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Fiscal Note

Drafting Number: LLS 21-0236 **Date:** February 26, 2021
Prime Sponsors: Rep. Rich; Mullica **Bill Status:** House Health & Insurance
 Sen. Pettersen; Coram **Fiscal Analyst:** Matt Bishop | 303-866-4796
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Bill Topic: **EXPAND PRESCRIPTION DRUG MONITORING PROGRAM**

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

The bill expands the Prescription Drug Monitoring Program to cover all drugs prescribed in Colorado and continues the program until September 1, 2028. It increases state revenue and expenditures on an ongoing basis beginning in FY 2022-23.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under HB 21-1012*

New Impacts		Budget Year FY 2021-22	Out Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Fund	-	\$802,911	\$802,911
Expenditures	Cash Fund	-	\$1,004,552	\$367,803
	Centrally Appropriated	-	\$130,130	\$103,336
	Total	-	\$1,134,682	\$471,139
	FTE	-	2.4 FTE	4.7 FTE

Continuing Impacts		Budget Year FY 2021-22	Out Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Fund	-	\$548,400	\$548,400
Expenditures	Cash Fund	-	\$548,400	\$548,400
	FTE	-	1.2 FTE	1.2 FTE

* Table 1 shows the new impacts resulting from changes to the program under the bill and the continuing impacts from extending the program beyond its current repeal date. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal.

Summary of Legislation

Current law requires the Prescription Drug Monitoring Program (PDMP) to track all controlled substances prescribed in Colorado. Beginning February 1, 2023, the bill expands the program to track all prescription drugs prescribed in the state. The bill extends the repeal of the program until September 1, 2028, following a sunset review.

Current law authorizes the Department of Regulatory Agencies (DORA) to collect a fee from licensees who may prescribe controlled substances. The bill authorizes DORA to collect a fee from any licensed practitioner.

Background

The PDMP currently covers 45,700 practitioners, including dentists, doctors, nurses, optometrists, podiatrists, and veterinarians, who issue about seven million prescriptions annually for controlled substances. Operating costs for the program are paid as a PDMP surcharge on license renewal fees by these practitioners.

DORA licenses 328,974 health workers annually in the following fields and professions:

- acupuncture;
- addiction counseling;
- athletic training;
- audiology;
- chiropractic;
- dental;
- direct-entry midwives;
- hearing aid providers;
- marriage and family therapy;
- massage therapy;
- medicine;
- naturopathy;
- nursing;
- nursing home administrators;
- occupational therapy;
- optometry;
- pharmacy;
- physical therapy;
- podiatry;
- professional counseling;
- psychology;
- respiratory therapy;
- social work;
- speech-language pathology;
- surgery;
- unlicensed psychotherapy; and
- veterinary medicine.

The seven million prescriptions tracked by the PDMP result in 1,440 calls to DORA, 1,100 patient requests for data, and 250 subpoenas for information each year. The fiscal note estimates that the number of prescriptions tracked in the PDMP will grow by 35 to 40 million per year.

Continuing Program Impacts

DORA currently averages revenue and expenditures of \$548,400 and 1.2 FTE per year to administer the PDMP. Actual revenue varies year-to-year depending on the renewal schedules of the regulated professions covered by the PDMP. If this bill is enacted, these current revenue and expenditures will continue for the program starting in FY 2022-23. This continuing revenue is subject to the state TABOR limits; however, the fiscal note does not identify any change to TABOR refunds because the revenue is already accounted for in the LCS revenue forecast.

If this bill is not enacted, the program will end on July 1, 2022, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2022-23 by the amounts shown in Table 1. The changes to the program that drive additional revenue and costs are discussed in the State Revenue and State Expenditures sections below.

State Revenue

The bill increases state cash fund revenue to DORA by \$1,351,311 beginning in FY 2022-23. This revenue, which is subject to TABOR, is deposited into the Prescription Drug Monitoring Fund. Revenue is generated from a fee on license renewals among certain regulated professions.

Fee impact on licensed practitioners. 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 DORA based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. The table below identifies the fee impact of this bill.

The PDMP surcharge is applied to all practitioners licensed by DORA, for which the variety of licenses cover different durations and have different renewal schedules. The table below shows the proposed fees as a yearly rate; however, actual fees for any given license will be adjusted based on its renewal schedule. In future years, the fee may be lower once initial costs to expand the program have been covered. The current PDMP surcharge is \$12.00 per license per year.

Table 2
Fee Impact on Licensed Practitioners

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2022-23	PDMP Surcharge	\$4.11	328,974	\$1,351,311
FY 2023-24	PDMP Surcharge	\$4.11	328,974	\$1,351,311

State Expenditures

The bill increases state cash fund expenditures by \$1,134,682 and 2.4 FTE in FY 2022-23 and \$471,139 and 4.7 FTE in FY 2023-24. These costs are summarized in Table 3 and discussed below.

**Table 3
Expenditures Under HB 21-1012**

	FY 2022-23	FY 2023-24
Department of Regulatory Agencies		
Personal Services	\$118,229	\$236,458
Operating Expenses	\$3,240	\$6,345
Capital Outlay Costs	\$31,000	-
IT Contractor	\$852,083	\$125,000
Centrally Appropriated Costs ¹	\$130,130	\$103,336
FTE – Personal Services	2.4 FTE	4.7 FTE
Total Cost	\$1,134,682	\$471,139
Total FTE	2.4 FTE	4.7 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Personal services. DORA will require 2.4 FTE in FY 2022-23 and 4.7 FTE in subsequent years to respond to calls and complaints regarding the expanded PDMP and to respond to subpoenas and other requests for information.

Information technology system. DORA contracts with a third-party service provider to manage the system for the PDMP. The system will require adaptation to handle new types of prescriptions, and its capacity must be increased to handle the new volume, estimated at \$800,000 in FY 2022-23. While in operation, annual maintenance costs associated with the system will increase by \$52,083 in FY 2022-23 and \$125,000 per year thereafter.

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 \$130,130 in FY 2022-23 and \$103,336 in FY 2023-24.

TABOR refunds. Under the December 2020 LCS Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

Effective Date

The bill takes effect July 1, 2021, except that sections 1 through 4 take effect February 1, 2023.

State and Local Government Contacts

Corrections

Higher Education

Information Technology

Regulatory Agencies

Health Care Policy and Financing

Human Services

Public Health and Environment