SB 22-173

Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 22-0947	**Date:**	August 29, 2022
Prime Sponsors:	Sen. Rodriguez; Smallwood Rep. Bird; McKean	**Bill Status:**	Signed into Law
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Bill Topic: **TELEPHARMACY CRITERIA REMOVE LOCATION RESTRICTION**

Summary of Fiscal Impact:

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

This bill removes geographic restrictions on and further defines and regulates telepharmacy outlets. The bill increases state revenue beginning in FY 2022-23, and state expenditures beginning in FY 2023-24.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The final fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 22-173

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Funds	$23,715	-
	Total Revenue	**$23,715**	**-**
Expenditures	Cash Funds	-	$289,454
	Centrally Appropriated	-	$81,801
	Total Expenditures	**-**	**$371,255**
	Total FTE	**-**	**3.5 FTE**
Other Budget Impacts	TABOR Refund	$23,715	-

Summary of Legislation

Under current law, a telepharmacy outlet is classified as an "other outlet," and must be located more than 20 miles from any pharmacy or telepharmacy outlet. The bill reclassifies a telepharmacy as a "prescription drug outlet" or "pharmacy," removes distance restrictions, requires that a telepharmacy be located in an area of need as defined under the bill, and requires that the central pharmacy overseeing the telepharmacy be located in Colorado.

The bill allows the State Board of Pharmacy to adopt rules for telepharmacy outlets limited to requirements concerning:

- applications;
- structures and equipment;
- staffing, training, and consultant pharmacist visitations;
- inventory record-keeping and storage requirements;
- operational policies and procedures;
- the number of telepharmacy outlets that may be operated by a central pharmacy;
- prescription volume; and
- criteria for requesting exemptions from the requirements.

Under current law, a prescription drug outlet must be under the direct charge of a pharmacist manager. A proprietor who is not a pharmacist is required to comply with this requirement and provide a manager who is a pharmacist. The bill allows a pharmacist manager of a central pharmacy to also serve as a pharmacist manager for a telepharmacy, and requires a telepharmacy outlet to have a pharmacist manager.

Assumptions

The fiscal note assumes that there will be 45 new prescription drug outlet registrations by telepharmacies under the bill. There are 45 rural zip codes in Colorado with no access to pharmacy services, and an assumed loss rate of 5 pharmacies per year would lead to 65 areas of need in FY 2022-23. It is also assumed that the Board of Pharmacy will determine a rural area without access to pharmacy services to be an "area of need," and that telepharmacies will fill 70 percent of the need.

State Revenue

This bill will increase state revenue by $23,715 to the Division of Professions and Occupations (DPO) Cash Fund in FY 2022-23.

Fee impact on telepharmacy outlets. 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 the Department of Regulatory Agencies (DORA) based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. As shown in Table 2, the fiscal note assumes that 45 additional entities will register as prescription drug outlets under the bill, and will pay the current licensing fee in FY 2022-23.

Table 2
Fee Impact on Telepharmacy Outlets

Type of Fee	Current Fee	Number Affected	Total Fee Impact
Prescription Drug Outlet License	$527	45	$23,715

State Expenditures

The bill increases state expenditures in the DPO in DORA by $371,255 in FY 2023-24 and ongoing from the DPO Cash Fund. Expenditures are shown in Table 3 and detailed below.

Table 3
Expenditures Under SB 22-173

	FY 2022-23	FY 2023-24
Department of Regulatory Agencies		
Personal Services	-	$236,828
Operating Expenses	-	$4,455
Capital Outlay Costs	-	$18,600
Legal Services	-	$29,571
Centrally Appropriated Costs[1]	-	$81,801
FTE – Personal Services	-	3.3 FTE
FTE – Legal Services	-	0.2 FTE
Total Cost	**-**	**$371,255**
Total FTE	**-**	**3.5 FTE**

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

Oversight. Beginning in FY 2022-23 the DPO requires 0.1 FTE of a pharmacist to conduct pharmaceutical compliance, performance and drug accountability audits, investigate complaints and possible fraud, and participate in enforcement activities as necessary. This work is assumed to be absorbable in year one, as work will not be required until March 1, 2023.

Enforcement. Beginning in FY 2023-24, the DPO will require 2.9 FTE of a criminal investigator to identify individuals involved in an investigation, interview witnesses, obtain relevant documents and verify the authenticity of those documents, examine books or records, collect evidence, prepare subpoenas, and write investigation reports. Standard operating and capital outlay costs are included.

Settlement. Beginning in FY 2023-24, the DPO will require 0.3 FTE to draft stipulations and final agency orders, and facilitate settlement of the referred matters. Standard operating and capital outlay costs are included.

Legal services. In FY 2022-23, the DPO will require 50 hours of legal services from the Department of Law for rule making, and 300 hours and 0.2 FTE beginning in FY 2023-24 for adjudication, all at a blended rate of $98.57 per hour. This fiscal note assumes that legal services provided in FY 2022-23 are absorbable.

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 3.

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 was signed into law by the Governor on June 8, 2022, and it took effect on August 9, 2022.

State and Local Government Contacts

Information Technology	Law	Regulatory Agencies