

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 395 (Delegate Rosenberg)
 Health and Government Operations

Procurement - Purchase of Opioid Overdose Reversal Drugs From Opioid
 Settlement Parties - Prohibition

This bill prohibits State funds from being used to purchase opioid overdose reversal drugs from a person that was a party to a settlement with any state due to its role in the manufacture, sale, or distribution of prescription opioids. The prohibition does not apply to (1) a person that agreed under settlement terms executed on or before September 1, 2024, to provide opioid overdose reversal drugs as part of the settlement or (2) a person with a State contract, executed on or before June 30, 2025, to provide opioid overdose reversal drugs to the State. A State contract exempt from this prohibition may not be renewed on or after July 1, 2025. Uncodified language establishes that a presently existing obligation or contract right may not be impaired by the bill. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: Department of General Services (DGS) general fund expenditures increase by \$106,800 in FY 2026 for personnel to modify the State procurement process for opioid overdose reversal drugs and ensure compliance with the bill. Future years reflect elimination of one-time costs. Limiting the sources from which opioid overdose reversal drugs may be purchased with State funds may impact State expenditures on such drugs, as discussed below. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	106,800	96,900	101,200	105,800	110,300
Net Effect	(\$106,800)	(\$96,900)	(\$101,200)	(\$105,800)	(\$110,300)

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Overdose Response Program

The Maryland Department of Health (MDH) Overdose Response Program (ORP) allows for opioid overdose reversal drugs approved by the federal Food and Drug Administration (FDA) to be offered to specified individuals – free of charge – by multiple providers, programs, and entities. Subject to the limitations of the State budget, MDH must purchase and provide FDA-approved opioid overdose reversal drugs, at no cost, to the entities who may provide the reversal drugs only if MDH provides them. MDH may authorize private or public entities to conduct education and training on opioid overdose recognition and response that includes (1) education on recognizing the signs and symptoms of an opioid overdose; (2) training on responding to an opioid overdose, including the administration of FDA-approved opioid overdose reversal drugs; and (3) access to opioid overdose reversal drugs and the necessary supplies for the administration of the opioid overdose reversal drug. Individuals are not required to obtain the specified training and education on opioid overdose recognition and response from a private or public entity before a pharmacist may dispense an FDA-approved opioid overdose reversal drug.

Standing Orders for Opioid Overdose Reversal Drugs

A licensed health care provider with prescribing authority may prescribe and dispense an FDA-approved opioid overdose reversal drug to an individual who is believed to be at risk of experiencing an opioid overdose or is in a position to assist the individual at risk of experiencing an opioid overdose. A health care provider may also prescribe and dispense an FDA-approved opioid overdose reversal drug by issuing a standing order if the licensed health care provider (1) is employed by MDH or a local health department (LHD) or (2) has a written agreement with an authorized private or public entity.

A licensed health care provider who issues a standing order may delegate the dispensing of an FDA-approved opioid overdose reversal drug to an employee or volunteer of an authorized private or public entity in accordance with a written agreement between the delegating licensed health care provider and the authorized private or public entity that employs the employee or volunteer. A licensed health care provider with dispensing authority may also dispense an FDA-approved opioid overdose reversal drug to any individual in accordance with a standing order that is issued by a licensed health care provider with prescribing authority as described above. A pharmacist may also dispense an FDA-approved opioid overdose reversal drug in accordance with a therapy management contract under the Health Occupations Article.

Maryland has a statewide standing order for opioid overdose reversal drugs that authorizes any Maryland-licensed pharmacist to dispense unlimited prescriptions and refills of naloxone and devices for its administration to any individual, as specified. A pharmacist must provide consultation with the individual regarding the naloxone dosage that is most appropriate, select and dispense two doses of naloxone, and provide directions for use. The standing order is set to expire June 30, 2025, at which time a new order will be issued. If a patient cannot afford naloxone or related copayments, or does not wish to use insurance coverage, pharmacists are instructed to refer them to ORP where they can obtain a naloxone kit free of charge.

For more information about opioid-related settlements in Maryland, please see **Appendix – Opioid Crisis**.

State Expenditures: DGS advises that the bill has an operational and fiscal impact on the Office of State Procurement (OSP). For example, OSP will need to include a certification line on solicitation and contract templates and add a step to the procurement officer checklist to verify that a vendor that sells opioid overdose reversal drugs was not a party to a settlement with any state due to its role in the manufacture, sale, or distribution of prescription opioids. If a party falsely claims that they were not involved in a settlement, OSP would have to follow through and possibly report the claim to the Office of the Attorney General for legal action.

Thus, DGS general fund expenditures increase by \$106,766 in fiscal 2026. This estimate reflects the cost of hiring one procurement officer (beginning July 1, 2025) to implement the new certification line, revise the procurement officer checklist, research vendors, distribute information to agencies that purchase opioid overdose reversal drugs, and enforce the bill’s prohibition. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$99,121
Operating Expenses	<u>7,645</u>
Total FY 2026 State Expenditures	\$106,766

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

MDH advises that the Behavioral Health Administration requires additional personnel (one program manager, one accountant, and one agency grants specialist) for compliance, financial oversight, and managing the logistics of purchasing opioid overdose reversal drugs under the bill’s prohibition. The Department of Legislative Services disagrees and assumes that any procurement-related work necessary to ensure a vendor complies with

the bill will be handled by DGS, through which MDH currently purchases opioid overdose reversal drugs.

MDH notes that limiting the number of available manufacturers that can supply opioid overdose reversal drugs could increase demand from those manufacturers and potentially lead to higher costs. Therefore, there may be increased expenditures in future years.

Furthermore, several State agencies currently receive opioid overdose reversal drugs from MDH at no cost. The bill may impact the State's ability to obtain such drugs at current volumes, potentially undermining existing harm reduction and overdose prevention programs and impacting other State agencies' operations.

The University of Maryland hospitals may also experience an indeterminate fiscal impact, as individuals placing orders for opioid overdose reversal drugs do not have immediate access to settlement information, thereby requiring more extensive research before placing an order.

Local Fiscal Effect: The Maryland Association of County Health Officers (MACHO) advises that LHDs receive opioid overdose reversal drugs from MDH through ORP, so they are not directly impacted by the bill. However, LHD operations and supply of opioid overdose reversal drugs at LHDs may be impacted by the bill.

Small Business Effect: Small businesses that manufacture or distribute opioid overdose reversal drugs and were not party to a settlement with any state may benefit from additional sales.

Additional Comments: MACHO advises that all but one manufacturer of naloxone has a parent company involved in an opioid settlement.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Maryland Institute for Emergency Medical Services Systems; Maryland Department of Emergency Management; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland School for the Deaf; Maryland Higher Education Commission; Baltimore City Community College;

University System of Maryland; Morgan State University; St. Mary's College of Maryland; Department of Budget and Management; Department of General Services; Maryland Department of Health; Department of Housing and Community Development; Department of Juvenile Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Board of Public Works; Department of State Police; Maryland Department of Transportation; Department of Veterans and Military Families; Maryland's Office of Overdose Response; Baltimore City Public Schools; Baltimore County Public Schools; Montgomery County Public Schools; Prince George's County Public Schools; Department of Legislative Services

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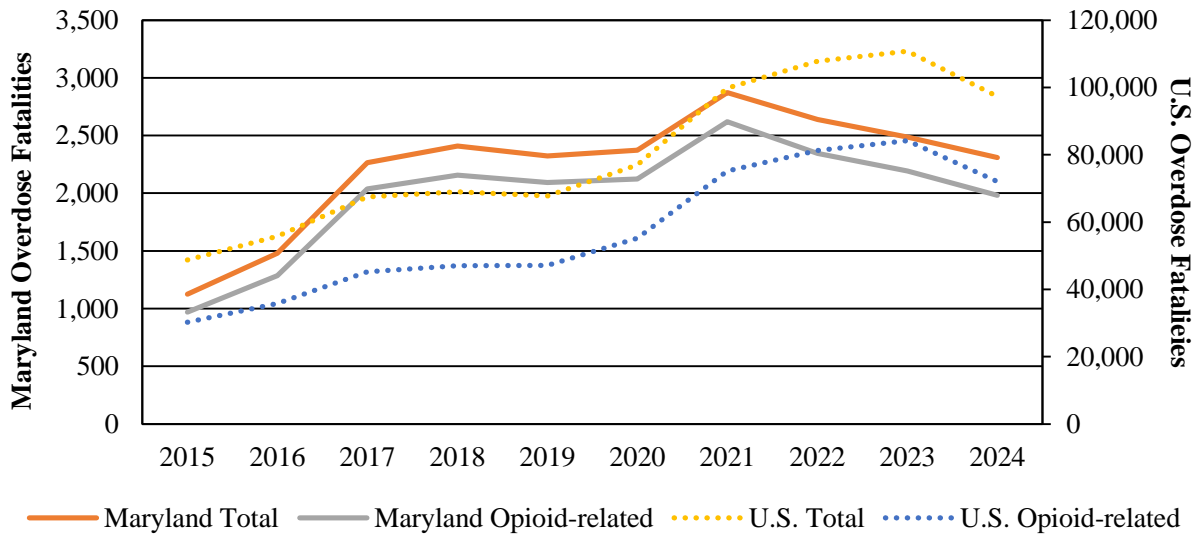
Appendix – Opioid Crisis

Opioid Overdose Deaths

Between April 2015 and April 2024, 22,286 individuals died from overdose in Maryland. Approximately 89% of the deaths involved opioids, and 73% involved synthetic opioids excluding methadone (primarily fentanyl). During the same period, 801,436 individuals died from overdoses nationally, with 71.5% of those fatalities involving opioids. Since 2021, there has been a gradual decrease in overdose deaths both in Maryland and nationally.

According to preliminary data covering April 2023 through April 2024, overdose deaths have decreased in both the United States and Maryland by approximately 1.9% and 2.4%, respectively. However, overdose fatalities remain high. **Exhibit 1** shows the number of overdose fatalities recorded in a 12-month period (April to April) in Maryland and the United States from 2015 to 2024.

Exhibit 1
Overdose Fatalities in Maryland and the United States
April 2015 to April 2024



U.S.: United States

Note: Data for 2022-2024 is preliminary.

Source: Centers for Disease Control and Prevention; Department of Legislative Services

In Maryland, disparities in overdose fatalities persist across race, age, gender, and jurisdiction. Statewide, Black men, particularly those aged 55 and older, have the highest overdose fatality rate, which is nearly double that of white men, the group with the second highest overdose fatality rate. Across race groups, more than twice the number of males die by overdose compared to females, and individuals aged 55 and older comprise the highest number of overdose deaths among each race and gender category except for white females. The Maryland Overdose Response Advisory Council voted in June 2024 to reinstate the Racial Disparities in Overdose Task Force to study the causes of racial disparities and recommend solutions.

Although opioid overdose fatalities are problematic statewide, the greatest concern is in Baltimore City. Between calendar 2018 and 2022, Baltimore City experienced an overdose fatality rate nearly twice that of any other U.S. city. According to the Maryland Department of Health (MDH), there were 1,891 overdose-related fatalities across the State from October 2023 to September 2024, of which 846 occurred in Baltimore City, representing approximately 45% of the State's total overdose fatalities but just 9% of the State's population.

Maryland Actions to Address the Opioid Crisis

Legislative Response: The General Assembly has passed numerous bills to address the State's opioid crisis, including prevention, treatment, overdose response, and prescribing guidelines.

- Chapters 573 and 574 of 2017 expand drug education in public schools to include heroin and opioid addiction prevention; require local boards of education to require each public school to store naloxone and other overdose-reversing medication; and require institutions of higher education that receive State funding to establish a policy that addresses heroin and opioid addiction and prevention.
- Chapter 570 of 2017 requires a health care provider to prescribe the lowest effective dose of an opioid and a quantity that is no greater than that needed for the expected duration of pain severe enough to require an opioid that is a controlled dangerous substance, with specified exceptions.
- Chapters 215 and 216 of 2018 require a health care provider to advise a patient of the benefits and risks associated with a prescribed opioid or co-prescribed benzodiazepine.
- Chapter 537 of 2019 establishes the Opioid Restitution Fund (ORF), a special fund to retain any revenues received by the State relating to specified opioid judgments or settlements, which may be used only for opioid-related programs and services.

- Chapter 82 of 2022 requires MDH to adopt a reporting system to monitor the prescribing of medications to treat opioid use disorders (OUDs) in the State, identify and reach out to prescribers who regularly prescribe nonpreferred medications, and identify barriers to individuals who need medication to treat an OUD to obtaining the medication in a timely manner.
- Chapter 224 of 2022 requires the Prescription Drug Monitoring Program to monitor the dispensing of naloxone medication and to maintain confidentiality with regard to naloxone medication data.
- Chapter 239 of 2022 broadens existing requirements and protections relating to the administration or provision of naloxone to encompass any opioid overdose reversal drug approved by the U.S. Food and Drug Administration (FDA) and authorizes specified providers and organizations across the State to offer naloxone free of charge to individual community members.
- Chapter 408 of 2024 requires MDH to report to the legislature each year until 2026 on (1) current opioid overdose reversal drugs approved by the FDA and (2) whether MDH has added each current FDA-approved opioid overdose reversal drug to a standing order.
- Chapter 764 of 2024 expands the Public Access Automated External Defibrillator (AED) Program to include an initiative to locate up to two doses of naloxone with each AED in a public building.
- Chapter 886 of 2024 requires hospitals, beginning January 1, 2025, to establish protocols to provide appropriate care for patients admitted for opioid-related conditions, including overdose, possess specified medication for the treatment of OUD, and treat a patient who presents in an emergency room for opioid-related overdose or emergency medical condition, as specified.

Maryland has a statewide standing order for opioid overdose reversal drugs that authorizes any Maryland-licensed pharmacist to dispense unlimited prescriptions and refills of naloxone and devices for its administration to any individual, as specified. A pharmacist must provide consultation with the individual regarding the naloxone dosage that is most appropriate, select and dispense two doses of naloxone, and provide directions for use. If a patient cannot afford naloxone or related copayments, or does not wish to use insurance coverage, pharmacists are instructed to refer them to the Opioid Response Program, where they can obtain a naloxone kit free of charge.

Legal Actions Related to the Opioid Crisis: In October 2020, the U.S. Department of Justice announced a global resolution of its criminal and civil investigations of opioid manufacturer Purdue Pharma. However, the resolution was subject to approval by the bankruptcy court for the Southern District of New York, which rejected the bankruptcy settlement in December 2021. After multiple rejected settlements, including a \$6 billion settlement rejected by the Supreme Court, in January 2025, Purdue agreed to a \$7.4 billion settlement, which still requires court approval. If the deal proceeds, the Sackler family must also give up ownership of Purdue.

Maryland and a coalition of states were part of the \$21 billion Janssen settlement, a settlement with opioid manufacturer Johnson & Johnson and three of its distributors – McKesson, Cencora (formerly Amerisource Bergen), and Cardinal Health. Maryland's share of the settlement is approximately \$395 million over 18 years.

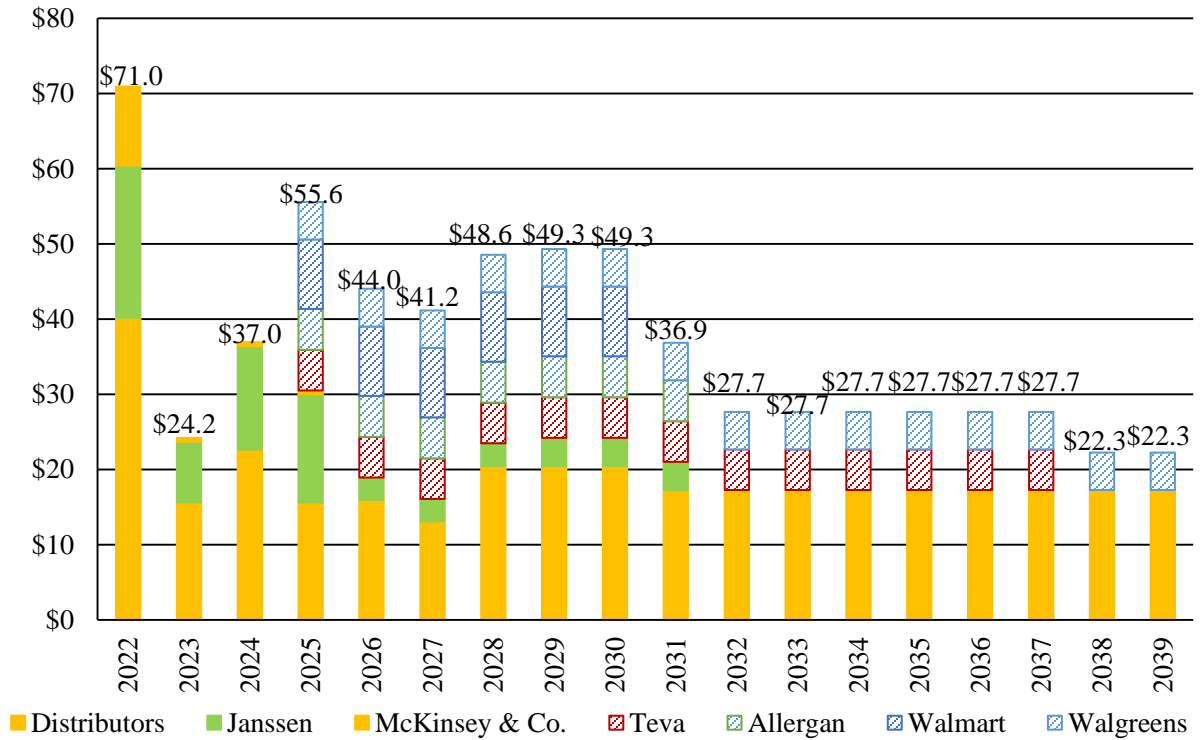
Maryland and several other states also reached a \$573 million settlement with McKinsey & Company in 2021. Maryland's share of the settlement is about \$12.0 million, the final installment of which was received in July 2024. The State was part of several other settlements, including ones with Walmart, Walgreens, Allergan, Teva, and Publicis Health. All settlement revenues are allocated to ORF, as described below.

Opioid Restitution Fund: **Exhibit 2** shows the actual and projected ORF revenue from opioid settlements from fiscal 2022 through 2039, which is expected to total \$668 million.

MDH distributes this funding to local health departments, correctional facilities, and community organizations through block grants and competitive grants, and annually reports its spending to the General Assembly. The ORF Advisory Council meets throughout the year to discuss the best uses of funding and submit recommendations on spending priorities. Per the various settlement agreements, most ORF funding will be expended through competitive grants, and some will be distributed to local governments as block grants through a formula. Some ORF funding is expended at the discretion of the Secretary of Health who, in 2024, committed to distributing all discretionary funds through grants to local governments and organizations.

While each Maryland county will receive block grant funding through ORF, Baltimore City will only receive ORF funds from just one settlement, as it opted out of all other settlements to pursue separate litigation in pursuit of higher award amounts. As of December 2024, Baltimore City has announced approximately \$409.7 million in settlement awards, with additional settlements in progress.

Exhibit 2
Sources of Opioid Restitution Fund Revenue
Fiscal 2022-2039
(\$ in Millions)



Source: Maryland Department of Health; Department of Legislative Services

Funding to Address the Opioid Crisis: Maryland receives federal funding to address opioid misuse and overdose. Active federal grants include the Substance Abuse Block Grant (SABG) to address substance use disorder (SUD) and the State Opioid Response Grant Program targeted to address opioid misuse. MDH distributes SABGs to each jurisdiction for activities related to substance abuse prevention, education, and treatment, including for alcohol. Federal regulations require that 20% of each SABG be directed toward supporting prevention activities.

The fiscal 2026 budget as introduced includes nearly \$492 million for substance abuse treatment programs, overdose response, behavioral health investment, and other substance abuse-related programs. There is \$67.6 million budgeted for ORF, \$10.0 million for the Office of Overdose Response, and \$959,020 for the Lieutenant Governor’s Heroin and Opioid Task Force, all from general funds. The fiscal 2026 budget as introduced also

includes \$78.6 million in general funds invested in the Behavioral Health Administration, which can be used for a variety of purposes, including crisis services, inpatient services, hospital overstay, and SUD prevention and treatment. Lastly, between general funds, special funds, federal dollars, and reimbursable expenditures, there is a total \$334.6 million budgeted for substance abuse-related grant programs, including SABG and the State Opioid Response Grant Program.