

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 232
Finance

(Senator Feldman, *et al.*)

Health and Government Operations

Public Health – General Hospice Care Programs – Collection and Disposal of
Unused Prescription Medication

This bill requires a general hospice care program to establish a written policy for the collection and disposal of unused prescription medication. It also requires a program employee, under specified circumstances, to collect and dispose of a patient's unused medication on the death of the patient or the termination of a prescription by the patient's prescriber. The bill's provisions only apply to a general hospice care program when providing hospice services in an in-home setting and not when providing hospice services in a nursing home, assisted living facility, or a general hospice care program facility.

Fiscal Summary

State Effect: The bill is not anticipated to impact State operations or finances.

Local Effect: The bill is not anticipated to impact local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: A general hospice care program may not be held liable in a civil or criminal action for any good faith act or omission taken in accordance with the bill's requirements.

Required Disclosure of Written Policy

When a patient is enrolled in the general hospice care program, an employee must discuss the program's policy for the collection and disposal of unused prescription medication with the patient and the patient's family member or personal representative, and provide a written copy of the policy.

Required Collection and Disposal

Generally, an employee must, as soon as practicable, collect and dispose of a patient's unused prescription medication on the death of the patient or the termination of a prescription medication by the patient's prescriber. Before an employee collects or disposes of a patient's medication, the employee must provide the patient or the patient's family member or personal representative with a *written request for authorization* in accordance with the patient's care plan. An employee may not collect or dispose of a patient's medication without written authorization.

If a patient or the patient's family member or personal representative refuses to authorize the collection or disposal, the employee must urge the individual to dispose of any unused prescription medication in a safe and legal manner in accordance with specified federal guidelines.

If authorized to collect and dispose of a patient's unused prescription medication, an employee must, as soon as practicable, dispose of the medication, at the site where hospice care was provided, in accordance with specified federal guidelines. The disposal must be witnessed by (1) the patient or the patient's family member or personal representative; (2) another general hospice care program employee; or (3) if neither is available, a local law enforcement officer.

Documentation Requirements

The collection and disposal of medication must be documented in the patient's medical record by the employee who conducted the collection and disposal. The medical record must include specified information about the collection and disposal process. If a patient or the patient's family member or personal representative refuses to authorize the collection and disposal, the employee must document in the patient's medical record (1) the refusal to authorize the collection and disposal of the medication and (2) the name and quantity of each medication not surrendered.

Current Law: "General hospice care program" means a coordinated, interdisciplinary program of hospice care services for meeting the special physical, psychological, spiritual, and social needs of dying individuals and their families, by providing palliative and

supportive medical, nursing, and other health services through home or inpatient care during the illness and bereavement to individuals who have no reasonable prospect of cure as estimated by a physician, and to the families of those individuals.

Statute does not require a general hospice care program, or any other provider, to implement a written policy for the collection and disposal of unused prescription medication.

Chapter 287 of 2006 established a prescription drug repository program regulated by the State Board of Pharmacy. The program accepts donated prescription drugs for the purpose of dispensing them to needy patients in the State. Chapters 546 and 547 of 2011 expanded the scope of the program to allow the acceptance of prescription drugs and medical supplies returned to a pharmacy for proper disposal (rather than donation). Each pharmacy for which a pharmacy permit has been issued must dispose of returned prescription drugs or medical supplies in accordance with program policies.

Background: Safe disposal of prescription drugs preserves patient safety, reduces abuse or unintended ingestion of prescription drugs, and limits the impact of unused medications on the environment. Many independent community pharmacies, including 34 in Maryland, participate in DisposeMyMeds.org, a website that directs consumers to local medication disposal programs. Sharps Compliance, Inc. offers the TakeAway Environmental Return System for unused consumer prescription drugs in which returned drugs are mailed to the company, processed by law enforcement officials, and destroyed. Additionally, several jurisdictions have implemented drug take back programs that allow individuals to safely dispose of unwanted prescription medications. All Department of State Police barracks in Maryland serve as around-the-clock drop-off locations for unused prescription medications.

Medicare regulations require hospice programs to establish a safe way to administer drugs to each patient. Generally, hospice programs are also required to set policies and talk to families about how to safely manage and dispose of medications. However, hospice programs have little control over prescription medications after a patient dies. The U.S. Drug Enforcement Administration encourages hospice staff to *help* families destroy leftover medications, but the agency forbids staff members from destroying medications themselves unless allowed by state law. Generally, leftover pills belong to the family, which has no legal obligation to destroy them.

Additional Information

Prior Introductions: None.

Cross File: HB 407 (Delegate Cullison, *et al.*) - Health and Government Operations.

Information Source(s): National Hospice and Palliative Care Organization; Maryland Department of Health; Department of State Police; Department of Legislative Services

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