

# SENATE BILL 159

J2  
SB 430/19 – FIN

(PRE-FILED)

2lr0492  
CF HB 462

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By: **Senators Kelley, Beidle, Benson, Carter, Feldman, Guzzone, Sydnor, and Waldstreicher**

Requested: September 16, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Occupations – Authorized Prescribers – ~~Reporting of Financial~~**  
3 **~~Gratuities or Incentives~~ Financial Reporting**

4 FOR the purpose of ~~requiring each authorized prescriber who receives a financial gratuity~~  
5 ~~or incentive from a pharmaceutical distributor or manufacturer to file a disclosure~~  
6 ~~form with a certain health occupations board within a certain period of time to be~~  
7 ~~used for a certain purpose; establishing requirements related to the disclosure of~~  
8 financial gratuities or incentives by authorized prescribers and the review and use  
9 of the disclosures by health occupations boards that regulate the authorized  
10 prescribers; requiring the State Board of Physicians to post a link to the open  
11 payments website each physician's profile on its website and to take certain other  
12 actions related to the use of data on the open payments website; and generally  
13 relating to disclosures by authorized prescribers filed with health occupations  
14 boards.

15 BY adding to  
16 Article – Health Occupations  
17 Section 1–227 and 14–411.2  
18 Annotated Code of Maryland  
19 (2021 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
21 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Health Occupations

2 1-227.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (2) (I) “AUTHORIZED PRESCRIBER” MEANS ANY LICENSED  
6 DENTIST, ~~LICENSED PHYSICIAN~~, LICENSED PODIATRIST, ADVANCED PRACTICE  
7 NURSE WITH PRESCRIPTIVE AUTHORITY UNDER § 8-508 OF THIS ARTICLE, OR ANY  
8 OTHER INDIVIDUAL AUTHORIZED BY LAW TO PRESCRIBE PRESCRIPTION OR  
9 NONPRESCRIPTION DRUGS OR DEVICES.

10 (II) “AUTHORIZED PRESCRIBER” DOES NOT INCLUDE A  
11 LICENSED PHYSICIAN.

12 ~~(3) (I) “FINANCIAL GRATUITY OR INCENTIVE” MEANS THE~~  
13 ~~PROVISION OR PAYMENT OF ANYTHING OF VALUE IN EXCHANGE FOR THE~~  
14 ~~PROMOTION OR PURCHASE OF PRODUCTS OR SERVICES.~~

15 ~~(H)~~ (3) (I) “FINANCIAL GRATUITY OR INCENTIVE”  
16 INCLUDES:

- 17 1. CASH PAYMENT;
- 18 2. A SPEAKING AGREEMENT;
- 19 3. A CONSULTING AGREEMENT;
- 20 4. A PHYSICIAN OWNERSHIP AGREEMENT;
- 21 5. AN AGREEMENT FOR STOCK OPTIONS;
- 22 6. AN AGREEMENT FOR A RESEARCH GRANT OR  
23 CLINICAL TRIAL;
- 24 7. A ROYALTY AGREEMENT;
- 25 8. AN AGREEMENT FOR A FELLOWSHIP;
- 26 9. AN AGREEMENT FOR CONFERENCE ATTENDANCE;
- 27 AND
- 28 10. AN EXCLUSIVE PRODUCT LOYALTY AGREEMENT.

1                   (II) “FINANCIAL GRATUITY OR INCENTIVE” DOES NOT INCLUDE  
2 PAYMENTS FOR FOOD.

3                   (4) “PHARMACEUTICAL MANUFACTURER OR DISTRIBUTOR”  
4 INCLUDES A REPRESENTATIVE OF A COMPANY THAT SELLS MEDICAL EQUIPMENT.

5           ~~(B) EACH AUTHORIZED PRESCRIBER WHO RECEIVES A FINANCIAL~~  
6 ~~GRATUITY OR INCENTIVE FROM A PHARMACEUTICAL DISTRIBUTOR OR~~  
7 ~~MANUFACTURER SHALL FILE WITH THE HEALTH OCCUPATIONS BOARD THAT~~  
8 ~~LICENSES THE AUTHORIZED PRESCRIBER A FINANCIAL DISCLOSURE FORM~~  
9 ~~REQUIRED BY THE HEALTH OCCUPATIONS BOARD WITHIN 30 DAYS AFTER THE DATE~~  
10 ~~THE FINANCIAL GRATUITY OR INCENTIVE IS RECEIVED BY THE AUTHORIZED~~  
11 ~~PRESCRIBER.~~

12           ~~(C) THE INFORMATION DISCLOSED BY THE AUTHORIZED PRESCRIBER ON~~  
13 ~~THE FORM UNDER SUBSECTION (B) OF THIS SECTION;~~

14           ~~(1) MAY BE USED BY A HEALTH OCCUPATIONS BOARD ONLY TO AUDIT,~~  
15 ~~INVESTIGATE, OR TAKE DISCIPLINARY ACTION AGAINST THE AUTHORIZED~~  
16 ~~PRESCRIBER; AND~~

17           ~~(2) MAY NOT BE DISCLOSED TO THE PUBLIC.~~

18           ~~(D) IF AN AUTHORIZED PRESCRIBER WILLFULLY FAILS TO FILE A~~  
19 ~~FINANCIAL DISCLOSURE FORM AS REQUIRED BY SUBSECTION (B) OF THIS SECTION,~~  
20 ~~THE HEALTH OCCUPATIONS BOARD MAY IMPOSE A FINE NOT TO EXCEED \$1,000 PER~~  
21 ~~VIOLATION.~~

22           (B) EACH AUTHORIZED PRESCRIBER WHO RECEIVES A FINANCIAL  
23 GRATUITY OR INCENTIVE FROM A PHARMACEUTICAL DISTRIBUTOR OR  
24 MANUFACTURER SHALL SUBMIT TO THE HEALTH OCCUPATIONS BOARD THAT  
25 LICENSES THE AUTHORIZED PRESCRIBER A FINANCIAL DISCLOSURE DOCUMENT IN  
26 THE FORM DETERMINED BY THE HEALTH OCCUPATIONS BOARD AND AS REQUIRED  
27 BY THE HEALTH OCCUPATIONS BOARD WITHIN 30 DAYS AFTER THE DATE THE  
28 FINANCIAL GRATUITY OR INCENTIVE IS RECEIVED BY THE AUTHORIZED  
29 PRESCRIBER.

30           (C) EACH HEALTH OCCUPATIONS BOARD THAT REGULATES AN  
31 AUTHORIZED PRESCRIBER WHO IS REQUIRED TO SUBMIT A FINANCIAL DISCLOSURE  
32 DOCUMENT UNDER SUBSECTION (B) OF THIS SECTION SHALL REVIEW EACH YEAR;

1           (1) ALL FINANCIAL GRATUITIES AND INCENTIVES THAT AN  
2 AUTHORIZED PRESCRIBER RECEIVES THAT EXCEED A CUMULATIVE AMOUNT OF  
3 \$5,000 PER YEAR; AND

4           (2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE  
5 PRESCRIBING HISTORY AND PATTERNS OF THE AUTHORIZED PRESCRIBER  
6 REGARDING ALL PATIENTS OF THE AUTHORIZED PRESCRIBER AND DETERMINE  
7 WHETHER TO TAKE ACTION AGAINST THE AUTHORIZED PRESCRIBER.

8           (D) THE HEALTH OCCUPATIONS BOARDS SHALL CONSIDER THE SPECIALTY  
9 AREAS OF THE PRESCRIBERS WHILE REVIEWING THE PRESCRIBING HISTORY AND  
10 PATTERNS OF AN AUTHORIZED PRESCRIBER UNDER THIS SECTION.

11           (E) A HEALTH OCCUPATIONS BOARD SHALL ADOPT REGULATIONS TO  
12 IMPLEMENT THIS SECTION.

13 14-411.2.

14           (A) IN THIS SECTION, “OPEN PAYMENTS WEBSITE” MEANS THE WEBSITE  
15 MAINTAINED BY THE U.S. CENTERS FOR MEDICARE AND MEDICAID SERVICES ON  
16 WHICH INFORMATION ABOUT FINANCIAL RELATIONSHIPS BETWEEN HEALTH CARE  
17 PROVIDERS AND DRUG AND DEVICE COMPANIES IS PUBLISHED AND THAT ENABLES  
18 A USER TO SEARCH FOR HEALTH CARE PROVIDERS.

19           (B) THE BOARD SHALL:

20           (1) POST A LINK TO THE OPEN PAYMENTS WEBSITE ON EACH  
21 LICENSEE’S INDIVIDUAL PROFILE ON ITS WEBSITE; AND

22           (2) DEVELOP A NONPUBLIC DATABASE OF LICENSEES WITH  
23 INFORMATION COLLECTED ON THE OPEN PAYMENTS WEBSITE.

24           (C) THE BOARD SHALL USE THE DATABASE DEVELOPED UNDER  
25 SUBSECTION (B)(2) OF THIS SECTION TO REVIEW EACH YEAR:

26           (1) ALL FINANCIAL GRATUITIES AND INCENTIVES THAT A LICENSEE  
27 RECEIVES THAT EXCEED A CUMULATIVE AMOUNT OF \$5,000 PER YEAR; AND

28           (2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE  
29 PRESCRIBING HISTORY AND PATTERNS OF THE LICENSEE REGARDING ALL  
30 PATIENTS OF THE LICENSEE AND DETERMINE WHETHER TO TAKE ACTION AGAINST  
31 THE LICENSEE.

1           **(D) THE BOARD SHALL CONSIDER THE SPECIALTY AREAS OF THE LICENSEE**  
2 **WHILE REVIEWING THE PRESCRIBING HISTORY AND PATTERNS OF A LICENSEE**  
3 **UNDER THIS SECTION.**

4           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
5 apply only prospectively and may not be applied or interpreted to have any effect on or  
6 application to any financial gratuity or incentive received before the effective date of this  
7 Act.

8           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2022.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.