



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 19-1028

**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 19, 2019)

Drafting Number:	LLS 19-0046	Date:	February 20, 2019
Prime Sponsors:	Rep. Hooton; Ransom Sen. Coram; Fenberg	Bill Status:	Senate HHS
		Fiscal Analyst:	Anna Gerstle 303-866-4375 anna.gerstle@state.co.us

Bill Topic: MEDICAL MARIJUANA CONDITION AUTISM

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

The bill adds autism spectrum disorder to the list of disabling medical conditions for which medical marijuana may be used. The bill impacts state revenue and workload beginning in FY 2018-19.

**Appropriation
Summary:** No appropriation is required.

**Fiscal Note
Status:** This fiscal note has been revised to reflect the reengrossed bill.

Summary of Legislation

The bill creates a statutory right for a patient with an autism spectrum disorder (ASD) to use medical marijuana. The bill creates the same rights, limitations, affirmative defense, and exceptions from criminal laws for these conditions as the constitutional right to use medical marijuana for other debilitating conditions. ASD must be diagnosed by a primary care physician, physician with experience in ASD, or licensed mental health provider acting within their scope of practice in order to qualify as a disabling medical condition.

Under current law, to be added to the medical marijuana registry, a child under the age of 18 must have been diagnosed with a disabling medical condition by two physicians, one of whom must be a board-certified pediatrician, family physician, or a child and adolescent psychiatrist who attests that he or she is part of the patient's primary care team. The bill removes the requirement on specific physicians, aligning it with the constitutional requirement that two physicians diagnose the patient as having a disabling medical condition. If the recommending physician is not the patient's primary care physician, the recommending physician must review the records of a diagnosing physician or a licensed mental health provider acting within their scope of practice.

In addition, the bill encourages the State Board of Health in the Colorado Department of Public Health and Environment (CDPHE) to prioritize medical marijuana health research grants for studies to gather objective scientific research regarding the efficacy and the safety of administering medical marijuana for ovarian cancer, dementia, and pediatric conditions, including but not limited to ASD, and other conditions the State Board deems suitable.

Background

Autism spectrum disorder. ASD is the broad term for a group of disorders, including Asperger syndrome, childhood disintegrative disorder, autistic disorder, and pervasive developmental disorders not otherwise specified. ASD symptoms can be mildly to profoundly disabling. According to the United States Centers for Disease Control and Prevention, about 1 in 59 children has been identified with ASD.

Eligible conditions. Under current law, the following conditions qualify a patient to receive a medical marijuana registry card with a doctor's recommendation:

- cancer;
- glaucoma;
- HIV or AIDS positive;
- post-traumatic stress; and
- a chronic or debilitating disease or medical condition that produced one or more of the following:
 - cachexia (wasting syndrome);
 - persistent muscle spasms;
 - seizures;
 - severe nausea; or
 - severe pain.

Medical marijuana registry program information. Once a person has been diagnosed with a qualifying debilitating medical condition, he or she may choose to enroll on the medical marijuana registry. The application fee is currently \$25. As of December 2018, 86,641 patients are authorized to use medical marijuana.

Marijuana taxes. Retail marijuana is subject to a 15 percent excise tax (on the wholesale price of marijuana) and a 15 percent special sales tax. Provided a person is enrolled on the medical marijuana registry, he or she can purchase medical marijuana, which is exempt from the excise tax and special sales taxes, but subject to the 2.9 percent state sales tax. Excise taxes collected on the sale of retail marijuana are transferred from the General Fund to the Building Excellent Schools Today (BEST) Fund and the Public School Fund, and sales taxes collected are transferred to the Marijuana Tax Cash Fund.

State Revenue

Beginning in the current FY 2018-19, this bill may both increase and decrease state revenue, as described below. Overall, the net impact is expected to be minimal. Impacted revenue is subject to TABOR.

Fee impact on individuals. The bill may increase state cash fund revenue if more individuals choose to enroll on the medical marijuana registry. The annual application fee to receive a registry card is \$25 to the CDPHE. These fees are deposited into the Medical Marijuana Program Cash Fund and are used to pay the costs of administering the registry.

Increases in sales tax revenue. Persons with ASD who are not currently using retail marijuana will be able to purchase medical marijuana with a registry card. The increase in medical marijuana purchases will increase state sales tax revenue deposited in the Marijuana Tax Cash Fund; the increase is expected to be minimal.

Decreases in excise tax and special sales tax revenue. If people 21 year of age and older who choose to enroll on the registry with ASD are currently using retail marijuana and begin to purchase medical marijuana, excise tax and special sales tax revenue collected on retail marijuana will decrease. This analysis assumes that any change in revenue will be minimal.

State Expenditures

Beginning in the current FY 2018-19, this bill may increase cash fund expenditures and workload in the CDPHE to update its rules and to process and monitor additional enrollment on the medical marijuana registry. Any change is expected to be minimal. Should the volume of new registry applications exceed existing capacity, this analysis assumes the department will request additional appropriations through the annual budget process.

In addition, the bill also increases the workload for the Department of Revenue to update forms, rules, and website with the changes in the bill, and for the Colorado Medical Board in the Department of Regulatory Agencies to modify outreach materials for physicians and handle any additional complaints resulting from removing the requirement for specific physicians to diagnose a child with a disabling medical condition. No change in appropriations is required for these departments.

To the extent that marijuana tax revenue is impacted by the bill, expenditures for programs funded by that revenue may also be impacted. Any impact is expected to be minimal.

TABOR refunds. The bill is expected to impact state General Fund obligations for TABOR refunds by a minimal amount in FY 2018-19 and FY 2019-20. Under current law and the December 2018 forecast, the bill will impact the amount refunded to taxpayers via sales tax refunds on income tax returns for tax years 2019 and 2020. Any impact is expected to be minimal. The state is not expected to collect a TABOR surplus in FY 2020-21.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Judicial	Regulatory Agencies
Law	Public Health and Environment
Revenue	Information Technology