



Board of Physicians

Wes Moore, Governor · Aruna Miller, Lt. Governor · Damean W.E. Freas, D.O., Chair

2023 SESSION POSITION PAPER

BILL NO.: SB 161 – State Board of Physicians – Dispensing Permits
COMMITTEE: Finance
POSITION: Letter of Support

TITLE: State Board of Physicians – Dispensing Permits

POSITION & RATIONALE:

The Maryland Board of Physicians (the Board) is submitting this letter of support for Senate Bill (SB) 161 – State Board of Physicians – Dispensing Permits. SB 161 would move the authority for inspection of physicians who hold in-office dispensing permits from the Office of Controlled Substances Administration (OCSA) to the Board. All of the requirements and standards for dispensing physicians would remain the same. The Board urges the Committee to submit a favorable report on SB 161.

Under current law, when a physician in Maryland wishes to dispense prescription drugs or devices directly from their office, they are required under Health Occupations Article § 12-102 to obtain a dispensing permit from the Board. The dispensing physician is subject to a number of requirements related to labeling, storage, record-keeping, reporting, signage and more.

As a regulatory body charged with protecting the public, the Board is responsible for disciplining any physician who fails to comply with the laws governing dispensing found in Health Occupations Article § 12-102 (m). Unfortunately, the current process for handling the dispensing permit inspections is filled with inefficiencies and roadblocks that frequently delay or in some cases prevent the Board from fulfilling this responsibility. Once the Board issues a dispensing permit, it is then forwarded to the Office of Controlled Substances Administration (OCSA) to initiate an inspection. When the inspection is concluded, OCSA then sends its inspection reports back to the Board, which is responsible for processing the inspection reports and initiating any investigations or disciplinary proceedings if necessary. Because OCSA inspectors do not collect evidence for the Board during the inspection process, when findings occur that might present a violation of the Pharmacy Act or the Medical Practice Act, the Board must then send its own inspectors to re-inspect a facility and collect evidence. At a minimum this creates a significant delay in the investigative process. In some cases, it prevents the Board from pursuing disciplinary action outright.

SB 161 would seek to remedy these unnecessary delays by moving the authority for inspections from OCSA to the Board, while keeping all other requirements the same. This would bring inspection of dispensing permit holders in line with the inspections performed for all other Board investigations, which are conducted by Board inspectors. Board inspectors are duly trained in evidence collection and already have statutory authority to enter and inspect the place of business of any licensed facility. Conducting its own inspections would allow the Board to increase the frequency and timeliness of these inspections and more quickly move to take action if violations are found.

Meanwhile, OCSA would still retain authority over all physicians who prescribe or dispense controlled

dangerous substances (CDS) through the CDS Registration, and in cases where a Board inspector finds violations involving CDS, the case would immediately be referred to OCSA. This will allow OCSA to continue monitoring the CDS Registration without being required to devote resources to on-site inspections for permit-holders that they have no disciplinary authority over. The overall result would be increased patient protection and a quicker, more cost-efficient process for inspections.

Thank you for your consideration. For more information, please contact Matthew Dudzic, Manager of Policy and Legislation, Maryland Board of Physicians, 410-764-5042.

Sincerely,



Damean W. E. Freas, D.O.
Chair, Maryland Board of Physicians

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