

Department of Legislative Services  
 Maryland General Assembly  
 2020 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1594 (Delegate Kelly)  
 Rules and Executive Nominations

Pharmacists - Aids for the Cessation of Tobacco Product Use

This bill expands the scope of practice for a licensed pharmacist, who meets specified requirements, to include prescribing and dispensing medications approved by the U.S. Food and Drug Administration (FDA) as an aid for the cessation of the use of tobacco products (tobacco cessation aids). By September 1, 2021, the State Board of Pharmacy must adopt specified regulations. Medicaid and the Maryland Children’s Health Program (MCHP) must provide coverage for services provided by a licensed pharmacist for screening an enrollee and prescribing tobacco cessation aids to the same extent as services rendered by any other licensed health care practitioner.

Fiscal Summary

**State Effect:** No effect in FY 2021. Medicaid expenditures increase by \$757,100 (62% federal funds, 38% general funds) in FY 2022, as discussed below. Federal matching revenues increase accordingly. Future years reflect annualization. **This bill increases the cost of an entitlement program beginning in FY 2022.**

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
FF Revenue	\$0	\$469,400	\$563,300	\$563,300	\$563,300
GF Expenditure	\$0	\$287,700	\$345,200	\$345,200	\$345,200
FF Expenditure	\$0	\$469,400	\$563,300	\$563,300	\$563,300
Net Effect	\$0	(\$287,700)	(\$345,200)	(\$345,200)	(\$345,200)

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

**Local Effect:** The bill does not affect the finances or operations of local governments.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** The regulations adopted by the board must establish (1) standard procedures a pharmacist must use to prescribe and dispense the appropriate tobacco cessation aid and refer the patient to a primary care practitioner for treatment and (2) the conditions under which a pharmacist may prescribe and dispense a tobacco cessation aid. The regulations must require a pharmacist to (1) complete a training program approved by the board; (2) follow the standard procedures established by the board; and (3) perform specified duties after prescribing and dispensing a tobacco cessation aid. The training program requirement may be waived for a pharmacist who has already undergone such training as part of the pharmacist's formal educational program.

After prescribing and dispensing a tobacco cessation aid, a pharmacist must (1) refer the patient for any additional care; (2) provide the patient with a written record of the medication dispensed and information about the importance of seeing the patient's primary care practitioner; and (3) record the prescribing and dispensing in any electronic health record maintained on the patient by the pharmacist.

**Current Law:** An individual must be licensed by the State Board of Pharmacy to practice pharmacy in the State. The practice of pharmacy includes compounding, dispensing, or distributing prescription drugs or devices; monitoring prescriptions; providing information, explanation, and recommendations to patients and health care practitioners about the safe and effective use of prescription drugs or devices; providing drug therapy management; and administering vaccinations as well as administering a self-administered drug to a patient in accordance with regulations adopted by the board.

To administer vaccinations, a pharmacist must submit a registration form to the board that includes verification that the pharmacist has successfully completed a specified certification course and is certified in cardiopulmonary resuscitation.

Chapters 820 and 821 of 2017 expanded the scope of practice for a licensed pharmacist, who meets specified requirements, to include prescribing and dispensing contraceptive medications and self-administered contraceptive devices approved by FDA.

**Background:** As of November 2019, 12 states have statutes or regulations addressing pharmacist prescribing of tobacco cessation aids. Five states (Colorado, Idaho, Indiana, New Mexico, and West Virginia) include all medications approved by FDA. Four states (Arizona, California, Maine, and Missouri) include nicotine replacement therapy products only. State protocols in Arkansas, Iowa, and Oregon are under development.

**State Fiscal Effect:** Coverage for tobacco cessation is included in Medicaid and MCHP when the counseling is provided by and cessation aids are prescribed by a licensed health

care practitioner. Expanding the scope of practice of licensed pharmacists to include tobacco cessation counseling and prescribing of related tobacco cessation aids is anticipated to increase utilization of such services by Medicaid and MCHP enrollees, as well as the number of prescription tobacco cessation aids prescribed.

Thus, Medicaid expenditures increase by an estimated \$757,070 (62% federal funds, 38% general funds) in fiscal 2022, which accounts for the bill's requirement that the board adopt implementing regulations by September 1, 2021 (thus, services are assumed to be provided beginning on that date). This estimate reflects the cost of (1) reimbursing licensed pharmacists to provide tobacco cessation counseling services to Medicaid and MCHP enrollees and (2) additional prescriptions for tobacco cessation aids. The information and assumptions used in calculating the estimate are stated below.

- In calendar 2018, 14,442 Medicaid enrollees utilized tobacco cessation counseling services.
- These enrollees received a total of 22,811 services.
- Medicaid reimburses for tobacco cessation counseling services of more than 3 minutes duration up to 10 minutes duration at a rate of \$14.97 per service and for services of more than 10 minutes duration at a rate of \$28.42 per service.
- Medicaid reimburses for new patient encounters at a rate of \$46.52 per encounter and established patient encounters at a rate of \$23.12 per encounter.
- Medicaid paid \$7.8 million for prescription tobacco cessation aids in calendar 2019.
- The bill results in a 10% increase in utilization of tobacco cessation services (an additional 2,281 encounters) and a 10% increase in spending on prescription tobacco cessation aids.
- Accordingly, \$104,447 of the total reflects additional tobacco cessation counseling services and \$652,622 reflects additional spending on prescription tobacco cessation aids.
- Federal matching funds cover 62% of these costs.

Medicaid expenditures increase by an estimated \$908,484 (62% federal funds, 38% general funds) in fiscal 2023 and annually thereafter, which reflects a full year of service. Federal fund matching revenues increase accordingly. However, to the extent Medicaid and MCHP enrollees successfully cease tobacco usage as a result of the bill, Medicaid expenditures likely decrease.

The State Board of Pharmacy can adopt the required regulations using existing budgeted resources.

**Small Business Effect:** Small business pharmacies may prescribe and dispense tobacco cessation aids and receive additional reimbursement under the bill.

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### **Additional Information**

**Prior Introductions:** SB 497 of 2019 received an unfavorable report from the Senate Education, Health, and Environmental Affairs and Senate Finance committees. Its cross file, HB 1217, received a hearing in the House Health and Government Operations Committee but was subsequently withdrawn.

**Designated Cross File:** SB 440 (Senator Hayes, *et al.*) - Education, Health, and Environmental Affairs and Finance.

**Information Source(s):** National Alliance of State Pharmacy Associations; Maryland Department of Health; Department of Legislative Services

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Analysis by: Jennifer B. Chasse

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