

Agency Response to Economic Impact Analysis

The Board of Medicine has the following correction and 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:

1) DPB commented (page 3) that the requirement for doctors to query the prescription monitoring program (PMP) to determine whether chronic pain patients are “doctor-shopping” for opioids was “*likely to increase the number of queries of this database and, so, may increase costs that the state, and taxpayers, will bear.*” That is incorrect; the Virginia PMP was initially funded by a federal law-enforcement grant and is now funded by a \$20 million endowment that was part of a settlement between the U. S. Department of Justice and the Attorney General of Virginia and Purdue Pharma. There are not now, nor have there ever been, any Virginia tax dollars used for the PMP.

2) The statement in the EIA (page 4) indicates that any benefit derived from decreasing the supply of diverted prescriptions may be mitigated by likely increases in opioids coming from other routes, including robberies of pharmacies. The Board does not concur with the assumption that a decrease in prescription drug diversion will be offset by the illegal acquisition of opioids as a reason not to pursue a sound regulatory policy. Neither does the Board believe that is a tenable stance for the Commonwealth to take.

3) The Board does not agree with the statement on page 6 that it is likely that a greater number of pain treatment candidates would not receive treatment. There does not appear to be any data to support that supposition. To the contrary, a more rigorous and safer process for determining actual pain patients is expected to lead to more appropriate management of pain since many physicians are now leery of prescribing large doses of opioid drugs. The Board would concur that not treating legitimate pain has costs, but there is no provision in this proposal that suggests physicians would be denying care for patients who are in need of medication. The EIA is incorrect in its position that individuals with a “positive result” on a drug test, who are actually experiencing pain would be denied medication. Depending on the drugs found in a patient’s urine and the sources of those drugs, a physician would have an opportunity to more appropriately manage the patient’s pain and treat concomitant drug abuse, if found. Therefore, the Board disagrees that “proposed drug testing will likely drive up the annual cost to Virginians with untreated pain.”

4) Additionally, by following a regulatory protocol, physicians would be able to discern those persons who are seeking medication because of a drug addiction. Persons with addiction could be properly identified and treated, since drug addiction is also a legitimate medical problem that is extremely costly in dollars and impact on families and communities. The EIA failed to analyze the positive impact of identifying and treating addiction, which may result from these regulations.