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Fiscal Note

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Prime Sponsors: Sen. Moreno; Smallwood Bill Status: Senate HHS
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Bill Topic: REGULATE DENTAL THERAPISTS

- Summary of Fiscal Impact:
[X] State Revenue [ ] TABOR Refund
[X] State Expenditure [ ] Local Government
[ ] State Transfer [ ] Statutory Public Entity

The bill requires the Department of Regulatory Agencies to regulate dental therapists. The bill increases state revenue and expenditures starting in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$14,786 to the Department of Regulatory Agencies.

Fiscal Note Status: This fiscal note is preliminary and reflects the introduced bill. The fiscal note will be updated if more information becomes available.

Table 1
State Fiscal Impacts Under SB 22-219

Table with 4 columns: Category, Sub-category, Budget Year FY 2022-23, and Out Year FY 2023-24. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund).

## **Summary of Legislation**

The bill requires dental therapists be licensed by the Colorado Dental Board in the Department of Regulatory Agencies (DORA) starting on January 1, 2023. The bill outlines requirements for dental therapists including education, examination, supervision, professional liability insurance, and mandatory reporting of child abuse requirements. The bill also authorizes certain tasks a dental therapist can perform, including a task or procedure assigned to them by a licensed dentist that does not require the professional skill of a dentist.

**Dental Board.** The bill changes the composition of the Colorado Dental Board to include dental therapists, and sets parameters for their appointment. The bill applies current disciplinary actions for dentists or dental hygienists to dental therapists, except that the maximum fine that may be imposed on a dental therapist cannot exceed \$4,000.

**Dental therapy training programs.** The bill authorizes a state institution of higher education offering an accredited dental therapy training program to grant advance training toward completion of an accredited dental therapy program if the student demonstrates past completion of curriculum.

**Medicaid reimbursement.** The bill allows dental therapists to get reimbursed from Medicaid for services provided to children.

## **Background and Assumptions**

Based on information from the Minnesota State Dental Board, Minnesota currently licenses 113 dental therapists. This represents 0.6 percent of total dental licenses in Minnesota. According to DORA, Colorado currently has 11,433 dental licenses. Assuming a 0.6 percent increase, the fiscal note estimates that there will be 69 new dental therapy licenses.

## **Comparable Crime Analysis**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions resulting from the bill.

**Unauthorized practice.** This bill adds practicing dental therapy without a license to the list of unauthorized practices, a class 2 misdemeanor. From FY 2018-19 to FY 2020-21, 4 individuals have been convicted and sentenced for this offense. Of the persons convicted, 1 was male and 3 were female. Demographically, 2 were White, 1 was Hispanic, and 1 was Asian.

**Failure to report child abuse.** This bill adds dental therapists to list of mandatory reporters. Failure to report child abuse is a class 2 misdemeanor. From FY 2018-19 to FY 2020-21, 4 individuals have been convicted and sentenced for this offense. Of the persons convicted, 1 was male and 3 were female. Demographically, 2 were White, 1 was Black/African American, and 1 was Hispanic.

**Assumptions.** Based on the low number of sentences for each offense, this analysis assumes a high level of compliance. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## **State Revenue**

Starting in FY 2022-23, state revenue to the Professions and Occupations Cash Fund will increase by \$10,350 in FY 2022-23 and \$91,573 in FY 2023-24 from various dental license fees to cover the cost to regulate dental therapists. Revenue to the Professions and Occupation Cash Fund is subject to the state's TABOR limit.

**Fee impact on dental therapists and other dental licenses.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DORA based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. Table 2 below identifies the fee impact of this bill. The fiscal note assumes that dental therapists will pay an initial licensing fee and then will renew on March 1 every even year starting in 2024. In addition, the fiscal note assumes dental therapists will pay the same fee as dental hygienists, and that fees will be raised on all dental licensees to cover costs in FY 2023-24.

**Table 2  
 Fee Impact on Dental Therapists**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Increase Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<b>FY 2022-23</b>	New – Dental Therapist Fee	\$150	69	\$10,350
	<b>FY 2022-23 Total</b>			<b>\$10,350</b>
<b>FY 2023-24</b>	Renewal – Dentist	\$12.66	5,135	\$65,014
	Renewal – Hygienist	\$2.88	4,757	\$13,715
	Renewal – Inactive Dentist	\$12.66	47	\$595
	Renewal – Academic Dentist	\$9.23	13	\$120
	Renewal – Moderate Anesthesia	\$6.10	156	\$952
	Renewal – Inactive Hygienist	\$2.88	51	\$147
	Renewal – General Anesthesia	\$5.68	162	\$921
	Renewal – Minimal Anesthesia	\$1.71	253	\$433
	Renewal – Local Anesthesia	\$1.21	3,892	\$4,716
	Renewal – Dental Therapist	\$71.88	69	\$4,960
<b>FY 2023-24 Total</b>			<b>\$91,573</b>	

**State Expenditures**

The bill increases state expenditures in DORA by \$16,191 in FY 2022-23 and \$42,864 in FY 2023-24 from the Professions and Occupations Cash Fund. Expenditures are shown in Table 3 and detailed below. In addition, workload to the Judicial Department, institutions of higher education, and the Department of Health Care Policy and Financing (HCPF), as described below.

**Table 3  
 Expenditures Under SB 22-219**

	FY 2022-23	FY 2023-24
<b>Department of Regulatory Agencies</b>		
Personal Services	-	\$15,832
Operating Expenses	-	-
Capital Outlay Costs	-	-
Legal Services	\$14,786	\$14,786
Consultant Costs	-	\$5,400
Centrally Appropriated Costs <sup>1</sup>	\$1,405	\$6,846
FTE – Personal Services	-	0.2 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE
<b>Total Cost</b>	<b>\$16,191</b>	<b>\$42,864</b>
<b>Total FTE</b>	<b>0.1 FTE</b>	<b>0.3 FTE</b>

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

**Department of Regulatory Agencies.** Starting in FY 2022-23, expenditures in DORA will increase to regulate dental therapists as described below.

- **Staffing costs.** Starting in FY 2023-24, DORA will require 0.2 FTE to provide outreach to the dental community, assist the board in promulgating rules, respond to complaints, investigate complaints, process applications, and answer any questions when it comes to licenses. Workload occurring in FY 2022-23 is assumed to be absorbable.
- **Legal services.** DORA will require 150 hours of legal services for rulemaking in FY 2022-23 and for general counsel regarding investigations that are referred to the Attorney General Office starting in FY 2023-24. This assumes there will be one case referred to the Attorney General Office. Legal services are provided by the Department of Law at a rate of \$98.57 per hour.
- **Consultant costs.** Starting in FY 2023-24, expenditures in DORA will increase to contract with an expert consultant to assist in cases that enter formal investigation. The consultant will serve as an expert on the board until a dental therapist is appointed to the board. The fiscal note assumes that 90 hours of contract work is required at \$60 per hour.

**Judicial Department.** Starting in FY 2022-23, workload to the trial courts may increase to the extent dental therapists appeal any disciplinary decisions. The fiscal note assumes any workload will be minimal and does not require a change in appropriations.

**Health Care Policy and Financing.** Preliminarily, the fiscal note assumes that expenditures in HCPF will increase to set reimbursement rates for dental therapists. In addition, service costs will depend on how dental therapist services are utilized and at what rate. These potential costs will be addressed in a future fiscal note, as necessary.

**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 shown in Table 2.

## **Other Budget Impacts**

**TABOR refunds.** The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

## **Effective Date**

The bill takes effect January 1, 2023, assuming no referendum petition is filed.

## **State Appropriations**

For FY 2022-23, the bill requires an appropriation of \$14,786 from the Division of Professions and Occupations Cash Fund to the Department of Regulatory Agencies, which is reappropriated to the Department of Law and 0.1 FTE.

## **State and Local Government Contacts**

Information Technology

Regulatory Agencies