Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 296 (The President)(By Request - Department of Legislative Services)

Finance Health and Government Operations

Prescription Drug Monitoring Program - Sunset Extension and Program Evaluation

This bill extends the termination date for the Prescription Drug Monitoring Program (PDMP) in the Department of Health and Mental Hygiene (DHMH) by three years to July 1, 2019, requires a direct full evaluation of the program in 2017, and requires the program to submit a specified follow-up report.

The program is authorized to disclose information to the authorized administrator of another state's PDMP for disclosure to prescribers, dispensers, and patients without the review, clinical guidance, and interpretation of the technical advisory committee (TAC). The program's annual report must include the number of prescribers and dispensers registered with and using the program and the number of disclosures made to law enforcement agencies. An obsolete reporting requirement is also repealed.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Revenues and expenditures for PDMP are maintained beyond FY 2016. The Governor's proposed FY 2015 budget includes $912,000 in total funds for the program, including $512,000 in general funds and $400,000 in federal funds. The bill's reporting requirement can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Maryland Program Evaluation Act

PDMP is 1 of approximately 70 regulatory entities and activities currently subject to periodic evaluation under the Maryland Program Evaluation Act. The Act establishes a process better known as "sunset review" as most agencies evaluated are subject to termination, including PDMP, which is scheduled to terminate July 1, 2016. The sunset review process traditionally begins with a preliminary evaluation conducted by the Department of Legislative Services (DLS) on behalf of the Legislative Policy Committee (LPC), although a few entities are subject to direct full evaluation. LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation usually is undertaken the following year.

A copy of the DLS sunset report on PDMP can be found at http://dls.state.md.us/Content.aspx?page=104.

This bill generally implements the DLS recommendations stemming from the preliminary sunset evaluation report on PDMP as adopted by LPC at its December 17, 2013 meeting.

Maryland's Prescription Drug Monitoring Program

Maryland's PDMP was established by Chapter 166 of 2011 to address issues of prescription drug abuse and drug diversion by monitoring all Schedule II-V controlled dangerous substances (CDS) by all prescribers and dispensers in the State. For each monitored prescription drug dispensed, a dispenser must electronically submit data to PDMP. Dispensers include not only pharmacies but also physicians, podiatrists, and dentists holding a dispensing permit from their respective licensing board. Prescribers, including physicians and other health care practitioners authorized to prescribe drugs, are encouraged *but not required* to query PDMP regarding a patient's history of prescribed CDS before prescribing a monitored drug. Prescription monitoring data is not a public record and may not be disclosed except as specifically authorized under the law.

The program is assisted by the 17-member Advisory Board on Prescription Drug Monitoring, which makes recommendations on the design, implementation, and funding of the program; provides annual reports to the Governor and General Assembly; and provides general oversight of the program. A five-member TAC is required to review certain requests for information from PDMP, assist the Secretary of Health and Mental

Hygiene in responding to requests, and provide clinical guidance to assist authorized recipients in interpreting data.

As of January 2014, Maryland's PDMP is almost fully operational. According to DHMH, health care practitioners began registering to access PDMP data on December 20, 2013. Registrations for more than 50 "pilot" law enforcement users are also being processed, and DHMH agency and health occupations boards will begin registering soon.

Findings and Recommendations of the 2013 DLS Sunset Evaluation

As PDMP was not fully operational at the time of the sunset evaluation, DLS reviewed implementation of the program to date, compared the structure of the program to programs in other states, and assessed potential best practices. Based on this review, DLS recommended that LPC waive PDMP from full evaluation and that the program's termination date be extended by three years to July 1, 2019. DLS recommended a targeted full evaluation of the program in 2017, by which time the program should have three full years of data with which DLS may measure performance. DLS further recommended that PDMP submit a follow-up report to the Governor, the General Assembly, and DLS by January 1, 2015, on (1) efforts to collect and make available, in real-time, PDMP data; (2) recommendations for a long-term funding source to support the program; and (3) the status of DHMH's planned independent evaluation of PDMP.

DLS noted that, in the meantime, the General Assembly should consider (1) removing the statutory requirement for TAC review of data requests from PDMPs in other states in order to promote interoperability and (2) expanding the required elements of PDMP's annual report to include the number of prescribers and dispensers registered with, and utilizing, PDMP.

As specified by Chapter 166, Maryland's PDMP is prohibited from disclosing data to another state's PDMP until TAC has reviewed the request and submitted written clinical guidance and interpretation. As noted by the advisory board, this review process "poses a significant barrier to interoperability implementation" by reducing the likelihood that Maryland will provide useful information to out-of-state practitioners (who are likely to have initiated a patient's prescription drug treatment prior to completion of TAC review). DLS recommended that removal of this barrier to interstate operability be considered.

Additional Information

Prior Introductions: None.

Cross File: HB 255 (The Speaker)(By Request - Department of Legislative Services) - Health and Government Operations.

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

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