



Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Damean W.E. Freas, D.O., Chair

2021 SESSION POSITION PAPER

BILL NO: SB 513
COMMITTEE: Education, Health, and Environmental Affairs
POSITION: Information

TITLE: Cancer Drugs – Physician Dispensing and Coverage

BILL ANALYSIS: This bill authorizes a physician with a valid dispensing permit to personally dispense to a patient or a patient of the physician’s practice, by mail or other commercial method (1) a starter dosage of a cancer drug or device or (2) an initial or refill prescription of a cancer drug. Carriers must allow an insured or enrollee to obtain a covered specialty drug that is a “cancer drug” from a dispensing physician. A pharmacy benefits manager (PBM) must allow a beneficiary to obtain a cancer drug from a dispensing physician

POSITION AND RATIONALE: The Maryland Board of Physicians (the “Board”) is submitting Information for SB 513 – Cancer Drugs – Physician Dispensing and Coverage. SB 513 would expand physician dispensing, as permitted under Md. Code Ann., Health Occ. §12-102(c)(2)(ii), to include dispensing cancer drugs or devices, starter doses or devices, and initial or refills of cancer drugs 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 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 being in the public interest, which is defined as a pharmacy not being conveniently available.

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

Further, the inclusion of initial doses or refills on page 2, line 10 seems vague, because the dispensing of starter doses is already an exception to the dispensing permit requirement.⁴

Lastly, while “cancer drug” is defined on page 4, lines 26 and 27, this definition is vague; and raises the question of whether it is clear what drugs are considered “cancer drugs”. If there is no clear understanding of what are cancer drugs, that may be an enforcement issue.

Out of the 33,273 currently licensed physicians, there are 705 active dispensing permits. Of those active permits, there are 47 physicians that are primarily Internal Medicine/Oncology, with one physician counted twice for two oncology specialties. This data request was run with the identified ABMS/AOA specialties. Out of 33,273 current licensed physicians, this legislation would impact 0.001%.

As the entity for physicians that issues dispensing permits, the Board has encountered ongoing concerns with the dispensing statute. Every legislative session there are dispensing carve out proposals for a unique set of providers. The Board believes that the statute needs to be reviewed and updated instead of piecemeal changes, and would support a workgroup of stakeholders to accomplish this.

For more information, please contact Wynnee Hawk, Manager, Policy and Legislation, Maryland Board of Physicians, 410-764-3786.

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

⁴ Md. Code Ann., Health Occ. §12-102(f)