

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 1083
 Finance

(Senator Klausmeier, *et al.*)

Health and Government Operations

Public Health - Prescription Drug Monitoring Program - Revisions

This bill *requires*, rather than authorizes, the Prescription Drug Monitoring Program (PDMP) to review prescription monitoring data for indications of (1) possible misuse or abuse of a monitored prescription drug or (2) a possible violation of law or breach of professional standards by a prescriber or dispenser. If either is indicated, PDMP *must* notify and provide education to the prescriber or dispenser. If a possible violation of law or breach of professional standards is indicated, PDMP *must* (1) notify the appropriate health occupations board if the Technical Advisory Committee (TAC) makes a recommendation for a referral, as specified, and finds a probable violation of law or breach of professional standards and (2) provide the board with the data necessary for an investigation. PDMP *must* take specified factors into account regarding a possible violation of law or breach of professional standards.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$221,800 in FY 2019. Special fund expenditures increase by an indeterminate amount beginning in FY 2019, as discussed below. Future years reflect annualization. Revenues are not affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	221,800	271,400	279,400	289,500	300,000
SF Expenditure	-	-	-	-	-
Net Effect	(\$221,800)	(\$271,400)	(\$279,400)	(\$289,500)	(\$300,000)

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

Local Effect: The bill is not anticipated to materially affect governmental operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: PDMP may only notify a health occupations board of a possible violation of law or breach of professional standards if TAC make a recommendation for a referral after a review of the prescriber's or dispenser's prescription drug monitoring data that takes into account the particular specialty, circumstances, patient type, and location of the prescriber or dispenser and finds a probable violation of law or probable breach of professional standards.

PDMP must obtain from TAC, in addition to clinical guidance, interpretation of the prescription monitoring data and methodology for review sufficient to advise PDMP on whether the method of review appropriately identifies a possible violation of law or breach of professional conduct and takes into account the particular specialty, circumstances, patient type, and location of the prescriber or dispenser.

Current Law: Before PDMP may provide notification of a possible violation of law or breach of professional standards to a prescriber or dispenser, it must first obtain from TAC (1) clinical guidance regarding indications of a possible violation of law or breach of professional standards and (2) interpretation of the prescription monitoring data that indicates a possible violation of law or breach of professional standards.

Chapter 166 of 2011 established PDMP 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 controlled dangerous substances (CDS). Since July 1, 2017, all CDS dispensers have been required to register with PDMP. 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.

Background: Pursuant to Chapter 147 of 2016, the Maryland Department of Health (MDH) submitted a September 2017 [report](#) on (1) the status of the implementation of providing education and notice of a possible violation of law or a possible breach of professional standards to prescribers and pharmacists and (2) a recommendation on whether the authority of PDMP to report possible violations of law or possible breaches of professional standards should be expanded to allow unsolicited reporting to law enforcement agencies, licensing boards, or other units of the department. The report noted

that PDMP was identifying patients with multiple provider episodes (“doctor shopping”) and continuing to work with partner academic researchers to develop code to “red flag” high-risk provider, dispenser, and patient behavior. MDH indicated that, rather than expanding unsolicited reporting, the department’s focus was on implementing mandatory registration and use deadlines and enhancing the operational coordination and effectiveness of the Office of Controlled Substances Administration (the unit of the department that enforces CDS laws and issues CDS permits).

As of March 22, 2018, there were 34,261 prescribers and 11,709 pharmacists registered to use PDMP.

State Expenditures: General fund expenditures increase by \$221,804 in fiscal 2019, which accounts for the bill’s October 1, 2018 effective date. This estimate reflects the cost of hiring two grade 17 epidemiologist III positions and two grade 15 administrative officer II positions to conduct data preparation, analysis, and coordination with health occupations boards; acquire, store, and analyze additional datasets to facilitate the expanded work of TAC; and notify and provide education for prescribers and dispensers. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Additional expenditures for information technology upgrades to ensure secure data transfer to health occupations boards are anticipated but are not reflected in this analysis.

Positions	4
Salaries and Fringe Benefits	\$200,369
One-time Start-up Costs	19,560
Ongoing Operating Expenses	<u>1,875</u>
Total FY 2019 State Expenditures	\$221,804

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Special fund expenditures increase by an indeterminate amount for the State boards of Dental Examiners, Nursing, Pharmacy, Physicians, and Podiatric Medical Examiners beginning in fiscal 2019 due to additional investigations of prescribers and dispensers and/or additional disciplinary actions against licensees that result from referrals regarding probable violations of law or probable breaches of professional standards. Actual expenditures will depend on the number of referrals made, which cannot be reliably estimated at this time, and will vary across the five impacted boards.

According to MDH, the boards are likely to receive at least 100 to 400 additional complaint cases per year from PDMP referrals under the bill. Therefore, MDH advises that an additional 10 investigator positions are required to handle this additional workload (3 for Physicians, 2 for Dental Examiners, 2 for Nursing, 1 for Podiatric Medical Examiners, and

2 for Pharmacy) at a cost of \$528,209 in fiscal 2019. The Department of Legislative Services (DLS) disagrees, as the need for that many new investigators is not clear. DLS advises that investigative costs increase under the bill, potentially including additional investigatory positions (particularly for Physicians and Pharmacy, whose licensees comprise 55% and 25% of PDMP registrants, respectively). However, the number of additional personnel required depends on the number of possible violations of law or possible breaches of professional conduct identified by PDMP; the number of such cases reviewed by TAC, found to be probable violations of law or breaches of professional conduct, and subsequently recommended for referral to a health occupations board; and the distribution of such referrals across the impacted boards. In addition, the impact depends on whether any of the investigations due to those referrals would have occurred for other reasons. Also, the bill's requirement to provide the prescription monitoring data necessary for an investigation may facilitate investigations that would have taken place anyway.

Additional Information

Prior Introductions: None.

Cross File: HB 88 (Delegate Barron, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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