



## Legislative Council Staff

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# Final Fiscal Note

**Drafting Number:** LLS 21-0236 **Date:** August 25, 2021  
**Prime Sponsors:** Rep. Rich; Mullica **Bill Status:** Signed into Law  
 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 directs the Department of Regulatory Agencies to determine if the Prescription Drug Monitoring Program should be expanded to include all prescription drugs, and if so, promulgate rules by June 1, 2022. It increases state revenue and expenditures beginning in FY 2021-22.

**Appropriation Summary:** For FY 2021-22, the bill requires and includes an appropriation of \$61,118 to the Department of Regulatory Agencies.

**Fiscal Note Status:** The fiscal note reflects the enacted bill.

**Table 1**  
**State Fiscal Impacts Under HB 21-1012**

		Budget Year FY 2021-22	Out Year FY 2022-23 <sup>1</sup>
<b>Revenue</b>	Cash Funds	\$79,795	\$594,100
<b>Expenditures</b>	General Fund	-	\$699,109
	Cash Funds	\$61,118	\$499,694
	Centrally Appropriated	\$18,677	\$94,406
	<b>Total</b>	<b>\$79,795</b>	<b>up to \$1,293,209</b>
	<b>FTE</b>	<b>0.8 FTE</b>	<b>4.7 FTE</b>
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

<sup>1</sup> Outyear expenses are contingent on expansion of the program by the Board of Pharmacy. Estimated expenditures in FY 2022-23 reflect full program expansion; any exemptions will reduce expenditures.

## Summary of Legislation

Current law requires the Prescription Drug Monitoring Program (PDMP) to track all controlled substances prescribed in Colorado. The bill directs the Board of Pharmacy in the Department of Regulatory Agencies (DORA) to determine if the program should track all prescription drugs prescribed in the state. If it makes such determination, it must promulgate rules by June 1, 2022. The board may exclude one or more prescription drugs from the program by publicly noting the justification for the exclusion.

## 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.

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 could grow by as many as 35 to 40 million per year.

## State Revenue

The fiscal note assumes DORA will increase the PDMP fee on dentists, doctors, nurses, optometrists, podiatrists, and veterinarians, generating \$79,975 in FY 2021-22 and \$594,100 in FY 2023-24 and future years. Fee revenue is subject to TABOR.

**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 certain practitioners licensed by DORA, for which the variety of licenses cover different durations and have different renewal schedules. The table below shows the proposed fee increases 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 and statutorily capped at \$25.00 per license per year.

**Table 2  
Fee Impact on Licensed Practitioners**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee Increase<sup>1</sup></b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
FY 2021-22	PDMP Surcharge	\$1.75	45,700	\$79,795
FY 2022-23	PDMP Surcharge	\$13.00	45,700	\$594,100

<sup>1</sup> The maximum surcharge is \$25; the current fee is \$12.

## State Expenditures

State cash fund expenditures will increase by \$79,795 and 0.8 FTE in FY 2021-22, and conditional upon the PDMP expansion, by up to \$1,293,209 and 4.7 FTE in FY 2022-23. These costs are summarized in Table 3 and discussed below.

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

	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$53,838	\$236,458
Operating Expenses	\$1,080	\$6,345
Capital Outlay Costs	\$6,200	\$31,000
IT Contractor	-	\$925,000
Centrally Appropriated Costs <sup>1</sup>	\$18,677	\$94,406
<b>Total Cost</b>	<b>\$79,795</b>	<b>up to \$1,293,209</b>
<b>Total FTE</b>	<b>0.8 FTE</b>	<b>4.7 FTE</b>

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

**Personal services.** DORA will require 0.8 FTE in FY 2021-22 to support the Board of Pharmacy in determining if the PDMP should be expanded and if any exceptions should be implemented. If the PDMP does expand, DORA will require up to 4.7 FTE beginning in FY 2022-23 to respond to calls and complaints regarding the expanded PDMP and to respond to subpoenas and other requests for information. To the extent that DORA makes exceptions for some prescription drugs, these outyear expenditures will decrease.

**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, should the board expand the program. While in operation, annual maintenance costs associated with the system are \$125,000 per year.

**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 \$18,677 in FY 2021-22 and \$94,406 in FY 2022-23.

**TABOR refunds.** The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

**Federal ARPA funds.** This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

## Technical Note

Because the PDMP fee is statutorily limited to \$25 per license per year, DORA will not be able to collect enough revenue to fund the full PDMP expansion. This fiscal note shows the costs for full expansion and assumes that the difference between the maximum fee revenue generated and required expenditures to expand the program will be made up from the General Fund. Alternatively, DORA may limit the scope of the expansion to what can be accomplished within available fee revenue.

## Effective Date

The bill was signed into law by the Governor on July 7, 2021, and takes effect on September 7, 2021, assuming no referendum petition is filed.

## State Appropriations

In FY 2021-22, the bill requires and includes an appropriation of \$61,118 from the Prescription Drug Monitoring Fund to the Department of Regulatory Agencies, and 0.8 FTE.

## State and Local Government Contacts

Corrections  
Higher Education  
Information Technology  
Regulatory Agencies

Health Care Policy and Financing  
Human Services  
Public Health and Environment