



Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

March 4, 2020

The Honorable Delores G. Kelley, Chair
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401-1991

RE: SB 871 – Mail Order and Specialty Drugs – Physician Dispensing – Letter of Concern

Dear Chair Kelley and Committee Members:

The Maryland Board of Physicians (the “Board”) is submitting this Letter of Concern for SB 871 – Mail Order and Specialty Drugs – Physician Dispensing. SB 871 would expand physician dispensing, as permitted under Md. Code Ann., Health Occ. §12-102(c)(2)(ii), to include dispensing specialty drugs and starter doses via mail order.

According to the pharmacy statutes, a physician may only dispense after demonstrating to the satisfaction of the Board that the dispensing is “in the public interest,” which is defined as when a pharmacy is not conveniently available to the patient.¹ This is further codified in regulations, which only authorize physician dispensing in cases when the patient determines that a pharmacy is not conveniently available.² The Board addressed dispensing via mail order and refill prescriptions with stakeholders during the promulgation of its dispensing regulations and concluded in no uncertain terms that dispensing through mail order and refills were not permitted because a pharmacy would be conveniently available in these circumstances. As such, the Board’s regulations expressly prohibit dispensing through mail order and refills.³ The Board is unclear how permitting dispensing by mail order and refills would satisfy the requirement of the dispensing being in the public interest, which is defined as a pharmacy not being conveniently available.

Further, “specialty drug” is not defined in the Pharmacy Act. If the intention is to use the definition of specialty drug in the Insurance Article, the Board has additional public safety concerns about this type of drug being dispensed by mail order because a specialty drug, by definition, requires enhanced patient education, management, or support, beyond those required for traditional dispensing.⁴

¹ Md. Code Ann., Health Occ. §12-102(c)(2)(ii)2.C

² COMAR 10.13.01.04(M)

³ COMAR 10.32.23.06C

⁴ Md. Code Ann., Insurance Article §15-847(a)(5)

Finally, the inclusion of starter doses in the bill is unclear because the dispensing of starter doses is already an exception to the dispensing permit requirement.⁵

For these reasons, the Board submits this Letter of Concern. If you have questions or need additional information, please contact Wynnee E. Hawk, 410-764-3786.

Sincerely,



Christine A. Farrelly
Executive Director

cc: Members of the Senate Finance Committee
Webster Ye, MDH

The opinion of the Board expressed in this document does not necessarily reflect that of the Maryland Department of Health or the Administration.

⁵ Md. Code Ann., Health Occ. §12-102(f)