

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 29, 2009

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB646 by Van de Putte (Relating to a study regarding the confidentiality of prescription information; providing a civil penalty.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB646, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1
2010	(\$10,000)	\$10,000
2011	\$0	\$0
2012	\$0	\$0
2013	\$0	\$0
2014	\$0	\$0

Fiscal Analysis

The bill would require the Board of Pharmacy to conduct a study on the license, transfer, use, and sale of prescription information records containing patient-identifiable and practitioner-identifiable information by pharmacy benefit managers, insurers, electronic transmission intermediaries, pharmacies, and other similar entities for the purpose of advertising, marketing, or promoting pharmaceutical products. The bill would require the Board of Pharmacy to submit a report regarding the results of the study to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate standing committees. The bill would authorize a civil penalty not to exceed \$5,000 for each violation when an entity other than a pharmacy subject to the study fails to provide the board the requested information within 90 days. The bill authorizes the Board of Pharmacy to take appropriate administrative action against a pharmacy that fails to provide the requested information within 90 days. The bill authorizes the Board of Pharmacy or the Attorney

General to sue to collect a civil penalty.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If not, the bill would take effect September 1, 2009.

Methodology

Based on the analysis of the Board of Pharmacy, it is assumed that the board would contract with an independent entity to conduct the study at a cost of \$10,000 in Fiscal Year 2010. This analysis also assumes that any increased costs to the agency, which is statutorily required to generate sufficient revenue to cover its costs of operation, would be offset by an increase in fee generated revenue.

The Office of the Attorney General indicates that any costs associated with the bill could be absorbed within the agency's existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 515 Board of Pharmacy

LBB Staff: JOB, ES, CL, MW