SB 1007

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1007 (Senator Pinsky)
Finance

Prescription Drug Monitoring Program – Opioid Data – Disclosure

This bill *requires*, rather than authorizes, the Prescription Drug Monitoring Program (PDMP), within 60 days of a review of prescription drug monitoring data indicating a possible violation of law or breach of professional standards, to notify and provide education to a prescriber or dispenser. PDMP must also notify law enforcement, as specified. PDMP must disclose prescription monitoring data, on the approval of the Secretary of Health, to the Attorney General for the purpose of law enforcement regarding the misuse or abuse of prescription opioids.

Fiscal Summary

State Effect: General fund expenditures increase by at least $163,700 in FY 2019. Future years reflect annualization. Revenues are not affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	$0	$0	$0	$0	$0
GF Expenditure	163,700	200,100	206,000	213,400	221,200
Net Effect	($163,700)	($200,100)	($206,000)	($213,400)	($221,200)

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

Local Effect: The bill is not anticipated to materially affect governmental operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: PDMP must notify federal, State, or local law enforcement of a possible violation of law or breach of professional standards regarding the misuse or abuse of opioids by a prescriber or dispenser (1) after obtaining specified information from the Technical Advisory Committee (TAC); (2) after providing the required notice and education to the prescriber or dispenser; and (3) six months after the date of initial notice and education was provided to the prescriber or dispenser if another program review indicates that there is still a possible violation of law or breach of professional standards since the receipt of notification and education from PDMP.

Current Law: Chapter 166 of 2011 established PDMP to assist with the identification and prevention of prescription drug abuse and the identification and investigation of unlawful prescription drug diversion. PDMP must monitor the prescribing and dispensing of Schedule II through V controlled dangerous substances (CDS). Since July 1, 2017, all CDS dispensers have been required to register with PDMP. Beginning July 1, 2018, a prescriber must (1) request at least the prior four months of prescription monitoring data for a patient before initiating a course of treatment that includes prescribing or dispensing an opioid or a benzodiazepine; (2) request prescription monitoring data for the patient at least every 90 days until the course of treatment has ended; and (3) assess prescription monitoring data before deciding whether to prescribe or dispense – or continue prescribing or dispensing – an opioid or a benzodiazepine. A prescriber is not required to request prescription monitoring data if the opioid or benzodiazepine is prescribed or dispensed to specified individuals and in other specified circumstances.

PDMP may review prescription monitoring data for indications of a possible violation of law or breach of professional standards by a prescriber or dispenser. If either is indicated, PDMP may notify and provide education to the prescriber or dispenser. Before PDMP may provide notification of a possible violation of law or breach of professional standards to a prescriber or dispenser, it must first obtain from TAC (1) clinical guidance regarding indications of a possible violation of law or breach of professional standards and (2) interpretation of the prescription monitoring data that indicates a possible violation of law or breach of professional standards.

Prescription monitoring data are confidential and privileged, and are not subject to discovery, subpoena, or other means of legal compulsion in civil litigation. Prescription monitoring data are not public records and may not be disclosed to any person except as specifically authorized. The program must disclose prescription monitoring data, in accordance with regulations adopted by the Secretary, to:

- a prescriber, or a licensed health care practitioner authorized by the prescriber, in connection with the medical care of a patient;

- a dispenser, or a licensed health care practitioner authorized by the dispenser, in connection with the dispensing of a monitored prescription drug;
- a federal, State, or local law enforcement agency, on issuance of a subpoena, for an existing bona fide individual investigation;
- specified licensing entities, on issuance of an administrative subpoena, for purposes of an existing bona fide investigation of an individual;
- a rehabilitation program under a health occupations board on issuance of an administrative subpoena;
- a patient with respect to prescription monitoring data about the patient;
- an authorized administrator of another state PDMP;
- specific units of the Maryland Department of Health (MDH) on approval of the Secretary for the purpose of furthering an existing bona fide individual investigation;
- TAC; or
- specified entities, on the approval of the Secretary and for the purpose of furthering an existing bona fide individual case review.

Background: Pursuant to Chapter 147 of 2016, MDH submitted a September 2017 report on (1) the status of the implementation of providing education and notice of a possible violation of law or a possible breach of professional standards to prescribers and pharmacists and (2) a recommendation on whether the authority of PDMP to report possible violations of law or possible breaches of professional standards should be expanded to allow unsolicited reporting to law enforcement agencies, licensing boards, or other units of the department. The report noted that PDMP was identifying patients with multiple provider episodes ("doctor shopping") and continuing to work with partner academic researchers to develop code to "red flag" high-risk provider, dispenser, and patient behavior. MDH indicated that, rather than expanding unsolicited reporting, the department's focus was on implementing mandatory registration and use deadlines and enhancing the operational coordination and effectiveness of the Office of Controlled Substances Administration (the unit of the department that enforces CDS laws and issues CDS permits).

As of December 28, 2017, there were 30,172 prescribers and 10,515 pharmacists registered to use PDMP.

State Expenditures: General fund expenditures increase by at least $163,722 in fiscal 2019, which accounts for the bill's October 1, 2018 effective date. This estimate reflects the cost of hiring one full-time epidemiologist III and two administrative officer II positions to conduct data preparation, analysis, and coordination with law enforcement; notify and provide education for prescribers and dispensers; and track six months after the date of initial notice and education is provided to a prescriber or dispenser if another

program review indicates that there is still a possible violation of law or breach of professional standards. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Additional expenditures for information technology upgrades to ensure secure data transfer to law enforcement are anticipated but are not reflected in this analysis.

Positions	3
Salaries and Fringe Benefits	$147,646
One-time Start-up Costs	14,670
Ongoing Operating Expenses	1,406
Total FY 2019 State Expenditures	**$163,722**

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

This analysis assumes law enforcement investigations can be handled with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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