

**STATE
FISCAL IMPACT**

Drafting Number: LLS 13-0146
Prime Sponsor(s): Sen. Nicholson
Rep. Primavera

Date: February 11, 2013
Bill Status: Senate Health and Human Services
Fiscal Analyst: Clare Pramuk (303-866-2677)

TITLE: CONCERNING THE CONTINUATION OF THE REGULATION OF MASSAGE THERAPISTS, AND, IN CONNECTION THEREWITH, REQUIRING LICENSURE OF MASSAGE THERAPISTS AND IMPLEMENTING OTHER RECOMMENDATIONS CONTAINED IN THE SUNSET REPORT PREPARED BY THE DEPARTMENT OF REGULATORY AGENCIES.

| Fiscal Impact Summary | FY 2013-2014 | FY 2014-2015 |
|--|---------------------|---------------------|
| State Revenue* | | |
| Cash Funds | | <u>\$1,338,092</u> |
| Professions and Occupations Cash Fund - Base Funding | | 1,016,000 |
| Professions and Occupations Cash Fund - New Funding | \$31,212 | 322,092 |
| State Expenditures | | |
| Cash Funds | | <u>\$533,266</u> |
| Professions and Occupations Cash Fund - Base Expenditures | | 404,701 |
| Professions and Occupations Cash Fund - New Expenditures | \$159,069 | 128,565 |
| FTE Position Change | 1.9 FTE | 3.3 FTE |
| Effective Date: August 7, 2013, if the General Assembly adjourns on May 8, 2013, as scheduled, and no referendum petition is filed. | | |
| Appropriation Summary for FY 2013-2014: See State Appropriations section. | | |
| Local Government Impact: None. | | |

* Fees collected exceed state expenditures in order to pay for costs noted in the Expenditures Not Included section of this fiscal note and represent a 2-year license.

Summary of Legislation

This bill continues the regulation of massage therapists until September 1, 2022, and implements the recommendations of the sunset review on the "Massage Therapy Practice Act" (MTPA). A key recommendation of the sunset review is to repeal registration requirements and implement licensing requirements for massage therapists. Licensing allows for increased grounds for disciplinary action by the Director of Professions and Occupations in the Department of Regulatory Agencies (DORA) such as failure to report an adverse action taken by another jurisdiction, failure to meet standards of care, and commission of a crime related to the practice of massage therapy. All active massage therapy registrations become active massage therapy licenses on July 1, 2014, and all pending applications for registrations are considered applications for licensure. Other changes to the MTPA include:

- authorizing the director to issue letters of admonition and confidential letters of concern when a disciplinary action is not warranted;
- allowing licensure for an applicant who has obtained a degree or diploma from an out-of-state school approved by the director;
- prohibiting a massage therapist whose license has been revoked or surrendered from reapplying for at least two years;
- authorizing the director to enter into a confidential agreement with a massage therapist who has a mental or physical condition or illness; and
- disciplining a massage therapist who has a mental or physical condition or disability that may endanger the health and safety of clients who fails to notify the director or fails to act within agreed upon limitations.

Fiscal Impact of Programs Set to Expire

This bill continues a program in the Division of Professions and Occupations (division) that is set to repeal, effective July 1, 2013. 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 2014-15, one year after the repeal date. There is no need for an appropriation of the division's base funding in FY 2013-14, 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 2013-14.

The state revenue and state expenditures impact for FY 2014-15 reflect the program's anticipated fee revenue and base budget request beginning that year, plus increases to cover the implementation of this bill. The DORA's request for the regulation of massage therapists in FY 2014-15 is \$404,701 and 1.4 FTE. The anticipated revenue is \$1,016,000 for two years of base expenditures, and \$353,304 for new expenditures.

State Revenue

This bill increases revenue to the Division of Occupations and Registrations Cash Fund in the DORA by **\$31,212** in FY 2013-14 and **\$322,092** in FY 2014-15.

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. Fee calculations are based on the estimated costs of the bill, including centrally appropriated costs, and the estimated number of licenses provided. The actual fee amounts will be set by the division based on the actual costs of the program. New licenses are good for one year and renewal licenses are good for two years. Table 1 identifies the fee impact of this bill.

| Table 1. Fee Impact on Massage Therapists | | | | | |
|--|--------------------|---------------------|-------------------|------------------------|-------------------------|
| Type of Fee | Current Fee | Proposed Fee | Fee Change | Number Affected | Total Fee Impact |
| Original License Fee | \$80.00 | \$97.34 | \$17.34 | 1,800 | \$31,212 |
| Renewal License Fee (2-year) | 74.00 | 97.34 | 23.34 | 13,800 | 322,092 |
| TOTAL | | | | | \$353,304 |

State Expenditures

Because this bill makes significant changes to the MTPA, expenditures in the Division of Professions and Occupations in the DORA are expected to increase by **\$159,069** and 1.9 FTE in FY 2013-14 and **\$128,565** and 1.9 FTE in FY 2014-15.

To implement a licensure program, the director will adopt new rules requiring both staff time and legal services. The new grounds for discipline, especially standard of care issues, will increase both the number and complexity of enforcement actions and require an increase in legal and expert consultant services, as well as in-house investigation, case management, and settlement work. Applications for licensure will be more comprehensive than those for registration and require additional staff time to process. Finally, by making it easier for massage therapists trained out-of-state to be licensed in Colorado, the fiscal note assumes an increase of approximately 200 applications per year. The expected costs are shown in Table 2.

| Table 2. Expenditures Under SB13-151 | | |
|---|-------------------|-------------------|
| Cost Components | FY 2013-14 | FY 2014-15 |
| Personal Services | \$110,403 | \$107,672 |
| FTE | 1.9 | 3.3 |
| Operating Expenses and Capital Outlay | 10,922 | 1,805 |
| Legal Services | 21,244 | 11,588 |
| Expert Consultant | 16,500 | 7,500 |
| Base Expenditures | | 404,701 |
| TOTAL | \$159,069 | \$533,266 |

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 3.

| Table 3. Expenditures Not Included Under SB13-151* | | |
|--|-------------------|-------------------|
| Cost Components | FY 2013-14 | FY 2014-15 |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$12,769 | \$12,769 |
| Supplemental Employee Retirement Payments | 6,609 | 7,477 |
| Leased Space | 10,938 | 10,938 |
| TOTAL | \$30,316 | \$31,184 |

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

State Appropriations

For FY 2013-14, the Division of Professions and Occupations in the Department of Regulatory Agencies requires an appropriation of \$159,069 and 1.9 FTE from the Division of Professions and Occupations Cash Fund. Of this, the Department of Law requires \$21,244 in reappropriated funds.

Departments Contacted

Law Regulatory Agencies