

**STATE
FISCAL IMPACT**

Note: This fiscal note is provided pursuant to Joint Rule 22 (b) (2) and reflects strike-below amendment L.003.

Drafting Number: LLS 11-0865	Date: March 31, 2011
Prime Sponsor(s): Sen. Aguilar; Spence Rep. Massey	Bill Status: Senate Health and Human Services Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING THE CONTINUATION OF THE PRESCRIPTION DRUG MONITORING PROGRAM, AND, IN CONNECTION THEREWITH, REPEALING THE PRESCRIPTION CONTROLLED SUBSTANCE ABUSE MONITORING COMMITTEE.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013**
State Revenue		
General Fund	<\$5,000	<\$5,000
Cash Funds		
Prescription Drug Monitoring Fund	85,000*	340,000*
State Expenditures		
Cash Funds		
Prescription Drug Monitoring Fund	\$50,326	\$302,822
FTE Position Change	1.0 FTE	1.7 FTE
Effective Date: July 1, 2011.		
Appropriation Summary for FY 2011-2012: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

* Revenue is greater than expenditures to cover the costs in the Expenditures Not Included section of the fiscal note.

** FY 2012-13 includes base revenue and expenditures to continue the program.

Summary of Legislation

With amendment L.003, this bill continues the electronic prescription drug monitoring program (PDMP) until July 1, 2021, clarifies that only prescriptions that have been dispensed are to be tracked, repeals the prescription controlled substance abuse monitoring advisory committee, and makes changes to the administration of the program.

Access to the PDMP database is expanded to allow law enforcement officials and regulatory boards in the Department of Regulatory Agencies (DORA) to access the prescriber information during a bona fide investigation of a prescriber. A request for information must be accompanied by an official court order or subpoena. The population of providers eligible to access the system is expanded to include pharmacists providing clinical patient care services, and resident physicians with active physician training licenses working under the supervision of a licensed physician.

The bill requires prescribers to disclose to patients receiving prescriptions for controlled substances that their prescription information will be entered into the PDMP and that it may be accessed for limited purposes by specified individuals. The regulatory boards for prescribers must promulgate rules regarding the disclosure process.

Under current law, the fee prescribers pay to fund the PDMP is capped at \$7.50 per year. Under this bill, the cap is removed but the fee is limited to the approximate direct and indirect costs of the program. Fines levied for inappropriate access will be deposited into the General Fund rather than the Prescription Drug Monitoring Fund.

Fiscal impact of programs set to expire. This bill continues a program in the Division of Registrations in the DORA that is set to repeal, effective July 1, 2011. Under current law, state agencies may be appropriated funds to wind up the affairs of an expiring program for 12 months following the repeal date. To account for the wind-up period, the impact of extending the program beyond the current repeal date is shown as beginning in FY 2012-13, one year after the repeal date. There is no need for an appropriation for the base budget of the program in FY 2011-12, since the program's authorization has not yet expired, and ongoing funding for the program is included in the DORA's base budget request for FY 2011-12. Current funding for the program is \$261,000 and 0.7 FTE. Of this, \$188,000 is paid to a vendor to maintain the database.

Background

The PDMP is an online database that collects designated data on controlled substances dispensed or prescribed within Colorado. Data include the name of the prescriber and patient, drug name and dosage, the quantity supplied, the number of refills, and the name of the dispensing pharmacy. The PDMP was created by the General Assembly in 2005 to give prescribers a way to monitor patients' use of controlled substances, with the goal of reducing prescription drug abuse. The PDMP is funded with a \$7.50 surcharge on prescriber renewals and federal grant monies and is operated within the State Board of Pharmacy. A sunset review was conducted in 2010 which recommended that the PDMP be continued.

State Revenue

This bill will result in increased revenue of \$85,000 in both FY 2011-12 and FY 2012-13, from fees to the Prescription Drug Monitoring Fund. Additional fine revenue of less than \$5,000 to the General Fund is assumed for each fiscal year. Base revenue of \$255,000 (34,000 x \$7.50) is shown in the FY 2012-13 total.

Fee impact on prescribers. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. Senate Bill 11-192 impacts multiple license types across several health care professions. A total population of approximately 34,000 is affected by this fee, although in any given fiscal year the individual count of applicable fee payers will depend on renewal schedules. Generally, the annual fee is expected to be raised by approximately \$2.50 across all licensees. The actual fee will be set by the board based on the direct and indirect costs of the program. Table 1 identifies the fee impact of this bill.

Table 1. Fee Impact on Prescribers					
Type of Fee	Current Fee	Proposed Fee	Fee Change	Number Affected	Total Fee Impact
License renewal surcharge	\$7.50	\$10.00	\$2.50	34,000	\$85,000
TOTAL					\$85,000

Revenue from fines. The bill requires that fines levied for the inappropriate release of information be placed in the General Fund rather than the Prescription Drug Monitoring Fund. To date, no such fines have been levied, so the fiscal note assumes less than \$5,000 will be deposited into the General Fund annually.

State Expenditures

The bill is expected to increase expenditures by \$50,326 and 1.0 FTE in FY 2011-12 and \$41,822 and 1.0 FTE in FY 2012-13. The cost for continuing the program is \$261,000 beginning in FY 2012-13. This is included in the fiscal impact summary on page 1 but not shown in Table 2.

As a result of the requirement for prescribers to notify patients about their inclusion in the PDMP, the board is expected to see an increase in the number of inquiries received from patients. For patients wanting to access their records, staff will be required to verify that the person requesting the release is the named individual. Greater access to and awareness of the PDMP is expected to result in an increase in complaints about data inaccuracies and unauthorized access. Because law enforcement will be able to access prescriber information, additional subpoenas are expected to be received. To address these increases in workload, the board requires additional staffing. The DORA will do outreach to make prescribers aware of the new requirements. These expenditures are shown in Table 2. The regulatory boards for prescribers are expected to promulgate applicable rules using existing appropriations.

Table 2. Expenditures Under SB 11-192		
Cost Components	FY 2011-12	FY 2012-13
Personal Services	\$40,872	\$40,872
FTE	1.0	1.0
Operating Expenses and Capital Outlay	8,921	950
Outreach Travel	533	
TOTAL	\$50,326	\$41,822

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 3.

Table 3. Expenditures Not Included Under SB 11-192*		
Cost Components	FY 2011-12	FY 2012-13
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$7,100	\$7,100
Supplemental Employee Retirement Payments	1,850	2,179
Indirect Costs	6,798	6,798
Workers Compensation and Risk Management	140	140
Leased Space	4,200	4,200
TOTAL	\$20,088	\$20,417

**More information is available at: <http://colorado.gov/fiscalnotes>*

State Appropriations

FY 2011-12, the Division of Registrations in the DORA requires an appropriation of \$50,326 and 1.0 FTE from the Prescription Drug Monitoring Fund.

Departments Contacted

Law

Regulatory Agencies

Public Safety