

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 413

(Senator Dyson)

Education, Health, and Environmental Affairs

Health and Government Operations

**Health Occupations - Dentists With Permits to Dispense Dental Products -
Exclusion From Maryland Pharmacy Act**

This bill specifies that a licensed dentist who obtains a permit from the State Board of Dental Examiners may dispense prescription-strength home fluoride products, dentin/enamel remineralizing products, and antimicrobial rinses without being subject to certain dispensing permit requirements. The product or rinse must be dispensed to a patient of the dentist. The dentist must record in the patient's chart that the product or rinse was dispensed. The dentist must also affix a label on the product or rinse that includes the name of the patient; the expiration date of the product or rinse, if necessary; and instructions for using the product or rinse. The bill clarifies that a dentist who obtains a limited permit does not need to obtain a general dispensing permit from the board.

Fiscal Summary

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

Local Effect: None.

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

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 prescription-strength home fluoride products,

dentin/enamel remineralizing products, and antimicrobial rinses to do so without the need to apply for a dispensing permit and be inspected by DDC. Some of these products may be available only from dentists and not available in pharmacies. Instead, the dentist would be required to obtain a more limited dispensing permit from the board.

State Fiscal Effect: Special fund revenues and expenditures for the State Board of Dental Examiners are likely unaffected. According to the board, dentists who elect to hold the special permit authorized by the bill will continue to pay a \$75 fee every five years to obtain the permit. Therefore, there should be no loss in revenues (and there could even be a slight increase in revenues). Issuance of the special permits can be handled within existing board resources as they will essentially substitute for the existing dispensing permits issued by the board.

As a \$1,000 fee is collected by the board to cover the cost of DDC inspections, general fund revenues for DDC decline beginning in fiscal 2015. The amount of decline depends on the number of licensed dentists that opt for a special, rather than a full, dispensing permit, a number that cannot be reliably estimated at this time. As the number of dentists currently 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, DDC general fund expenditures are also anticipated to decline.

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 301 (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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