

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE

Senate Bill 769 (Senators Conway and Montgomery)
 Education, Health, and Environmental Affairs

State Board of Pharmacy - Pharmacists - Practice of Pharmacy and Licensure

This bill requires each pharmacist employed by a nonresident pharmacy, pharmacy benefits manager (PBM), third-party payor, or other entity that is “practicing pharmacy” to or on behalf of a person in Maryland to be licensed by the State Board of Pharmacy. Each nonresident pharmacy must require pharmacists in its employ to be licensed before practicing pharmacy.

Fiscal Summary

State Effect: Special fund revenues for the State Board of Pharmacy increase by an estimated \$197,700 in FY 2012 from fees from additional nonresident pharmacist licenses. Future years reflect biennial renewal of such licenses. Special fund expenditures increase by \$22,600 in FY 2012 only for additional personnel and administrative costs associated with initial licensure of nonresident pharmacists.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
SF Revenue	\$197,700	-	\$148,300	-	\$148,300
SF Expenditure	\$22,600	\$0	\$0	\$0	\$0
Net Effect	\$175,100	\$0	\$148,300	\$0	\$148,300

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An individual must be licensed by the board before the individual may practice pharmacy in Maryland. “Practice pharmacy” includes:

- providing pharmaceutical care;
- compounding, dispensing, or distributing prescription and nonprescription drugs or devices;
- monitoring prescriptions for prescription and nonprescription drugs or devices;
- providing information, explanation, or recommendations to patients and health care practitioners about the safe and effective use of prescription or nonprescription drugs or devices;
- identifying and appraising problems concerning the use or monitoring of therapy with drugs or devices;
- acting within the parameters of a therapy management contract;
- administering vaccinations for influenza, pneumococcal pneumonia, or herpes zoster, or other specified vaccinations;
- delegating a pharmacy act to a registered pharmacy technician, pharmacy student, or pharmacy technician student;
- supervising such a delegated pharmacy act; or
- providing drug therapy management.

A pharmacy located out of state that ships, mails, or delivers drugs or devices to Maryland residents must file for a nonresident pharmacy permit. In addition to submitting an application to the board, a nonresident pharmacy must submit a copy of the most recent inspection report conducted by the state’s regulatory or licensing agency in which the pharmacy is located.

A nonresident pharmacy, among other things, must maintain a valid permit to conduct a pharmacy in compliance with the laws of the state in which it is located, maintain readily retrievable records of prescription drugs or devices dispensed to Maryland patients, and provide toll-free telephone service to facilitate communication between Maryland patients and a pharmacist who has access to the patient’s prescription records. If a nonresident pharmacy operates in violation of statute, the board can suspend the pharmacy permit until compliance is met.

PBMs are businesses that administer and manage prescription drug benefit plans for purchasers. PBMs must register with the Maryland Insurance Administration (MIA) prior to providing pharmacy benefits management services. The Insurance

Commissioner is authorized to examine the affairs, transactions, accounts, and records of a registered PBM at the PBM's expense. PBMs are prohibited from shipping, mailing, or delivering prescription drugs or devices to a person in the State through a nonresident pharmacy unless the nonresident pharmacy holds a nonresident pharmacy permit from the board.

Background: Although current law requires all pharmacists to be licensed before practicing pharmacy in the State, the board does not interpret the current requirement as applying to nonresident pharmacists even if they provide services to Maryland patients. While all nonresident pharmacies must be licensed with the board and all PBMs registered with MIA, these entities, as well as discount medical and drug plans and private review agents, may employ pharmacists (located and licensed in other states) to fill prescriptions and otherwise practice pharmacy to or on behalf of Maryland patients.

According to the board, the bill is intended to ensure that all individuals practicing pharmacy in Maryland, regardless of the individual's employer or location, are licensed to practice pharmacy in Maryland. The board reports that licensure will provide authority to investigate complaints and take disciplinary action against nonresident pharmacists when necessary. Currently, 479 nonresident (mail-order) pharmacies hold Maryland pharmacy permits and 2,763 nonresident pharmacists are licensed in the State.

Other professions in Maryland also require a Maryland license for a nonresident to practice in the State including attorneys, physicians, dentists, certified public accountants, master electricians, plumbers, and real estate brokers. According to the board, eight other states require that the pharmacist in charge of a nonresident pharmacy be licensed in the state in which the pharmacist is practicing pharmacy.

State Revenues: Special fund revenues for the board increase by \$197,700 in fiscal 2012 from application fees from nonresident pharmacists seeking reciprocal licensure as required under the bill. This estimate is based on the following assumptions:

- there are 479 nonresident pharmacies, 106 private review agents, 31 registered PBMs, and 42 discount drug plans;
- 2,763 nonresident pharmacists are currently licensed by the board;
- even so, the board estimates that, on average, one additional pharmacist from each of these 659 entities does not currently hold a Maryland license and will seek a reciprocal license from the board in fiscal 2012; and
- the fee for an initial reciprocal license is \$300.

As licenses are renewed biennially, special fund revenues increase by \$148,275 in fiscal 2014 and 2016 due to receipt of the \$225 license renewal fee from the

659 pharmacists who sought initial licensure in fiscal 2012. This estimate does not account for growth or attrition in nonresident pharmacists.

To the extent that the number of nonresident pharmacists who are not yet licensed and become licensed under the bill differs, special fund revenues increase or decrease accordingly.

State Expenditures: Special fund expenditures for the board increase by \$22,642 in fiscal 2012 only, which accounts for the bill's October 1, 2011 effective date. This estimate reflects the cost of hiring one contractual position to perform data entry of licensing information for new reciprocal licensure applications. It includes a salary, fringe benefits, one-time start-up costs, and operating expenses.

Contractual Position	1
Salary and Fringe Benefits	\$18,929
Operating Expenses	<u>3,713</u>
Total FY 2012 State Expenditures	\$22,642

The board advises that renewal applications, which are submitted online, can be processed by existing board staff.

Additional Information

Prior Introductions: None.

Cross File: HB 549 (Delegates Morhaim and Elliott) - Health and Government Operations.

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

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