

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4988-02
Bill No.: HB 1956
Subject: Drugs and Controlled Substances; Health Care; Health Department; Pharmacy
Type: Original
Date: April 5, 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 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 **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.

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)

1,236 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)

ASSUMPTION (continued)

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 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.

ASSUMPTION (continued)

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.

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

ASSUMPTION (continued)

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 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.

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services** and **State Public Defender** did not respond to our fiscal note request. **Oversight** assumes this proposal would not fiscally impact those agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (6 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 (6 Mo.)	FY 2008	FY 2009
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<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal establishes the Prescription Monitoring Act in the Department of Health and Senior Services. In its main provisions, the proposal:

- (1) Requires the department to develop a program, subject to appropriation, to 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;

DESCRIPTION (continued)

- (2) Requires the dispenser to electronically submit to the department information for each prescription and specifies the frequency of the submissions;
- (3) Allows the department to 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;
- (4) Requires all submitted prescription information to be confidential. Exceptions to this requirement include violations of law or breaches of professional standards which result in an investigation and the submission or the release of prescription information to authorized persons;
- (5) Authorizes the release of non-personal, general information for statistical, educational, and research purposes;
- (6) Authorizes the department to contract with other state agencies or private vendors to implement the bill;
- (7) Requires the department to develop rules to implement the bill;
- (8) Contains penalty provisions for dispensers and authorized persons who violate provisions of the bill; and
- (9) Requires the department to develop an educational course about the proposal and, when appropriate, to work with associations for impaired professionals to ensure the intervention, treatment, and ongoing monitoring of patients who have been identified as being addicted to substances monitored by the bill.

The proposal becomes effective January 1, 2007.

The provisions of the proposal will expire six years from the effective date.

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 State Courts Administrator
Department of Social Service
Office of Secretary of State
Department of Mental Health
Department of Health and Senior Services

NOT RESPONDING: Office of Prosecution Services and State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 5, 2006