

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 848 (Senator Kagan)
 Education, Health, and Environmental Affairs

Health Occupations - Physician Assistants - Dispensing Authority

This bill authorizes a physician assistant to personally prepare and dispense any drug that the physician assistant may prescribe to the extent permitted by law in the course of treatment at (1) a medical facility or clinic that specializes in medical cases reimbursable through workers’ compensation insurance; (2) a nonprofit medical facility or clinic; (3) an institution of higher education campus health center; (4) a public health facility, a medical facility under contract with the State or a local health department, or a facility funded with public funds; or (5) a nonprofit hospital or hospital outpatient facility in accordance with the hospital’s policies. The bill specifies that the requirements of the Maryland Pharmacy Act do not apply to a physician assistant who personally prepares and dispenses a drug, including drug or device samples, in accordance with the law, and it makes a series of conforming changes.

Fiscal Summary

State Effect: General fund expenditures for the Department of Health and Mental Hygiene (DHMH) increase by \$68,700 in FY 2018 to complete additional dispensing permit inspections under the bill; future year expenditures generally reflect annualization. These costs may be offset by an increase in general fund revenues from permit fees. Special fund revenues for the State Board of Physicians (MBP) also increase minimally beginning in FY 2018 from permit fees.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	-	-	-	-	-
SF Revenue	-	-	-	-	-
GF Expenditure	\$68,700	\$86,900	\$90,700	\$94,800	\$99,000
Net Effect	(\$68,700)	(\$86,900)	(\$90,700)	(\$94,800)	(\$99,000)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Under the Maryland Pharmacy Act, 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. “Dispensing” means the procedure that results in the receipt of a prescription or nonprescription drug or device by a patient or the patient’s agent and that entails (1) the interpretation of an authorized prescriber’s prescription for a drug or device; (2) the selection and labeling of the drug or device prescribed pursuant to that prescription; and (3) measuring and packaging of the prescribed drug or device in accordance with State and federal laws. 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.

Chapter 116 of 2016 clarified that a licensed physician may personally prepare and dispense a prescription written by a physician assistant in accordance with an authorized delegation agreement or a prescription written by a certified nurse practitioner who works with the physician in the same office setting, if the physician otherwise complies with dispensing requirements.

A physician may delegate medical acts to a physician assistant by filing and executing a delegation agreement with MBP. A physician assistant may only practice under the supervision of a licensed physician and may only perform tasks that are authorized in a delegation agreement. A delegation agreement that includes specified tasks requires approval by MBP. A primary supervising physician may delegate the prescribing, dispensing, or administering of controlled dangerous substances, prescription drugs, or medical devices if the delegation agreement includes specified information.

State Fiscal Effect: MBP advises that any increase in the issuance of dispensing permits for physician assistants can be handled with existing resources. Further, each initial dispensing permit is \$1,050 and is valid for five years. Each renewal dispensing permit is also \$1,050. MBP retains \$50 of each fee; DHMH’s Office of Controlled Substances Administration (OCSA) collects the remaining \$1,000. Therefore, MBP anticipates a minimal increase in special fund revenues under the bill beginning in fiscal 2018.

OCSA advises that it must conduct a significant number of additional inspections as a result of the bill. Specifically, OCSA anticipates that all 3,402 currently licensed physician

assistants will apply for a dispensing permit. Under existing regulations, OCSA must conduct two inspections for each permit holder over five years (the length the permit is valid). Thus, OCSA anticipates conducting an additional 6,804 inspections over a five-year period. OCSA advises that it must hire three additional full-time clinical pharmacists and one full-time administrator to handle the increased workload.

The Department of Legislative Services (DLS) agrees that OCSA is likely required to conduct additional inspections under the bill; however, the bill only authorizes physician assistants to dispense medications to the extent permitted in the delegation agreement and only in specified settings. Therefore, it is unclear that all 3,402 currently licensed physician assistants apply for a dispensing permit as a result of the bill. Further, the timing of any such applications is also unclear. This analysis assumes that only a portion (less than 50%) of currently licensed physician assistants apply for a dispensing permit in the near term.

Thus, DLS advises that general fund expenditures for DHMH increase by \$68,733 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. This estimate reflects the cost of hiring one full-time clinical pharmacist to handle additional dispensing permit inspections under the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$63,624
Operating Expenses	<u>5,109</u>
Total FY 2018 State Expenditures	\$68,733

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses. To the extent more physician assistants receive dispensing permits than anticipated, OCSA may need to hire additional staff.

Finally, as noted previously, OCSA receives \$1,000 of each dispensing permit fee. Therefore, general fund revenues increase due to the issuance of more dispensing permits under the bill. DLS notes that any increase in expenditures for OCSA to conduct additional inspections may be offset by an increase in general fund revenues from additional permits.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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Analysis by: Sasika Subramaniam

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