



## Legislative Council Staff

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# Fiscal Note

**Drafting Number:** LLS 21-0371  
**Prime Sponsors:** Sen. Ginal; Winter

**Date:** March 10, 2021  
**Bill Status:** Senate HHS  
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**Bill Topic:** **SUNSET CONTINUE STATE BOARD OF PHARMACY**

**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 type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

**Sunset bill.** SB 21-094 continues the State Board of Pharmacy in the Department of Regulatory Agencies, which is scheduled to repeal on September 1, 2021. State fiscal impacts include both increased expenditures from changes to the program under the bill, as well as the continuation of the program's current revenue and expenditures. The program is continued through September 1, 2030.

**Appropriation Summary:** For FY 2021-22, the bill requires an appropriation of \$1,024,330 to the Department of Corrections.

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

**Table 1**  
**State Fiscal Impacts Under SB 21-094<sup>1</sup>**

		Budget Year FY 2021-22	Out Year FY 2022-23
<b>New Impacts</b>			
Revenue		-	-
Expenditures	General Fund	\$1,166,025	\$1,286,831
	New FTE	6.8 FTE	9.0 FTE
TABOR Refund		-	-
<b>Continuing Impacts</b>			
Revenue	Cash Funds	-	\$1,800,000
Expenditures	Cash Funds	-	\$1,800,000
	Continuing FTE	-	7.8 FTE
TABOR Refund		-	-

<sup>1</sup> 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**

The bill continues the State Board of Pharmacy for nine years, until September 1, 2030. In addition, the bill adjusts the types of pharmacists that are included on the board, aligns state statute with the federal Drug Quality and Security Act, and modifies the board's authority to inspect certain facilities. The bill also includes various changes to the scope of practice for pharmacy professionals and the regulation of certain medical facilities, as described below.

**Scope of practice—pharmacists.** The bill expands the scope of practice for pharmacists to include providing care pursuant to a collaborative pharmacy practice agreement; expanding prescriptive authority, including the administration of opiate antagonists; ordering laboratory tests as related to medication therapy; and performing limited physical assessments. Pharmacists may fill a prescription for a specific drug with a substitute and make minor adaptations to a prescription, under certain conditions. The bill also requires pharmacists to offer patient counseling and directs the board to adopt rules addressing such services.

**Scope of practice—pharmacy technicians.** The scope of practice for pharmacy technicians is also expanded to include documenting nonclinical information from patients, replenishing automated dispensing devices without pharmacist verification if using bar code technology, and registering with the Prescription Drug Use Monitoring Program on behalf of a pharmacist.

**Facility regulation.** The bill adjusts the regulation of certain medical facilities by adding community mental health clinics and facilities that operate a licensed substance use disorder treatment program to the definition of "other outlets," and requiring 503B outsourcing facilities and third-party logistics providers to register with the board.

**Other changes.** The bill makes a variety of other changes, including:

- repealing the requirement that the board justify to the Veterinary Pharmaceutical Advisory Committee any deviations from the committee's recommendations;
- repeals the ability of prescription drug outlets to register as compounding drug outlets;
- increasing the amount of medication a hospital is authorized to dispense from a 24-hour supply to a 72-hour supply, and permits hospitals to dispense prescription drugs to a patient for a temporary leave from the hospital of less than 24 hours;
- repealing the requirement that a prescription for an anabolic steroid require its purpose be printed on the label; and
- requiring the board to adopt rules for electronic records storage.

## **Continuing Program Impacts**

Based on the department's FY 2020-21 budget, the Department of Regulatory Agencies is expected to have continued revenue and expenditures of \$1.8 million and 7.8 FTE to administer the current regulatory requirements of the Board of Pharmacy. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2022-23. This continuing revenue is subject to the state TABOR limits. If this bill is not enacted, the program will end on September 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 Expenditures**

The bill increases General Fund expenditures by \$1,166,025 and 6.8 FTE in FY 2021-22 and \$1,286,831 and 9.0 FTE in FY 2022-23 in the Department of Corrections (DOC). It also increases workload in the Departments of Regulatory Agencies, Public Health and Environment, and Law, as discussed below.

**Table 2  
 Expenditures Under SB 21-094**

	FY 2021-22	FY 2022-23
<b>Department of Corrections</b>		
Personal Services	\$814,480	\$1,085,972
Operating Expenses	\$209,850	\$12,600
Centrally Appropriated Costs <sup>1</sup>	\$141,695	\$188,259
<b>Total Cost</b>	<b>\$1,166,025</b>	<b>\$1,286,831</b>
<b>Total FTE</b>	<b>6.8 FTE</b>	<b>9.0 FTE</b>

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

**Department of Corrections.** The bill requires that mail-order pharmacies, like those operated by the DOC, provide counseling services on new medication therapies from a pharmacist. DOC currently provides counseling services, but from medical providers. DOC requires 9.0 FTE pharmacists to provide the required services. The fiscal note assumes a September 1, 2021 start date to align with the effective date of the bill, and accounts for the General Fund pay date shift.

**Department of Regulatory Agencies.** Workload will increase for the Board of Pharmacy to promulgate rules, engage in outreach, and respond to complaints associated with new functions. This workload is expected to be minimal and can be accommodated within existing appropriations.

**Department of Public Health and Environment.** Workload will increase in the Health Facilities and Emergency Medical Services Division to implement rules that conform to those promulgated by the Board of Pharmacy. This workload is expected to be minimal and can be accommodated within existing appropriations.

**Department of Law.** Workload will increase to assist departments in rulemaking. This workload can be accomplished within existing appropriations.

**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 \$141,695 in FY 2021-22 and \$188,259 in FY 2022-23.

## **Effective Date**

The bill takes effect September 1, 2021, except that Section 4 takes effect upon signature of the Governor, or upon becoming law without his signature.

## **State Appropriations**

For FY 2021-22, the bill requires a General Fund appropriation of \$1,024,330 and an allocation of 6.8 FTE to the Department of Corrections.

## **State and Local Government Contacts**

Corrections  
Higher Education  
Information Technology  
Public Health and Environment

Health Care Policy and Financing  
Human Services  
Law  
Regulatory Agencies