



Legislative
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HB 20-1085

FISCAL NOTE

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

Date: February 14, 2020
Bill Status: House Health & Insurance
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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 checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill makes several changes to state law concerning the prevention of opioid and other substance use disorders. This bill increases state and local government expenditures and workload on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill includes an appropriation of \$500,000 to the Department of Health Care Policy and Financing. For FY 2020-21, this bill requires appropriations totaling \$4.8 million to multiple state agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill, which was recommended by the Opioid and Other Substance Use Disorders Study Committee.

Table 1
State Fiscal Impacts Under HB20-1085

		FY 2019-20	FY 2020-21	FY 2021-22
Revenue		-	-	-
Expenditures	General Fund	-	\$858,239	\$479,415
	Marijuana Tax Cash Fund	\$500,000	\$3,132,874	\$3,141,907
	Other Cash Funds	-	\$76,316	\$46,110
	Federal Funds	-	\$740,985	\$302,475
	Centrally Appropriated	-	\$47,764	\$49,482
	Total	\$500,000	\$4,856,178	\$4,019,389
	Total FTE	-	1.7 FTE	1.9 FTE
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. 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. The Commissioner of Insurance is required to promulgate rules to define atypical opioid and to create a list of covered non-opioid analgesics with lower fatality rates than pure opioid agonists.
- *Mandatory coverage provisions.* The bill requires each health benefit plan to provide coverage for at least six physical therapy visits and six occupational therapy visits per year, or twelve acupuncture visits per year, with a maximum of one co-payment per year for these covered visits. The Commissioner of Insurance, in consultation with the Colorado Department of Public Health and Environment (CDPHE) and the state medical board, is required to promulgate rules that establish diagnoses of covered conditions for which nonpharmacological alternatives to opioids are appropriate and the treatment that may be appropriate.

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 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 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 the Department of Health Care Policy and Financing (HCPF) and health information organization networks to access to the program.

State and local public health funding. The bill annually appropriates \$2.0 million from the Marijuana Tax Cash Fund (MTCF) to the CDPHE to pursue measures at the state and local levels to address opioid and other substance use disorder priorities. CDPHE may retain up to \$500,000 of this appropriation, with the remainder passed through to local public health agencies.

SBIRT grant program. For FY 2019-20 through FY 2023-24, the bill requires the General Assembly to make an annual appropriation of \$500,000 from the MTCF to continue the operation of the Substance Use Disorder Screening, Brief Intervention, and Referral to Treatment (SBIRT) Grant Program operated through HCPF.

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 undeserved populations and communities. The center must report its findings and recommendations to the Opioid and Other Substance Use Disorders Committee by August 1, 2021. For FY 2020-21 through FY 2024-25, the bill requires the General Assembly to make an annual appropriation from the MTCF of \$250,000 to the Department of Human Services (DHS) for an allocation to the center. 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.

Colorado substance use disorders prevention collaborative. The bill requires the Office of Behavioral Health in the DHS to convene a Colorado substance use disorders prevention collaborative (collaborative) with institutions of higher education, nonprofit agencies, and other state agencies. The collaborative must implement a statewide strategic plan for prevention of substance use disorders, implement evidenced-based programs, work with stakeholders, and direct efforts to raise public awareness of the cost saving prevention measures. The bill requires the General Assembly to appropriate money for the collaborative from the MTCF for FY 2020-21 through FY 2023-24. The Office of Behavioral Health must report to the General Assembly by September 1, 2021, and by September 1 each year thereafter through 2024.

State Expenditures

This bill will increase state expenditures by \$0.5 million in FY 2019-20, \$4.9 million and 1.7 FTE in FY 2020-21, and \$4.0 million and 1.9 FTE in FY 2021-22. These costs, which are paid from General Fund, cash funds, and federal funds, are spread across several agencies, and are shown in Table 2 and discussed below.

Table 2
Expenditures Under HB 20-1085

	FY 2019-20	FY 2020-21	FY 2021-22
Dept. of Health Care Policy and Financing			
SBIRT	\$500,000	\$500,000	\$500,000
Change to MMIS	-	\$37,000	-
PDMP Development Costs	-	\$470,000	-
PDMP Ongoing Operations costs	-	\$400,000	\$410,000
HCPF Subtotal and Fund Split	\$500,000	\$1,407,000	\$910,000
General Fund	-	\$89,699	\$61,415
Cash Funds	\$500,000	\$576,316	\$546,110
Federal Funds	-	\$740,985	\$302,475
Department of Human Services			
Personal Services	-	\$74,814	\$89,777
Operating Expenses	-	\$1,080	\$1,350
Capital Outlay Costs	-	\$6,200	-
Travel	-	\$780	\$780
Education for Providers - The Center	-	\$250,000	\$250,000
Cost Prevention Education Campaign	-	\$250,000	\$250,000
Collaborative Consultation	-	\$50,000	\$50,000
Centrally Appropriated Costs*	-	\$14,546	\$17,845
FTE – Personal Services	-	0.8 FTE	1.0 FTE
DHS Subtotal	-	\$647,420	\$659,752
Department of Regulatory Agencies			
PDMP Integration	-	\$750,000	\$418,000
Medical Board Rule Making	-	\$2,550	-
Legal Services	-	\$15,990	-
DORA Subtotal	-	\$768,540	\$418,000

Table 2
Expenditures Under HB 20-1085 (Cont.)

	FY 2019-20	FY 2020-21	FY 2021-22
Dept. of Public Health and Environment			
Personal Services	-	\$64,576	\$64,576
Operating Expenses	-	\$1,215	\$1,215
Capital Outlay Costs		\$6,200	-
Pass-through to Local Public Health Agencies	-	\$1,564,009	\$1,570,209
Local Data Collection	-	\$364,000	\$364,000
Centrally Appropriated Costs*	-	\$32,218	\$31,637
FTE – Personal Services	-	0.9 FTE	0.9 FTE
CDPHE Subtotal	-	\$2,032,218	\$2,031,637
Total Cost	\$500,000	\$4,855,178	\$4,019,389
Total FTE	-	1.7 FTE	1.9 FTE

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

Health Care Policy and Financing. This bill increases costs in HCPF by \$500,000 in FY 2019-20, \$1.4 million in FY 2020-21, and \$910,000 in FY 2021-22. These costs are to extend the SBIRT program and to utilize the PDMP query access granted under the bill for the purposes of care coordination and utilization review of Medicaid clients. The SBIRT Grant program costs are \$500,000 per year. System changes to interface with PDMP data are estimated at about \$900,000 per year, including development costs, ongoing operations costs, and change to the Medicaid Management Information System (MMIS). PDMP development costs and changes to the MMIS are eligible for a 90 percent federal match rate. Ongoing operational costs are eligible for a 75 percent federal match rate. A breakdown of these costs are shown in Table 2 above.

Department of Human Services. The bill will increase costs in the DHS, paid from the MTCF, by \$647,420 and 0.8 FTE in FY 2020-21 and \$659,752 and 1.0 FTE in FY 2021-22. These costs are outlined below.

- *Education for providers.* DHS will contract with the center to provide \$250,000 in funding per year from FY 2021-22 through FY 2023-24. The center will incorporate best practices for prescribing benzodiazepines and the potential harm of inappropriately limiting prescriptions to chronic pain patients into its educational activities. Workload for the DHS to administer the contract is minimal and can be accomplished within existing appropriations.
- *Collaborative.* The DHS requires 1.0 FTE for a project manager to collaborate and facilitate across agencies, institutions of higher education, and nonprofits, and to assist in implementing a statewide strategic plan for the prevention of substance use disorders and implementation of evidenced-based programs. The bill requires the collaborative to raise public awareness of cost saving prevention measures. A public awareness campaign is anticipated to cost \$250,000, based off other agency campaigns. Additional detail on costs for the DHS are provided in Table 2 above. First year costs assume a September 1, 2020, start date.

Colorado Department of Public Health and Environment. The bill increases costs in the CDPHE by \$2,033,218 and 0.9 FTE in FY 2020-21 and \$2,031,636 and 0.9 FTE in FY 2021-22 paid from the MTCF, for the purpose of working at the state and local levels to address opioid and other substance use disorder priorities. Of this amount, \$1.6 million will be passed through to local public health agencies.

Department of Regulatory Agencies. The bill increases General Fund expenditures in DORA by \$768,540 in FY 2020-21 and \$418,000 in FY 2021-22 for PDMP integration, the rulemaking by the Colorado Medical Board, and legal services. These costs are outlined below.

- *Prescription Drug Monitoring Program.* System changes to PDMP are required to allow two health information exchanges to access the system. Integrating the PDMP is estimated to cost \$750,000 for development costs and \$418,000 for ongoing operational costs. Ongoing costs may vary from this initial estimate; if adjustments are needed they will be handled through the annual budget process.
- *Legal services and rulemaking.* 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 rulemaking.

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 \$47,764 in FY 2020-21 and \$49,482 in FY 2021-22.

Local Government

To the extent that any local government agencies or health facilities receive grants from programs created or funded under the bill, revenue and corresponding expenditures and workload will increase for that local government.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2019-20, the bill includes an appropriation of \$500,000 from the Marijuana Tax Cash Fund to the Department of Health Care Policy and Financing.

For FY 2020-21, this bill includes the following appropriations from the Marijuana Tax Cash Fund totaling \$2,750,000:

- \$500,000 to the Department of Health Care Policy and Financing;
- \$250,000 to the Department of Human Services; and
- \$2,000,000 to the Colorado Department of Public Health and Environment.

In addition to the appropriations above, this bill requires appropriations totaling \$2.1 million, as follows:

- \$907,000 to the Department of Health Care Policy and Financing, of which \$89,699 is from the General Fund, \$50,674 is from the Healthcare Affordability and Sustainability Fee Cash Fund, \$25,642 is from the Children's Basic Health Plan Trust, and \$740,985 is from federal funds;
- \$382,874 from the Marijuana Tax Cash Fund to the Department of Human Services and 0.8 FTE; and
- \$768,540 from the General Fund to the Department of Regulatory Agencies.

Lastly, for FY 2020-21, the CDPHE requires an allocation of 0.9 FTE.

State and Local Government Contacts

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