# HB 21-1276

Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# Fiscal Note

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| **Drafting Number:** | LLS 21-0135 | **Date:** | April 19, 2021 |
| **Prime Sponsors:** | Rep. Kennedy; Herod<br>Sen. Pettersen; Priola | **Bill Status:** | House Health and Insurance |
| | | **Fiscal Analyst:** | Matt Bishop \| 303-866-4796<br>Matt.Bishop@state.co.us |

**Bill Topic:** **PREVENTION OF SUBSTANCE USE DISORDERS**

**Summary of Fiscal Impact:**

☐ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

The bill makes several changes to state law concerning the prevention of opioid and other substance use disorders. This bill increases state expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2021-22, the bill requires an appropriation of $632,908 to the Department of Human Services.

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

**Table 1**
**State Fiscal Impacts Under HB 21-1276**

| | | Budget Year FY 2021-22 | Out Year FY 2022-23 |
|---|---|---|---|
| **Revenue** | | - | - |
| **Expenditures** | Cash Funds | $632,908 | $641,947 |
| | Centrally Appropriated | $14,772 | $18,127 |
| | **Total Expenditures** | **$647,680** | **$660,074** |
| | **Total FTE** | **0.8 FTE** | **1.0 FTE** |
| **Transfers** | | - | - |
| **TABOR Refund** | | - | - |

## Summary of Legislation

The bill makes several changes to state law concerning the prevention of opioid and other substance use disorders, as described below.

**Health insurance provisions.** The bill places several restrictions and requirements on insurance carriers and health benefit plans relating to opioids and alternative treatments for certain plans issued or renewed beginning January 1, 2023.

- *Physical therapists, occupational therapists, chiropractors, or acupuncturists.* The bill prevents an insurance carrier that has a contract with a physical therapist, occupational therapist, chiropractor, or acupuncturist from prohibiting or penalizing these practitioners for providing a covered person with information on their financial responsibility for such services. When the covered person starts treatment, the provider must notify the person's insurance carrier. In addition, an insurance carrier cannot require such a practitioner to charge or collect a co-payment that exceeds the total charges submitted. If the Commissioner of Insurance in the Department of Regulatory Agencies (DORA) determines that an insurance carrier has engaged in these practices, then the commissioner is required to institute a corrective action plan for the insurance carrier to follow.

- *Atypical opioid or non-opioid medication.* The bill requires insurance carriers to provide coverage for an atypical opioid or non-opioid medication that is approved by the federal Food and Drug Administration (FDA) and prohibits carriers from mandating a covered person undergo step therapy or requiring pre-authorization. The insurance carrier is required to make the atypical opioid or non-opioid medication available at the lowest cost-sharing tier under the health benefit plan applicable to a covered opioid with the same indication.

- *Mandatory coverage provisions.* The bill requires each health benefit plan to provide coverage for a minimum number of physical therapy visits, occupational therapy visits, chiropractic visits, and acupuncture visits, at a cost-sharing amount not to exceed the cost-sharing amount for a primary care visit for non-preventive services.

**Prescribing limitations.** Under current law, an opioid prescriber is prevented from prescribing more than a seven-day supply of an opioid to a patient that has not had an opioid prescription in the last 12 months unless certain conditions apply. The executive director of DORA is required to, by rule, limit the supply of a benzodiazepine that a prescriber may prescribe to a patient who has not been prescribed benzodiazepine in the last 12 months by that prescriber. Benzodiazepines may be prescribed electronically. The current opioid prescribing limit is set to repeal on September 1, 2021. The bill continues the prescribing limitation indefinitely.

**Prescription drug monitoring program (PDMP).** Under current law, health care providers are required to query the PDMP before prescribing a second fill for an opioid. This requirement, which is set to repeal on September 1, 2021, is continued indefinitely by the bill. In addition, the bill requires health care providers to query the PDMP before prescribing or refilling a benzodiazepine. Lastly, the bill allows health information organization networks to access to the program if the State Medical Board can accomplish this with existing program funds.

**Education for providers.** The bill authorizes the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies (center) at the Colorado Health Sciences Center to include in its educational activities the best practices for prescribing benzodiazepines and the potential harm of inappropriately limiting prescriptions to chronic pain patients. The bill adds an emphasis for these educational activities to be directed to physicians, physician assistants, nurses, and dentists serving underserved populations and communities. In addition, the bill directs the executive director of DORA to consult with the center and the State Medical Board to promulgate rules establishing competency-based continuing education requirements for physicians and physician's assistants concerning prescribing practices for opioids.

**Colorado Substance Use Disorders Prevention Collaborative.** The bill directs the Office of Behavioral Health in the Department of Human Services (DHS) to convene a collaborative with institutions of higher education, nonprofit agencies, and state agencies to gather feedback on evidence-based prevention practices and other functions related to preventative health, to be funded from the Marijuana Tax Cash Fund. The office is required to report its progress to the General Assembly each September from 2022 to 2025, when the collaborative repeals.

## State Expenditures

The bill increases state expenditures, primarily in DHS, beginning in FY 2021-22. These impacts are shown in Table 2 and discussed below.

**Table 2**
**Expenditures Under HB 21-1276**

| | FY 2021-22 | FY 2022-23 |
|---|---|---|
| **Department of Human Services** | | |
| Personal Services | $74,848 | $89,817 |
| Operating Expenses | $1,860 | $2,130 |
| Capital Outlay Costs | $6,200 | - |
| Continuing Education Activities | $250,000 | $250,000 |
| Public Awareness Campaign | $250,000 | $250,000 |
| Collaborative Consultant | $50,000 | $50,000 |
| Centrally Appropriated Costs[1] | $14,772 | $18,127 |
| **Total Cost** | **$647,680** | **$660,074** |
| **Total FTE** | **0.8 FTE** | **1.0 FTE** |

[1] *Centrally appropriated costs are not included in the bill's appropriation.*

**Department of Human Services.** Expenditures will increase in DHS to administer the Colorado Substance Use Disorders Prevention Collaborative, produce reports to the General Assembly, and facilitate continuing education work. This requires 1.0 FTE program manager, who will also oversee consultancy contracts with subject matter experts and with a marketing firm to conduct a public awareness campaign. Based on similar, past activities, these are budgeted at $50,000 and $250,000 per year, respectively. Personnel costs include standard operating, capital outlay, and travel.

**Colorado Health Sciences Center.** Expenditures will increase to develop and conduct educational activities for providers. The bill designates $250,000 per year for this purpose.

**Rulemaking.** Workload will increase in DORA and the Department of Law to update rules for regulated professions and for insurance carriers. This workload can be accommodated within existing appropriations.

**State employee insurance.** Insurance carriers that offer health benefit plans to state employees will be required to meet the coverage requirements of the bill, which may increase state expenditures on employee health insurance. Any cost increase could contribute to higher insurance premiums, which would be shared by state agencies and employees. Because insurance rates are influenced by a number of variables, the impact of this bill on premiums is not estimated.

**Potential state expenditure.** This bill requires that health insurance plans cover a new health benefit that may be outside of those identified as an essential health benefit in the federal Affordable Care Act, which potentially increases costs to the state. Under the federal law, states may be required to cover health insurers' costs to provide newly mandated health benefits using state funds, rather than the insurer covering these costs using premiums collected from policy holders. At this time, it is unknown if the federal government will require these payments and the potential costs have not been estimated.

**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 $14,772 in FY 2021-22 and $18,127 in FY 2022-23.

## Effective Date

The bill takes effect July 1, 2021, except the sections that affect health insurance take effect January 1, 2023, and the section that affects the PDMP takes effect only if Senate Bill 21-098 (the PDMP sunset bill) becomes law.

## State Appropriations

For FY 2021-22, the bill requires an appropriation of $632,908 from the Marijuana Tax Cash Fund to the Department of Human Services.

## State and Local Government Contacts

Counties
Health Care Policy and Financing
Higher Education
Human Services
Information Technology
Law
Public Health and Environment
Regulatory Agencies