



Legislative
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HB 20-1085

FINAL FISCAL NOTE

Drafting Number: LLS 20-0155
Prime Sponsors: Rep. Kennedy; Herod
Sen. Winter; Priola

Date: August 10, 2020
Bill Status: Vetoed by the Governor
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Bill Topic: **PREVENTION OF SUBSTANCE USE DISORDERS**

Summary of Fiscal Impact:

<input 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

The bill would have made several changes to state law concerning the prevention of opioid and other substance use disorders. This bill would have increased state expenditures and workload on an ongoing basis.

Appropriation Summary: For FY 2020-21, this bill would have required an appropriation of \$18,540 to the Department of Regulatory Agencies.

Fiscal Note Status: The final fiscal note reflects the enrolled bill. This bill was vetoed by the Governor; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB20-1085**

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	Cash Funds	\$18,540	-
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill makes several changes to state law concerning the prevention of opioid and other substance use disorders, as described below.

Health insurance provisions. The bill places several restrictions and requirements on insurance carriers and health benefit plans relating to opioids and alternative treatments. These changes are discussed below.

- *Physical therapists, occupational therapists, or acupuncturists.* The bill prevents an insurance carrier that has a contract with a physical therapist, occupational therapist, or acupuncturist from prohibiting or penalizing these individuals for providing a covered person information on the amount of their financial responsibility for such services. At the time of the covered person's initial visit for treatment, the provider must notify the person's insurance carrier that the person has started treatment. In addition, an insurance carrier cannot require a physical therapist, occupational therapist, or acupuncturist to charge or collect a co-payment that exceeds the total charges submitted. If the Commissioner of Insurance in the Division of Insurance (DOI) in the Department of Regulatory Agencies (DORA) determines that an insurance carrier has engaged in these practices, then the commissioner is required to institute a corrective action plan for the insurance carrier to follow.
- *Atypical opioid or non-opioid medication.* The bill prohibits an insurance carrier from limiting or excluding coverage for an atypical opioid or non-opioid medication that is approved by the federal Food and Drug Administration (FDA) by mandating a covered person undergo step therapy or requiring pre-authorization. The insurance carrier is required to make the atypical opioid or non-opioid medication available at the lowest cost-sharing tier under the health benefit plan applicable to a covered opioid with the same indication.
- *Mandatory coverage provisions.* The bill requires each health benefit plan to provide coverage for at least six physical therapy visits, six occupational therapy visits per year, and six acupuncture visits per year, at a cost-sharing amount not to exceed the cost-sharing amount for a primary care visit for nonpreventive services.

Prescribing limitations. Under current law, an opioid prescriber is prevented from prescribing more than a seven-day supply of an opioid to a patient that has not had an opioid prescription in the last 12 months unless certain conditions apply. The executive director of DORA is required to, by rule, limit the supply of a benzodiazepine that a prescriber may prescribe to a patient who has not been prescribed benzodiazepine in the last 12 months by that prescriber. Benzodiazepines may be prescribed electronically. The current opioid prescribing limit is set to repeal on September 1, 2021. The bill continues the prescribing limitation indefinitely.

Prescription drug monitoring program (PDMP). Under current law, health care providers are required to query the PDMP before prescribing a second fill for an opioid. This requirement, which is set to repeal on September 1, 2021, is continued indefinitely by the bill. In addition, the bill requires health care providers to query the PDMP before prescribing or refilling a benzodiazepine, and authorizes the state board of pharmacy to require, through rule, a query of the PDMP for additional controlled substances. Lastly, the bill allows health information organization networks to access to the program if the State Medical Board can accomplish this with existing program funds.

Education for providers. The bill authorizes the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies (center) at the University of Colorado to include in its educational activities the best practices for prescribing benzodiazepines and the potential harm of inappropriately limiting prescriptions to chronic pain patients. The bill adds an emphasis for these educational activities to be directed to physicians, physician assistants, nurses, and dentists serving underserved populations and communities. In addition, the bill directs the executive director of DORA to consult with the center and the State Medical Board to promulgate rules establishing competency-based continuing education requirements for physicians and physicians assistants concerning prescribing practices for opioids.

State Expenditures

This bill will increase state expenditures by \$18,540 in FY 2020-21 only from the Division of Professions and Occupations Cash Fund. These costs are shown in Table 2 and discussed below.

Table 2
Expenditures Under HB 20-1085

	FY 2020-21	FY 2021-22
Department of Regulatory Agencies		
Medical Board Rule Making	\$2,550	-
Legal Services	\$15,990	-
Total	\$18,540	\$0

Department of Regulatory Agencies. DORA will require approximately 150 hours of legal services in FY 2020-21, provided by the Department of Law, to promulgate rules establishing competency-based continuing education requirements for physicians and physicians assistants concerning prescribing practices for opioids. In addition, the Colorado Medical Board will have one-time costs of \$2,550 for board expenses for rulemaking.

The bill includes permissive language for the Colorado Medical Board to provide a means of sharing prescription information with health information organization networks within existing funds available for operation of the PDMP. This is expected to require \$750,000 in development costs and \$418,000 in ongoing costs, if the board were to pursue such a policy.

State employee insurance. Insurance carriers that offer health benefit plans to state employees will be required to meet the coverage requirements of the bill, which may increase state expenditures on employee health insurance. Any cost increase could contribute to higher insurance premiums, which would be shared by state agencies and employees. Because insurance rates are influenced by a number of variables, the impact of this bill on premiums is not estimated.

Potential state expenditure. This bill requires that health insurance plans cover a new health benefit that may be outside of those identified as an essential health benefit in the federal Affordable Care Act, which potentially increases costs to the state. Under the federal law, states may be required to cover health insurers' costs to provide newly mandated health benefits using state funds, rather than the insurer covering these costs using premiums collected from policy holders. At this time, it is unknown if the federal government will require these payments and the potential costs have not been estimated.

Effective Date

The bill was vetoed by the Governor on July 2, 2020.

State Appropriations

For FY 2020-21, this bill requires and includes an appropriation of \$18,540 to the Department of Regulatory Agencies from the Division of Professions and Occupations Cash Fund. Of this, \$15,990 is reappropriated to the Department of Law.

State and Local Government Contacts

Counties	Health Care Policy and Financing
Higher Education	Human Services
Information Technology	Law
Public Health and Environment	Regulatory Agencies