Board of Medicine
Agency Response to Economic Impact Analysis

The Board of Medicine has the following comment to the economic impact analysis (EIA) of the Department of Planning and Budget (DPB) for amendments related to pain management in 18VAC85-20-10 et seq., Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic:

In calculating the cost of regulating the practice of chronic pain management, the Board of Medicine believes the following statistics make a compelling case for the cost of <u>failing</u> to appropriately manage the prescribing of drugs.

> In the 45-54 age group, overdose deaths fueled by prescription drugs now surpass motor vehicle deaths as the number one cause of accidental death. (Congressional testimony by an epidemiologist with the National Center for Injury Prevention and Control, on March 12, 2008)
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> Nearly 7 million Americans abuse prescription drugs – more than the abuse of cocaine, heroin, hallucinogens, Ecstasy and inhalants combined. That compares with 3.8 million in 2000, an 80 percent increase. (U. S. Dept. of Health and Human Services' National Survey on Drug Use and Health).
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> Number of Americans going into treatment for abuse of painkillers rose 321 percent between 1995 and 2005. (White House Office of National Drug Control Policy)
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> Total number of stimulant prescriptions in the U. S. soared from around 5 million in 1991 to nearly 35 million in 2007. Prescriptions for opiates – hydrocodone and oxycodone products – rose from around 40 million in 1991 to nearly 180 million in 2007. (Congressional testimony by Director of National Institute on Drug Abuse, March 12, 2008)
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> Drug-related emergency department visits that involved prescription opioids rose 153 percent from 1995 to 2002, from 42,857 to 108,320 (U. S. Dept. of Health and Human Services' Substance Abuse and Mental Health Services Administration)
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> Deaths involving prescription opioid analgesics rose 160 percent in the 5 years from 1999 to 2004. By 2004, opioid painkiller abuse deaths outnumbered total death involving heroin and cocaine. (U. S. Dept. of Health and Human Services' Centers for Disease Control and Prevention)
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> Illicit trade in prescription narcotics – including fraudulent insurance claims for bogus prescriptions, treating phantom injuries and other illegal deceptions – drain health insurers of up to $72.5 billion a year, including up to $24.9 billion annually for private insurers. (Coalition Against Insurance Fraud)

While the national statistics may be extrapolated for a Virginia population, statistics that are Virginia specific include:

> Drug death data showed an unexpected increase in 2006 with the top 4 drugs identified as methadone, oxycodone, hydrocodone and fentanyl. The Western district leads all others in the number of prescription drug deaths.
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> ARCOS (an automated, comprehensive drug reporting system monitored by the DEA) showed an increase in the distribution of oxycodone, hydrocodone and methadone in 2006 in Virginia.
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> Reports are generated by the Prescription Monitoring Program on the most egregious patients exceeding criteria on the number of prescribers and pharmacies utilized in a one-month period. In April of 2008, 164 patients were identified as meeting or exceeding the threshold. Eleven of these patients each saw ten or more prescribers in that one-month period receiving 150 prescriptions for 3412 doses of controlled substances from 91 pharmacies.
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> Examples of excessive prescribing may be found in the Notices and Orders of a number of physicians disciplined by the Board of Medicine, available on the DHP website. Last year, for the first time, improper prescribing was the top category for the finding of a violation. Recently, the Board summarily suspended the license of a Tidewater physician, citing excessive and reckless prescribing for a number of patients. Three deaths were noted in the Statement of Particulars supporting the summary suspension.

In the economic impact analysis of July 21, 2008, DPB acknowledged that the Prescription Monitoring Program (PMP) is funded by a $20 million endowment, but noted that increased queries by practitioners prescribing for chronic pain "will likely exhaust those funds more quickly." The agency would like to correct that presumption; the $20 endowment is invested in a trust fund, and only the income from that endowment can be spent on operating the PMP. Those funds cannot be exhausted. With 24/7 automation of the query system, additional queries will result in a very modest increase in cost to the Program.

DPB has also estimated that the follow-up tests for individuals who "fail" initial urine tests would be $150 to $250; Dr. Patricia Pade, Director of the Health Practitioner Intervention Program, reports that the follow-up test her program uses costs $42.50. Additionally, Dr. Pade reports that the rates of false positives and negatives reported in the EIA are far higher than those experienced in that program.

The EIA quotes David Brushwood in noting that prescription monitoring programs must be viewed against the (law enforcement) background against which the programs operate. While Brushwood appears to be less than enthusiastic about monitoring programs, he recognizes the regulation of prescribing is a balancing act, stating that "on the bright side, many state boards of medicine and pharmacy have taken to heart the provisions of the Model Guidelines for the Use of Controlled Substances in the Treatment of Pain." The Virginia Board of Medicine has adopted such a balanced approach and has followed the model guidelines for the proposed rules on the management of

chronic pain with controlled drugs. The Board is one of five states receiving an A grade from the University of Wisconsin Pain and Policy Studies Group for having a balanced approach to pain, a ranking it has enjoyed for the last several years.