

*Colorado Legislative Council Staff Fiscal Note*  
**STATE and LOCAL  
 FISCAL IMPACT**

**Drafting Number:** LLS 10-0353 **Date:** January 25, 2010  
**Prime Sponsor(s):** Sen. Romer; Spence **Bill Status:** Senate Health and Human Services  
 Rep. Massey; McCann **Fiscal Analyst:** Sara McPhee (303-866-4782)

**TITLE:** CONCERNING REGULATION OF THE PHYSICIAN-PATIENT RELATIONSHIP FOR MEDICAL MARIJUANA PATIENTS.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
<b>State Revenue</b> Cash Funds Medical Marijuana Program Cash Fund	See State Revenue Section	
<b>State Expenditures</b> Cash Funds Medical Marijuana Program Cash Fund	See State Expenditures Section	
<b>FTE Position Change</b>		
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2010-2011:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact Section.		

**Note:** This fiscal note is preliminary. It will be updated as additional information becomes available.

**Summary of Legislation**

This bill amends the statute concerning the medical marijuana program to regulate the role of physicians in certifying that an individual may benefit from medical marijuana as follows:

- A physician and a patient must have a "bona fide" relationship before a physician may certify that a patient would benefit from medical marijuana;
- the physician is to provide follow-up care and treatment to the patient after he or she begins using medical marijuana;
- the physician is to maintain a separate record-keeping system for all patients certified by the registry;
- the physician is not to offer a discount to a patient who uses a particular dispensary or caregiver or diagnose a patient for a debilitating medical condition at a place where medical marijuana is sold or distributed;
- the physician is not to accept payment from any provider of medical marijuana or hold an economic interest in any marijuana dispensary; and

- the physician must hold a doctor of medicine or doctor of osteopathic medicine from an accredited medical school and have a valid, unrestricted license to practice medicine.

The Department of Public Health and Environment (DPHE) is responsible for maintaining the medical marijuana registry. The bill makes the following changes to the responsibilities of the department concerning the registry:

- change the registry identification card to include the name of the certifying physician;
- develop a form to meet the requirement of "written documentation" as defined in the constitution;
- develop sanctions for physicians who violate the laws or rules concerning the registry; and
- administer the medical marijuana review board which is to review requests for medical marijuana from patients under the age of 21. The members are appointed by the Governor and the board is subject to a sunset review by July 1, 2020.

## **Background**

In the 2000 general election, Colorado passed a constitutional amendment making it legal for individuals to use medical marijuana to alleviate the symptoms of several debilitating conditions. The DPHE was charged with implementing and administering the program. As of September 30, 2009, there were 17,356 people on the registry. The majority of the growth in the people on the registry has occurred since 2007. Due to increased demand, the DPHE currently has a backlog of people who have applied for the registry. Based on current application rates, it is estimated that 75,000 people will apply for the registry in FY 2010-11. The DPHE is requesting supplemental cash funds spending authority to hire staff to process the backlog of applications.

## **State Revenue**

Currently, the department collects a fee of \$90 per registry applicant to pay for the costs for maintaining the registry. The fiscal note assumes that the DPHE will have sufficient revenue from the fees to cover the costs of the new departmental responsibilities. If the fees are not sufficient, the DPHE has the authority to change the fees to meet the necessary costs. The fees are deposited into the Medical Marijuana Program Cash Fund.

**Sales tax revenue.** This bill may reduce state sales tax revenue. On November 16, 2009, the state Attorney General issued an opinion that medical marijuana is subject to the state sales tax. The opinion also stated that dispensaries are required to collect and remit sales tax for medical marijuana. Individuals on the medical marijuana registry must be recertified each year; this bill may reduce the number of people on the registry because of the requirement that an individual must have a bona fide relationship with a physician prior to receiving certification.

## **State Expenditures**

This bill increases cash fund expenditures beginning in FY 2010-11, although the exact increase is not known at this time. Further detail will be provided as it becomes available. DPHE is expected to have additional costs to regulate the medical marijuana registry based on the following factors:

**Registration cards and written documentation.** The bill requires the DPHE to issue registry cards to patients with the certifying physician's name on the card. In addition, the DPHE is required to develop a new form meeting the requirements of written documentation in the constitution. In FY 2010-11, the department will have one-time costs to develop and implement the new registry card and form.

**Physician sanctions.** The DPHE is required to develop sanctions for physicians who violate the medical marijuana laws or any rules developed by the department. The fiscal note assumes that the department will require resources to develop the sanctions. Periodically, staff from the department will review the registry to look for any patterns of abuse and sanction a physician or refer the physician to the Board of Medical Examiners for investigation.

**Medical marijuana review board.** The bill creates a medical marijuana review board within the DPHE. The board is charged with reviewing requests from patients who are under 21 years old and want to be placed on the registry. The fiscal note assumes that administrative functions associated with the review board will require additional DPHE staff resources.

**Department of Law.** The Department of Law may incur costs for providing the DPHE with legal services to develop new rules for the registry. Legal services are charged to client agencies at a rate of \$75.38 per hour; at this time, it is not known how many hours of legal services will be required.

## **Local Government Impact**

Local governments also collect sales tax on medical marijuana purchased from retail dispensaries. This bill could reduce local government sales tax revenue if fewer patients are able to join the registry.

## **State Appropriations**

In FY 2010-11, the DPHE requires an appropriation from the Medical Marijuana Program Cash Fund to implement this bill. The fiscal note will be updated when these costs become available.

## **Departments Contacted**

Public Health and Environment

Law

Regulatory Agencies