

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1016
Finance

(Senator Charles)

Health Occupations - Prescriptions for Children Subject to Joint Custody

This bill requires that, if a parent presents a health care provider authorized to prescribe with a court order of joint legal custody with a right of medical decision making, the health care provider must double the amount of each drug the provider prescribes for a child of the parent. A health care provider authorized to dispense prescriptions drugs must fill the prescription if presented with a court order of joint legal custody with a right of medical decision making and an authorized prescription.

Fiscal Summary

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

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law: Under the Maryland Pharmacy Act, a person must be licensed by the State Board of Pharmacy 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; 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 (1) has applied to the Maryland Board of Physicians (MBP); (2) demonstrated to the satisfaction of MBP that the dispensing of prescription drugs or devices by the physician is in the public interest; (3) has received a written permit from MBP to dispense prescription drugs or devices, with the exception of starter dosages or samples without charge; and (4) posts a sign conspicuously positioned and readable regarding the process for resolving incorrectly filled prescriptions or includes written information regarding the process with each prescription dispensed. The physician must also comply with other specified requirements.

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.

Refusal to Dispense or Fill a Prescription

A pharmacist may refuse to dispense or fill a prescription if the decision is based on professional judgment, experience, knowledge, or available reference materials. If a pharmacist refuses to dispense or refill a prescription, the pharmacist must, to the extent practicable, notify the authorized prescriber within 72 hours of the refusal. This notification requirement does not apply if a pharmacist is unable to determine the name of the authorized prescriber.

Additional Comments: The Department of Budget and Management (DBM) advises that the bill's requirement to double the amount of a drug a health care provider prescribes could introduce patient safety issues, particularly with respect to controlled substances. DBM advises that potential concerns about drug abuse and diversion could be mitigated by requiring health care providers to divide one prescription into two labeled bottles (with one bottle going to each parent), instead of requiring them to dispense twice the amount of each drug in one prescription.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

Fiscal Note History: First Reader - March 11, 2024
js/jc

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