



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 29, 2022)

Drafting Number:	LLS 22-0947	Date:	May 5, 2022
Prime Sponsors:	Sen. Rodriguez; Smallwood Rep. Bird; McKean	Bill Status:	House Finance
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Bill Topic: TELEPHARMACY CRITERIA REMOVE LOCATION RESTRICTION

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input type="checkbox"/> State Diversion	<input type="checkbox"/> Statutory Public Entity

This bill removes geographic restrictions on, and further defines and regulates telepharmacy outlets. This bill increases state revenue beginning in FY 2022-23, and state expenditures beginning in FY 2023-24.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill as amended by the House Health and Insurance Committee. Due to time constraints, this analysis is preliminary and will be updated following further review and any additional information received.

**Table 1
State Fiscal Impacts Under SB 22-173**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Funds	\$20,250	-
Expenditures	Cash Funds	-	\$289,454
	Centrally Appropriated	-	\$81,801
	Total Expenditures	-	\$371,255
	Total FTE	-	3.3 FTE
Other Budget Impacts	TABOR Refund	\$20,250	-

Summary of Legislation

Under current law, a telepharmacy outlet must be located more than 20 miles from any pharmacy or telepharmacy outlet. The bill removes this geographic restriction, and requires that a telepharmacy be located in an area of need, as defined under the bill.

The bill classifies a telepharmacy outlet as a prescription drug outlet. Under current law, a prescription drug outlet must be under the direct charge of a pharmacist manager. A proprietor who is not a pharmacist is required to comply with this requirement and provide a manager who is a pharmacist. The bill exempts a telepharmacy outlet from the requirement that a pharmacist manager not oversee more than one prescription drug outlet, and requires a telepharmacy outlet to have a pharmacist manager.

Assumptions

The fiscal note assumes that there will be 45 new Prescription Drug Outlet registrations by telepharmacies under the bill. There are 45 rural zip codes in Colorado with no access to pharmacy services, and an assumed loss rate of 5 pharmacies per year would lead to 65 areas of need in FY 2022-23. It is also assumed that the Board of Pharmacy will determine rural areas without access to pharmacy services to be an "area of need," and that telepharmacies will fill 70 percent of the need.

State Revenue

This bill will increase state revenue by \$20,250 to the Division of Professions and Occupations Cash Fund in FY 2022-23.

Fee impact on telepharmacy outlets. 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 Department of Regulatory Agencies (DORA) based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. As shown in Table 2, the fiscal note assumes that 45 additional entities will register as Prescription Drug Outlets under the bill, and will pay the initial licensing fee in FY 2022-23.

Table 2
Fee Impact on Specialized Prescription Drug Outlets

Type of Fee	Current Fee	Number Affected	Total Fee Impact
Prescription Drug Outlet License	\$450	45	\$20,250
		FY 2022-23 Total	\$20,250

State Expenditures

The bill increases state expenditures in the Division of Professions and Occupations (DPO) in the DORA by \$371,255 in FY 2023-24 from the Division of Professions and Occupations Cash Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3
 Expenditures Under SB22-173**

	FY 2022-23	FY 2023-24
Department of Regulatory Agencies		
Personal Services	-	\$236,828
Operating Expenses	-	\$4,455
Capital Outlay Costs	-	\$18,600
Legal Services	-	\$29,571
Centrally Appropriated Costs ¹	-	\$81,801
FTE – Personal Services	-	3.3 FTE
FTE – Legal Services	-	0.2 FTE
Total Cost	-	\$371,255
Total FTE	-	3.5 FTE

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

Oversight. Beginning in FY 2022-23 the DPO requires 0.1 FTE of a pharmacist to conduct pharmaceutical compliance, performance and drug accountability audits, investigate complaints and possible fraud, and participate in enforcement activities as necessary. This work is assumed to be absorbable in year one, as work will not be required until March 1, 2023.

Enforcement. Beginning in FY 2023-24, the DPO will require 3.0 FTE of a criminal investigator to identify individuals involved in an investigation, interview witnesses, obtain relevant documents and verify the authenticity of those documents, examine books or records, collect evidence, prepare subpoenas, and write investigation reports. Standard operating and capital outlay costs are included.

Settlement. Beginning in FY 2023-24, the DPO will require 0.3 FTE to draft stipulations and final agency orders, and facilitate settlement of the referred matters. Standard operating and capital outlay costs are included.

Legal services. In FY 2022-23, the DPO will require 50 hours of legal services from the Department of Law for rule making, and 300 hours and 0.2 FTE beginning in FY 2023-24 for adjudication, all at a blended rate of \$98.57 per hour. This fiscal note assumes that legal services provided in FY 2022-23 are absorbable.

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 shown in Table 3.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Information Technology

Law

Regulatory Agencies