena-Melnyk, *et al.*) - Health and Government Operations.

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

Fiscal Note History: First Reader - February 18, 2019
mm/ljm

Analysis by: Jennifer B. Chasse

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