

2007 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: SB 34 **STATUS:** A-Engrossed
SUBJECT: Electronic prescription drug database
GOVERNMENT UNIT AFFECTED: Board of Pharmacy
PREPARED BY: John F. Borden
REVIEWED BY: Deborah Manthe
DATE: May 3, 2007 <**REVISED**>

EXPENDITURES: See Comments	<u>2007-2009</u>	<u>2009-2011</u>
 REVENUES: See Comments		
 POSITIONS / FTE: See Comments		
 EFFECTIVE DATE: On passage		

GOVERNOR’S BUDGET: This bill is anticipated by the Governor’s recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: This measure would require the Board of Pharmacy (“Board”) to establish and maintain a database for electronic reporting of the dispensing of controlled substances. The measure also establishes an Electronic Prescription Drug Database Advisory Commission. The Board may accept grants, donations, gifts or moneys from any source to fund the database. The Board would have the authority to assess civil penalties for failure to report or wrongful disclosure of the data by a reporting person.

The U.S. Department of Justice, Bureau of Justice Programs awarded a \$350,000 federal grant to the Board to develop a prescription drug monitoring program for Oregon. The grant was approved by the Emergency Board in January 2004 and awarded by the U.S. Department of Justice in July 2004. The original grant period ended July 31, 2005, but has been subject to annual extensions since 2005. The expenditure of the entire grant requires state enabling legislation in the form of this measure. A similar measure during the 2005 Legislative Session failed to become law (SB 180). Without the enactment of such legislation, only \$50,000 of the grant can be expended for planning purposes. To-date, the Board has expended approximately \$10,000 for planning and has yet to develop a comprehensive plan.

The Board’s 2007-09 Legislatively adopted budget includes \$340,000 of Federal Funds expenditure limitation to spend the unexpended balance of the grant funds (SB 5532 as of the date of this fiscal impact is awaiting the signature of the Governor). If this measure becomes law, the Board proposes to complete its planning project, hire two limited-duration positions (Program Manager and an Administrative Specialist 1; purchase equipment, and contract for data collection services. In response to

increased estimates for contract data collection services and equipment costs, the Board has revised its 2007-09 fiscal impact spending plan. Revisions include: delaying the hire of the Program Manager position until September 1, 2007; delaying the hire of the support position until January 1, 2008; and delaying data collection until July 1, 2008. If this measure fails to become law, the aforementioned Federal Fund expenditure limitation will be uncheduled or made unavailable to the Board by the Department of Administrative Services.

The actual cost of this measure, both for the 2007-09 biennium as well as beyond, is uncertain. It will remain uncertain until the Board has completed the Request for Proposal process and selected a data collection vendor. In response to Legislative Fiscal Office (LFO) concerns, the Board has committed to living within the funding constraints of the existing Federal grant award for the 2007-09 biennium by constraining the scope of the program and delaying implementation. In addition as a safeguard to cover contingencies, the Board has agreed to earmark up to \$100,000 of existing Board Other Funds revenue (license fees). Of note is that the Board does not have any Other Funds expenditure limitation associated with this measure.

The Board estimates 2009-11 costs to be \$450,000. The estimate assumes the continuation of the two limited-duration positions (2.00 FTE) and annual contract data collection costs of \$75,000. The Board anticipates applying for additional Federal grants to cover the 2009-11 costs. If Federal grant funding is not available, not approved, or if approved insufficient to fund the programs ongoing costs the Board plans to propose the establishment of a fee to be charged to all prescribers and Pharmacists.

Given that the Board already has the needed expenditure limitation and position authority to expend the Federal grant funds, if this measure were to become law, LFO does not believe the measure needs to be referred to the Joint Committee on Ways and Means. Should the Federal grant funds be insufficient to fund the program in 2007-09, the Board could return to the Legislative Emergency Board or a subsequent legislative session for Other Funds expenditure limitation. Issues regarding 2009-11 funding will be addressed when the Board requests approval to apply for additional Federal grants or during the Board's 2009-11 budget hearings.