



**Legislative  
Council Staff**

*Nonpartisan Services for Colorado's Legislature*

**FISCAL NOTE**

<b>Drafting Number:</b> LLS 19-0910	<b>Date:</b> March 25, 2019
<b>Prime Sponsors:</b> Rep. Jackson; Jaquez Lewis Sen. Winter; Tate	<b>Bill Status:</b> House Health & Insurance <b>Fiscal Analyst:</b> Clare Pramuk   303-866-2677 clare.pramuk@state.co.us

**Bill Topic:** BOARD OF PHARMACY REGULATE PHARMACY TECHNICIANS

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill requires pharmacy technicians to become certified by the Colorado Board of Pharmacy. It increases state revenue and expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2019-20, the bill requires an appropriation of \$267,674 for the Department of Regulatory Agencies and Department of Public Safety.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under HB 19-1242**

		<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Revenue</b>	Cash Funds	\$614,000	\$161,285
	<b>Total</b>	<b>\$614,000</b>	<b>\$161,285</b>
<b>Expenditures</b>	Cash Funds	\$267,674	\$284,226
	Centrally Appropriated	\$30,455	\$33,591
	<b>Total</b>	<b>\$298,129</b>	<b>\$317,817</b>
	<b>Total FTE</b>	<b>1.7 FTE</b>	<b>2.4 FTE</b>
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

## **Summary of Legislation**

This bill requires pharmacy technicians practicing in Colorado on or after June 15, 2020, to obtain a certification from the State Board of Pharmacy in the Department of Regulatory Agencies (DORA). An applicant for certification by the board must provide proof of certification by a board-approved, nationally recognized organization that certifies pharmacy technicians and either submit to a criminal history record check or provide evidence of a prior check. The board may grant a provisional certification to an applicant who has not satisfied certain requirements for certification. A provisional certification is valid for 18 months and not renewable. If the applicant does not satisfy all requirements before the provisional certification expires, that applicant cannot practice as a pharmacy technician until applying for and receiving certification from the board. A person who practices or offers or attempts to practice as a pharmacy technician without an active certification commits a class 2 misdemeanor for a first offense and a class 6 offense for the second or any subsequent offense.

Additionally, the bill requires that pharmacy technicians meet continuing education requirements from national accreditation organizations before renewing a certification and details ratios for supervision of interns and pharmacy technicians by pharmacists. Finally, the bill replaces one pharmacist member of the board with a certified pharmacy technician with at least 5 years of pharmacy technician experience. The bill includes a sunset date of September 1, 2021.

## **Comparable Crime Analysis**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill creates a new misdemeanor offense for practicing, or offering or attempting to practice as a pharmacy technician without an active certification. While data on the number of cases and convictions involving other similar offenses, such as the practicing as a pharmacist without a license, is not available as of this writing, it is assumed to be a small number and that most enforcement will be handled administratively by DORA, rather than through the criminal justice system. As such, the number of cases and convictions under the bill is assumed to be minimal.

## **Assumptions**

There are an estimated 8,000 pharmacy technicians practicing in Colorado. The fiscal note assumes that 6,000 will apply for certification and that 2,000 will apply for a provisional certification in FY 2019-20 and apply for full certification in FY 2020-21. Based on information from a national accrediting organization, new applications for certification or provisional certification are estimated at 490 in FY 2020-21. The fiscal note assumes that 50 percent (4,000) pharmacy technicians will be fingerprinted in FY 2019-20 and 490 in FY 2020-21.

## **State Revenue**

This bill increases state cash fund revenue from fees by \$614,000 in FY 2019-20 and \$161,285 in FY 2020-21 from certification fees to DORA and fingerprint-based background checks to the Department of Public Safety (DPS) as described below and shown in Table 2. The bill may also increase revenue from fines for practicing without an active certification.

**Fee impact on pharmacy technicians - DORA.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the DORA based on cash fund balance, program costs, and the number of certificants subject to the fee. The certification fee for pharmacy technicians will be valid for two years while the provisional certification is valid for 18 months. Certification fees are subject to TABOR.

**Fingerprint-based background checks - DPS.** This bill increases state cash fund revenue from fingerprint-based criminal history background checks to the Colorado Bureau of Investigation (CBI) Identification Unit Cash Fund in the DPS by \$158,000 in FY 2019-20 and \$19,355 in FY 2020-21. based on the assumed number of checks outlined in the assumptions section above. The current fee for background checks is \$39.50, which includes \$11.25 for a Federal Bureau of Investigation (FBI) fingerprint based check, which is passed on to that federal agency. The federal portion of this fee is excluded from the state TABOR limit. The background check is required only upon initial licensure and is not required for renewal.

**Criminal fines and court fees.** By creating a new misdemeanor offense, the bill may increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2020-21, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for a class 2 misdemeanor is \$250 to \$1,000. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

**Table 2  
 Fee Impact on Pharmacy Technicians**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
	Pharmacy Technician Certification Fee	\$57.00	6,000	\$342,000
	Provisional Certification Fee	\$57.00	2,000	\$114,000
	Fingerprint Background Check	\$39.50	4,000	\$158,000
<b>FY 2019-20 Total</b>				<b>\$614,000</b>
	Pharmacy Technician Certification Fee	\$57.00	2,090	\$119,130
	Provisional Certification Fee	\$57.00	400	\$22,800
	Fingerprint Background Check	\$39.50	490	\$19,355
<b>FY 2020-21 Total</b>				<b>\$161,285</b>

**State Expenditures**

This bill increases expenditures by \$298,129 and 1.7 FTE in FY 2019-20 and \$317,817 and 2.4 FTE in FY 2020-21 for DORA and the DPS. The costs for DORA are \$155,942 and 1.0 FTE in FY 2019-20 and \$299,126 and 1.9 FTE in FY 2020-21 from the Division of Professions and Occupations Cash Fund. The costs for DPS are \$142,188 and 1.7 FTE in FY 2019-20 and \$18,691 and 0.1 FTE in FY 2020-21 from the CBI Identification Unit Cash fund in DPS. Expenditures for the Department of Law are included in the expenditures for DORA but will also require an allocation of 0.4 FTE in FY 2020-21.

By making it a misdemeanor to practice or attempt to practice as a pharmacy technician without an active certification, this bill increases costs and workload in the Judicial Department and agencies that provide representation to indigent persons by a minimal amount beginning in FY 2020-21.

**Table 3  
 Expenditures Under HB 19-1242**

<b>Cost Components</b>	<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$113,585	\$188,136
Operating Expenses and Capital Outlay Costs	\$10,356	\$1,805
Legal Services	\$15,545	\$77,723
Centrally Appropriated Costs*	\$16,456	\$31,462
FTE – Personal Services	1.0 FTE	1.9 FTE
FTE – Legal Services	-	0.4 FTE
<b>DORA (Subtotal)</b>	<b>\$155,942</b>	<b>\$299,126</b>
<b>Department of Public Safety</b>		
Personal Services	\$41,380	\$6,585
Operating Expenses and Capital Outlay Costs	\$5,368	-
Fingerprinting Equipment and Supplies	\$36,440	\$4,464
FBI Pass-Through Fee	\$45,000	\$5,513
Centrally Appropriated Costs*	\$13,999	\$2,129
FTE – Personal Services	0.7 FTE	0.1 FTE
<b>DPS (Subtotal)</b>	<b>\$142,187</b>	<b>\$18,691</b>
<b>Total</b>	<b>\$298,129</b>	<b>\$317,817</b>
<b>Total FTE</b>	<b>1.7 FTE</b>	<b>2.4 FTE</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**State Board of Pharmacy, DORA.** The board will require 1.9 FTE for additional staff to regulate pharmacy technicians. Staff will be hired in January 2020 in order to have the regulatory process operational for certifications and provisional certifications to be issued prior to June 15, 2020. This will involve researching and promulgating rules and developing policy guidelines. Staff will conduct outreach to pharmacy technicians, respond to inquiries, and process applications. Staff will also investigate complaints and conduct enforcement actions. The Department of Law will provide general counsel and support for enforcement actions. This requires 150 hours at a rate of \$103.63 in FY 2019-20, and 750 hours in FY 2020-21 and an allocation of 0.4 FTE. The personal services amounts shown in Table 3, include costs for temporary staff to assist in the processing of applications for three months in FY 2019-20 and FY 2020-21. Permanent staff costs are prorated to January 2020.

**Department of Public Safety.** This bill increases overall expenditures from the CBI Identification Unit Cash Fund in DPS by \$142,188 and 0.7 FTE in FY 2019-20 and \$18,681 and 0.1 FTE in FY 2020-21. In FY 2019-20, DPS will require 0.5 FTE Fingerprint Examiner II and 0.2 FTE Data Specialist to process the 4,000 fingerprint background applications that the fiscal note assumes the bill will generate. A Fingerprint Examiner II can process 8,250 requests per year, and a Data Specialist 16,500. These employees will undertake a one-time training session that costs \$1,000 per person. For FY 2020-21, staffing is reduced to 0.1 FTE Fingerprint Examiner II. The DPS passes \$11.25 of every application on to the federal government. With 4,000 applications, this equates to \$45,000 in FY 2019-20 and \$5,513 for 490 applications in FY 2020-21. The fingerprinting and supplies costs includes the following costs associated with each background check application: \$6.10 dedicated to equipment maintenance; \$1.55 for print digitization; \$0.88 to access the Colorado Crime Information Center for information pertinent to the background check; and \$0.58 printing and postage costs.

**Judicial Department.** This bill will minimally increase costs and workload for the trial courts in the Judicial Department to process additional criminal case filings. To the extent that offenders are sentenced to probation, costs and workload in the Division of Probation will increase. Costs and workload may also increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Council. Overall, it is assumed that this workload can be accomplished within existing appropriations. Should a change in funding be required for any agency or division with the Judicial Department, the fiscal note assumes it will be addressed through the annual budget process.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$30,455 in FY 2019-20 and \$33,591 in FY 2020-21.

## Local Government

Beginning in FY 2019-20, this bill is expected to increase local government revenue, costs, and workload as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

**District attorneys.** The bill potentially increases workload and costs for district attorneys to prosecute additional class 2 misdemeanor offenses. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

**County jails.** Based on the assumptions listed in the Comparable Crime Analysis section, the bill may increase county jail costs. However, because the courts have the discretion of incarceration or imposing a fine, the precise county impact cannot be determined. Under current law, the state reimburses county jails for housing state inmates. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93.

**Denver County Court.** The bill increases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload revenue to supervise persons convicted under the bill within Denver County.

## Effective Date

The bill takes effect October 1, 2019, if no referendum petition is filed.

## State Appropriations

For FY 2019-20, the bill requires the following appropriations:

- \$139,486 to the Department of Regulatory Agencies from the Professions and Occupations Cash Fund and an allocation of 1.0 FTE;
- \$15,545 to the Department of Law in reappropriated funds from DORA; and
- \$128,188 to the Department of Public Safety from the CBI Identification Unit Cash Fund, of which \$45,000 is passed through to the FBI as reappropriated funds, and an allocation of 0.7 FTE.

## State and Local Government Contacts

Information Technology  
Public Safety

Law  
Regulatory Agencies