



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 12, 2021)

Drafting Number: LLS 21-0135 **Date:** June 3, 2021
Prime Sponsors: Rep. Kennedy; Herod **Bill Status:** Senate Second Reading
 Sen. Pettersen; Priola **Fiscal Analyst:** Matt Bishop | 303-866-4796
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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 type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Diversion	<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 expenditures on an ongoing basis, and results in a one-time diversion of General Fund in FY 2021-22.

Appropriation Summary: For FY 2021-22, the bill requires appropriations of \$382,908 to the Department of Human Services and \$228,207 to the Department of Regulatory Agencies. See State Appropriations section for additional details.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill, as amended by the Senate Appropriations Committee.

**Table 1
State Fiscal Impacts Under HB 21-1276**

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures	Marijuana Tax Cash Fund	\$598,115	\$594,754
	Cash Funds	\$13,000	-
	Centrally Appropriated	\$66,890	\$69,067
	Total Expenditures	\$678,005	\$663,821
	Total FTE	2.9 FTE	3.1 FTE
Diversion	General Fund	(\$13,000)	-
	Cash Funds	\$13,000	-
	Net Diversion	\$0	-
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 for certain plans issued or renewed beginning January 1, 2023.

- *Physical therapists, occupational therapists, chiropractors, or acupuncturists.* The bill prevents an insurance carrier that has a contract with a physical therapist, occupational therapist, chiropractor, or acupuncturist from prohibiting or penalizing these practitioners for providing a covered person with information on their financial responsibility for such services. When the covered person starts treatment, the provider must notify the person's insurance carrier. In addition, an insurance carrier cannot require such a practitioner to charge or collect a co-payment that exceeds the total charges submitted. If the Commissioner of Insurance 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 requires insurance carriers to provide coverage for an atypical opioid or non-opioid medication that is approved by the federal Food and Drug Administration (FDA) and prohibits carriers from 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.
- *Mandatory coverage provisions.* The bill requires each health benefit plan to provide a cost-sharing benefit for a minimum number of physical therapy visits, occupational therapy visits, chiropractic visits, and acupuncture visits, at a cost-sharing amount not to exceed the cost-sharing amount for a primary care visit for non-preventive services. The bill directs the Division of Insurance in DORA to conduct an actuarial study to determine the effect of the cost-sharing benefit. This benefit takes effect if the federal Department of Health and Human Services confirms that the benefit does not require defrayal by the state, as specified in the bill.

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. On or before November 1, 2021, the applicable board in DORA for each type of prescriber is required to, by rule, limit the supply of a benzodiazepine that a prescriber may prescribe to a patient who has not been prescribed benzodiazepine in the last 12 months by that prescriber with some treatment exceptions. Benzodiazepines may be prescribed electronically. The current opioid 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 or refilling a benzodiazepine.

The bill also makes several changes to make prescription information more accessible. It allows health information organization networks to access to the program and electronic health records only if the State Board of Pharmacy can accomplish this using existing program funds. It also directs the Division of Insurance to enable the expansion, utilization, and adoption of the U.S. Bureau of Justice Assistance's RxCheck program by September 1, 2021. The division may authorize certain public and private integration organizations to connect to the program and may require them to provide query audit reports as necessary. Practitioners and health systems may not be assessed a fee for access to the program.

Education for providers. The bill authorizes the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies (center) at the Colorado Health Sciences Center 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 underserved populations and communities. In addition, the bill directs the applicable licensing board for each type of prescriber in DORA to consult with the center to promulgate rules establishing competency-based continuing education requirements for licensed health-care providers to include the potential harm of inappropriately limiting prescriptions to chronic pain patients and best practices for prescribing benzodiazepines.

Colorado Substance Use Disorders Prevention Collaborative. The bill directs the Office of Behavioral Health in the Department of Human Services (DHS) to convene a collaborative with institutions of higher education, nonprofit agencies, and state agencies to gather feedback on evidence-based prevention practices and other functions related to preventative health, to be funded from the Marijuana Tax Cash Fund. The office is required to report its progress to the General Assembly each September from 2022 to 2025, when the collaborative repeals.

State Diversions

The bill diverts \$13,000 from the General Fund to the Division of Insurance Cash Fund in FY 2021-22 for an actuarial review to be contracted by the Division of Insurance in DORA. This revenue diversion occurs because the bill increases costs in the Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill increases state cash fund expenditures by \$678,005 and 2.9 FTE in FY 2021-22 and \$663,821 and 3.1 FTE in FY 2022-23. These impacts are shown in Table 2 and discussed below.

**Table 2
Expenditures Under HB 21-1276**

Cost Components	FY 2021-22	FY 2022-23
Department of Human Services		
Personal Services	\$74,848	\$89,817
Operating Expenses	\$1,860	\$2130
Capital Outlay Costs	\$6,200	-
Public Awareness Campaign	\$250,000	\$250,000
Collaborative Consultant	\$50,000	\$50,000
Centrally Appropriated Costs ¹	\$14,772	\$18,127
FTE – Personal Services	0.8 FTE	1.0 FTE
DHS Subtotal	\$397,680	\$410,074
Department of Regulatory Agencies		
Personal Services	\$117,972	\$117,972
Operating Expenses	\$2,835	\$2,835
Capital Outlay Costs	\$12,400	-
Technology Costs	\$82,000	\$82,000
Actuarial Contractor	\$8,000	-
All-Payer Claims Database	\$5,000	-
Centrally Appropriated Costs ¹	\$52,118	\$50,940
FTE – Personal Services	2.1 FTE	2.1 FTE
DORA Subtotal	\$280,325	\$253,747
Total	\$678,005	\$663,821
Total FTE	2.9 FTE	3.1 FTE

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

Department of Human Services. Expenditures will increase in DHS to administer the Colorado Substance Use Disorders Prevention Collaborative, produce reports to the General Assembly, and facilitate continuing education work. This requires 1.0 FTE program manager, who will also oversee consultancy contracts with subject matter experts and with a marketing firm to conduct a public awareness campaign. Based on similar, past activities, these are budgeted at \$50,000 and \$250,000 per year, respectively. Personnel costs include standard operating, capital outlay, and travel. These costs will be paid from the Marijuana Tax Cash Fund.

Department of Regulatory Agencies. In FY 2021-22, expenditures will increase by \$280,325 in FY 2021-22 and by \$253,747 in FY 2022-23, as described below.

RxCheck system integration. The bulk of costs in the first year (\$267,325) and all of the costs in the second and future years are related to the integration of the PDMP with the RxCheck system. These costs include 2.1 FTE for capacity planning, troubleshooting, and providing technical support, as well as \$82,000 in technology costs for the PDMP vendor. These costs will be paid from the Marijuana Tax Cash Fund.

Actuarial study. In addition, DORA requires \$13,000 in the Division of Insurance for the actuarial study. The actuarial study will require a contractor for an estimated 20 hours at a rate of \$400 per hour. As an input into this study, data will be purchased from the all-payer claims database. These costs will be paid from the Division of Insurance Cash Fund.

Colorado Health Sciences Center. Workload will increase to develop and conduct educational activities for providers. This can be accomplished within existing appropriations.

Rulemaking. Workload will increase in DORA and the Department of Law to update rules for regulated professions and for insurance carriers. This workload can be accommodated within existing appropriations.

State employee insurance. Insurance carriers that offer health benefit plans to state employees will be required to meet the coverage requirements of the bill, which may increase state expenditures on employee health insurance. Any cost increase could contribute to higher insurance premiums, which would be shared by state agencies and employees. Because insurance rates are influenced by a number of variables, the impact of this bill on premiums is not estimated.

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 \$66,890 in FY 2021-22 and \$69,067 in FY 2022-23.

Effective Date

The bill takes effect July 1, 2021, except the sections that affect health insurance take effect January 1, 2023, and the section that affects the PDMP takes effect only if Senate Bill 21-098 (the PDMP sunset bill) becomes law.

State Appropriations

For FY 2021-22, the bill requires and includes an appropriation of \$382,908 from the Marijuana Tax Cash Fund to the Department of Human Services, and 0.8 FTE.

For FY 2021-22, the bill requires and includes an appropriation of \$228,207 to the Department of Regulatory Agencies, and 2.1 FTE. This includes:

- \$215,207 from the Marijuana Tax Cash Fund; and
- \$13,000 from the Division of Insurance Cash Fund.

State and Local Government Contacts

Counties

Higher Education

Information Technology

Public Health and Environment

Health Care Policy and Financing

Human Services

Law

Regulatory Agencies