

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0709-02
Bill No.: SB 158
Subject: Hospitals; Health Care Professionals; Health Department; Drugs and Controlled Substances
Type: Original
Date: January 24, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(\$971,282)	(\$1,042,258)	(\$942,823)
Total Estimated Net Effect on General Revenue Fund	(\$971,282)	(\$1,042,258)	(\$942,823)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development - Division of Professional Registration**, the **Department of Public Safety**, the **Office of Prosecution Services**, the **Department of Mental Health**, the **Office of State Courts Administrator**, and the **Department of Social Service** assume this proposal would not fiscally impact their agencies.

Officials from the **Office of the Secretary of State (SOS)** state this proposal instructs the Department of Health and Senior Services to establish and maintain a system to monitor the prescribing and dispensing of controlled substances and coordinate this information with the Board of Pharmacy. The Department of Health and Senior Services may promulgate rules to enact this legislation. Based on experience with other divisions, the rules, regulations and forms issued by the Department of Health and Senior Services could require as many as 24 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in

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future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$1,476 in FY 06.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **State Public Defender** (SPD) assume that existing staff could provide representation for those few cases arising where indigent persons were charged with possession of the newly controlled substances.

The SPD assumes passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

Officials from the **Department of Health and Senior Services** (DOH) assume this proposal would create a prescription drug monitoring program. The program would establish a database for prescription information submitted by licensed pharmacies and other dispensing practitioners. Using this database, reports could be requested by practitioners, state regulatory agencies and law enforcement to identify patterns of controlled substance use in the state. Patients would also be able to request a report of their own controlled substance use. In addition, this database would be used to support controlled substance enforcement activities of the Bureau of Narcotics and Dangerous Drugs (BNDD), where the program would be housed.

The DOH assumes the implementation of the prescription monitoring program would have a significant impact upon controlled substance diversion in the state of Missouri. Knowledge of the existence of the program would have a sentinel effect, reducing inappropriate prescriptions for controlled substances sought by drug seekers.

Assumptions:

Population of the state of Missouri 2000 (Source: US Census Bureau) - 5,595,221

Population of the state of Missouri 2003 estimated (Source: US Census Bureau) - 5,704,484
(Round to 5.7 million)

Population of the state of Kentucky 2000 (Source: US Census Bureau) - 4,041,769

Population of the state of Kentucky 2001 (Source: US Census Bureau) - 4,065,556 (Round to 4.1

ASSUMPTION (continued)

million)

Per Missouri Department of Social Services, Division of Medical Services:

Missouri Medicaid eligibles: 990,552

Missouri Medicaid eligibles enrolled in a managed care plan: 446,965

Missouri Medicaid fee-for-service (ffs) eligibles: $990,552 - 446,965 = 543,587$

Controlled Substance (CS) prescriptions for Medicaid ffs eligibles: 2,069,892 for Calendar Year 2004
Rate of CS prescriptions per eligible: $2,069,892 / 543,587 = 3.8$ Rx per eligible per year.

Assume that utilization of CS by the general population is consistent with that experienced by the Missouri Medicaid fee-for-service pharmacy program.

$5,700,000$ individuals \times 3.8 CS Rx/individual /year = $21,660,000$ CS Rx per year

Statistics from Kentucky prescription monitoring program:

Reporting of 40.6 million Rx has been received over the five years of the program.

$40,600,000 / 5 = 8,120,000$ CS Rx per year

Rx are reported by 2,100 licensed pharmacies

Requests for reports from practitioners, etc. have increased from an initial 100 requests per day to close to 500 requests per day, 85% of which are from practitioners.

Reports are provided to practitioners free of charge.

The program reportedly sought \$1.4 million in additional operating funds to meet costs related to increased usage by all users, particularly physicians last fiscal year.

Staffing:

One (1.00 FTE) Health and Senior Services Manager Band 1 would be needed to prepare required reporting to the Department of Justice based on the conditions of any grant received.

This individual would also draft a request for proposal to solicit bids for the required database.

Once the contract is awarded, this individual would be needed on an ongoing basis to monitor the database contract and program, maintain ongoing communication with professional organizations regarding compliance with reporting requirements, and other state and local agencies and the public regarding the program. This individual would also be responsible for coordinating with investigative management of the BNDD for enforcement activities.

One (1.00 FTE) Health Program Representative (III) would be required to develop policies and procedures for reporting by dispensers, access to data by authorized parties; provide technical assistance to program participants on matters relating to the program; supervise subordinate staff involved in program implementation; design and prepare reports of program data; and review data collected to determine trends. This individual would work with the contractor to develop

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effective report formats for program participants and interested parties.

One (1.00 FTE) Administrative Office Support Assistant would be required to provide the complex administrative assistance required by the Public Health Manager and Health Program Representative and to provide supervision to subordinate staff. Duties would also include tracking of activities required under the contract and coordination of communication with other agencies and the public.

One (1.00 FTE) Senior Office Support Assistant would be required to log requests from program participants and interested parties for reports from the database and for tracking response to those requests. This individual would be responsible for direct supervision of support staff generating requested reports and for responding the telephone inquiries regarding the program.

Five (5.00 FTE) Office Support Assistants, to be hired as needed to respond to the volume of requests for database reports received. These individuals would generate and e-mail, or generate, print and fax the requested reports as requested by authorized individuals and agencies. Kentucky initially received 100 requests per day. The Kentucky program now receives and processes close to 500 requests per day.

Two (2.00 FTE) Investigator III positions would be needed to respond to the additional cases identified through access to prescription data. These individuals would also be responsible for educating and assisting other state and local agencies in interpreting and applying the data available with regard to state controlled substance law.

The costs for FY06 for staff are shown as 9 months for staff needed to develop the program (Health & Senior Services Manager Band 1, Health Program Representative III and the Administrative Office Support Assistant); 3 months for the Sr. Office Assistant and one of the Office Support Assistants; the remainder of the staff would begin in FY07. Additional travel expenses would be required for the Manager and Health Program Representative.

Oversight has, for fiscal note purposes only, changed the starting salary for the DOH positions to the first step for FY 06 and the second step for subsequent years to correspond to comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Revenue:

The DOH did not estimate a potential revenue that could be generated by charging a fee for

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processing requests for prescription monitoring information which could offset costs of the program. Additionally, the DOH has applied for a federal grant for \$350,000 to partially support start up costs for this type of program; however, since those grant monies are through a competitive award process, one-time revenue from a grant is not being shown on the fiscal note worksheet.

Database contractor:

It is estimated that it would be necessary to contract with at least two separate vendors, one contract would be for collection of the data from pharmacies and other dispensing practitioners and the other contract would be for software, including web center software to provide the tools to generate reports and patient profiles. It would also be necessary to subscribe to a service that identifies controlled substances by national drug code (NDC).

The FY06 cost for the database contractor is shown as \$800,000 that would include \$400,000 for the data collection contract, including start-up and training, \$300,000 for the data management/report generation contract and \$100,000 for the NDC subscription.

The contract costs for subsequent years for the data collection and data management contracts were reduced as follows:

SFY 07 Data Collection	\$320,000 (less start-up and indicating reduced non-pharmacy dispensings)
SFY 07 Data Management	\$85,000 (software licenses and maintenance less start-up costs)
SFY 07 NDC Subscription	\$100,000
SFY 08 Data Collection	\$250,000 (less start-up and indicating reduced non-pharmacy dispensings)
SFY 08 Data Management	\$85,000 (software licenses and maintenance less start-up costs)
SFY 08 NDC Subscription	\$100,000

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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GENERAL REVENUE

Costs - Department of Health and Senior Services

Personal Services (5, 11, 11 FTE)	(\$86,544)	(\$299,075)	(\$306,551)
Fringe Benefits	(\$36,920)	(\$127,585)	(\$130,775)
Expense and Expense	<u>(\$847,818)</u>	<u>(\$615,598)</u>	<u>(\$505,497)</u>

ESTIMATED NET EFFECT ON GENERAL REVENUE

<u>(\$971,282)</u>	<u>(\$1,042,258)</u>	<u>(\$942,823)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

Licensed pharmacies and dispensing practitioners would incur an unknown fiscal impact for purchasing electronic equipment, software, and related man-hours required in entering and transmitting data to the Department of Health and Senior Services

DESCRIPTION

This proposal establishes a prescription monitoring program in the Department of Health and Senior Services. The program will monitor the prescribing and dispensing of all Schedule II through Schedule V controlled substances by all licensed professionals who prescribe or dispense these substances in Missouri. The dispenser must electronically submit to the department information for each prescription and specifies the frequency of the submissions. The department may issue a waiver to a dispenser who is unable to submit the required information electronically. If a waiver is obtained, a dispenser can submit the required information in paper format or by other approved means. All submitted prescription information shall be confidential. Exceptions to this requirement include violations of law or breach of professional standards which result in an investigation and the submission or the release of prescription information to authorized persons.

The proposal authorizes the release of non-personal, general information for statistical,

ASSUMPTION (continued)

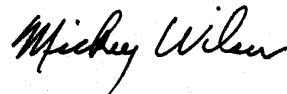
educational, and research purposes. The department may contract with other state agencies or private vendors to implement the provisions of this act. The act contains penalty provisions for dispensers and authorized persons who violate provisions of the act. The department is required to implement certain education courses regarding the prescription monitoring program. The department shall, when appropriate, work with associations for impaired professionals to ensure ongoing monitoring and treatment and encourage individual patients who are addicted to substances monitored by the program to receive addiction treatment.

The provisions of this act shall be effective on January 1, 2006 and sunset in six years.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development -
Division of Professional Registration
Department of Public Safety
Office of Prosecution Services
Department of Mental Health
Office of State Courts Administrator
Department of Social Service
Office of the Secretary of State
State Public Defender
Department of Health and Senior Services



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Director
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