



Legislative
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HB 20-1206

**FINAL
FISCAL NOTE**

Drafting Number: LLS 20-0516
Prime Sponsors: Rep. Michaelson Jenet; Landgraf
Sen. Winter; Tate

Date: October 13, 2020
Bill Status: Signed into Law
Fiscal Analyst: Matt Bishop | 303-866-4796
Matt.Bishop@state.co.us

Bill Topic: **SUNSET MENTAL HEALTH PROFESSIONALS**

Summary of Fiscal Impact:

<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 and decreased revenue 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 enacted bill.

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

New Impacts		FY 2020-21	FY 2021-22
Revenue	Cash Funds	(\$200,000)	(\$200,000)
Expenditures	Cash Funds	(\$200,000)	(\$200,000)
TABOR Refund	General Fund	-	-
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
TABOR Refund	General Fund	-	-

* 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.

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 title protection for certain mental health professions;
- 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, allowing supervision of an applicant for a social work license to be done virtually, and creating the category of clinical social worker candidate;
- 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;
- creating the Mental Health Disciplinary Record Work Group concerning the timeline and conditions for which disciplinary actions are available to the public or applicable regulators;
- closing access to the psychotherapy registry and replacing the registered psychotherapist category with the category "unlicensed psychotherapist;" and
- replacing the Level I, II, and III categories of certified addiction counselor with the categories "certified addiction technician" and "certified addiction specialist."

The bill also clarifies that:

- mental health professionals may administer opiate antagonists;
- students practicing in a school program and practitioners of auricular acudetox 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 between 25,000 and 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 (DORA) is expected to have continuing revenue and expenditures of \$1.9 million to administer the regulatory programs for mental health professionals beginning 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.

State Revenue

The changes to the regulatory programs affects revenue in several state agencies.

Department of Regulatory Agencies. Closing access to the psychotherapy registry will decrease revenue to DORA. In recent years, the department has received approximately 1,100 annual applications to the psychotherapy registry. Applying to the registry costs about \$180, including a \$160 application fee plus \$20 for each attempt to pass a jurisprudence exam. The fiscal note estimates that the revenue decrease will be about \$200,000 annually beginning in FY 2020-21. There may also be a minimal decrease in renewal fee revenue beginning in FY 2022-23 as registrations lapse. Any decrease is expected to be minimal, as most unlicensed psychotherapists are expected to pursue renewal, since any lapse in registration will be permanent.

Department of Public Safety. 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 affects expenditures and additional workload in several state agencies.

Department of Regulatory Agencies. The fiscal note assumes that the decrease in revenue attributable to closing access to the psychotherapy registry will be offset by an equivalent decrease in expenditures. If expenditures in DORA decrease at a different rate, the department has rulemaking authority to adjust renewal fees for unlicensed psychotherapists to ensure program expenditures match program revenue.

Other 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. Finally, workload may increase related to the Mental Health Disciplinary Record Work Group. 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

This bill was signed into law by the Governor and took effect on July 14, 2020.

State and Local Government Contacts

Human Services
Public Safety

Information Technology
Regulatory Agencies

Law