Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 33 (Delegate Glenn)
Health and Government Operations

Medical Cannabis - Provider Applications - Opioid Use Disorder

This bill encourages the Natalie M. LaPrade Medical Cannabis Commission to approve certifying provider applications that include treatment for an opioid use disorder.

Fiscal Summary

State Effect: The commission can implement the bill with existing budgeted resources. There is no impact on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Natalie M. LaPrade Commission

The Natalie M. LaPrade Medical Cannabis Commission is responsible for implementation of the State's medical cannabis program, which is intended to make medical cannabis available to qualifying patients in a safe and effective manner. The program allows for the licensure of growers, processors, and dispensaries and the registration of their agents, as well as registration of independent testing laboratories and their agents. There is a framework to certify health care providers (including physicians, dentists, podiatrists, nurse practitioners, and nurse midwives), qualifying patients, and their caregivers to provide qualifying patients with medical cannabis legally under State law via written

certification. Additionally, recent legislation extended legal protections to third-party vendors authorized by the commission to test, transport, or dispose of medical cannabis, medical cannabis products, and medical cannabis waste.

Certifying Providers

Certifying providers must meet specified requirements and submit required application materials, including a proposal with the reasons for including a patient under the care of the provider; an attestation that a standard patient evaluation will be completed (including a history, a physical examination, a review of symptoms, and other pertinent medical information); and the provider's plan for the ongoing assessment and follow-up care of a patient.

The commission is encouraged to approve provider applications for chronic or debilitating diseases or medical conditions that result in a patient being admitted into hospice or receiving palliative care or diseases or conditions that produce (1) cachexia, anorexia, or wasting syndrome; (2) severe or chronic pain; (3) severe nausea; (4) seizures; or (5) severe or persistent muscle spasms. Regulations also encourage the commission to approve provider applications for patients who have glaucoma or post-traumatic stress disorder. The commission is authorized to approve applications for other conditions as well – if the condition is severe, is one for which other medical treatments have been ineffective, and the symptoms can reasonably be expected to be relieved by the medical use of cannabis. Moreover, in its approval of applications, the commission may not limit treatment of a particular medical condition to one class of providers.

Treatment of Opioid Use Disorder with Medical Cannabis

In January 2019, the commission published a report, *Treatment of Opioid Use Disorder with Medical Cannabis*, as required under Chapter 598 of 2018. The report addressed recent legislation in Maryland and other states that would authorize use of medical cannabis as a way to combat the nationwide opioid crisis. In 2018, Pennsylvania, New Jersey, and New York became the first states to expressly allow medical cannabis for treatment of opioid use disorder. Hawaii, Maine, and New Mexico also passed related legislation, but the governors of these states vetoed the legislation following significant pressure from health care providers, health care organizations, and addiction specialists. The commission also looked at several recent medical reports that suggest that implementation of medical cannabis laws may reduce opioid prescribing and daily use. The commission concluded there is a significant need for high-quality clinical research on the effectiveness of medical cannabis to treat opioid use disorder, which is hindered by the federal prohibition on cannabis.

For background information and statistics related to opioids, please see the attached **Appendix – Opioid Crisis**.

Additional Information

Prior Introductions: SB 181 of 2018 received a hearing in the Senate Finance Committee, but no further action was taken. HB 268 of 2018 received an unfavorable report from the House Health and Government Operations Committee.

Cross File: None.

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

Fiscal Note History: First Reader - January 23, 2019
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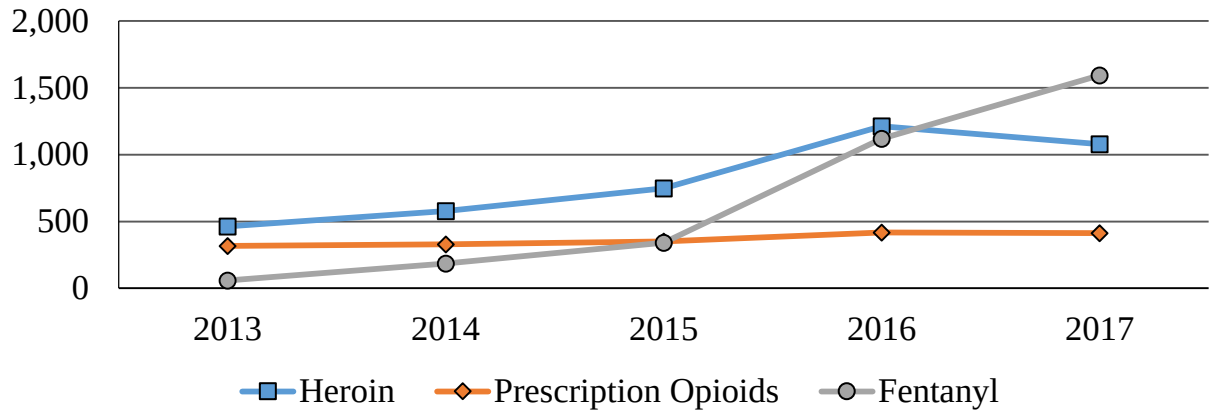
Appendix – Opioid Crisis

Opioid Overdose Deaths

While heroin and prescription opioid deaths have begun to taper off, fentanyl deaths have continued to rise at a high rate. As seen in **Exhibit 1**, between 2016 and 2017, prescription opioid-related deaths in Maryland decreased negligibly by 1% (from 418 to 413) while heroin-related deaths decreased by 11% (from 1,212 to 1,078). However, fentanyl-related deaths increased by 42% (from 1,119 to 1,594). Between January and June 2018, there were 1,038 deaths related to fentanyl, a 30% increase over the same time period for 2017.

Exhibit 1
Total Number of Drug-related Intoxication Deaths
By Selected Substances in Maryland
2013-2017



Source: Maryland Department of Health

Federal Actions to Address the Opioid Crisis

In 2016, the Comprehensive Addiction and Recovery Act authorized over $181 million annually, and the 21st Century Cures Act (CURES Act) authorized up to $970 million to be distributed through the State Targeted Response to the Opioid Crisis Grants. The grants are to be used by states to increase access to treatment and reduce unmet treatment needs and opioid-related overdose deaths. In 2017, Maryland received a two-year, $20 million grant for the prevention and treatment of opioid abuse. In March 2017, President Donald J. Trump signed an executive order establishing the President's Commission on Combating Drug Addiction and the Opioid Crisis. The commission issued

a final report in November 2017, with 56 recommendations, including a recommendation for federal block grant funding for state activities relating to opioids and substance use disorders.

In 2018, the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act was passed. The legislation expands existing programs and creates new programs to prevent substance use disorders and overdoses, including reauthorization of the Office of National Drug Control Policy, new Centers for Disease Control and Prevention grants for states and localities to improve prescription drug monitoring programs, and funding to encourage research into nonaddictive painkillers. Additionally, the legislation partially lifts the restriction that blocks states from spending federal Medicaid dollars on residential addiction treatment centers by allowing payments for residential services for up to 30 days while also allowing Medicare to cover medication-assisted treatment (MAT) in certain settings for the treatment of substance use disorder.

Maryland Actions to Address the Opioid Crisis

The General Assembly passed several comprehensive acts during the 2017 session to address the State's opioid crisis, which addressed prevention, treatment, overdose response, and prescribing guidelines.

Chapters 571 and 572 of 2017, the Heroin and Opioid Prevention Effort and Treatment Act, among other things, require (1) the Behavioral Health Administration to establish crisis treatment centers that provide individuals in a substance use disorder crisis with access to clinical staff; (2) the Maryland Department of Health (MDH) to establish and operate a toll-free health crisis hotline; (3) certain health care facilities and systems to make available to patients the services of health care providers who are trained and authorized under federal law to prescribe opioid addiction treatment medications, including buprenorphine; (4) each hospital to have a protocol for discharging a patient who was treated for an overdose or identified as having a substance use disorder; (5) the Governor's proposed budget for fiscal 2019 through 2021 to include specified rate adjustments for community behavioral health providers; (6) the Department of Public Safety and Correctional Services and MDH to develop a plan to increase the provision of substance use disorder treatment, including MAT, in prisons and jails; (7) authorization of the provision of naloxone through a standing order and guidelines to co-prescribe naloxone to high-risk individuals; and (8) the expansion of private insurance coverage for opioid use disorders by prohibiting certain carriers from requiring preauthorization for a prescription drug used for treatment of an opioid use disorder that contains methadone, buprenorphine, or naltrexone.

Chapters 573 and 574 of 2017, the Heroin and Opioid Education and Community Action Act (Start Talking Maryland Act), require (1) the State Board of Education to expand an existing program in public schools to encompass drug addiction and prevention education that includes instruction related to heroin and opioid addiction and prevention and information relating to the lethal effect of fentanyl; (2) each local board of education to establish a policy requiring each public school to obtain and store naloxone and other overdose-reversing medication to be used in an emergency situation; (3) each local board of education or local health department to hire a sufficient number of community action officials or develop and implement a program that provides community relations and education functions that coordinate forums and conduct public relations efforts; and (4) specified institutions of higher education in Maryland to establish a policy that addresses heroin and opioid addiction and prevention, including awareness training for incoming students, obtaining and storing naloxone, and campus police training.

Chapter 570 of 2017 requires a health care provider, on treatment for pain and based on the provider's clinical judgment, to prescribe the lowest effective dose of an opioid and a quantity that is no greater than that needed for the expected duration of pain severe enough to require an opioid that is a controlled dangerous substance (CDS). The quantity limitations do not apply to opioids prescribed to treat a substance-related disorder; pain associated with a cancer diagnosis; pain experienced while the patient is receiving end-of-life, hospice, or palliative care services; or chronic pain.

In January 2017, Governor Lawrence J. Hogan issued an executive order establishing an Opioid Operational Command Center (OOCC) to facilitate collaboration between State and local public health, human services, education, and public safety entities to combat the heroin and opioid crisis. OOCC will (1) develop operational strategies to continue implementing the recommendations of the Governor's Heroin and Opioid Emergency Task Force; (2) collect, analyze, and facilitate data sharing relevant to the heroin and opioid epidemic; (3) develop a memorandum of understanding among State and local agencies regarding sharing and collection of health and public safety information and data relating to the epidemic; (4) assist and support local agencies in the creation of opioid intervention teams; and (5) coordinate the training of and provide resources for State and local agencies addressing the threat to the public health, security, and economic well-being of the State.

In March 2017, Maryland became the first state to declare a state of emergency for the opioid crisis, activating the Governor's emergency management authority and enabling increased and more rapid coordination between the State and local jurisdictions. In conjunction with the declaration, Governor Hogan included a supplemental budget appropriation of $10 million, part of a $50 million, five-year commitment.

In July 2017, $22 million was appropriated for fiscal 2018, including $10 million in CURES Act funding, to be used for prevention, treatment, and enforcement activities. Prevention efforts include distribution of opioid intervention teams for each jurisdiction, a

public awareness campaign, funding to train community teams on overdose response and linking to treatment, a pilot program to create school-based teams for early identification of the problems related to substance use disorders, and distribution of opioid information to health care facilities and providers that offer treatment. Enforcement initiatives include funding to disrupt drug trafficking organizations for the heroin coordinator program and to increase MDH's regulatory oversight of CDS. Treatment funding will be used to expand treatment beds and implement a tracking system to identify available beds; improve access to naloxone; establish a 24-hour crisis center in Baltimore City; expand use of peer recovery support specialists; expand Screening, Brief Intervention, and Referral to Treatment to hospitals and parole, probation, and correctional facilities; increase access to MAT; expand law enforcement diversion programs; and improve the State's crisis hotline.

In 2018, the General Assembly expanded upon the comprehensive legislation of the prior year. Chapter 149 of 2018 authorizes an emergency medical services provider or law enforcement officer to report an actual or suspected overdose to an appropriate information technology platform. Chapter 211 of 2018 requires MDH to identify a method for establishing a tip line for a person to report a licensed prescriber who the person suspects is overprescribing certain medications. Chapters 215 and 216 of 2018 require a health care provider to advise a patient of the benefits and risks associated with a prescribed opioid or co-prescribed benzodiazepine. Chapters 439 and 440 of 2018 require a general hospice care program to establish a written policy for the collection and disposal of unused prescription medication and require a program employee to collect and dispose of a patient's unused medication on the death of the patient or the termination of a prescription.