

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

Senate Bill 610 (Senator Klausmeier, *et al.*)
 Finance and Judicial Proceedings

Health - Overdose Response Program - Establishment

This bill establishes an Overdose Response Program in the Department of Health and Mental Hygiene (DHMH) to authorize certain individuals (through the issuance of a certificate) to administer naloxone to an individual experiencing, or believed to be experiencing, opioid overdose to help prevent a fatality when medical services are not immediately available. To qualify for a certificate, an individual must (1) be 18 or older; (2) have, or reasonably expect to have, the ability to assist an individual who is experiencing an opioid overdose; and (3) successfully complete an educational training program approved by DHMH. A physician or nurse practitioner may prescribe and dispense naloxone to a certificate holder.

Fiscal Summary

State Effect: General fund expenditures for DHMH increase by at least \$48,700 in FY 2014 to establish an Overdose Response Program. Actual costs to implement the program may be significantly higher and depends on the regulations adopted by DHMH. While the bill authorizes the collection of fees to administer the program, it is unlikely that fees will be collected given the nature of the program. Future years reflect annualization and inflation.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	48,700	61,300	64,200	67,300	70,500
Net Effect	(\$48,700)	(\$61,300)	(\$64,200)	(\$67,300)	(\$70,500)

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

Local Effect: To the extent that local health departments are designated to conduct educational training programs and issue certificates, local health department expenditures increase by a potentially significant amount.

Small Business Effect: None.

Analysis

Bill Summary: DHMH may adopt regulations and collect fees to administer the program, authorize private or public entities to issue and renew certificates to eligible individuals and conduct educational training programs, and collect and report data on the operations and results of the programs.

Educational training programs must be conducted by a licensed Maryland physician or nurse practitioner or by an employee or volunteer of a private or public entity that maintains a written agreement with a supervisory physician or nurse practitioner. Training must cover recognition of the symptoms of an opioid overdose, proper administration of naloxone, the importance of contacting emergency medical services, the care of an individual after administration of naloxone, and any other topics required by DHMH.

A private or public entity authorized by DHMH must issue a certificate to any applicant who meets the specified requirements. Each certificate must include a statement that the holder is authorized to administer naloxone, the full name of the certificate holder, and a serial number. A certificate is valid for two years and may be renewed. To renew a certificate, a certificate holder must successfully complete a refresher training program or demonstrate proficiency to the public or private entity issuing certificates.

An individual who is certified may receive a prescription for naloxone and the necessary supplies for administration from a licensed physician or nurse practitioner in the State. In an emergency situation when medical services are not immediately available, a certified individual may administer naloxone to an individual experiencing or believed to be experiencing an opioid overdose.

The bill prohibits a cause of action against a certificate holder for any act or omission when the certificate holder is acting in good faith while rendering emergency treatment to an individual experiencing or believed to be experiencing an opioid overdose unless the conduct of the certificate holder amounts to gross negligence, willful or wanton misconduct, or intentionally tortious conduct. A certificate holder in possession of or administering naloxone to an individual experiencing or believed to be experiencing an opioid overdose may not be held civilly or criminally liable for actions authorized by the bill. A certificate holder administering naloxone in accordance with the bill's requirements may not be considered to be practicing medicine.

The bill prohibits a cause of action against any physician or nurse practitioner for any act or omission when the physician or nurse practitioner in good faith prescribes naloxone and the necessary supplies for administration. A physician or nurse practitioner cannot be held civilly or criminally liable for actions authorized by the bill.

The bill does not affect, and may not be construed to affect, any immunities from civil liability or defense established by any other provision of law. The bill may not be construed to create a duty on an individual to obtain a certificate or administer naloxone nor may an individual be held civilly liable for failing to obtain a certificate or any action arising from or in connection with the administration of naloxone solely because the individual did not possess a certificate.

Current Law/Background: DHMH's Alcohol and Drug Abuse Administration (ADAA) establishes and supports a drug and alcohol abuse service delivery system in the State. ADAA develops, establishes, regulates and promotes, and supports and monitors programs for prevention, treatment, and rehabilitation related to alcohol and drug abuse. It also promotes and conducts substance abuse-related education, training, data collection, and research.

According to ADAA, drug overdoses are a serious public health challenge in Maryland and across the country. During the past decade, national increases in the number of fatal overdoses have been driven primarily by an epidemic of pharmaceutical opioid abuse. In Maryland, deaths related to pharmaceutical opioids increased during this time, while those involving illicit drugs declined. However, in 2012, Maryland experienced a shift from pharmaceutical opioids to heroin, mirroring a trend being reported in other states.

Naloxone (also known as Narcan®) is an opioid antagonist long used in emergency medicine to rapidly reverse opioid-related sedation and respiratory depression. Naloxone is being made available to opioid users through community-based harm-reduction programs (including needle exchange and community health programs), substance use disorder treatment providers, and others that have contact with high-risk populations. These programs typically train opioid users on risk factors associated with overdose, overdose recognition, naloxone administration, and overdose response techniques. Users are also provided with a prescription for and kit containing naloxone (intramuscular injection or intranasal administration). As of 2010, there were 48 known programs in the United States, representing 188 community-based sites in 15 states and the District of Columbia.

Three states (Massachusetts, New York, and New Mexico) distribute naloxone and an intranasal dispensing device to drug users and methadone patients. Since 2004, the Baltimore City Health Department's Staying Alive Drug Overdose Prevention and

Response Program (the only program in Maryland) has trained more than 3,000 injection drug users, drug-treatment patients and providers, prison inmates, and corrections officers about how to prevent drug overdoses using naloxone, with more than 220 documented overdose reversals.

State/Local Fiscal Effect: General fund expenditures for ADAA increase by \$48,682 in fiscal 2014, which accounts for the bill’s October 1, 2013 effective date. This estimate reflects the cost of hiring one grade 14 coordinator of special programs to adopt regulations for the administration of the program, develop guidance regarding the content of educational training programs, and authorize private or public entities to issue and renew certificates and conduct educational training programs. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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Salary and Fringe Benefits	\$43,636
One-time Start-up Costs	4,615
Ongoing Operating Expenses	<u>431</u>
Total FY 2014 State Expenditures	\$48,682

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

While the bill authorizes DHMH to collect fees to administer the program, it is unlikely that the department would do so given the individuals and entities likely to participate in the program either as private or public entities issuing certificates and offering educational training programs, or individuals seeking certificates to administer naloxone (those likely to have the ability to assist an individual experiencing an opioid overdose). Baltimore City does not charge certification fees.

As the bill establishes the program but does not require its implementation statewide, the estimate does not reflect the cost to fully implement the program. Under the bill, DHMH could authorize public or private entities (including health care providers, local health departments, community-based organizations, substance abuse treatment organizations, or other persons that address medical or social issues related to drug addiction) to issue certificates and provide training.

For illustrative purposes only, according to the Maryland Association of County Health Officers, to the extent that local health departments are designated to implement the program in each county statewide, the cost of the program could be as much as \$1.7 million to \$2.3 million annually. This estimate is based on the cost of (1) providing one certified associate counselor – alcohol and drug to each of the 24 local health

departments (including Baltimore City, which already has a similar program) to provide training and issue certificates; (2) the shared cost of 2.5 physicians to provide oversight to all 24 jurisdictions; and (3) the cost of take-home naloxone kits to be issued to certificate holders. The Department of Legislative Services advises that the costs could be much lower, given that Baltimore City's Staying Alive program costs just over \$100,000 annually.

Additional Information

Prior Introductions: None.

Cross File: HB 890 (Delegate Bromwell) - Health and Government Operations.

Information Source(s): Harm Reduction Coalition, Public Health Fact Sheet - Intranasal Naloxone and Opioid Overdose, Open Society Foundations; Judiciary (Administrative Office of the Courts); Department of Health and Mental Hygiene; Department of Legislative Services

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