



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **SB0438.01: Revise telehealth and telemedicine laws**

Primary Sponsor: **Daniel Zolnikov**

Status: **As Introduced**

☐ Included in the Executive Budget

☒ Needs to be included in HB 2

☐ Significant Local Gov Impact

☐ Significant Long-Term Impacts

☒ Technical Concerns

☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
Expenditures				
State Special Revenue (02)	\$231,421	\$105,571	\$107,620	\$106,925
Revenues				
State Special Revenue (02)	\$0	\$0	\$0	\$0
Net Impact	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
General Fund Balance				

Description of fiscal impact

SB 438 revises telehealth and telemedicine laws, providing for out-of-state provider registration. The legislation provides for registration requirements, ineligibility criteria, and notification requirements and provides for disciplinary authority by the Department of Labor and Industry (DLI) for violations. The fiscal impact will include initial rule making, IT, and board meeting costs with potential for additional personal service costs.

FISCAL ANALYSIS

Assumptions

Department of Labor and Industry

1. While a number of boards presently have telemedicine rules, SB 438 implicates numerous boards and license types. The department will utilize their legal services to ensure there is a level of uniformity in rules across a multi-board rulemaking process. The total rulemaking costs for DLI are estimated to be \$50,000 of state special revenue funds. Rulemaking costs include Secretary of State fees for rules proposals and adoption.
2. DLI estimates the revision of telehealth and telemedicine laws will result in two additional board meetings for approximately 15 boards with an average eight members at a total per diem cost of \$48,000 of state special revenue funds. This estimate is based on the assumption that each meeting will be two days including prep and meeting day.
3. Hotel costs for approximately 30 board members requiring an overnight stay are estimated to be \$6,600 of state special revenue funds. Mileage costs for approximately 45 board members with an average distance of 300 miles round trip are estimated to be \$9,450 of state special revenue funds. The total travel costs are \$16,050 of state special revenue funds.
4. The Technology Services Division of DLI estimates that it will spend 75 hours to update the current telemedicine record within the licensing database. This estimate includes hours for analysis, design,

development, script writing and testing, and the websites for each board will be updated. The boards will be billed at a rate of \$120 per hour for a total expense of \$9,000 of state special revenue funds.

5. DLI assumes that there will be an increase in staff workload to maintain the registry. It is estimated that it would take 0.50 - 2.00 FTE to complete the work, however for the purposes of this fiscal note, 1.00 FTE is assumed.
6. A 1.00 FTE license examiner will be required to review new applications, issue licenses and perform ongoing communications with licensees. Costs for salary and benefits for 1.00 FTE will be \$81,522 for FY 2026 and FY 2027, \$83,013 for FY 2028, and \$82,477 for FY 2029.
7. The department estimates operating costs such as telephone, copiers, scanners, utilities, minor equipment, supplies, technology costs, rent and indirect costs will total \$24,049 for FY 2026 and FY 2027, \$24,607 for FY 2028 and \$24,448 for FY 2029. There will be a one-time-only startup operating cost for office equipment and a computer of \$2,800.
8. Registration fees are unknown at this time but will be set commensurate with costs, not to exceed license fees.

Department of Public Health and Human Services

9. Senate Bill 438 seeks to revise existing telehealth and telemedicine statutes within the jurisdiction of Montana. The proposed legislation would permit out-of-state healthcare practitioners to register with the appropriate licensing board in Montana for the purpose of providing telehealth and telemedicine services to patients located within the state. While the department utilizes telehealth for both medical and psychiatric services, the provisions of this bill pertain primarily to the licensure, registration, and certification of out-of-state practitioners and do not have a direct impact on the Department's operations.

Fiscal Analysis Table

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
<u>Fiscal Impact</u>				
FTE	1.00	1.00	1.00	1.00
TOTAL Fiscal Impact	1.00	1.00	1.00	1.00
<u>Expenditures</u>				
Personal Services	\$129,522	\$81,522	\$83,013	\$82,477
Operating Expenses	\$101,899	\$24,049	\$24,607	\$24,448
TOTAL Expenditures	\$231,421	\$105,571	\$107,620	\$106,925
<u>Funding of Expenditures</u>				
State Special Revenue (02)	\$231,421	\$105,571	\$107,620	\$106,925
TOTAL Funding of Expenditures	\$231,421	\$105,571	\$107,620	\$106,925
<u>Revenues</u>				
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u>				
State Special Revenue (02)	(\$231,421)	(\$105,571)	(\$107,620)	(\$106,925)

Technical Concerns

Department of Labor

1. Occupational licensing jurisdiction attaches to the licensee of the professional holding the license. The bill contemplates boards and the department taking disciplinary authority against individuals who are not licensed in the state of Montana. It is not clear that such jurisdiction exists or would be enforceable.
2. Section 6 places venue for actions in the county in which a patient resides. Licensing actions occur within departmental administrative processes and not in district court. Section 6 is therefore ambiguous as to its meaning and impact. The section also self-limits solely to Section 6. It is not clear if the provision is applicable to the remainder of the bill.

3. The bill is ambiguous in its applicability to license types based on its definition of "health care provider." 50-4-106(3), MCA defines "health care provider" as "a person who is licensed, certified, or otherwise authorized by the laws of this state to provide health care in the ordinary course of business or practice of a profession." Because the bill does not define which of the license types are eligible for telehealth, the bill is ambiguous. This ambiguity is heightened in Section 10, which refers to an "out-of-state health care provider or physician." Specifically enumerating "physician" in Section 10, implies it is not included in the definition of "health care provider."

NO SPONSOR SIGNATURE

Sponsor's Initials

3/3

Date

Budget Director's Initials

3/3/2025

Date