

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1127

(Delegate Pendergrass)

Health and Government Operations

Finance

Public Health - State Designated Exchange - Health Data Utility

This bill requires the State-designated exchange to operate as a health data utility for the State and provide data, as allowed by law, to individuals and organizations involved in the treatment and care coordination of patients and to support public health goals. After dispensing a “noncontrolled prescription drug,” a dispenser must submit prescription information to the State-designed exchange. The State-designated exchange may not impose any fees or other assessments on dispensers to support the operation of the exchange. The Maryland Health Care Commission (MHCC) must adopt specified regulations. The State-designated exchange must establish a Consumer Advisory Council to bring the perspectives of individuals and organizations with an interest in protecting consumers into the delivery of services provided by the State-designated exchange. By January 1, 2024, the Maryland Department of Health (MDH), MHCC, and the State-designated exchange must submit a report to the General Assembly that identifies ongoing revenue sources to fund the activities under the bill.

Fiscal Summary

State Effect: The bill’s requirements can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Noncontrolled prescription drug” means a prescription drug, as defined in the Health-General Article, that is not a designated controlled dangerous substance (CDS).

Health Data Utility

The purposes of the health data utility include the (1) collection, aggregation, and analysis of clinical information, public health data, and health administrative and operations data to assist MDH, local health departments (LHDs), MHCC, and the Health Services Cost Review Commission (HSCRC) in the evaluation of public health interventions and health equity; (2) communication of data between public health officials and health care providers to advance disease control and health equity; and (3) enhancement and acceleration of the interoperability of health information throughout the State.

Prescription Information

After dispensing a noncontrolled prescription drug, a dispenser must submit prescription information to the State-designed exchange (1) by electronic means; (2) without unduly increasing the workload and expense on a dispenser; (3) in a manner that minimizes burden and duplication by being as compatible as possible with existing federal standards for data practices, including technology software of dispensers; and (4) as otherwise required by MHCC regulations. The State-designated exchange must make prescription data available for purposes of treatment and care coordination of a patient. The purpose of these provisions is to authorize individuals and organizations involved in the treatment and care coordination of patients to access a patient’s medication history, and assist health care providers, care managers, MDH, and LHDs to understand and promote matters of health equity and treatment efficacy.

Provision of Data by State-designated Exchange

The State-designated exchange may provide data, as allowed by law, for public health purposes that may include (1) improving health equity through access to prescription medications, including the treatment of infectious disease; (2) assisting programs led by health care providers and MDH, LHDs, MHCC, and HSCRC to identify opportunities for quality improvement, including for the stewardship of antibiotic medications; and (3) conducting case investigations and related activities.

To the extent practicable, the information submitted to or provided by the State information exchange must be submitted or provided in as near to real time as possible.

Maryland Health Care Commission Regulations

MHCC, in consultation with the appropriate stakeholders, must adopt regulations that take into account consumer perspective, including (1) the specific data required to be provided; (2) the specific prescription information required to be submitted; (3) the timeframe for submitting required prescription information; (4) the electronic means and manner by which prescription information is to be submitted; (5) prescription information submission requirements that align with the data submission requirements of monitored prescription drugs under the Prescription Drug Monitoring Program (PDMP); and (6) identification and necessary suppression of information related to providers or medications that are determined to have significant potential to cause harm.

Consumer Advisory Council

In selecting members for the advisory council, the State-designated exchange must consider diversity of experience. The council must (1) consist of a minimum of six members, as specified; (2) identify and report consumer privacy concerns to senior leadership of the State-designated exchange; (3) advise on efforts to educate consumers on data exchange policies, including options for consumers to opt out of disclosure of protected health information; (4) meet three times each year; and (5) adopt and maintain a charter to be posted online that includes the purpose, members, and meeting schedule of the council.

Current Law: MHCC designated the Chesapeake Regional Information System for Our Patients (CRISP) as the statewide health information exchange (HIE) in 2009, and the infrastructure became operational in 2010. An HIE allows clinical information to move electronically among disparate health information systems. CRISP offers tools aimed at improving the facilitation of care for the region's health care providers.

Under Maryland regulations (COMAR 10.37.07.03), each hospital under the jurisdiction of HSCRC must electronically connect to the State-designated HIE to enable HSCRC to fully measure hospital-specific performance.

Pursuant to Chapters 790 and 791 of 2021, a nursing home, on request of MDH, must electronically submit clinical information to the State-designated exchange. An electronic health network (EHN) is an entity (1) involved in the exchange of electronic health care transactions between a payor, health care provider, vendor, and any other entity and (2) certified by MHCC. An EHN must provide electronic health care transactions to the exchange for the following public health and clinical purposes: (1) a State health improvement program; (2) mitigation of a public health emergency; and (3) improvement of patient safety. An EHN may not charge a fee to a health care provider, health care payor, or State-designated exchange for providing the required information.

MHCC must adopt regulations for the privacy and security of protected health information obtained or released through an HIE that (1) govern the access, use, maintenance, disclosure, and redisclosure of protected health information; (2) include protections for secondary use of protected health information obtained or released through an HIE; (3) require the State-designated HIE to develop and maintain a consent management application; and (4) provide penalties for noncompliance with the regulations. Consumers can opt out of having their information included in an HIE through an online application, via telephone, or by mailing a form.

Consumers can opt out of all sharing of their electronic health information (EHI), including research, or opt out of research only (to prevent approved researchers from receiving sets of data that include the consumer's EHI). Maryland law does not allow a consumer to opt out of public health reporting, such as the reporting of specific diseases to public health officials, or to opt out of sharing information about CDS prescriptions to PDMP.

Prescription Drug Monitoring Program

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 CDS. As of July 1, 2017, all CDS dispensers are required to register with PDMP.

Under the Health-General Article, a "prescription drug" means a drug that may be dispensed only on the prescription of a health practitioner who is authorized by law to prescribe the drug.

Under the Health Occupations Article, an "authorized prescriber" means any licensed dentist, licensed dental hygienist, licensed physician, licensed podiatrist, advanced practice nurse with prescriptive authority, or other individual authorized by law to prescribe prescription or nonprescription drugs or devices.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 984 (Senator Klausmeier) - Finance.

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

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