



**Responses to Board of Pharmacy (BOP) on
SB 355 A-Eng. (amendments adopted) and
BOP 3/10/09 database budget (attached)**

Oregon is surrounded by other states with pharmacy databases.

Not quite. Washington suspended its program and California's database program is run by Bureau of Narcotics Enforcement and uses criminal intelligence specialists to analyze data.

SB 355 is necessary to prevent doctor shopping and pharmacy hopping.

We do not know. These programs, encouraged by the law enforcement arm of the federal government (DOJ), have never been independently evaluated to determine effectiveness. It is very intrusive – and creates more problems than solutions – to database over 5 million prescriptions a year to identify a small percentage who may be abusing controlled substances.

There are plenty of consumer protections in SB 355 A-Eng.

Not true. There are no protections or rights for consumers and no oversight of BOP. Database error? Consumers can only request BOP to fix the error, but BOP can refuse. Database misuse or denied medication? Consumers have no remedy if their information is released, misused or they are denied medication. BOP is completely immune and pharmacists and providers are subject only to BOP civil penalty for "intentional wrongful disclosure" but not if they negligently or recklessly release or misuse data or wrongfully deny medication.

Many states already have similar databases.

Operational programs in other states vary widely in scope and use. However all but one report law enforcement use and 10 have exclusive or significant use by law enforcement (100% Indiana, 100% Pennsylvania, 70% Hawaii, 61% Massachusetts, 60% Oklahoma, 50% Illinois, 50% Mississippi, 20% Texas, 19% Virginia).¹

Oregon will require a court order for law enforcement access.

Only true if law enforcement requests the information; not true if BOP contacts law enforcement. BOP has stated that it will run "internal program audits"² allowing BOP to contact law enforcement, subjecting millions of law-abiding Oregonians to BOP interference, risk of misidentification and government second-guessing of lawfully prescribed medications.

Oregon will fund this program sufficiently.

Not true. BOP plans to use off-the-shelf software (at only a few thousand dollars), allocating most of the money to current staff, a public service representative, a pharmacist, general administration and travel. BOP called Washington State's \$1 million appropriation the "Cadillac version."³ If that's the case, what version does Oregon get?⁴

Pharmacies and providers can only get a report if prescribing Schedules II, III & IV.

Not true. Pharmacists and providers can run a report on every single customer and patient, no matter what medication is prescribed or reason for doctor visit. SB 355 A-Eng. goes way too far and may easily lead to inappropriate snooping on all of us!

¹ National Alliance for Model State Drug Laws (NAMSDL).

² 2009 BOP backgrounder: <http://www.oregon.gov/DHS/pain/docs/2009/board-pharmacy-resp-aclu.pdf>

³ April 11, 2007 email from Karen McLean, BOP Administrative Director to Deborah Manthe, LFO.

⁴ Other states have allocated significant funds: Alabama \$1.5 million for start up, Kentucky, \$1.4 million in upgrades and \$5 million for system enhancements, California \$1 million and New York \$17 million. NAMSDL.