

Department of Legislative Services  
Maryland General Assembly  
2014 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 412

(Senator Dyson)

Education, Health, and Environmental Affairs

Health and Government Operations

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**Health Occupations - Licensed Dentists Who Dispense Antibiotics - Exclusion  
From Maryland Pharmacy Act**

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This bill authorizes a licensed dentist to dispense a full course of antibiotics to a patient for infection control without being subject to any dispensing permit requirements. The patient must be receiving the dental care *pro bono*, and there must be no charge for the antibiotics. The dentist must enter an appropriate record of the treatment in the patient's chart and affix a label on the antibiotic container that includes the name of the patient and, if necessary, the expiration date and the instructions for taking the antibiotic.

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**Fiscal Summary**

**State Effect:** General fund revenues for the Division of Drug Control (DDC) may decline minimally beginning in FY 2015 from a reduction in fee revenues from dispensing permit holders. DDC general fund expenditures also likely decline by a minimal amount from a reduction in the number of offices required to be inspected. Special fund revenues for the State Board of Dental Examiners may also decline by a minimal amount. Given that the number of licensed dentists currently holding dispensing permits is already low, any such impact is likely negligible.

**Local Effect:** None.

**Small Business Effect:** Potential minimal for small business dental practices.

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## Analysis

**Current Law:** A licensed dentist, physician, or podiatrist may personally prepare and dispense prescription drugs or devices if he or she holds a written dispensing permit from his or her respective licensing board and meets other specified criteria.

Under existing regulations, a dispensing permit is valid for five years and subject to a fee of \$75 for dentists and \$50 for physicians and podiatrists, payable to the respective board. Dispensing permit holders also pay an additional \$1,000 every five years, which is transferred to the general fund to offset inspection costs incurred by DDC. In addition to these requirements, a practitioner who dispenses controlled dangerous substances (CDS) must have a permit from the U.S. Drug Enforcement Agency and register with DDC. A registration certificate to dispense CDS costs \$120 and is renewable every two years.

Chapter 267 of 2012 requires DDC to inspect the office of a dentist, physician, or podiatrist who holds an initial dispensing permit within six months of receiving notice of the initial permit issuance and at least one more time within the duration of the permit. With respect to a holder of a renewal permit, DDC must inspect the office of the holder at least two times within the duration of the permit. DDC must promptly report the results of these inspections to the respective licensing boards.

A dentist, physician, or podiatrist who dispenses prescription drugs or devices must comply with prescription drug labeling requirements, record the dispensing on a patient's chart, allow DDC to enter and inspect the practitioner's office at all reasonable hours, provide the patient with a written prescription, and maintain prescription files in a specified manner. A dentist, physician, or podiatrist who dispenses may not have a substantial financial interest in a pharmacy, direct patients to a single pharmacist or pharmacy, or receive remuneration for referring patients to a pharmacist or pharmacy.

A dentist, physician, or podiatrist who dispenses must also (1) comply with drug recalls and child-resistant packaging requirements; (2) maintain biennial inventories and comply with recordkeeping requirements relating to CDS; (3) purchase prescription drugs from a pharmacy or wholesale distributor that holds a permit issued by the State Board of Pharmacy; (4) report annually to the respective board of licensure whether he or she has personally prepared and dispensed prescription drugs within the previous year; (5) complete 10 continuing education credits as a condition of permit renewal; and (6) on inspection by DDC, sign and date an acknowledgement form relating to these and other requirements.

**Background:** According to DDC inspection data, of the 86 dentists that have obtained dispensing permits since December 2011, only 18 are actively dispensing. The bill allows dentists who only dispense a full course of antibiotics to a patient for infection

control (if the patient is receiving *pro bono* dental care and there is no charge for their antibiotics) to do so without the need to apply for a dispensing permit and be inspected by DDC. According to the Department of Health and Mental Hygiene, certain antibiotics are commonly used to treat dental infections. These antibiotics are both safe and present a low risk for drug interaction and side effects.

**State Fiscal Effect:** Special fund revenues and expenditures for the State Board of Dental Examiners may decline by a minimal amount to the extent that any licensed dentists do not apply for or cease to renew dispensing permits in favor of dispensing only as provided under the bill.

As a \$1,000 fee is collected by the board to cover the cost of DDC inspections, general fund revenues for DDC may decline by a minimal amount beginning in fiscal 2015. As the number of dentists holding a dispensing permit is low, any reduction in revenues is anticipated to be minimal. Fewer dispensing permits issued also necessitates fewer inspections by DDC; thus, to the extent that the number of licensed dentists holding dispensing permits declines, DDC general fund expenditures may also decline by a minimal amount.

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### Additional Information

**Prior Introductions:** Similar legislation, HB 783 of 2013, received a hearing in the House Health and Government Operations Committee but was later withdrawn. Another similar bill, SB 515 of 2013, received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

**Cross File:** HB 303 (Delegate Reznik, *et al.*) - Health and Government Operations.

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

**Fiscal Note History:** First Reader - January 28, 2014  
mc/ljm Revised - Senate Third Reader - March 18, 2014

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