

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1140 (Delegate Pendergrass, *et al.*)
Health and Government Operations

Finance

Physicians - Sharing of Information with Maryland Health Care Commission

This bill adds the Maryland Health Care Commission (MHCC) to the list of entities (1) to which the Health Services Cost Review Commission (HSCRC) within the Department of Health and Mental Hygiene (DHMH) may disclose specified identifying information; (2) to which the State Board of Physicians must disclose, for the purpose of investigating quality of utilization of care in any entity regulated by the Office of Health Care Quality (OHCQ) or HSCRC, any information contained in a record; and (3) that must jointly adopt regulations for the efficient and secure transfer of any information in a record that may indicate that an investigation may be appropriate. The bill also changes the date by which such regulations must be adopted from January 1, 2012, to January 1, 2013.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: MHCC can use existing resources to assist in the adoption of the required regulations. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: MHCC, created in 1999, operates to develop and implement new health policies, including (1) developing a database on all nonhospital health care services; (2) developing a comprehensive standard health benefit plan for all

small employers; (3) monitoring the fiscal impact of State-mandated benefits; (4) developing quality and performance measures for health maintenance organizations, hospitals, ambulatory care facilities, and nursing homes; (5) overseeing electronic claims clearinghouses; (6) directing and administering State health planning functions; and (7) conducting the certificate of need program for regulated entities.

HSCRC, an independent commission within DHMH, was established in 1971 to contain hospital costs, maintain fairness in hospital payment, provide for financial access to hospital care, and disclose information on the operation of hospitals in the State. HSCRC must require each hospital or related institution to provide information that concerns the facility's total financial needs and its resources to meet those needs, addresses the effect of any proposal made on comprehensive health planning, and includes physician information sufficient to identify practice patterns of individual physicians across all facilities. However, the identities of individual physicians are confidential and may only be disclosed to the utilization review committee of a Maryland hospital, the Medical and Chirurgical Faculty of the State of Maryland, or the State Board of Physicians, OHCQ, or an investigatory body under the State or federal government.

Except as expressly specified by law, neither the State Board of Physicians nor any of its investigative bodies may disclose any information contained in a record (*i.e.*, the proceedings, records, or files of the board). The board is required to disclose any information contained in a record to a committee of a hospital, health maintenance organization, or related institution if (1) the committee requests the information in writing; (2) the board has issued an order as to a licensed physician on whom the information is requested; and (3) the board determines that the requested information is necessary for an investigation or action of the committee as to a medical privilege of a licensed physician. The board is further required to disclose any such information – for the purpose of investigating quality or utilization of care in an entity regulated by OHCQ or HSCRC – to the Secretary of Health and Mental Hygiene, OHCQ, or HSCRC.

Recent allegations concerning unnecessary coronary stent procedures performed at St. Joseph's Medical Center in Towson raised concerns regarding the State's ability to investigate other instances in which unnecessary procedures are being undertaken. Accordingly, DHMH recommended altering State law to remove legal barriers to a coordinated investigation of concerns regarding health quality and the overutilization of certain medical procedures.

In a December 2011 report focusing on regulatory oversight of percutaneous coronary intervention (PCI) in Maryland, MHCC recommended that – in order to ensure that the commission has the information necessary to provide appropriate regulatory oversight and strengthen the quality of PCI services – statute should be amended to identify MHCC as a State agency that can share information for the purpose of investigating quality or

utilization of care in regulated facilities. The present bill arises from this recommendation.

Chapters 308 and 309 of 2011 required the Secretary of Health and Mental Hygiene, the board, and HSCRC to, by January 1, 2012, jointly adopt regulations for the efficient and secure transfer of any information in a record that may indicate that an investigation may be appropriate. The regulations have not yet been adopted.

Additional Information

Prior Introductions: None.

Cross File: SB 749 (Senator Middleton) - Finance and Education, Health, and Environmental Affairs.

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

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mc/mwc

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