



Maryland
Hospital Association

February 20, 2019

To: The Honorable Delores Kelley, Chair & Honorable Brian Feldman Vice Chair
Senate Finance Committee

From: Jennifer Witten, Vice President of Government Affairs
Maryland Hospital Association

Re: Letter of Concern- Senate Bill 430- Maryland Health Care Commission - Authorized Prescribers - Reporting of Financial Gratuities or Incentives

Dear Chair Kelley:

On behalf of the Maryland Hospital Association's (MHA) 62-member hospitals and health systems, we appreciate the opportunity to comment on Senate Bill 430. Maryland's hospitals appreciate the intent of this legislation; however, these provisions are already required by federal law, would create additional cost to the state and are duplicative.

MHA Position

The Affordable Care Act requires the Centers for Medicare & Medicaid Services (CMS) to collect information from manufacturers and group purchasing organizations regarding their financial relationships with physicians and hospitals. In addition, the federal Physician Payments Sunshine Act requires manufacturers of drugs, medical devices, biological and medical supplies covered by Medicare, Medicaid, and the State Children's Health Insurance Program to collect and track all financial relationships with physicians and teaching hospitals, and report these data to CMS.

The goal of these existing laws is to increase the transparency of financial relationships between health care providers and pharmaceutical manufacturers, and to uncover potential conflicts of interest. Open Payments is the federal program that collects and makes available this information via the CMS website. Among the payments to be reported by manufacturers and group purchasing organizations are consulting fees, fees for serving as faculty or as a speaker at an event other than a continuing education program, honoraria, gifts, entertainment, food and beverage, travel and lodging, education, research, charitable contributions, and more.

Federal law rightfully puts the reporting onus on manufacturers and group purchasing organizations because they are the ones making the payments. Such financial arrangements are often necessary and beneficial, and reflect collaborations between medicine and industry that can advance patient care. They apply to teaching hospitals because they are typically made as part of investigational studies. Community hospitals are not usually involved in these kinds of studies, and to require such reporting of them would create an administrative burden with no associated public benefit.

SB 430, by requiring hospitals and physicians to report these payments to the Maryland Health Care Commission, which then would have to create and maintain a searchable database, would impose regulatory red tape on these providers and place yet more demands on a state agency whose efforts should be focused on ensuring quality care for patients and communities.

In addition, SB 430 does not define what constitutes an “agreement” between a hospital or physician and a manufacturer. Some are written and finalized with an execution date, others are unwritten agreements. Finally, the \$1,000 per violation fine is high, especially since the bill does not clarify who must report and specifically what a violation might encompass.

For these reasons, and the fact that this bill represents duplicative requirements, we recommend you give SB 430 an *unfavorable* report.