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Final Fiscal Note

Drafting Number: LLS 21-0371 **Date:** August 5, 2021
Prime Sponsors: Sen. Ginal; Winter **Bill Status:** Signed into Law
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Bill Topic: **SUNSET CONTINUE STATE BOARD OF PHARMACY**

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

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 workload 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: No appropriation is required.

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

Table 1
State Fiscal Impacts Under SB 21-094¹

New Impacts		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures		-	-
TABOR Refund		-	-
Continuing Impacts			
Revenue	Cash Funds	-	\$1,800,000
Expenditures	Cash Funds	-	\$1,800,000
	Continuing FTE	-	7.8 FTE
TABOR Refund		-	-

¹ 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, and expands the number of designees a pharmacist may authorize to access the Prescription Drug Monitoring Program.

Scope of practice—pharmacy technicians. The scope of practice for pharmacy technicians is also expanded to include documenting nonclinical information from patients and replenishing automated dispensing devices without pharmacist verification if using bar code technology.

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 72 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

In FY 2021-22, the bill increases workload in several state agencies, as described below.

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.

Effective Date

The bill was signed into law by the Governor on June 24, 2021 and takes effect September 1, 2021, except that Section 4 took effect upon signature of the Governor.

State and Local Government Contacts

Corrections

Higher Education

Information Technology

Public Health and Environment

Health Care Policy and Financing

Human Services

Law

Regulatory Agencies