

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1365-01  
Bill No.: HB 544  
Subject: Economic Development Dept.; Licenses - Professional; Pharmacy  
Type: Original  
Date: February 14, 2007

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Bill Summary: Establishes the Missouri Pharmacy Benefits Managers' Fair Trade Practice Act which specifies guidelines for pharmacy benefit managers wishing to conduct business in Missouri.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Unknown, could exceed \$615,780)	(Unknown, could exceed \$615,780)	(Unknown, could exceed \$615,780)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown, could exceed \$615,780)</b>	<b>(Unknown, could exceed \$615,780)</b>	<b>(Unknown, could exceed \$615,780)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Board of Pharmacy	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
Other State	(Unknown, could exceed \$121,290)	(Unknown, could exceed \$121,290)	(Unknown, could exceed \$121,290)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>(Unknown, could exceed \$121,290)</b>	<b>(Unknown, could exceed \$121,290)</b>	<b>(Unknown, could exceed \$121,290)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
Federal	(Unknown, could exceed \$195,930)	(Unknown, could exceed \$195,930)	(Unknown, could exceed \$195,930)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>(Unknown, could exceed \$195,930)</b>	<b>(Unknown, could exceed \$195,930)</b>	<b>(Unknown, could exceed \$195,930)</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Local Government</b>	<b>(Unknown, could exceed \$15,600)</b>	<b>(Unknown, could exceed \$15,600)</b>	<b>(Unknown, could exceed \$15,600)</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration - Administrative Hearing Commission, Office of State Courts Administrator, Missouri Department of Transportation, Department of Health and Senior Services, Department of Social Services, Department of Public Safety (DPS) - Missouri State Highway Patrol, and Missouri Department of Conservation** assume the proposal will have no fiscal impact on their organizations.

Officials from the **DPS - Director's Office** defer to the Missouri Consolidated Health Care Plan for response regarding the fiscal impact of this proposal on their organization.

Officials from the **Office of Attorney General (AGO)** assume the AGO can absorb any additional cases generated that relate to complaints against pharmacy benefit managers. If the AGO receives a large number of referrals, the AGO will seek additional appropriations necessary to handle the additional workload.

Officials from the **Missouri Consolidated Health Care Plan (HCP)** state currently the HCP requires prior authorization for certain drugs in order to promote clinically appropriate and cost-effective care. The proposed legislation appears to prevent pharmacy benefit managers (PBMs) from requiring prior authorization. In 2006, HCP's Prior Authorization Program saved the state approximately \$1,018,000. The proposal may also limit generic substitution which has become a significant cost saver to HCP. Currently, the generic utilization rate is 67%. For each 1% decrease in generic utilization, the state will incur costs of approximately \$933,000. The public entity generic utilization rate is 64%. For each 1% decrease in generic utilization, the public entity plan will incur approximately \$15,600 in additional costs.

The legislation would also prohibit mail order facilities from having lower co-payments for 90-day prescriptions than for retail. Currently, HCP members are able to fill a 90-day prescription at a mail order facility for 2 ½ co-payments rather than 3 co-payments. This could cost HCP members that utilize the mail order option 15%-20% more than they are paying today.

Requiring PBMs to publicly disclose manufacturer agreements and reimbursements to pharmacies may also cause increases in drug costs. Price disclosure could easily limit the PBMs' ability to compete with one another and to negotiate directly with pharmaceutical manufacturers. However, the fiscal impact of complete public disclosure as indicated in this proposal is not truly measurable.

ASSUMPTION (continued)

Officials from the **Department of Insurance, Financial and Professional Regulation (DIFP)** state the board of pharmacy has no mechanism in place to estimate the possible increase in complaints and investigations under this proposal. The fiscal impact to the board is unknown.

The board of pharmacy is now organized under the DIFP. The board would refer any complaints involving business and financial issues to the Insurance divisions within the department. It is estimated that the insurance divisions could handle the increase in complaints with existing staff and appropriations. However, should there be many more complaints than anticipated, the department may need to ask for additional staff and expenses through the budget process.

The DIFP estimates there are fewer than 20 pharmacy benefit managers in Missouri. As a result, although the DIFP cannot accurately estimate the cost of this proposal, they believe the costs would be less than \$100,000.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
<b>GENERAL REVENUE FUND</b>			
<u>Costs - HCP</u>			
Increase in prescription drug program costs	<u>(Unknown, could exceed \$615,780)</u>	<u>(Unknown, could exceed \$615,780)</u>	<u>(Unknown, could exceed \$615,780)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<u><b>(Unknown, could exceed \$615,780)</b></u>	<u><b>(Unknown, could exceed \$615,780)</b></u>	<u><b>(Unknown, could exceed \$615,780)</b></u>
<b>BOARD OF PHARMACY FUND</b>			
<u>Costs - DIFP</u>			
Increase in complaints and investigations	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
<b>ESTIMATED NET EFFECT ON BOARD OF PHARMACY FUND</b>	<u><b>(Unknown less than \$100,000)</b></u>	<u><b>(Unknown less than \$100,000)</b></u>	<u><b>(Unknown less than \$100,000)</b></u>

FISCAL IMPACT - State Government

FY 2008  
(10 Mo.)

FY 2009

FY 2010

**OTHER STATE FUNDS**

Costs - HCP

Increase in prescription drug program  
costs

(Unknown,  
could exceed  
\$121,290)

(Unknown,  
could exceed  
\$121,290)

(Unknown,  
could exceed  
\$121,290)

**ESTIMATED NET EFFECT ON  
OTHER STATE FUNDS**

**(Unknown,**  
**could exceed**  
**\$121,290)**

**(Unknown,**  
**could exceed**  
**\$121,290)**

**(Unknown,**  
**could exceed**  
**\$121,290)**

**FEDERAL FUNDS**

Costs - HCP

Increase in prescription drug program  
costs

(Unknown,  
could exceed  
\$195,930)

(Unknown,  
could exceed  
\$195,930)

(Unknown,  
could exceed  
\$195,930)

**ESTIMATED NET EFFECT ON  
FEDERAL FUNDS**

**(Unknown,**  
**could exceed**  
**\$195,930)**

**(Unknown,**  
**could exceed**  
**\$195,930)**

**(Unknown,**  
**could exceed**  
**\$195,930)**

FISCAL IMPACT - Local Government

FY 2008  
(10 Mo.)

FY 2009

FY 2010

**ALL LOCAL GOVERNMENTS**

Costs - All local governments

Increase in share of prescription drug  
costs

(Unknown,  
could exceed  
\$15,600)

(Unknown,  
could exceed  
\$15,600)

(Unknown,  
could exceed  
\$15,600)

**ESTIMATED NET EFFECT ON ALL  
LOCAL GOVERNMENTS**

**(Unknown,**  
**could exceed**  
**\$15,600)**

**(Unknown,**  
**could exceed**  
**\$15,600)**

**(Unknown,**  
**could exceed**  
**\$15,600)**

### FISCAL IMPACT - Small Business

This proposal could directly impact small business pharmacies and small businesses that provide insurance with pharmacy benefits, if it were to result in an increase in premiums.

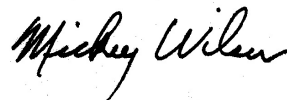
### FISCAL DESCRIPTION

This proposal establishes the Missouri Pharmacy Benefits Managers' Fair Trade Practice Act which specifies guidelines for pharmacy benefit managers conducting business in this state. The proposal contains provisions relating to program enrollment, pharmacy contracts, audits, advertising, fraud, and the authority of the State Board of Pharmacy.

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

Office of Attorney General  
Office of Administration -  
    Administrative Hearing Commission  
Office of State Courts Administrator  
Missouri Department of Transportation  
Department of Insurance, Financial and Professional Regulation  
Department of Public Safety -  
    Director's Office  
    Missouri State Highway Patrol  
Department of Health and Senior Services  
Department of Social Services  
Missouri Consolidated Health Care Plan  
Missouri Department of Conservation



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Mickey Wilson, CPA  
Director  
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