



**Colorado  
Legislative  
Council  
Staff**

**SB17-032**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0243  
**Prime Sponsor(s):** Sen. Merrifield

**Date:** January 27, 2017  
**Bill Status:** Senate Judiciary  
**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**BILL TOPIC:** PRESCRIPTION DRUG MONITORING PROGRAM ACCESS

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>	<b><u>\$26,139</u></b>	<b><u>\$26,139</u></b>
Cash Funds	26,139	26,139
<b>State Expenditures</b>	<b><u>\$26,139</u></b>	<b><u>\$26,139</u></b>
Cash Funds	26,139	26,139
<b>TABOR Impact</b>	\$26,139	\$26,139
<b>FTE Position Change</b>	0.1 FTE	0.1 FTE
<b>Appropriation Required:</b> \$26,139 - Department of Regulatory Agencies (FY 2017-18).		
<b>Future Year Impacts:</b> Ongoing revenue and expenditure increase.		

**Summary of Legislation**

Under current law, law enforcement officials and state regulatory boards can access the Prescription Drug Monitoring Program (PDMP) database by providing an official court order or subpoena. This bill requires that requests be accompanied by an official court order or warrant issued by a neutral magistrate or judge, following a showing of probable cause supported by sworn testimony or affidavit.

**Background**

The PDMP uses a secure online database to store information about controlled substance prescriptions dispensed to patients in Colorado. Data in the PDMP database include the name of the practitioner and patient, date the prescription was dispensed, drug name and dosage, the quantity supplied, the number of refills, method of payment, and the name of the dispensing pharmacy. The direct and indirect costs of the PDMP are funded with a surcharge set by DORA, and limited by statute to \$25, on practitioner licenses. Every practitioner in Colorado who holds a current registration issued by the federal Drug Enforcement Agency (DEA) and every pharmacist is required to be registered and maintain an account with the PDMP. The database is operated by a vendor with oversight by the State Board of Pharmacy within the Division of Professions and Occupations.

## **State Revenue**

***This bill will increase annual revenue from fees to DORA by \$26,139 beginning in FY 2017-18 to the Division of Professions and Occupations Cash Fund.***

***Fee impact on practitioners.*** Practitioners are licensed for two years so the fees paid cover two years of division expenses. The division currently collects an \$18 PDMP surcharge for each two-year license period from approximately 40,000 practitioners who can prescribe controlled substances. The division will include the actual costs generated by this bill, which are estimated at \$52,278 over two years, in calculating the surcharge for these practitioners. The increase in surcharge is expected to be approximately \$1.30 per registrant over two years.

## **TABOR Impact**

This bill increases state revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

## **State Expenditures**

***This bill will increase annual expenditures by \$26,139 for the Division of Professions and Occupations in DORA beginning in FY 2017-18, paid from the Division of Professions and Occupations Cash Fund.*** It will also increase the workload for the Judicial Department.

***Division of Professions and Occupations, DORA.*** The increase in expenditures is for the legal services required to prepare motions for a judge to consider in issuing warrants. The fiscal note assumes that each motion will require 5 hours of legal services and, based on FY 2015-16 numbers, that 55 requests will be made annually. At a rate of \$95.05, 275 hours of legal services will increase costs by \$26,139. The Department of Law will require 0.1 FTE to perform this work.

***Trial Courts, Judicial Department.*** The bill is expected to increase trial court workload for a magistrate or judge to review and issue warrants. In FY 2015-16, DORA received 260 requests from law enforcement and 55 requests from its regulatory boards. Assuming this many requests for warrants will be submitted to trial courts per year, trial court workload is expected to increase by approximately 52 hours annually. This workload increase can be accomplished within existing appropriations.

## **Local Government Impact**

This bill will increase workload for local law enforcement and district attorneys when investigating a crime related to controlled substances. In FY 2015-16, law enforcement submitted 260 requests to the division for information from the database. In some cases, a court order was provided. For those requests that will now require a warrant rather than a subpoena, law enforcement will have an increased workload to prepare motions. To the extent that district attorneys review these motions, their workload will increase as well.

**Effective Date**

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

**State Appropriations**

For FY 2017-18, the Department of Regulatory Agencies requires an appropriation of \$26,139 from the Division of Professions and Occupations Cash Fund. This whole amount is reappropriated to the Department of Law. The Department of Law also requires an allocation of 0.1 FTE.

**State and Local Government Contacts**

District Attorneys  
Law  
Sheriffs

Information Technology  
Public Safety

Judicial  
Regulatory Agencies