

Department of Legislative Services  
Maryland General Assembly  
2017 Session

**FISCAL AND POLICY NOTE**

**Third Reader - Revised**

House Bill 1432

(Chair, Health and Government Operations Committee,  
*et al.*) (By Request - Departmental - Health and Mental  
Hygiene)

Health and Government Operations

Education, Health, and Environmental Affairs

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**Health Care Providers - Prescription Opioids - Limits on Prescribing (The  
Prescriber Limits Act of 2017)**

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This emergency departmental bill requires a health care provider, on treatment for pain and based on the clinical judgment of the provider, to prescribe the lowest effective dose of an opioid and a quantity that is no greater than that needed for the expected duration of pain severe enough to require an opioid that is a controlled dangerous substance (CDS). An exception is provided if the opioid is prescribed to treat a substance-related disorder; pain associated with a cancer diagnosis; pain experienced while the patient is receiving end-of-life, hospice, or palliative care services; or chronic pain. The dosage, quantity, and duration of a prescribed opioid subject to the bill's requirements must be based on an evidence-based clinical guideline for prescribing a CDS that is appropriate for the health care delivery setting for the patient, the type of health care services required by the patient, and the age and health status of the patient. A violation of the bill's requirements is grounds for disciplinary action by the appropriate health occupations board.

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**Fiscal Summary**

**State Effect:** Special fund expenditures for certain health occupations boards increase to the extent the boards receive additional complaints or take disciplinary action for violations of the opioid prescribing requirements. Special fund revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** The Department of Health and Mental Hygiene (DHMH) has determined that this bill has minimal or no impact on small business (attached). The

Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

**Bill Summary:** The bill expresses the intent of the General Assembly that the State Board of Dental Examiners, the State Board of Nursing, the State Board of Physicians, and the State Board of Podiatric Medical Examiners must work to educate practitioners to ensure that Maryland residents are aware of the risks associated with opioid drugs, including the risks of dependence, addiction, and overdose, and the dangers of taking an opioid drug with alcohol, benzodiazepines, and other depressants.

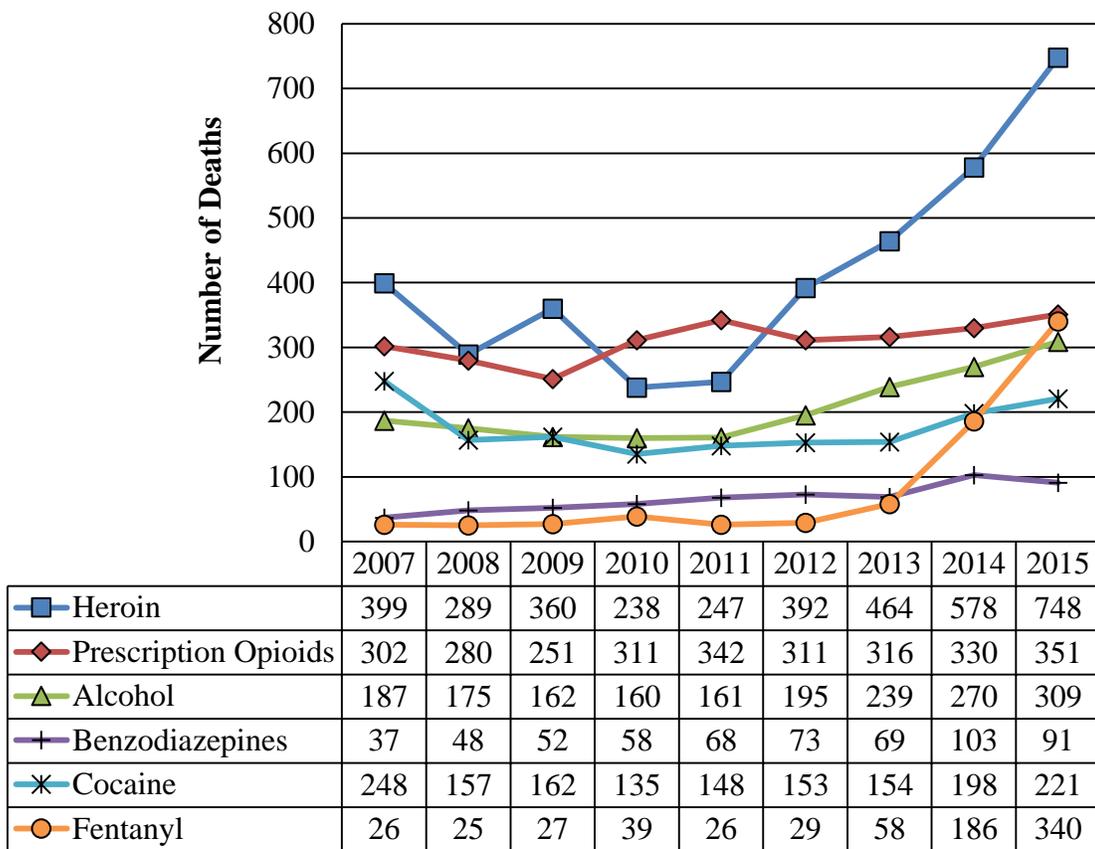
### **Current Law/Background:**

*Prescription Drug Monitoring Program (PDMP):* Chapter 166 of 2011 established PDMP in DHMH to assist with the identification and prevention of prescription drug abuse and the identification and investigation of unlawful prescription drug diversion. PDMP must monitor the prescribing and dispensing of Schedule II through V CDS. Beginning July 1, 2018, a prescriber must (1) request at least the prior four months of prescription monitoring data for a patient before initiating a course of treatment that includes prescribing or dispensing an opioid or a benzodiazepine; (2) request prescription monitoring data for the patient at least every 90 days until the course of treatment has ended; and (3) assess prescription monitoring data before deciding whether to prescribe or dispense – or continue prescribing or dispensing – an opioid or a benzodiazepine. A prescriber is not required to request prescription monitoring data if the opioid or benzodiazepine is prescribed or dispensed to specified individuals and in other specified circumstances.

*Federal Guidelines on Prescribing Opioids:* In 2016, the U.S. Centers for Disease Control and Prevention (CDC) issued guidelines for prescribing opioids for chronic pain. According to CDC, long-term opioid use often begins with treatment of acute pain. When used for acute pain, clinicians should prescribe the lowest effective dose of immediate-release opioids and should prescribe no greater quantity than needed for the expected duration of pain severe enough to require opioids. Three days or less will often be sufficient; more than seven days will rarely be needed. Because physical dependence on opioids is an expected physiologic response in patients exposed to opioids for more than a few days, limiting days of opioids prescribed should also minimize the need to taper opioids to prevent distressing or unpleasant withdrawal symptoms and reduces the likelihood of physical dependence. Furthermore, prescriptions with fewer days' supply minimize the number of pills available for unintentional or intentional diversion.

*Opioid-related Deaths in Maryland:* According to DHMH’s 2016 report, *Drug and Alcohol-Related Intoxication Deaths in Maryland*, drug- and alcohol-related intoxication deaths in Maryland increased for the fifth year in a row, totaling 1,259 deaths in 2015 – a 21% increase since 2014 and an all-time high. Of all intoxication deaths, 1,089 deaths (86%) were opioid related, including deaths related to heroin, prescription opioids, and nonpharmaceutical fentanyl. Opioid-related deaths increased by 23% between 2014 and 2015 and have more than doubled since 2010. Heroin- and fentanyl-related deaths have risen particularly sharply. The number of heroin-related deaths increased by 29% between 2014 and 2015 and has more than tripled between 2010 and 2015. The number of fentanyl-related deaths increased by 83% between 2014 and 2015 and has increased nearly twelvefold since 2012. **Exhibit 1** shows trends in drug- and alcohol-related intoxication deaths in Maryland from 2007 through 2015.

**Exhibit 1**  
**Total Number of Drug- and Alcohol-related Intoxication Deaths**  
**By Selected Substances in Maryland**  
**2007-2015**



Source: Department of Health and Mental Hygiene

Preliminary data from DHMH indicates that the number of intoxication deaths increased at an even steeper rate in 2016, with 1,468 deaths from January through September 2016 compared to 904 deaths during the same period in 2015 (a 62% increase). Additionally, for January through September 2016, the number of heroin-related deaths increased 72% and the number of fentanyl-related deaths increased nearly fourfold compared to the same period in 2015.

**State Fiscal Effect:** Special fund expenditures for the State Board of Dental Examiners, the State Board of Nursing, the State Board of Physicians, and the State Board of Podiatric Medical Examiners increase to the extent that the boards receive additional complaints or take additional disciplinary action against licensees under the bill. The Department of Legislative Services assumes that any additional complaint or disciplinary workload can likely be handled within existing budgeted resources. To the extent that the number of complaints or disciplinary actions, particularly for the State Board of Physicians, which licenses the largest number of prescribers, is significant, additional personnel may be needed. Board special fund revenues are not affected.

The boards can work to educate practitioners to ensure that Maryland residents are aware of the risks associated with opioid drugs as specified under the bill using existing budgeted resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** U.S. Centers for Disease Control and Prevention; Department of Health and Mental Hygiene; Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2017  
md/ljm Third Reader - April 6, 2017  
Revised - Amendment(s) - April 6, 2017

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**ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES**

**Department of Health and Mental Hygiene - Session 2017**

**TITLE OF PROPOSAL: Prescription Opioids - Limits on Prescribing**

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**PART A. ECONOMIC IMPACT RATING**

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS - However, please see Part B below. OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

**PART B. ECONOMIC IMPACT ANALYSIS**

This bill will generally have minimal economic impact on small businesses. However, to the extent that a health care provider with prescribing authority in a practice that is a small business is prescribing prescription opioids beyond the prescribing limitations set forth in this proposal, this proposal could impact that provider's patient volume and thus have an economic impact on the provider.