

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 462 (Delegate Pena-Melnyk, *et al.*)  
Health and Government Operations

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Health Occupations - Authorized Prescribers - Reporting of Financial Gratuities  
or Incentives

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This bill requires each authorized prescriber who receives a financial gratuity or incentive from a pharmaceutical distributor or manufacturer to file a financial disclosure form with the health occupations board that licenses the authorized prescriber within 30 days after the financial gratuity or incentive is received. The information disclosed on the form may only be used to audit, investigate, or take disciplinary action against the authorized prescriber, and may not be made public. A health occupations board may impose a fine of up to \$1,000 per violation if an authorized prescriber willfully fails to file a financial disclosure form. A health occupations board must adopt regulations to implement the bill. The bill must be construed to apply only prospectively.

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Fiscal Summary

**State Effect:** Potential increase in special fund expenditures for five impacted health occupations boards, as discussed below. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary:** “Authorized prescriber” means any licensed dentist, physician, podiatrist, advanced practice nurse with prescriptive authority, or any other individual authorized to prescribe prescription or nonprescription drugs or devices. “Financial gratuity or incentive” means the provision or payment of anything of value in exchange for the promotion or purchase of products or services, including specified agreements.

**Current Law:** Under the Health Occupations Article, a health care practitioner (including physicians) may not refer a patient, or direct an employee or a person under contract with the health care practitioner to refer a patient, to a health care entity (1) in which the health care practitioner or the practitioner in combination with the practitioner's immediate family owns a beneficial interest; (2) in which the practitioner's immediate family owns a beneficial interest of 3% or greater; or (3) with which the health care practitioner, the practitioner's immediate family, or the practitioner in combination with the practitioner's immediate family has a compensation arrangement. This prohibition does not apply to a health care practitioner who refers specified in-office ancillary services or tests.

The federal Patient Protection and Affordable Care Act requires the federal Centers for Medicare and Medicaid Services (CMS) to collect information from certain manufacturers and group purchasing organizations of drugs, devices, biologicals, and medical supplies to report information about their financial relationships with physicians and teaching hospitals. CMS displays the data at <https://openpaymentsdata.cms.gov/>.

**State Expenditures:** Under the bill, each health occupations board that licenses authorized prescribers (Dental, Nursing, Pharmacy, Physicians, and Podiatric) must receive financial disclosure forms from authorized prescribers who receive a financial gratuity or incentive from a pharmaceutical distributor or manufacturer. At a minimum, each board must develop a financial disclosure form, adopt regulations to implement the bill, notify licensees with prescriptive authority of the requirement to file, and receive and maintain disclosure forms. The information disclosed on the forms may only be used by the board to audit, investigate, or take disciplinary action against an authorized provider.

Without actual experience under the bill, the number of financial disclosures each board will receive cannot be reliably estimated. The two largest boards (Physicians and Nurses) regulate approximately 32,400 physicians, 4,000 physician assistants, and 11,000 advanced practice nurses with prescriptive authority. The boards can likely handle the bill's requirements using existing budgeted resources. However, to the extent a significant amount of disclosure forms are received or the content of disclosure forms generate additional investigations or disciplinary actions by the boards, special fund expenditures increase for the impacted boards for additional personnel and other administrative expenses.

**Small Business Effect:** Certain prescribers must routinely submit financial disclosure forms and may be subject to a fine of up to \$1,000 for failing to file.

## Additional Information

**Prior Introductions:** SB 430 of 2019, a similar bill, and its cross file, HB 696, were withdrawn.

**Cross File:** SB 159 (Senator Kelley, *et al.*) - Education, Health, and Environmental Affairs.

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

**Fiscal Note History:** First Reader - February 4, 2022  
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