HB 1379

Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1379 (Delegate Frick)
Judiciary

Courts - Criminal and Civil Immunity - Prescribing, Dispensing, and Administering Opioid Antagonists

This bill specifies that, if a health care provider acted with reasonable care, the health care provider is not criminally or civilly liable for (1) prescribing, dispensing, or administering an opioid antagonist to treat or prevent a drug overdose or (2) any adverse effect arising from the use of the opioid antagonist prescribed, dispensed, or administered. Additionally, an individual who is not a health care provider is not criminally or civilly liable for any adverse effect arising from the individual administering an opioid antagonist if the individual believed in good faith that the individual to whom the opioid antagonist was administered was experiencing an opioid-related drug overdose and he or she acted with reasonable care.

Fiscal Summary

State Effect: The bill is not expected to materially affect State operations or finances.

Local Effect: The bill is not expected to materially affect local government operations or finances.

Small Business Effect: None.

Analysis

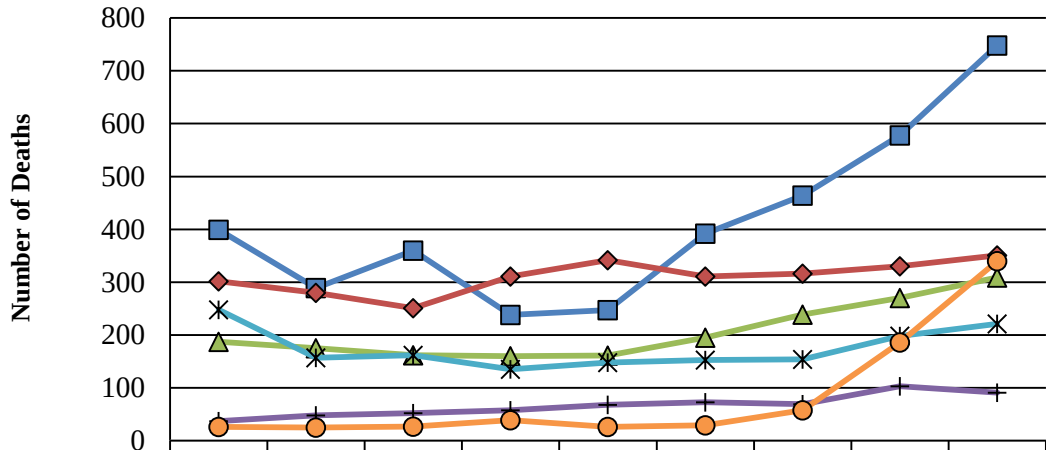
Bill Summary: "Health care provider" means an individual who is authorized under the Health Occupations Article to prescribe, dispense, or administer an opioid antagonist.

"Opioid antagonist" means naloxone or any other similarly acting and equally safe drug approved by the federal Food and Drug Administration for the treatment of a drug overdose.

Current Law/Background: Naloxone (also known as Narcan®) is an opioid antagonist long used in emergency medicine to rapidly reverse opioid-related sedation and respiratory depression. Chapter 299 of 2013 established the Overdose Response Program within the Department of Health and Mental Hygiene (DHMH) to authorize certain individuals (through the issuance of a certificate) to administer naloxone to an individual experiencing, or believed to be experiencing, opioid overdose to help prevent a fatality when medical services are not immediately available. Chapter 356 of 2015 expanded the program to authorize standing orders for naloxone and provided additional legal protections for prescribers and administrators of naloxone. DHMH launched the program in March 2014. As of February 8, 2017, 42,084 individuals have received training under the program. Additionally, there have been 45,498 dispensed doses of naloxone and 1,572 reported naloxone administrations.

According to a 2016 DHMH 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



	2007	2008	2009	2010	2011	2012	2013	2014	2015
Heroin	399	289	360	238	247	392	464	578	748
Prescription Opioids	302	280	251	311	342	311	316	330	351
Alcohol	187	175	162	160	161	195	239	270	309
Benzodiazepines	37	48	52	58	68	73	69	103	91
Cocaine	248	157	162	135	148	153	154	198	221
Fentanyl	26	25	27	39	26	29	58	186	340

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.

Medicaid covers naloxone prescriptions; in 2016, Medicaid enrollees filled 4,631 naloxone prescriptions. DHMH advises that, in response to the increasing number of opioid-related deaths in the State and amongst Medicaid enrollees, DHMH and its eight Medicaid managed care organizations (MCOs) have collaborated on policy changes and recommendations to promote changes in prescribing practices based on guidance from the federal Centers for Disease Control and Prevention. DHMH and those MCOs have advised providers that naloxone should be prescribed to patients who meet certain risk factors, namely (1) a history of substance use disorder; (2) high-dose or cumulative prescriptions

that result in more than 50 morphine milligram equivalents; (3) prescriptions for both opioids and benzodiazepine or nonbenzodiazepine sedative hypnotics; or (4) other factors such as friends or family that use drugs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Caroline and Prince George's counties; City of Bowie; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; Department of Health and Mental Hygiene; Department of State Police; Department of Legislative Services

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fn/kdm

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