

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 976 (Delegate McKay, *et al.*)
 Health and Government Operations

Task Force to Study the Impact of Methadone Clinics on Surrounding Communities and Businesses

This bill establishes the Task Force to Study the Impact of Methadone Clinics on Surrounding Communities and Businesses. By December 1, 2015, the task force must report its findings and recommendations to specified parties. The Department of Health and Mental Hygiene (DHMH) must provide staff for the task force.

This bill takes effect July 1, 2015, and terminates December 31, 2015.

Fiscal Summary

State Effect: General fund expenditures increase by \$25,300 in FY 2016 only to hire a part-time contractual health policy analyst to staff the task force, conduct the required assessments, and report to the Governor and the General Assembly. Revenues are not affected.

| (in dollars) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|----------------|------------|---------|---------|---------|---------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 25,300 | 0 | 0 | 0 | 0 |
| Net Effect | (\$25,300) | \$0 | \$0 | \$0 | \$0 |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None; however, businesses are to be represented on the task force.

Analysis

Bill Summary: The 20-member task force includes the Lieutenant Governor, the Secretary of Health and Mental Hygiene or the Secretary's designee, 6 health care professionals with experience in drug treatment, 6 members of the business community, and 6 consumers. The chair must be selected from the members of the task force. A member of the task force may not receive compensation but is entitled to reimbursement for standard travel expenses.

The task force must (1) study mechanisms in place in the State to provide surrounding businesses and local communities with information on the location of methadone clinics in the surrounding area; (2) study mechanisms in place in the State for tracking and evaluating complaints from local communities and businesses regarding the location of methadone clinics; (3) evaluate the impact of methadone clinics on surrounding businesses and neighborhoods; and (4) make recommendations on the possibility of prohibiting the location of methadone clinics near churches, schools, and child care facilities.

Background: Disputes regarding the location of substance abuse and opioid maintenance programs have been well-litigated at both the state and the federal level based on discriminatory treatment of individuals with disabilities. The Americans with Disabilities Act (ADA) provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subject to discrimination by any such entity” (42 U.S.C. § 1213). Although “disability” does not include “an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use,” it does encompass an individual who “is participating in a supervised rehabilitation program and is no longer engaging in such use” (42 U.S.C. § 12210).

Case law generally indicates that laws that single out opioid maintenance programs for different zoning procedures are facially discriminatory under ADA. This does not mean that these facilities cannot be regulated at all, or even that laws that have a disparate impact on opioid maintenance programs are facially invalid so long as they are supported by legitimate nondiscriminatory reasons.

There are 66 opioid maintenance facilities in Maryland and approximately 18,000 individuals actively receiving treatment at these facilities. Opioid maintenance programs in Maryland must complete a vigorous application and inspection process to receive a license and treat patients. Applicants must submit applications to both the Office of Health Care Quality (OHCQ) and the Division of Drug Control within DHMH, as well as to the federal Substance Abuse and Mental Health Services Administration and the U.S. Department of Justice Drug Enforcement Agency (DEA). After reviewing the initial application, OHCQ and DEA conduct inspections to ensure that building standards,

security requirements, staffing, and program specifics, etc., meet all requirements. Additionally, programs must obtain national accreditation by a qualifying accreditation organization. OHCQ conducts another inspection after the program has been operational for six months.

In addition to this initial process, Maryland's Behavioral Health Administration conducts ongoing annual regulatory and accreditation compliance inspections, and OHCQ conducts license renewal inspections every two years.

State Fiscal Effect: General fund expenditures increase by \$25,334 in fiscal 2016 only, which accounts for the bill's July 1, 2015 effective date and its December 31, 2015 termination date. This estimate reflects the cost of hiring one part-time contractual health policy analyst to staff the task force and assist with the required evaluations and recommendations. It includes a salary, fringe benefits, one-time start-up costs, and operating expenses.

| | |
|---|-----------------|
| Contractual Position | 0.5 |
| Salary and Fringe Benefits | \$16,303 |
| Travel | 3,600 |
| Other Operating Expenses | <u>5,431</u> |
| Total FY 2016 State Expenditures | \$25,334 |

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Additional Comments: The Department of Legislative Services notes that, given the five-month timeframe established in the bill, it may be difficult for the task force to evaluate the impact of all methadone clinics in the State. There are 66 opioid maintenance facilities in the State and many, although not all, are methadone clinics.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 27, 2015
md/ljm

Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510