

Department of Planning and Budget 2002 Fiscal Impact Statement

1. Bill Number SB425

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron Wampler

3. Committee Education and Health

4. Title Prescription Monitoring Program established

5. Summary/Purpose: Requires the Director of the Department of Health Profession to establish the Prescription Monitoring Program, which will require reports to the department from dispensers of certain drugs (to be called "covered substances") that will include detailed information on the recipient of the prescription and the drug prescribed. The "covered substances" will include all Schedule II through Schedule IV controlled substances as defined in the Drug Control Act and may include, pursuant to the Department's regulations, substances designated by the Director from Schedules V and VI. Certain dispensing circumstances are exempted, for example, the dispensing of manufacturers' samples. The information in possession of the Program is exempted from the Freedom of Information Act; however, the Director is authorized to disclose information under limited circumstances to prescribers, dispensers, the Department of State Police and others. The Director is also authorized to notify the Attorney General or the appropriate attorney for the Commonwealth of possible violations of law and to disclose information to dispensers and prescribers that indicates a potential detriment to a recipient. Immunity from liability is provided to the Director and the Department's employees for the accuracy or lack thereof of the data reported. Penalties for violations of this act will be Class 1 misdemeanors. Licensees may be subject to disciplinary action by the relevant board for failure to report or for unauthorized use or disclosure of the confidential information. Pursuant to enactment clauses, the Director is required to promulgate emergency regulations and the reporting requirements will not be implemented until the dates specified in the regulations. All dispensers and prescribers must be notified of the implementation date. The Director is authorized to contract for the implementation and maintenance of the Prescription Monitoring Program. As amended, an additional enactment clause states that the provisions of this act shall be implemented with such federal funds or other federal grants that may become available.

6. Fiscal impact is preliminary

6a. Expenditure Impact:

Fiscal Year	Dollars	Positions	Fund
2002-03	\$1,000,000	3.0	GF/NGF*
2003-04	\$500,000	3.0	GF/NGF*

6b. Revenue Impact:

Fiscal Year	Dollars	Positions	Fund
2001-02	\$1,000,000	-	NGF

2002-03 \$500,000 - NGF

*The bill has been amended to eliminate language that requires its provisions to be funded by special dedicated revenues collected from practitioner fees and to add an enactment clause which states that the provisions of this act shall be implemented with such federal funds or other federal grants that may become available. Although it seems that the intent of these amendments is to ensure that practitioner fees are not used to support this program, the department maintains that practitioner fees might still be used to implement the legislation.

7. Budget amendment necessary: Yes, item 321.

8. Fiscal implications: The Department of Health Professions has not completely assessed the costs and workload associated with the implementation of this legislation. Based on recommendation 3 of House Document 18 (2002) the estimated start-up cost for a prescription monitoring system in Virginia would be about \$1.0 million.

“The Virginia Attorney General’s Task Force on Prescription Drug Abuse has noted that prescription monitoring systems in Nevada and Kentucky have received particular praise among the various systems currently in place in 18 states. Under Task Force consideration is a recommendation for the creation of a prescription monitoring system for Virginia; the system will provide a central data center for data from pharmacies on controlled substance prescriptions... The anticipated start-up cost for such an initiative is over \$1 million, with the Department of Health Professions the likely repository for this data.”

Based on further information on Kentucky’s (similar demographic to Virginia) experience, DHP estimates that Virginia could implement a similar monitoring system for about \$1.0 million the first year and \$500,000 each subsequent year. In addition, the department would require three additional positions.

The bill has been amended to eliminate language that requires its provisions to be funded by special dedicated revenues collected from practitioner fees and to add an enactment clause which states that the provisions of this act shall be implemented with such federal funds or other federal grants that may become available. Although it seems that the intent of these amendments is to ensure that practitioner fees are not used to support this program, the department maintains that practitioner fees might still be used to implement the legislation. Therefore, if practitioner fees supported this legislation, it would impact approximately 50,000 persons who either prescribe or dispense the controlled substances outlined in the bill (pharmacists, doctors of medicine, osteopathy and podiatry, dentists, veterinarians, optometrists, nurse practitioners, physician assistants). Therefore, the appropriate regulatory boards would be required to share the cost of this program. The department estimates that this legislation would require a fee increase of about \$18 per year or \$36 biennially.

The agency estimates that it will cost approximately \$5,000 in the first year to promulgate the emergency regulations required by this legislation. These costs are associated with the rule making process and include expenses for committee meetings, public hearings, and mailings.

Persons violating the provisions of this legislation are subject to being sentenced to jail terms. There is not enough information available to reliably estimate how many additional prisoners in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanor held in jail. It also funds most of the jails’ operating costs, e.g. correctional officers. The state’s share

of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board, the total state support for local jails averaged \$30.94 per inmate, per day in FY2000.

9. Specific agency or political subdivisions affected:

Department of Health Professions

10. Technical amendment necessary: No

11. Other comments: HB545 is a companion to this bill.

Date: 02/17/02/kwm

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cc: Secretary of Health and Human Resources