

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3857-01
Bill No.: SB 797
Subject: Hospitals; Health Care Professionals; Health Department; Drugs and Controlled Substances
Type: Original
Date: January 24, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(\$940,968)	(\$1,019,085)	(\$1,028,592)
Total Estimated Net Effect on General Revenue Fund*	(\$940,968)	(\$1,019,085)	(\$1,028,592)

*Subject to appropriations

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development - Division of Professional Registration**, the **Department of Public Safety-Missouri State Highway Patrol**, the **Office of Prosecution Services**, 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 Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal to SOS's office for Administrative Rules is less than \$1,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, SOS states many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what SOS can sustain with our core budget. Therefore, SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Officials from the **Office of the State Public Defender (SPD)** assume existing staff could not provide competent, effective representation for any cases arising where indigent persons were charged with failure to provide information to the prescription monitoring program. SPD assumes this new crime will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the **Department of Mental Health (DMH)** state the proposal excludes hospitals under Chapter 197 RSMo, a practitioner or other authorized person who administers such substances, and wholesale distributors of such controlled substances. DMH states those facilities that operate pharmacies do so in support of inpatient programs for the most part, and thus most of the dispensing activity performed would not be subject to this law. DMH states the exception would be those facilities with dispensing pharmacies that fill Emergency Services prescriptions. Initial set-up of records and monthly maintenance and logging of activity would be required; however, this cost should be minimal. DMH states it would absorb these costs. Dispensers of Methadone & Naltrexone under the Division of Alcohol and Drug Abuse programs which fit the bill's definition of a "dispenser" may incur minimal costs associated with meeting the requirements of the proposal. DMH states such costs would not be paid for by DMH.

Officials from the **Department of Health and Senior Services (DOH)** assume this proposal would create a prescription drug monitoring program for controlled substances. 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.

ASSUMPTION (continued)

Assumptions:

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

Population of the state of Missouri 2005 estimated (Source: US Census Bureau) - 5,800,310
(Round to 5.8 million)

1,108 pharmacies with controlled substance registrations in Missouri

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) - 4,173,405 (Round to 4.2 million)

Population of the state of Oklahoma 2005 (Source: US Census Bureau) - 3,547,884 (Round to 3.5 million)

882 pharmacies with controlled substance registrations in Oklahoma (Source: DEA)

Per Missouri Department of Social Services, Division of Medical Services (obtained SFY 2005):

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: 135,256/month using calendar year 2004 and calculating an average for the year. $12 \times 135,256 \text{ mo} = 1,623,072 \text{ Rx per year}$

Rate of CS prescriptions per eligible: $135,256 / 543,587 = .24882 \text{ CS Rx per eligible}$; will use .25 CS Rx per eligible per month

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

$5,800,000 \text{ individuals} \times .25 \text{ CS Rx/individual} = 1,450,000 \text{ CS Rx per month}$

$1,450,000 \times 12 = 17,400,000 \text{ CS Rx per year}$

Statistics from Kentucky prescription monitoring program:

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

$40,600,000 / 5 = 8,120,000 \text{ CS Rx per year}$

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

The program has utilized US Dept. Of Justice, Bureau of Justice Assistance, Harold Rogers

ASSUMPTION (continued)

Prescription Monitoring Program grant funds each year for enhancements to the program.

Information from the Oklahoma prescription monitoring program:

Cost to implement and maintain prescription monitoring, including hardware and software, excluding staff = approximately \$400,000 per year

The program has utilized US Dept. Of Justice, Bureau of Justice Assistance, Harold Rogers Prescription Monitoring Program grant funds each year for enhancements to the program.

Staffing:

One (1.00 FTE) Health and Senior Services Manager Band 1 would be needed initially to develop grant requests for DEA funds and 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 and with law enforcement and regulatory agencies of this and other states for sharing data and tracking outcomes.

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 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.

Two (2.00 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.

CM:LR:OD (12/02)

ASSUMPTION (continued)

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 10 months for staff needed to develop the program (Health & Senior Services Manager Band 1, Health Program Representative III and the Administrative Office Support Assistant) and 6 months for the rest of the staff.

Oversight has, for fiscal note purposes only, changed the starting salary for the DOH positions to the first step for FY 07 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.

Database contractor:

The start up cost of the Kentucky database was \$415,000 in 1999. Assume that this would translate to \$740,000 in 2007 dollars (7.5% increase each year)

If contract cost were to be calculated based upon volume of prescription data maintained (worst case scenario), then the cost for Missouri could be estimated at:

8,120,000 CS Rx in KY per year is to 16,800,000 CS Rx in MO per year as \$740,000 is to X.
 $X = \$1,500,000$

The annual cost of the Oklahoma program database is currently \$400,000 per year. If the contract cost were to be calculated based upon number of reporting pharmacies, then:

882 pharmacies in OK is to 1236 pharmacies in MO as \$400,000 is to Y
 $Y = \$560,500$

As more states implement prescription monitoring programs, competition among vendors also increases. Technology advances, as new programs are implemented and improved, also result in the avoidance of "re-inventing the wheel" and the possibility of lower vendor costs for these services.

The FY07 cost for the database contractor would be in a range from \$560,500 to \$1,500,000. For the purposes of this fiscal note, the figure \$650,000 will be used.

No federal grant funds are available through the US Dept. of Justice, Bureau of Justice

CM:LR:OD (12/02)

ASSUMPTION (continued)

Assistance, Harold Rogers Prescription Monitoring Program, as the deadline has passed for submitting an application, this year. Additional funding streams are being researched. Federal grant funds to implement or enhance the program may be available around August 2007, through the US Dept. of Justice, Bureau of Justice Assistance, Harold Rogers Prescription Monitoring Program for which a competitive grant announcement should be announced in late 2006.

Additional sources of funding will be sought, including a possible increase in registration fees.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
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GENERAL REVENUE

Costs - Department of Health and Senior Services

Personal Services (7 FTE)	(\$138,901)	(\$217,318)	(\$222,751)
Fringe Benefits	(\$61,200)	(\$95,750)	(\$98,144)
Expense and Expense	<u>(\$740,867)</u>	<u>(\$706,017)</u>	<u>(\$707,697)</u>

ESTIMATED NET EFFECT ON GENERAL REVENUE*	<u>(\$940,968)</u>	<u>(\$1,019,085)</u>	<u>(\$1,028,592)</u>
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*Subject to appropriations

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

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. The proposal 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 may submit the required information in paper format or by other approved means. With certain listed exceptions, all submitted prescription information shall be confidential.

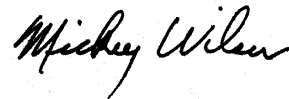
The proposal authorizes the release of non-personal, general information for statistical, educational, and research purposes. The department may contract with other state agencies or private vendors to implement the provisions of this act. The proposal contains penalty provisions for dispensers and authorized persons who violate provisions of the proposal. 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, 2007 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-
Missouri State Highway Patrol
Office of Prosecution Services
Office of State Courts Administrator
Department of Social Service
Secretary of State
Office of the State Public Defender
Department of Mental Health
Department of Health and Senior Services



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Director
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