



Legislative  
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*Nonpartisan Services for Colorado's Legislature*

**SB 19-013**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated January 29, 2019)

**Drafting Number:** LLS 19-0042  
**Prime Sponsors:** Sen. Marble; Ginal  
Rep. Hooton; Ransom

**Date:** February 25, 2019  
**Bill Status:** House Health & Insurance  
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**Bill Topic:** MEDICAL MARIJUANA CONDITION OPIATES PRESCRIBED FOR

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

The bill adds a condition for which a physician could prescribe an opiate for pain to the list of disabling medical conditions for which medical marijuana may be used. The bill impacts state revenue and expenditures on an ongoing basis.

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

**Fiscal Note Status:** This fiscal note reflects the reengrossed bill.

**Summary of Legislation**

The bill creates a statutory right to use medical marijuana for a patient with a condition for which a physician could prescribe an opiate for pain. 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.

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.

To conform with current law, the bill clarifies that a patient with a disabling medical condition who is under the age of 18 must only use medical marijuana in a nonsmokeable form when at the student's school, on a school bus, or at a school-sponsored event.

## **Background**

**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. Currently, there are approximately 88,000 patients authorized to use medical marijuana, of whom 333 are under the age of 18.

**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 FY 2019-20, this bill may both increase and decrease state revenue as described below. Overall, the net impact on state revenue is assumed to be minimal. This revenue is subject to TABOR.

**Fee impact on individuals.** The bill may increase state cash fund revenue if more people choose to enroll on the medical marijuana registry. Persons enrolling on the registry pay a \$25 annual fee to CDPHE to receive a registry card. 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 a condition for which a physician could prescribe an opiate for pain will be able to purchase medical marijuana with a registry card. The increase in medical marijuana purchases by eligible people who are not currently using retail marijuana, will increase state sales tax revenue deposited in the Marijuana Tax Cash Fund. The amount is expected to be minimal.

**Decreases in excise tax and special sales tax revenue.** If persons who are over 21 years of age and who choose to enroll on the medical marijuana registry with a condition for which a physician could prescribe an opiate for pain are currently using retail marijuana and begin purchasing medical marijuana instead, excise tax and special sales tax revenue collected on retail marijuana will decrease. This analysis assumes that any change in revenue is marginal and the overall impact is minimal.

### **State Expenditures**

Beginning in FY 2019-20, this bill may increase cash fund expenditures and workload in CDPHE to update its rules and materials, and to process and monitor additional enrollment on the medical marijuana registry. 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 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.

To the extent that marijuana tax revenue is impacted by the bill, expenditures for programs funded by that revenue may also be affected. 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 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. The state is not expected to collect a TABOR surplus in FY 2020-21.

### **Effective Date**

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

### **State and Local Government Contacts**

Information Technology  
Regulatory Agencies

Law  
Revenue

Public Health and Environment