



Legislative  
Council Staff

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**FISCAL NOTE**

<b>Drafting Number:</b> LLS 20-0516	<b>Date:</b> February 18, 2020
<b>Prime Sponsors:</b> Rep. Michaelson Jenet; Landgraf	<b>Bill Status:</b> House Public Health
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**Bill Topic:** **SUNSET MENTAL HEALTH PROFESSIONALS**

<b>Summary of Fiscal Impact:</b>	<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.** HB 20-1206 continues the regulation of mental health professionals in the Department of Regulatory Agencies, which is scheduled to repeal on September 1, 2020. 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, 2029.

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

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

**Table 1  
State Fiscal Impacts Under HB 20-1206\***

Continuing Program Impacts		FY 2020-21	FY 2021-22
Revenue	Cash Funds	-	\$1,900,000
Expenditures	Cash Funds	-	\$1,900,000
	FTE	-	5.9 FTE

\* 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 regulation of mental health professionals, including psychologists, social workers, professional counselors, marriage and family therapists, registered psychotherapists, and addiction counselors, for nine years, through 2029. The bill also implements regulatory changes based on the recommendations of the sunset report. These changes include:

- allowing the staff of a mental health board to approve applications for licensure, certification, and registration without board ratification unless the board deems ratification necessary;
- requiring mental health professionals to disclose to clients that medical records may not be maintained after seven years;
- expanding the number of mental health professions covered by title protection;
- making conviction of a crime related to a mental health practice and the failure to report a felony conviction a violation of the mental health practice acts;
- permitting the appropriate regulatory board to suspend a mental health professional's license, certification, or registration for failure to comply with a board-ordered mental or physical health examination;
- repealing the requirement that a candidate for a social work license be supervised by a licensed social worker and allowing supervision of an applicant for a social work license to be done virtually;
- requiring applicants for initial psychology licensure to complete a criminal history record check;
- repealing the requirement that members of mental health boards be United States citizens;
- granting rule-making authority to the State Board of Addiction Counselor Examiners and requiring the State Board of Human Services in the Department of Human Services to establish education requirements for addiction counselors.

The bill also clarifies that:

- mental health professionals may administer opiate antagonists;
- students practicing in a school program are exempt from licensing, certification, and registration requirements;
- mental health professionals are not prohibited from offering or accepting payment for services provided from a referral;
- mental health professionals may disclose confidential communications if there is a threat to a school or its employees; and
- course work is the only professional competency activity that fulfills all continuing competency requirements for licensed social workers and licensed clinical social workers.

## Background

Mental health professionals are regulated by the corresponding professional board in the Department of Regulatory Agencies, and must be registered, certified, or licensed to practice. There are typically 25,000-29,000 active registrations, certifications, and licenses in a given year. Applicants pay an application or renewal fee every other year, which ranges in cost from \$45 to \$227 depending on the type of application and field of practice. Registrations, certifications, and licenses must be renewed every two years.

## Continuing Program Impacts

Based on the recent expenditures, the Department of Regulatory Agencies is expected to have revenue and expenditures of \$1.9 million to administer the regulatory programs for mental health professionals. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2021-22. This continuing revenue is subject to the state TABOR limits. The fiscal note does not identify any change to TABOR refunds because the revenue is already accounted for in the LCS revenue forecast.

If this bill is not enacted, the program will end on September 1, 2021, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2021-22 by the amounts shown in Table 1.

## State Revenue

The bill increases state cash fund revenue from criminal history background checks to the Colorado Bureau of Investigation (CBI) Identification Unit Cash Fund in the Department of Public Safety starting in FY 2020-21. The current fee for background checks is \$39.50, which includes \$11.25 for a Federal Bureau of Investigation fingerprint-based check, which is passed on to that federal agency. The background check is only required for initial licensure and is not required for renewal. The incidence of background checks is expected to be low, therefore the revenue impact is minimal.

## State Expenditures

The changes to the regulatory programs creates additional workload in several state agencies.

**Department of Regulatory Agencies.** Changes to the programs may result in additional complaints being heard by mental health boards. The department may also have increased legal services for rulemaking; however, any additional legal services required are expected to be minimal. The additional workload can be absorbed within existing appropriations.

**Department of Public Safety.** The bill increases cash fund expenditures for criminal history background checks starting in FY 2020-21 from the CBI Identification Unit Cash Fund. This covers the costs of conducting additional background checks and includes the pass-through costs of the FBI component of the background check. These expenditures, and any associated workload increase, are expected to be minimal.

## Effective Date

The bill takes effect September 1, 2020, if no referendum petition is filed.

## State and Local Government Contacts

Human Services  
Public Safety

Information Technology  
Regulatory Agencies

Law