

2013 DRAFTING REQUEST

Bill

Received: 10/10/2012 Received By: mgallagh
Wanted: As time permits Companion to LRB:
For: Administration-Budget 6-8219 By/Representing: Stritchko
May Contact: Drafter: mgallagh
Subject: Occupational Reg. - misc Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov

Pre Topic:

DOA:.....Stritchko, BB0061 -

Topic:

Modify prescription drug monitoring program

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	mgallagh 10/19/2012	evinz 10/22/2012	10/22/2012	_____	srose 10/22/2012		

FE Sent For:

<END>

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/P1	mgallagh	1/pl eev 10/19/12	1/pl eev 10/22/12	10/22/12 jm			

FE Sent For:

<END>

Gallagher, Michael

From: Hanaman, Cathlene
Sent: Wednesday, October 10, 2012 4:51 PM
To: Gallagher, Michael
Subject: FW: Statutory Language Drafting Request
Attachments: White Paper PDMP Vendor Srvs.docx

From: MeganE.Stritchko@wisconsin.gov [mailto:MeganE.Stritchko@wisconsin.gov]
Sent: Monday, October 01, 2012 2:56 PM
To: Hanaman, Cathlene
Cc: Thornton, Scott - DOA; Hynek, Sara - DOA; Stritchko, Megan E - DOA
Subject: Statutory Language Drafting Request

Biennial Budget: 2013-15

Topic: Modify Prescription Drug Monitoring Program

Tracking Code: BB0061

SBO Team: EWD

SBO Analyst: Stritchko, Megan - DOA
Phone: (608) 266-8219
E-mail: MeganE.Stritchko@wisconsin.gov

Agency Acronym: DRL

Agency Number: 165

Priority: High

Intent:

Section 450.19(5) directs the department to fund the operation of the Prescription Drug Monitoring Program with federal grant funds. However, there are no federal funds available for the operation of the program at this time. See attached for additional information.

Attachments: True

Please send completed drafts to statlanguage@wisapps.wi.gov

Date: September 17, 2012
To: Governor's Office
From: Department of Safety and Professional Services
Subject: Budget White Paper – Prescription Drug Monitoring Program (PDMP)
Vendor

1. Summary of Proposed Budget Provision

The proposed budget provision is for the estimated costs of the vendor to provide critical data collection, data cleansing and database hosting services as part of the State's forthcoming Prescription Drug Monitoring Program (PDMP). The vendor is being selected through a request for proposal procurement process led by staff at the State Bureau of Procurement, Department of Administration.

The estimated biennial cost of the services is \$220,000.

2. Rationale

The proposed budget provision is to fund vendor costs that are essential to the ongoing operation of the PDMP beginning on July 1, 2013. In 2009 Act 362, the Legislature directs the Department of Safety and Professional Services (DSPS) to seek federal grant funds to "fund the establishment and operation" of the PDMP, which the same Act directs the Pharmacy Examining Board (Board) to create through rule. In September 2011, the Bureau of Justice Assistance, a component of the Office of Justice Programs, U.S. Department of Justice, awarded DSPS a Harold Rogers Prescription Drug Monitoring Program (HRPDMP) grant in the amount of \$399,284 to develop and deploy the PDMP. With the grant funds, DSPS and the Board have developed the PDMP and anticipate deploying it beginning in January 2013.

The grant period ends in September 2013, at which time any unused funds expire. Based on current projections, the grant funding will be exhausted prior to September 2013. Still, the grant funding is expected to fully fund the development, deployment and initial operation of the PDMP through at least June 2013.

3. Statutes Affected and/or Proposed Statutory Language Modification

Wisconsin Stat. § 450.19 (5) is affected by the proposed budget provision. The section currently states:

The department shall submit a timely application for a federal grant under 42 USC 280g-3 and under the Harold Rogers Prescription Drug Monitoring Program to fund the establishment and operation of the program under this section. If the department fails to obtain federal funding before January 1, 2015, this section is void.

The section inaccurately directs DSPS to fund the "operation" of the PDMP with federal grant funds. At this time, the only federal grant available to states is the HRPDMP grant. The federal grant program described in 42 USC 280g-3 has not been funded since 2010. Per HRPDMP grant guidelines, the only funds available to a state that has already developed and deployed a PDMP are to "enhance" the PDMP and not more than 25% of those funds may be used on ongoing operational expenses of a PDMP. The maximum amount of a HRPDMP grant is \$400,000 which must be spent during a two year grant period.

To resolve the inaccuracy and delete language that is no longer relevant, s. 450.19 (5) could be changed in the following way:

The department shall submit a timely application for a federal grant under 42 USC 280g-3 and under the Harold Rogers Prescription Drug Monitoring Program to fund the establishment ~~and operation~~ of the program under this section. ~~If the department fails to obtain federal funding before January 1, 2015, this section is void.~~

Alternatively, the following changes also resolve the inaccuracy in the current language by clarifying that it may not always be possible to fund the operation of the PDMP with federal grant funds:

The department shall submit a timely application for a federal grant under 42 USC 280g-3 and under the Harold Rogers Prescription Drug Monitoring Program to fund the establishment and, when possible, the operation of the program under this section. ~~If the department fails to obtain federal funding before January 1, 2015, this section is void.~~

4. Administrative Significance

The proposed budget provision will enable DSPS to continue operating the PDMP once the current grant funding runs out. Without the proposed budget provision, DSPS would not be able to pay for the services of the vendor and the PDMP would no longer be operational until a funding source is secured.

5. Fiscal Effect

The proposed budget provision would increase state expenditures. Specifically, funds from DSPS general program operations appropriation, s. 20.165 (1) (g), Stats., and the Medical Examining Board general program operations appropriation, s. 20.165(1)(h)(g), Stats., would be used to compensate the PDMP vendor for its services.

In the long-term, the proposed budget provision would impact state expenditures in a similar manner per the anticipated contract between the State and PDMP vendor. DSPS anticipates that the contract will be effective for two years, with three one-year renewals possible. Therefore, the funding requested in the proposed budget provision could be continuous through the 2015 biennial budget.

Estimated biennial cost for the vendor services = \$220,000

6. Laws/Experience in Other States

There are approximately 41 operational state PDMPs. Based on information from the Alliance of States with Prescription Monitoring Programs, states utilize several different mechanisms to fund the operation of their PDMPs. The most used funding mechanisms for PDMP operations are: using 'general funds', increasing licensing fees, charging a 'PDMP fee' in addition to traditional licensing fees, and using a portion of the state's controlled substance registration fee. Individually, New York funds its PDMP with fees on health insurers and Florida utilizes a non-profit 'direct support organization' that raises money to fund the State's PDMP. The funding mechanisms used by states depend primarily on the state-specific PDMP-enabling legislation.

7. Pros and Cons

Pros:

This proposal to fund vendor costs:

- Enables DSPS to operate the PDMP in accordance with the statutory directive
- Does not raise licensing fees for any of the department's licensees
- Does not add extra fees to fees already paid by licensees

Cons:

- All professions, not just health professions, bear the cost to fund the PDMP

8. Stakeholder Impact

There are many stakeholders and groups with possible interest in the proposed budget provision. All licensees of DSPS and their respective professional organizations may have an interest in how the PDMP is funded. Most significantly, healthcare organizations and licensed health professionals, including hospitals, clinics, pharmacies, physicians, pharmacists, optometrists, dentists, veterinarians and advanced practice nurses, and their respective professional organizations have interest in the ongoing funding of PDMP operations.

Further, other State agencies and local, state and federal law enforcement agencies may have an interest in the proposed budget provision. Primarily, these agencies will be interested in ensuring the PDMP continues to operate once DSPS's current grant funding expires.

Gallagher, Michael

From: Stritchko, Megan E - DOA <MeganE.Stritchko@wisconsin.gov>
Sent: Thursday, October 18, 2012 9:35 AM
To: Gallagher, Michael
Subject: RE: Statutory Language Drafting Request

Yeah, that sounds good.

Thanks!

From: Gallagher, Michael [mailto:Michael.Gallagher@legis.wisconsin.gov]
Sent: Thursday, October 18, 2012 9:19 AM
To: Stritchko, Megan E - DOA
Subject: RE: Statutory Language Drafting Request

Yes. It looks like the intent is to fund the program from the existing appropriations under s. 20.165 (1) (g) and (hg) by a total of \$220,000 per biennium. We don't reflect simple increases to existing sum certain appropriation in budget drafts (DOA handles that for the budget). Both of those appropriations are sum certain. However, I will have to amend the language of s. 20.165 (hg), which is the appropriation for the medical examining board, to reflect the expanded funding purpose of that appropriation, i.e. operation of the prescription drug monitoring program by the pharmacy examining board. The appropriation under s. 20.165 (1) (g) is a general programs appropriation that already covers the functions of the pharmacy examining board.

Does that make sense?

Michael P. Gallagher
Legislative Attorney
Legislative Reference Bureau
(608) 267-7511
michael.gallagher@legis.wisconsin.gov

From: Stritchko, Megan E - DOA [mailto:MeganE.Stritchko@wisconsin.gov]
Sent: Thursday, October 18, 2012 9:10 AM
To: Gallagher, Michael
Subject: RE: Statutory Language Drafting Request

Hi Mike,

If I understand correctly, the department doesn't currently have a federal grant available to them that will cover the implementation/operation of the PDMP, so part of their request is for the department to have the ability to implement the program with state funding. I just want to confirm that the statutory change will reflect this.

Thanks!

Megan

From: Gallagher, Michael [mailto:Michael.Gallagher@legis.wisconsin.gov]
Sent: Thursday, October 18, 2012 9:06 AM

To: Stritchko, Megan E - DOA
Subject: RE: Statutory Language Drafting Request

Looking at the statutes, s. 20.165 (1) (m) already authorizes DSPS to spend moneys received from the federal government "to carry out [the] purposes for which made and received." That appropriation covers federal grants for the prescription drug monitoring program. Therefore, no new appropriation is needed to spend those moneys on the prescription drug monitoring program. The repeal of s. 450.19 (5) should achieve the intent.

Mike

Michael P. Gallagher
Legislative Attorney
Legislative Reference Bureau
(608) 267-7511
michael.gallagher@legis.wisconsin.gov

From: Stritchko, Megan E - DOA [<mailto:MeganE.Stritchko@wisconsin.gov>]
Sent: Thursday, October 18, 2012 8:38 AM
To: Gallagher, Michael
Subject: RE: Statutory Language Drafting Request

Hi Mike,

That sounds good – let's go with your recommendation.

Thanks!

Megan

From: Gallagher, Michael [<mailto:Michael.Gallagher@legis.wisconsin.gov>]
Sent: Thursday, October 18, 2012 8:17 AM
To: Stritchko, Megan E - DOA
Subject: FW: Statutory Language Drafting Request

Megan:

I am drafting this budget request, and I have a recommendation. Rather than amending s. 450.19 (5) as suggested in the attached drafting instructions, I recommend doing all of the following:

1. Repeal s. 450.19 (5).
2. Create an appropriation for all moneys received from the federal government for the prescription drug monitoring program.

As the drafting instructions note, the grant application requirement under s. 450.19 (5) has been satisfied. Creating an ongoing appropriation for the expenditure of federal moneys received for the prescription drug monitoring program achieves the purposes of s. 450.19 (5) without the need to refer to specific federal grants or grant applications. If there will be no more federal monies for the program in the future, then simply repealing s. 450.19 (5) effective September 30, 2013 (when the current grant expires), would be appropriate (I can also amend that subsection to say "initial operation" instead of "operation," although I think the use of "operation" in the subsection under current law does not create an issue.). Please let me know how you would like to proceed or if you have any questions.

Thanks.

Mike

Michael P. Gallagher
Legislative Attorney
Legislative Reference Bureau
(608) 267-7511
michael.gallagher@legis.wisconsin.gov

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Attachments: True

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In 10/19/2012

State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0295/P1

MPG: *ceev*

DOA:.....Stritchko, BB0061 – Modify prescription drug monitoring program
FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

SAI
Xref

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Jm 10/22
NDF*

do not gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
SAFETY AND PROFESSIONAL SERVICES
PROFESSIONAL REGULATION

Under current law, the pharmacy examining board administers a program to monitor the dispensing of prescription drugs in this state by pharmacists and by persons authorized to write prescriptions for patients. Current law also requires the Department of Safety and Professional Services (DSPS) to seek federal moneys to fund the establishment and initial operation of that prescription drug monitoring program.

This bill eliminates that federal funding requirement and other related provisions. The bill also authorizes the expenditure of moneys appropriated to the medical examining board for the purpose of the pharmacy examining board's operation of the prescription drug monitoring program.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.165 (1) (hg) of the statutes is amended to read:

3 20.165 (1) (hg) *General program operations; medical examining boards*

4 Biennially, the amounts in the schedule for the licensing, rule-making, and

prescription drug monitoring program Ital.

1 regulatory functions of the medical examining board and the affiliated credentialing
 2 boards attached to the medical examining board, except for preparing,
 3 administering, and grading examinations, ^{and} and for the pharmacy examining board's
 4 operation of the prescription drug monitoring program under s. 450.19. Ninety
 5 percent of all moneys received for issuing and renewing credentials under ch. 448
 6 shall be credited to this appropriation.

[^] note: bud

History: 1971 c. 125; 1973 c. 90, 156, 333; 1975 c. 39; 1977 c. 29, 400, 418; 1979 c. 34; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20; 1983 a. 27; 1985 a. 29; 1989 a. 31, 307; 1991 a. 167, 269, 315; 1993 a. 16, 102, 490; 1995 a. 27, 461; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2007 a. 20; 2009 a. 28, 111; 2011 a. 32 ss. 447 to 476, 478, 480 to 484, 486 to 488, 494 to 495; 2011 a. 146.

7 **SECTION 2.** 450.19 (5) of the statutes is repealed.

8 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0295/P1
MPG:eev:jm

DOA:.....Stritchko, BB0061 -- Modify prescription drug monitoring program

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

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3 20.165 (1) (hg) *General program operations; medical examining board;*

4 *prescription drug monitoring program.* Biennially, the amounts in the schedule for

1 the licensing, rule-making, and regulatory functions of the medical examining board
2 and the affiliated credentialing boards attached to the medical examining board,
3 except for preparing, administering, and grading examinations; and for the
4 pharmacy examining board's operation of the prescription drug monitoring program
5 under s. 450.19. Ninety percent of all moneys received for issuing and renewing
6 credentials under ch. 448 shall be credited to this appropriation.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

7 **SECTION 2.** 450.19 (5) of the statutes is repealed.

8 (END)