



**Colorado
Legislative
Council
Staff**

HB16-1047

**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 22, 2016)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0498 **Date:** April 6, 2016
Prime Sponsor(s): Rep. Buck; Winter **Bill Status:** House Appropriations
 Sen. Newell; Roberts **Fiscal Analyst:** Bill Zepernick (303-866-4777)

BILL TOPIC: INTERSTATE MEDICAL LICENSURE COMPACT

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018	FY 2018-2019
State Revenue	<u>\$149,500</u>	<u>\$271,600</u>	<u>\$271,600</u>
Cash Funds	149,500	271,600	271,600
State Expenditures	<u>\$141,634</u>	<u>\$309,110</u>	<u>\$242,988</u>
Cash Funds	136,913	291,819	220,019
Centrally Appropriated Costs	4,721	17,297	22,695
TABOR Impact	\$149,500	\$257,800	Not estimated.
FTE Position Change	0.3 FTE	1.6 FTE	1.8 FTE
Appropriation Required: \$136,913 - Department of Regulatory Agencies (FY 2016-17).			
Future Year Impacts: Ongoing state revenue and expenditures increase.			

Note: The fiscal note has been revised to reflect amendments adopted, as well as to change the assumptions about the number of physicians participating in the interstate compact.

Summary of Legislation

This bill, *as amended by the House Health, Insurance, and Environment Committee and the House Finance Committee*, enacts the Interstate Medical Licensure Compact (compact) and authorizes the Governor to enter into the compact on behalf of Colorado. Under the compact, physicians licensed in a member state may obtain an expedited license in other member states, allowing them to practice in Colorado or in another member state. The compact is governed by the Interstate Medical Licensure Commission (interstate commission). The compact outlines the process for obtaining an expedited license, including:

- eligibility requirements;
- the designation of a state of principal licensure;
- the application, issuance, and renewal processes; and
- the fees charged by member states.

The compact allows member states to investigate and discipline physicians, including as part of joint investigations with other member states. The interstate commission is required to maintain a database of all licensed physicians in member states. Member states are required to

report certain disciplinary actions and complaints against licensed physicians to the interstate commission. In addition, member states are required to share information about disciplinary actions and complaints at the request of another member state.

Nationally, the compact becomes effective and binding upon enactment of the compact by at least seven states. Under the bill, the interstate compact takes effect in Colorado once the compact is fully operational nationally and member states are able to issue licenses to physicians through the compact. Colorado representatives to the interstate commission may begin participating upon passage of this bill. The compact outlines the processes for member states to withdraw from the compact voluntarily, or for the interstate commission to terminate the membership of a state that defaults on its obligations under the compact.

The Colorado Medical Board must facilitate the licensure of physicians under the compact, including obtaining a set of fingerprints from an applicant for a fingerprint-based criminal history record check. Physicians licensed under the compact are subject to the Michael Skolnik Medical Transparency Act of 2010.

Background

As of January 2016, the following 12 states have enacted the compact: Alabama, Idaho, Illinois, Iowa, Minnesota, Montana, Nevada, South Dakota, Utah, West Virginia, Wisconsin, and Wyoming. The interstate commission has begun its work and held meetings in October and December 2015. The interstate commission consists of two voting representatives from each member state and is required to meet at least once per year. Among its various duties, the interstate commission may:

- levy and collect an annual assessment on member states to fund its operations;
- employ an executive director and other staff;
- promulgate rules;
- enforce compliance with compact provisions;
- issue advisory opinions; and
- perform other duties necessary for administration of the compact.

Assumptions and Data

Information on the exact number of physicians in Colorado who would apply for an interstate compact license with Colorado as their principal state of licensure is unknown. It is also unknown how many physicians in other compact states will apply for expedited Colorado licenses. To prepare this estimate, the fiscal note considers the following data on current physician licensing in Colorado:

- approximately 23,000 physicians are currently licensed in Colorado, of which about 16,000 reside in Colorado and about 7,000 reside in other states;
- each year about 1,500 physicians seek a new license in Colorado and an additional 500 physicians licensed in other states seek licensure through endorsement in Colorado; and
- nationally, about 20 percent of physicians hold an active medical license in multiple states.

Using this baseline information, the fiscal note makes the following assumptions:

- about 80 percent of Colorado-based physicians (13,000 physicians) will meet the stricter requirements to apply for an interstate compact license;
- 10 percent of new license applications (150 applicants per year) will also seek an interstate compact license to facilitate obtaining medical licenses in other states;
- 5 percent of qualifying physicians who currently hold a license (650 physicians) will seek an interstate compact license each year;
- the states in the interstate compact will begin issuing licenses on January 1, 2017, at which point DORA will begin full implementation of the compact; and
- DORA will begin issuing licenses through the compact beginning on January 1, 2018.

State Revenue

Under the bill, state cash fund revenue from fees will increase by **\$149,500 in FY 2016-17 and \$271,600 in FY 2017-18 and future years.** In the first year, revenue is from increased physician licensing fees. In the second year and beyond, fee revenue will be collected by DORA for interstate compact licenses and background checks. Background check revenue will be transferred to the to the Department of Public Safety (DPS). These revenue impacts are discussed below.

Physician licensing fee increase. Based on the costs estimated in FY 2016-17, it is assumed DORA will be required to increase fees on physicians since revenue is not yet available through interstate compact fees. Assuming 23,000 physicians are issued a new or renewal license, the fiscal note estimates that a \$6.50 fee increase will generate \$149,500.

Interstate compact license. Beginning in FY 2017-18, DORA will collect \$271,600 per year in fee revenue for interstate compact licenses for Colorado-based physicians and background checks. This revenue is based on 800 physicians seeking an interstate compact license and the fee being set to cover the direct and indirect costs in DORA from Colorado's participation in the interstate compact in FY 2017-18 and beyond. Under the bill, revenue to DORA will be affected in several ways beginning in FY 2017-18.

- First, based on the assumptions above, about 800 Colorado-based physicians are projected to seek an interstate compact license with Colorado as their principal state of licensure. These physicians will pay a fee for this new license in addition to their standard medical license fee.
- Second, an unknown, but presumably small number of physicians will move to Colorado in order to gain residency in a compact state. Fees paid by this population will also be new revenue to the state.
- Third, some percentage of physicians seeking licensure by endorsement will instead seek an expedited license in Colorado through their home state's licensing authority via the interstate compact. This will reduce revenue to DORA, but will be offset by fees transferred to DORA from the physician's home state under the compact.
- Fourth, new revenue will be received from physicians with no prior Colorado license seeking an expedited license in Colorado through their home state under the compact.

Of the revenue impacts listed above, the first is assumed to be the primary source of revenue to the state under the compact. For the purposes of the fiscal note, new fee revenue to DORA is calculated based solely on fees paid by Colorado-based physicians for an interstate compact license, based on the costs outlined in the State Expenditure section. To the extent

revenue is received from other states or the population of licensed physicians in Colorado changes due to participation in the interstate compact, these revenue impacts will be accounted for by DORA through the annual budget process.

Background checks. Background checks will generate \$31,600 per year in revenue to the Division of Professions and Occupations Cash Fund in DORA, which will be transferred to the DPS to conduct the background checks. Of the revenue passed through to the DPS, \$17,800 will be used by the Colorado Bureau of Investigations (CBI) Identification Unit and \$13,800 will be passed through to the federal government.

Fee impact on physicians. State law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Table 1 shows the estimated fee impact for physicians seeking licensure under the compact. The projected fee in this fiscal note is an estimate only; actual fees will be set by DORA and adjusted based on actual participation in the interstate compact by physicians in Colorado and in other states.

Table 1. Fee Impact on Physicians under HB 16-1047			
Type of Fee	Estimated Fee	Number Affected	Total Fee Impact
FY 2016-17			
Physician License Fee (currently \$412)	\$6.50	23,000	\$149,500
FY 2016-17 TOTAL			\$149,500
FY 2017-18			
Interstate Compact License	\$300	800	\$240,000
CBI/FBI Background Check	\$39.50	800	\$31,600
FY 2017-18 TOTAL			\$271,600
FY 2018-19			
Interstate Compact License	\$300	800	\$240,000
CBI/FBI Background Check	\$39.50	800	\$31,600
FY 2018-19 TOTAL			\$271,600

TABOR Impact

This bill increases state cash fund revenue from fees, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount. Background check fee revenue passed through to the federal government for an FBI background check is not subject to TABOR.

State Expenditures

The bill is estimated to increase costs by **\$141,634 and 0.3 FTE in FY 2016-17, \$309,110 and 1.6 FTE in FY 2017-18, and \$242,988 and 1.8 FTE in FY 2018-19.** These costs are in the DORA, paid from the Division of Professions and Occupations Cash Fund. The costs

in DORA are summarized in Table 2 and discussed below. Reappropriated funds from DORA will also cover costs incurred in the DPS for background checks (Table 3), in the Department of Law for legal services, and in the Office of Information Technology for computer system modifications.

Table 2. Expenditures Under HB 16-1047 (DORA)			
Cost Components	FY 2016-17	FY 2017-18	FY 2018-19
Personal Services	\$26,762	\$76,285	\$88,751
FTE (DORA)	0.3 FTE	1.3 FTE	1.5 FTE
FTE (Dept. of Law for legal services)		0.2 FTE	0.2 FTE
FTE (DPS for background checks)		0.1 FTE	0.1 FTE
Temporary Staff	0	28,688	28,688
Operating Expenses and Capital Outlay Costs	0	10,641	1,425
Information Technology Costs	82,400	78,100	6,000
Legal Services	4,751	47,505	47,505
Compact Dues	15,000	15,000	15,000
Travel	8,000	4,000	4,000
Payments to DPS for Background Checks	0	31,600	31,600
Centrally Appropriated Costs*	4,721	17,291	20,019
TOTAL - DORA	\$141,634	\$309,110	\$242,988

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

Personal services (DORA). DORA requires 0.3 FTE in FY 2016-17 for staff to begin liaising with the interstate commission and to begin planning for compact implementation. DORA staffing needs will increase to 1.3 FTE in FY 2017-18 and 1.5 FTE in FY 2018-19 once Colorado begins issuing licenses and fully implementing the compact. Staff will be responsible for promulgating rules, interacting and sharing information with the interstate commission, performing outreach to physicians, investigating complaints concerning physicians both inside and outside of Colorado, and coordinating with licensing authorities in other states. At full implementation, staff includes 0.3 FTE for a program manager, 1.0 FTE for a program technician, and 0.2 FTE for a criminal investigator. Costs for these staff are shown in Table 2 above.

Temporary staff. In FY 2017-18 and FY 2018-19 only, \$28,688 is required for temporary staff in DORA to handle the initial wave of applications and inquiries concerning the interstate compact (1,600 hours of at an hourly rate of \$17.93).

Operating expenses and capital outlay costs. DORA will have costs of \$10,641 in the FY 2017-18 and \$1,425 per year in future years for standard operating expenses and capital outlay costs associated with the new staff required under the bill. These costs cover items such as furniture, computers, office software, telephones, and supplies.

Information technology costs. DORA will have information technology costs to create new license and renewal types in its licensing system. These changes will accommodate the new interstate compact license for Colorado-based physicians and the expedited license for out-of-state physicians seeking to practice in Colorado. The licensing system must also be modified to report data to, and receive data from, the interstate commission. While the exact nature of the technology systems that will be used by the interstate commission are not known at this time, information technology costs for licensing system modifications in DORA are estimated to be \$82,400 in the

FY 2016-17 and \$72,100 in FY 2017-18. These estimates assume that 800 hours of programming and system testing will be done in the first year and 700 hours in the second year at a rate of \$103 per hour. In addition, beginning in the second year, \$6,000 per year is required for ongoing system maintenance.

Legal services. In FY 2016-17, the bill increases legal service costs in DORA by \$4,751 for 50 hours of legal services during the initial implementation and advisement phase. Beginning in FY 2017-18, the legal services needs will increase to at least 500 hours per year, resulting in costs of \$47,505 per year. These legal services are provided by the Department of Law, who will require an additional 0.2 FTE to provide this work. In the second year, it is assumed that 250 hours is required for rulemaking and 250 for enforcement actions and hearings. In the third year and beyond, 100 hours is required for general counsel to Colorado Medical Board and 400 for legal services concerning cross-state enforcement actions and hearings.

While the exact number of complaints concerning Colorado-based physicians for activities in other states and physicians based in other states for activities occurring in Colorado is unknown, the expanded cross-state activity by physicians is expected to increase the number of complaints received by DORA. If complaint-driven activity requires more legal services than estimated in the fiscal note, it is assumed DORA will request additional funding through the annual budget process.

Compact dues. As a compact member, Colorado must pay dues to the interstate commission. The exact amount of dues owed is not known at this time and will depend on costs at the interstate commission and the number of participating states in the compact. At this time, based on other multi-state licensing compacts, the fiscal note estimates that dues will be \$15,000 per year beginning in FY 2016-17. While Colorado licensing is not expected to begin until the second year, the fiscal note assumes Colorado must pay its dues in order for its representatives to participate at meetings of the interstate commission.

Travel. Each state in the compact is required to have two representatives on the interstate commission. Assuming the commission holds an all-member meeting two times in FY 2016-17 and once per year in future years, travel costs and expenses are estimated to be \$8,000 in the first year and \$4,000 per year in future years. Actual costs may vary depending on how often the interstate commission meets.

Payments to DPS for background checks. As discussed in the State Revenue section, DORA is estimated to receive \$31,600 in payments from physicians requiring a background check to obtain an interstate compact license. This revenue will be transferred to the DPS for this purpose and will cover the costs listed in Table 3.

Table 3. Expenditures Under HB 16-1047 (DPS)*			
Cost Components	FY 2016-17	FY 2017-18	FY 2018-19
Personal Services		\$5,555	\$5,555
FTE		0.1 FTE	0.1 FTE
Miscellaneous Background Check Costs		7,288	7,288
FBI Background Check Pass-Through		13,800	13,800
Centrally Appropriated Costs		2,676	2,676
TOTAL - Department of Public Safety		\$29,319	\$29,319

* Costs in the DPS are paid using reappropriated funds from DORA.

Personal services (DPS). To conduct background checks under the bill, the DPS requires 0.1 FTE for a fingerprint examiner and data specialist. This staffing will cost \$5,555 per year.

Other background check costs. The DPS will have costs of \$7,288 for various background check costs such as printing, postage, data access, and system maintenance. In addition, \$13,800 will be passed through the federal government to cover the costs of the FBI background check.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 4.

Table 4. Centrally Appropriated Costs Under HB 16-1047 (DORA)			
Cost Components	FY 2016-17	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$2,431	\$10,455	\$12,066
Supplemental Employee Retirement Payments	2,290	6,836	7,953
TOTAL	\$4,721	\$17,291	\$20,019

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, except that the interstate compact does not take effect until the interstate compact is fully implemented and member states are able to issue licenses through the compact.

State Appropriations

For FY 2016-17, the bill requires an appropriation of \$136,913 to the Department of Regulatory Agencies from the Division of Professions and Occupations Cash Fund and an allocation of 0.3 FTE. Of this amount, the following reappropriations of funds are required:

- \$82,400 to the Office of Information Technology; and
- \$4,751 to the Department of Law.

State and Local Government Contacts

Governor's Office
 Judicial
 Personnel

Public Safety
 Law

Regulatory Agencies
 Health Care Policy and Financing

Research Note Available

An LCS Research Note for HB 16-1047 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.