

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 992 (Senator Mathias)
Education, Health, and Environmental Affairs

**Oncologists - Dispensing and Insurance Coverage of Orally Administered Cancer
Chemotherapy**

This bill authorizes an oncologist to own, establish, or operate a pharmacy if the pharmacy dispenses prescription drugs only to the patients of the oncologist or an oncologist in the same group practice. Certain health insurance carriers must allow an oncologist to dispense a covered orally administered cancer chemotherapy prescription to an insured or enrollee under specified circumstances. A carrier may not impose a differential copayment, fee, or condition for a covered orally administered cancer chemotherapy prescription dispensed from a participating oncologist than when dispensed from a participating network pharmacy. An oncologist may apply to a carrier to be a designated specialty pharmacy under specified circumstances. A carrier may not unreasonably deny approval of an oncologist's application, and if denied, the carrier must notify the oncologist in writing of the specific reason for the denial. A carrier may not deny an application from an oncologist for participation or terminate participation of an oncologist on its provider panel based solely on the oncologist's dispensing of a covered orally administered cancer chemotherapy prescription to the patients of the oncologist.

Fiscal Summary

State Effect: Special fund revenues increase, likely minimally, for the State Board of Pharmacy to the extent additional pharmacy permits are sought under the bill. The board can likely absorb any operational impact associated with such regulatory authority with existing resources. No impact on the State Employee and Retiree Health and Welfare Benefits Program.

Local Effect: None.

Small Business Effect: Meaningful for small business oncology practices.

Analysis

Bill Summary: “Oncologist” means a licensed physician who is (1) board certified in medical oncology, radiation oncology, hematology, or another oncology specialty recognized by the American Board of Medical Specialties or (2) a surgeon who consults on or treats a patient primarily for a cancer diagnosis.

Pharmacy Ownership: The bill exempts an association between an oncologist and a pharmacist and an oncologist and a pharmacy technician for the operation of a pharmacy from disciplinary grounds under the respective physician, pharmacist, and pharmacy technician licensing and registration statutes.

Health Insurance Provisions: An insurer, nonprofit health service plan, or health maintenance organization (collectively known as carriers) that provides coverage for both orally administered cancer chemotherapy and cancer chemotherapy that is administered intravenously or by injection must allow an oncologist to dispense a covered orally administered cancer chemotherapy prescription to an insured or enrollee if (1) the oncologist participates on the carrier’s provider panel and provides cancer chemotherapy that is administered intravenously or by injection; (2) the oncologist holds a dispensing permit; and (3) the carrier authorizes an insured or enrollee to fill the covered orally administered cancer chemotherapy prescription at a network participating pharmacy.

A carrier may not impose a copayment, fee, or any other condition on an insured or enrollee who elects to fill a covered orally administered cancer chemotherapy prescription from an oncologist who participates on the carrier’s provider panel that is not also imposed on an insured or enrollee who elects to fill a covered orally administered cancer chemotherapy prescription at a network participating pharmacy.

An oncologist may apply to a carrier to be a designated pharmacy or other source of a covered specialty drug to dispense or administer prescription drugs for the purposes of improving patient access and adherence and enabling the oncologist’s patients diagnosed with cancer to receive the copayment or coinsurance maximum if (1) the oncologist dispenses orally administered cancer chemotherapy in accordance with specified provisions; (2) the prescription drugs dispensed by the oncologist are orally administered cancer chemotherapy specialty drugs; and (3) the oncologist accepts the carrier’s network reimbursement rates. A carrier may not unreasonably deny approval of an oncologist’s application. If a carrier denies approval of an oncologist’s request, the carrier must notify the oncologist in writing of the specific reason for the denial.

A carrier may not deny an application from an oncologist for participation or terminate participation of an oncologist on its provider panel based solely on the oncologist's dispensing of a covered orally administered cancer chemotherapy prescription to the patients of the oncologist.

Physician Dispensing: The bill clarifies that a licensed physician may personally prepare and dispense a prescription written by a physician in the same group practice who is board certified or board eligible in the same specialty as the dispensing physician, if the physician otherwise complies with dispensing requirements.

Current Law:

Pharmacy Ownership: Under § 14-404 the Health Occupations Article, a disciplinary panel of the State Board of Physicians may discipline a licensed physician if the physician associates with a pharmacist as a partner or co-owner of a pharmacy for the purpose of operating a pharmacy, employs a pharmacist for the purpose of operating a pharmacy, or contracts with a pharmacist for the purpose of operating a pharmacy, with the exception of an association that has remained in continuous existence since July 1, 1963. Under §§ 12-313 and 12-6B-09 of the Health Occupations Article, the State Board of Pharmacy may deny a license to any applicant for a pharmacist's license or a pharmacy technician's registration or take disciplinary action against a licensed pharmacist or registered pharmacy technician if the applicant, licensed pharmacist, or registered pharmacy technician associates as a partner, co-owner, or employee of a pharmacy that is owned wholly or substantially by an authorized prescriber or group of authorized prescribers, with the exception of an association that has remained in continuous existence since July 1, 1963.

A person must be licensed by the State Board of Pharmacy in order to practice pharmacy in the State, which includes the dispensing of prescription drugs. This requirement does not prohibit specified individuals from personally preparing and dispensing prescriptions under specified circumstances, including a licensed physician who personally prepares and dispenses the physician's prescriptions or prescriptions written by (1) a physician assistant in accordance with an authorized delegation agreement or (2) a certified nurse practitioner who works with the physician in the same office setting.

A pharmacy permit authorizes the holder to establish and operate a pharmacy. The State Board of Pharmacy may waive specified pharmacy permit requirements for certain pharmacies, including the University of Maryland School of Pharmacy (and for nuclear and dental pharmacy experimental and teaching programs), pharmacies engaged in pharmaceutical specialties recognized by the board, and certain long-term care and clinic pharmacies to which the public does not have access. These pharmacies are known as "waiver pharmacies." A waiver pharmacy must employ at least one pharmacist who has education or training in the pharmaceutical specialty provided at the waiver pharmacy.

Specialty Drugs: “Specialty drug” means a prescription drug that (1) is prescribed for an individual with a complex or chronic medical condition or a rare medical condition; (2) costs \$600 or more for up to a 30-day supply; (3) is not typically stocked at retail pharmacies; and (4) requires a difficult or unusual process of delivery to the patient in the preparation, handling, storage, inventory, or distribution of the drug or requires enhanced patient education, management, or support, beyond that required for traditional dispensing before or after administration of the drug. Generally, a carrier may require a covered specialty drug to be obtained through a designated pharmacy or other authorized source or a pharmacy participating in the carrier’s network, if the carrier determines that pharmacy meets the carrier’s performance standards and accepts the carrier’s network reimbursement.

State Revenues: To the extent oncologists seek to own, establish, or operate additional pharmacies under the bill, special fund revenues increase for the State Board of Pharmacy from the pharmacy permit fee. The Department of Legislative Services assumes that such pharmacies would operate under a pharmacy permit with waiver from the board as the bill limits their ability to dispense prescription drugs to only the patients of the oncologist or an oncologist in the same group practice. The current fee for an initial pharmacy permit is \$700 and a permit is valid for two years, with a renewal fee of \$500. The fee is the same for a waiver pharmacy. As the number of applications is likely to be small, any impact on revenues is likely minimal.

Additional Information

Prior Introductions: None.

Cross File: HB 1044 (Delegate Hill, *et al.*) - Health and Government Operations.

Information Source(s): Department of Budget and Management; Department of Health and Mental Hygiene; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

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