



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 16, 2021)

Drafting Number: LLS 21-0330 Date: May 18, 2021
Prime Sponsors: Rep. Gray Bill Status: House Finance
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Bill Topic: PROMOTING SOCIAL DISTANCING IN MARIJUANA INDUSTRY

- Summary of Fiscal Impact:
State Revenue
State Expenditure
State Transfer
TABOR Refund
Local Government
Statutory Public Entity

The bill allows a physician to examine a patient remotely to determine whether the patient would benefit from medical marijuana, and removes language prohibiting online and delivery sales for retail marijuana stores. The bill increases state expenditures in FY 2021-22 and FY 2022-23.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$83,945 to the Colorado Department of Public Health and Environment.

Fiscal Note Status: This fiscal note reflects the introduced bill, as amended by the House Business Committee.

Table 1
State Fiscal Impacts Under HB 21-1058

Table with 4 columns: Category, Sub-category, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and TABOR Refund.

## Summary of Legislation

The bill allows a physician to treat, counsel, and conduct appropriate physical examinations remotely to establish whether a patient would benefit from medical marijuana. For a patient between the ages of 18 and 21, a physician may only make a first-time medical marijuana recommendation remotely if:

- two physicians diagnose the patient as having a debilitating or disabling medical condition;
- the recommending physician has explained the possible risks and benefits of medical marijuana; and
- the physician has provided the patient with written documentation of the diagnosis and that the patient might benefit from medical marijuana.

The bill also removes language prohibiting a retail marijuana store from selling products over the internet or delivering products to a person not physically present on the licensed premises.

## Background

Executive Order D 2020 011 suspended the requirement of a personal physical examination by a physician for the issuance of medical marijuana cards and the prohibition on retail marijuana store online sales of retail marijuana for 30 days. This executive order has been extended by subsequent executive orders, the most recent being Executive Order D 2021 100, issued May 12, 2021.

## State Revenue

The bill increases state revenue to the Medical Marijuana Registry Cash Fund by \$115,710 in FY 2021-22 and \$26,100 in FY 2022-23. This fee revenue is to cover the additional expenditures incurred by CDPHE to implement the bill.

**Fee impact on medical marijuana patients.** 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 CDPHE based on cash fund balance, estimated program costs, and the estimated number of applications subject to the fee. The table below identifies the fee impact of this bill.

**Table 2**  
**Fee Impact on Medical Marijuana Patients**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Fee Increase*</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<b>FY 2021-22</b>	Medical Marijuana Registration Fee	\$1.33	87,000	\$115,710
<b>FY 2022-23</b>	Medical Marijuana Registration Fee	\$0.30	87,000	\$26,100

\*The current registration fee is \$25.00 with waivers for patients with income at or below 185 percent of the federal poverty level.

**State Expenditures**

The bill increases state expenditures by \$115,268 in FY 2021-22 and \$25,258 in FY 2022-23 for the CDPHE. Costs are paid from the Medical Marijuana Registry Cash Fund, and are listed in Table 3 and discussed below.

**Table 3  
 Expenditures Under HB 21-1058**

<b>Cost Components</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>Department of Public Environment and Health</b>		
Personal Services	\$56,530	\$17,181
Operating Expenses	\$1,215	-
Capital Outlay Costs	\$6,200	-
Computer Programming	\$20,000	-
Centrally Appropriated Costs <sup>1</sup>	\$31,323	\$8,077
<b>Total</b>	<b>\$115,268</b>	<b>\$25,258</b>
<b>Total FTE</b>	<b>0.9 FTE</b>	<b>0.3 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**CDPHE.** CDPHE requires 0.9 FTE in FY 2021-22 and 0.3 FTE in FY 2022-23 to make changes to the Medical Marijuana Registry system, update physician training materials, and answer questions and conduct outreach on the new requirements. The staffing costs in FY 2021-22 assume a July 1 start date; however, should Executive Order D 2021 044 be extended beyond that date, costs will be less than estimated.

In addition, CDPHE requires \$20,000 in FY 2021-22 only for the third-party vendor to make changes to the registry system, including new certification forms for physicians to complete for new patients between the ages of 18 and 20.

**Other agencies.** The bill increases state workload for several agencies by a minimal amount. The Department of Regulatory Agencies must update outreach materials for physicians. No substantive changes to the licensing and regulation of marijuana online sales or delivery are expected, as the bill removes a prohibition that conflicts with other portions of statute that allow the Department of Revenue to permit online sales and delivery by licensed retail marijuana stores. The bill does not require a change in appropriations for these agencies.

**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 \$31,323 in FY 2021-22 and \$8,077 in FY 2022-23.

## **Effective Date**

The bill takes effect when Executive Order D 2021 44 expires or is not extended, or when the Revisor of Statutes is notified by the Executive Director of the Department of Revenue that Executive Order D 2021 44 expires and is not extended.

## **State Appropriations**

For FY 2021-22, the bill requires an appropriation of \$83,945 from the Medical Marijuana Registry Cash Fund to the Colorado Department of Public Health and Environment, and 0.9 FTE.

## **State and Local Government Contacts**

Law

Public Health and Environment

Regulatory Agencies