

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 11-0122  
**Prime Sponsor(s):** Sen. Newell  
 Rep. Fields

**Date:** March 22, 2011  
**Bill Status:** Senate Health and Human Services  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**TITLE:** CONCERNING THE CONTINUATION OF THE REGULATION OF MENTAL HEALTH PROFESSIONALS, AND, IN CONNECTION THEREWITH, CONTINUING THE STATE BOARDS OF PSYCHOLOGIST EXAMINERS, SOCIAL WORK EXAMINERS, MARRIAGE AND FAMILY THERAPIST EXAMINERS, AND LICENSED PROFESSIONAL COUNSELOR EXAMINERS AND THE STATE GRIEVANCE BOARD, CREATING THE STATE BOARD OF ADDICTION COUNSELOR EXAMINERS, AND IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE SUNSET REVIEW AND REPORT OF STATE-REGULATED MENTAL HEALTH PROFESSIONALS.

<b>Fiscal Impact Summary</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
<b>State Revenue</b>		
General Fund	Potential fine revenue	Potential fine revenue
Cash Funds		
Division of Registrations Cash Fund*	\$302,877	\$1,839,212
<b>State Expenditures</b>		
Cash Funds		
Division of Registrations Cash Fund	\$268,546	\$1,586,517
<b>FTE Position Change</b>	1.6 FTE	6.2 FTE
<b>Effective Date:</b> July 1, 2011.		
<b>Appropriation Summary for FY 2011-2012:</b> See State Appropriations section.		
<b>Local Government Impact:</b> None.		

\* Revenue exceeds expenditures to account for costs shown in the Expenditures Not Included section.

**Summary of Legislation**

The bill implements the recommendations of the 2010 sunset review and continues and modifies state regulation of mental health professions. Specifically, the bill does the following:

- continues the state Boards of Psychologist Examiners, Social Work Examiners, Marriage and Family Therapist Examiners, Licensed Professional Counselor Examiners, and the State Grievance Board;
- creates the state Board of Addiction Counselor Examiners and eliminates the regulatory authority of the director of the Division of Registrations in the Department of Regulatory Agencies (DORA) over addiction counselors; and
- establishes a new sunset date of September 1, 2020, for all the oversight boards.

Among other changes in regulation of mental health professions, the bill includes the following:

- indefinitely continues the ability of the oversight boards to issue provisional licenses to candidates who meet the education requirements but have not yet fulfilled the experience requirements;
- changes the name of "unlicensed psychotherapists" to "registered psychotherapists";
- creates a registry for marriage and family therapists and licensed professional counselor candidates who are working towards full licensure;
- allows for computer-based examinations of marriage and family therapists, licensed professional counselors, social workers, psychologists, and registered psychotherapists;
- makes modifications to the prohibited activities for licensed mental health professionals;
- authorizes the oversight boards to impose an administrative fine of up to \$5,000 per violation on regulated mental health professional for certain violations;
- authorizes the oversight boards to enter into confidential agreements to restrict the practice of a mental health professional who has a mental or physical illness that affects his or her ability to practice the professional and specifies that such an agreement is not a disciplinary action and does not mean that unprofessional conduct has occurred;
- allows oversight boards to order a mental health evaluation of regulated professionals to determine ability to continue practicing under a confidential agreement or restricted license;
- modifies the membership on the oversight boards to replace a member of the public with a representative of the regulated profession.

***Fiscal impact of programs set to expire.*** This bill continues a program in the Division of Registrations in the DORA that is set to repeal, effective July 1, 2011. Under current law, state agencies may be appropriated funds to wind up the affairs of an expiring program for 12 months following the repeal date. To account for the wind-up period, the impact of extending the program beyond the current repeal date is shown as beginning in FY 2012-13, one year after the repeal date. There is no need for an appropriation of the division's base funding in FY 2011-12, since the program's authorization has not yet expired, and ongoing funding for the program is included in the department's base budget request for FY 2011-12. The fiscal note indicates new costs for FY-2011-12 that are in addition to the current base budget.

The state revenue and state expenditures impact for FY 2012-13 reflect the program's anticipated fee revenue and base budget request, as well as new costs resulting from changes in the bill. The DORA's request for the regulation of mental health professionals in FY 2012-13 is \$1,495,829 and 5.3 FTE. The anticipated revenue is \$1,726,542.

## **State Revenue**

The bill is expected to increase revenue to the Division of Registrations Cash Fund in the DORA by \$302,877 in FY 2011-12 and by \$1,839,212 in FY 2012-13. Revenue is from fees paid by regulated mental health professionals. The whole amount in FY 2011-12 and \$112,670 in

FY 2012-13 are from higher fees to support changes to the regulation of mental health professionals, and \$1,726,542 in FY 2012-13 is the continuation of existing fee revenue from extending the sunset date of the program.

*Fee impact on individuals, families or business.* Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. Tables 1 and 2 below identify the estimated fee impact of this bill. Actual fees may vary based on the number of professionals seeking licensure/certification and other factors.

<b>Table 1. Fee Impact on Individuals, Families or Business - FY 2011-12</b>					
<b>Type of Fee</b>	<b>Current Fee</b>	<b>Proposed Fee</b>	<b>Fee Change</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<i><b>Original License</b></i>					
Addiction counselor	\$200-225	\$230-255	\$30	363	\$10,890
Professional counselor	160	210	50	444	22,200
Marriage and family therapist	160	210	50	37	1,850
Psychologist	160	225	65	136	8,840
Social worker	160	230	70	502	35,140
Psychotherapist	160	205	45	1,170	52,650
Marriage and family therapist candidate	N/A	50	50	500	25,000
Professional counselor candidate	N/A	50	50	500	25,000
<i><b>License Renewal</b></i>					
Addiction counselor	\$137	\$142	\$6	2,589	\$15,534
Professional counselor	127	135	8	3,966	31,728
Marriage and family therapist	302	311	9	570	5,130
Psychologist	221	231	10	2,283	22,830
Social worker	107	117	10	3,948	39,480
Psychotherapist	137	142	5	1,321	6,605
<b>FY 2011-12 TOTAL</b>					<b>\$302,877</b>

<b>Table 2. Fee Impact on Individuals, Families or Business - FY 2012-13*</b>					
<b>Type of Fee</b>	<b>Current Fee</b>	<b>Proposed Fee</b>	<b>Fee Change</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<i><b>Original License</b></i>					
Addiction counselor	\$200-225	\$220-245	\$20	363	\$7,260
Professional counselor	160	180	20	444	8,880
Marriage and family therapist	160	180	20	37	740
Psychologist	160	180	20	136	2,720
Social worker	160	180	20	502	10,040
Psychotherapist	160	180	20	1,170	23,400
Marriage and family therapist candidate	N/A	20	20	500	10,000
Professional counselor candidate	N/A	20	20	500	10,000
<i><b>License Renewal</b></i>					
Addiction counselor	\$137	\$152	\$15	1,321	\$19,815
Professional counselor	127	142	15	1,321	19,815
<b>FY 2012-13 TOTAL</b>					<b>\$112,670</b>

\*Excludes fees that are continued but not expected to be changed by SB11-187.

**Fine revenue.** The bill authorizes the DORA to impose administrative fines of up to \$5,000 per violation by regulated mental health professionals. However, as the rules establishing a fine schedule and treatment of various violations have not been made, it is unknown how often fines will be imposed and at what level. Therefore, the amount of increased fine revenue cannot be estimated at this time. Fine revenue is assumed to go to the General Fund.

**State Expenditures**

The bill increases costs by \$268,546 and 1.6 FTE in FY 2011-12 and \$1,586,517 and 6.2 FTE in FY 2012-13. Of the expenditures in FY 2012-13, \$90,688 and 0.9 FTE are new costs and \$1,495,829 and 5.3 FTE are costs to continue the existing program. Table 3 and the discussion below provide details on the costs of the bill.

<b>Cost Components</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
Personal Services	\$58,850	\$43,331
FTE	1.6	6.2
Operating Expenses and Capital Outlay	5,831	1,401
Legal Services	66,033	14,674
Examination Software and Consultant	95,000	0
Board Per Diem and Expenses	15,900	4,350
Travel	682	682
Mental Health Examinations	26,250	26,250
Continuation of Base Funding	0	1,495,829
<b>TOTAL</b>	<b>\$268,546</b>	<b>\$1,586,517</b>

**Personal services.** The DORA requires \$58,850 and 1.2 FTE in FY 2011-12 for staff to assist the newly created Board of Addiction Counselor Examiners, process candidate registrations for marriage and family therapists and professional counselors, enact changes and respond to public inquires concerning the registration of psychotherapists. This amount includes 0.4 FTE for temporary staff in the first year. In FY 2012-13, the DORA requires \$43,331 and 0.8 FTE to support the Board of Addiction Counselor Examiners and other new functions on an ongoing basis.

**Operating expenses and capital outlay costs.** Costs in the DORA for the operating and capital costs for new staff are \$5,831 in FY 2011-12 and \$1,401 in FY 2012-13, which includes standard costs for computers, furniture, and telephone, as well as printing costs for mailing licensing documents and distributing outreach material.

**Legal services.** The bill increases the need for legal services in the DORA to establish the Board of Addiction Counselor Examiners, support rule making by the oversight boards, handle appeals concerning the new candidate registries, and other duties. These duties require 900 hours of legal services in FY 2011-12 and 200 hours in subsequent years, resulting in the need for 0.4 FTE and 0.1 FTE in the Department of Law, respectively.

**Examination software and consultant.** Establishing computer-based testing for licensing and registering the various mental health professions will cost \$95,000 in FY 2011-12. The software for such a testing system costs \$80,000 and the DORA will have costs of \$15,000 costs for a testing consultant to establish the computer-based examination and update the examination content.

**Board per diem and expenses.** The bill will increase costs for board member per diem and expense reimbursement by \$15,900 in FY 2011-12 and \$4,350 in FY 2012-13. These costs include the per diem and expenses for the seven new members of the Board of Addiction Counselor Examiners holding nine meetings and training sessions in the first year and three meetings in the second year. It is also assumed that in FY 2011-12 that the five existing oversight boards will conduct an extra meeting for rule making required to implement changes in the bill.

**Travel.** The DORA will have costs of \$682 per year in travel costs for staff to conduct outreach meetings with mental health professional in various locations in the state.

**Mental health evaluations.** The DORA will have costs of \$26,250 per year to conduct mental health evaluations of regulated mental health professionals. The oversight boards may order a mental health evaluation to determine if a mental health professional may continue to practice or if it is necessary to enter a confidential agreement to restrict the practice of a regulated professional. On average, the oversight boards receive 21 complaints relating to mental health issues of practitioners, and the fiscal note assumes that these cases will require an evaluation at a cost of \$1,250 per case.

### **Expenditures Not Included**

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. The centrally appropriated costs subject to this policy are summarized in Table 4.

<b>Table 4. Expenditures Not Included Under SB11-187*</b>		
<b>Cost Components</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,520	\$5,680
Supplemental Employee Retirement Payments	2,663	2,310
Indirect Costs	8,158	5,438
Leased Space	5,040	3,360
<b>TOTAL</b>	<b>\$24,381</b>	<b>\$16,788</b>

\*More information is available at: <http://colorado.gov/fiscalnotes>

### **State Appropriations**

The bill requires an appropriation for FY 2011-12 of \$268,546 and 1.2 FTE to the DORA from the Division of Registrations Cash Fund, of which \$66,033 and an additional 0.4 FTE should be reappropriated to the Department of Law.

### **Departments Contacted**

Regulatory Agencies  
Corrections

Human Services  
Law

Health Care Policy and Financing