

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 165

(Senator Conway)

Education, Health, and Environmental Affairs

Health and Government Operations

Health Occupations - Therapy Management Contracts - Repeal of Sunset

This bill repeals the September 30, 2010 termination date for authorization of therapy management contracts.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: Potential minimal increase in special fund revenues from fees collected for processing and approving physician-pharmacist agreements as the number of agreements is expected to increase by making the program permanent. Potential minimal increase in special fund expenditures to reimburse board members for expenses incurred to attend joint meetings to approve agreements.

Local Effect: None.

Small Business Effect: Potential minimal for participating physicians and pharmacists.

Analysis

Current Law: Chapter 249 of 2002 created the Drug Therapy Management Program, which authorized a physician and a pharmacist to enter into a therapy management contract that specifies treatment protocols that may be used to provide care to a patient. Group model health maintenance organizations (HMOs) that wish to provide drug management therapy to a patient are exempt from having to enter into a therapy management contract with the patient.

The termination date of the Therapy Management Contract Program was extended from May 31, 2008 to September 30, 2010, by Chapter 650 of 2008.

A “therapy management contract” is a voluntary, written arrangement that is disease-state specific and applies to one licensed pharmacist, one licensed physician, and one patient receiving care from the physician and pharmacist. However, a therapy management contract is not required to manage patients in an institutional facility. A “physician-pharmacist” agreement is an approved agreement between a physician and a pharmacist that is disease-state specific and specifies the protocols that may be used. A “protocol” is a course of treatment predetermined by the physician and pharmacist according to generally accepted medical practice for the proper completion of a particular therapeutic or diagnostic intervention. A protocol may authorize the modification, continuation, and discontinuation of drug therapy under written, disease-state specific protocols; the ordering of laboratory tests; and other patient care management measures related to monitoring or improving the outcomes of drug or device therapy.

Drug therapy management for patients who are members of a group model HMO must be provided under a physician-pharmacist agreement approved by the Board of Pharmacy and Board of Physicians and through the internal pharmacy operations of the HMO.

For a physician and pharmacist to enter into a therapy management contract, a physician-pharmacist agreement has to be approved by the Board of Physicians and the Board of Pharmacy. The boards may not approve a physician-pharmacist agreement if the boards find (1) that the physician or pharmacist lacks adequate training, experience, or education to implement the protocols specified in the contract; or (2) legal requirements that pertain to physicians or pharmacists have not been satisfied. Additionally, a physician-pharmacist agreement prohibits the pharmacist from substituting a chemically dissimilar drug for the one prescribed by the physician, unless permitted in the agreement. A participating pharmacist must have a doctor of pharmacy degree or equivalent training. A physician-pharmacist agreement is valid for two years from the date of approval.

A licensed physician and/or licensed pharmacist must inform the patient (1) of drug therapy management procedures; (2) that he or she may decline to participate or withdraw from drug therapy management participation at any time; and (3) that neither the physician nor pharmacist has been coerced or given economic incentives, except for normal reimbursement, or involuntarily required to participate. The patient’s documented informed consent must be obtained after disclosing this required information.

Background: Therapy management programs are used in over 40 states. The Drug Therapy Management Program in Maryland operates through a joint committee between

the Board of Physicians and the Board of Pharmacy. Neither board allocates any funds to the program. According to the Board of Pharmacy, there are six physician-pharmacist agreements and five pending agreements. The Drug Therapy Management Program affects 195 patients.

Applying for a physician-pharmacist agreement is typically a six-month process and involves a great deal of paperwork and strict oversight by both boards. The fee for a physician-pharmacist agreement application that includes one protocol is \$250. The fee charged to review an additional protocol is \$50.

Chapter 249 of 2002 required DHMH to assess outcomes achieved by drug therapy management agreements. Therefore, the department contracted with the University of Maryland to evaluate the program. The contract agreement, which totaled \$50,000, began in 2007 and ended at the close of 2009. The objectives of the evaluation study were twofold: (1) evaluate the short-term patient safety and clinical outcomes of drug therapy management in Maryland; and (2) evaluate the barriers and success for implementation of the drug therapy management models. The study found that drug therapy management is safe; it results in positive outcome for patients; and the application process is burdensome with paperwork. Drug therapy management is more convenient for patients since they do not have to schedule physician appointments solely for medication management. Likewise, physician/pharmacist agreements free physicians to devote their time to new patients or patients with illnesses or conditions that cannot be controlled by medication or routine modifications. However, some physicians and pharmacists have not wanted to expend the time and expertise to prepare protocols and application materials if therapy management contracts will terminate in fiscal 2010. The study suggests, if the program is made permanent, the therapy management contracts have the potential to alleviate physician shortages and an overburdened health care system in the future. Therefore, the University of Maryland recommended eliminating the termination provision regarding therapy management contracts.

State Fiscal Effect: A potential increase in special fund expenditures and special fund revenues is expected due to the continuation of board meetings to approve agreements and increased revenues from fees collected for physician-pharmacist agreements. However, an increase in expenditures and revenues also depends on the number of physician-pharmacist agreements received in fiscal 2011 and future years. In past years, the six-month application process has deterred physicians and pharmacists from applying for agreements due to the Act's sunset provision. Therefore, the exact impact on the boards cannot be reasonably quantified because essential data regarding the potential increase in the number of physician-pharmacist agreements filed under the bill cannot be determined.

Additional Information

Prior Introductions: None.

Cross File: HB 600 (Delegate Kullen, *et al.*) - Health and Government Operations.

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

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