

## FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2123 - A

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session  
Legislative Fiscal Office

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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Date: 4/1/2013

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### Measure Description:

Requires State Board of Pharmacy to license pharmacy benefit managers.

### Government Unit(s) Affected:

Oregon Health Authority (OHA), Board of Pharmacy

### 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.

### Analysis:

House Bill 2123 A-Engrossed:

1. Requires individuals to obtain a license from the State Board of Pharmacy in order to act as a Pharmacy Benefit Manager (PBM) in Oregon. This license must be renewed annually.
2. Imposes limits on audits of pharmacies by PBMs, and other entities including insurers, third party administrators, and state agencies.
3. Requires that PBMs apply individual pharmacy reimbursement readjustments on a network-wide basis.

At this time, the fiscal impact of this bill on the State Board of Pharmacy and the Oregon Health Authority is indeterminate due to several factors discussed below.

### State Board of Pharmacy

The full fiscal impact of this bill on the Board of Pharmacy is indeterminate due to the potential costs associated with compliance and enforcement. The bill requires the Board of Pharmacy to license PBMs in Oregon. If the bill passes, the Board of Pharmacy anticipates establishing one Operations Policy Analyst 2 position to oversee the licensing program. The agency estimates the Personal Services, related Services Supplies cost of the licensing program to be roughly \$290,000 Other Funds and 1.00 FTE per biennium. However, note that in addition to licensing, the agency anticipates additional costs associated with modifying existing databases, changes in accounting processes, training of staff and Board members, as well as costs associated with complaints and investigations. Although at this time, these costs are indeterminate, but expected to be significant, the Board of Pharmacy provides the following information as a point of reference:

**Accounting System:** The bill stipulates that all moneys collected from PBM's for registration and renewal must be used only for the purpose of administering the PBM program. This mandated separation of the PBM program funds from other agency funds will require an additional layer of accounting for the agency.

**Complaints and Investigations:** The bill directs the agency to refuse to issue or renew, or suspend or revoke a licensee or applicant if the applicant or licensee engages in conduct likely to mislead, deceive or defraud the general public, or engages in unfair or deceptive business practices. Because these broad conditions may be subject to interpretation, the Board of Pharmacy anticipates an increase in the number of complaints, and investigations. Furthermore, if a case

results in disciplinary action, the licensee has due process rights for any disciplinary action. As a result, additional hearings and Department of Justice costs may be incurred. The Attorney General 2013-2015 proposed hourly rate for 2013-2015 is \$167.00 per hour. A hearing relating to disciplinary action is estimated to require on average six hours of attorney general time. On average it takes an investigator about eight hours to conduct an investigation. If the investigation workload for the PBM program is significant, the Board of Pharmacy may need additional staffing and resources.

Inspections: At this time, it is not known whether or not inspections of PBM's will be necessary and if so, whether or not they will be conducted by the PBM Administrator or the Compliance Investigator. If the Board of Pharmacy is required to conduct inspections, affected staff members as well as Board members will require training. If the inspection workload for the PBM program is significant, the Board of Pharmacy may need additional staffing and resources.

#### Oregon Health Authority

The full fiscal impact of this bill on the Oregon Health Authority's Oregon Educators Benefit Board (OEBB) is indeterminate. The bill requires that PBMs apply individual pharmacy reimbursement readjustments on a network-wide basis which would inflate costs across the network especially if higher reimbursement rates provided to Critical Access Pharmacies are applied network-wide. OEBB contracts with a PBM. Inflated costs would impact OEBB through increased medical prescription drug rates. Although the exact premium increase is indeterminate at this time, according to OEBB's largest health insurer, Moda Health, the fiscal impact could range between two and three percent. A three percent increase in premium rates would result in an estimated fiscal impact of \$27,560,914 Other Funds Non-Limited in the 2013-2015 biennium.

Also, note that the Oregon Educators Revolving Fund (ORS 243.884) authorizes the Oregon Health Authority's Oregon Educators Benefit Board to collect employee and employer contributions for pass-through of benefit premiums to insurance carriers for eligible members. Therefore, any proposed legislation resulting in a fiscal impact on revenues or expenditures with regard to insurance premiums provided by OEBB will impact any educational entity that has mandated or elective coverage under OEBB. This includes school districts, community colleges, education service districts and some charter schools.