



**Legislative
Council Staff**

Nonpartisan Services for Colorado's Legislature

HB 19-1010

FISCAL NOTE

Drafting Number: LLS 19-0500
Prime Sponsors: Rep. Mullica; Landgraf

Date: January 14, 2019
Bill Status: House Health & Insurance
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Bill Topic: FREESTANDING EMERGENCY DEPARTMENTS LICENSURE

Summary of Fiscal Impact:

| | |
|---|--|
| <input checked="" type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

This bill creates a new facility license for freestanding emergency departments and requires such facilities to be licensed by the Department of Public Health and Environment by July 1, 2022. It will increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill requires an appropriation of \$45,839 to the Department of Public Health and Environment.

Fiscal Note Status: This fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under HB 19-1010**

| | | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 |
|---------------------|-------------------|-----------------|-----------------|------------------|------------------|
| Revenue | Cash Funds | - | - | \$211,200 | \$102,500 |
| | Total | - | - | \$211,200 | \$102,500 |
| Expenditures | Cash Funds | \$45,839 | \$74,994 | \$124,204 | \$16,134 |
| | Centrally Approp. | \$22,250 | \$23,812 | \$41,089 | \$17,106 |
| | Total | \$68,089 | \$98,806 | \$165,293 | \$33,239 |
| | Total FTE | 0.5 FTE | 0.6 FTE | 1.8 FTE | 0.2 FTE |
| Transfers | | - | - | - | - |
| TABOR Refund | | - | - | not estimated | not estimated |

Summary of Legislation

This bill requires the Department of Public Health and Environment (CDPHE) to create a new health facility license for freestanding emergency departments and to begin issuing these licenses by December 1, 2021. To continue operating in the state, freestanding emergency departments must be licensed by the CDPHE within six months, by July 1, 2022.

A freestanding emergency department is defined as a health facility that offers emergency care; that may offer primary and urgent care services; and that is either:

- owned or operated by, or affiliated with, a hospital or hospital system and located more than 250 yards from the main campus of the hospital; or
- independent from and not operated by or affiliated with a hospital or hospital system and not attached to, contained within, or located within 250 yards of a hospital.

Facilities licensed as community clinics before 2010 and serving a rural community or ski area are excluded from the definition of freestanding emergency department. The department may waive the licensure requirements for facilities licensed as community clinics or those facilities seeking community clinic licensure to serve an underserved population in the state.

The State Board of Health is required to adopt rules by July 1, 2021, for the new license type, including licensure requirements; waivers; standards for care and safety; and licensing and inspection fees. The rules must require a freestanding emergency department to provide a medical screening to every individual seeking treatment and prohibit the freestanding emergency department from delaying such an examination in order to inquire about the individual's ability to pay or insurance status.

Background

Under current law, freestanding emergency departments are licensed by the CDPHE as community clinics with emergency departments. Senate Bill 18-146 required freestanding emergency departments to provide certain notices to patients seeking care about prices and services.

Assumptions

There are under 50 freestanding emergency departments in the state. The fiscal note assumes that by 2021 there will be 52 health facilities providing emergency health care apart from a hospital, of which 44 must be licensed as freestanding emergency departments and 8 will be licensed as community health clinics.

State Revenue

The bill increases net cash fund revenue to the CDPHE by \$211,200 in FY 2021-22 and \$102,500 in FY 2022-23, which is deposited in the General Licensure Cash Fund.

Fee impact on health facilities. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only; actual fees will be set administratively by the CDPHE based on cash fund balance, program costs, and the number of licenses subject to the fee. Table 2 below identifies the fee impact of this bill.

**Table 2
Fee Impact on Health Facilities**

| Fiscal Year | Type of Fee | Estimated Fee | Number Affected | Total Fee Impact |
|-------------------------|-----------------------------------|----------------------|------------------------|-------------------------|
| FY 2021-22 | Freestanding ER - Initial License | \$6,150 | 44 | \$270,600 |
| | Community Health Clinic - Renewal | \$1,350 | (44) | (\$59,400) |
| FY 2021-22 Total | | | | \$211,200 |
| FY 2022-23 | Freestanding ER - Initial License | \$6,150 | 2 | \$12,300 |
| | Freestanding ER - Renewal | \$3,400 | 44 | \$149,600 |
| | Community Health Clinic - Renewal | \$1,350 | (44) | (\$59,400) |
| FY 2022-23 Total | | | | \$102,500 |

Freestanding emergency department license fee. Once the new license type takes effect in 2021, CDPHE will collect \$270,600 in fee revenue in FY 2021-22 to license 44 freestanding emergency departments. In FY 2022-23, it is estimated that 2 new initial licenses will be issued and 44 renewals, resulting in a total of \$161,900 in revenue from freestanding emergency department licenses.

Community clinic license fee. Freestanding emergency departments are currently licensed as community clinics. Under the bill, it is estimated that 44 of 52 facilities will shift from the community clinic license type used under current law and instead be licensed as freestanding emergency departments. This will decrease revenue from this license type by \$59,400 per year starting in FY 2021-22.

State Expenditures

The bill increases state expenditures from the General Licensure Cash Fund in CDPHE by the following amounts, which are summarized in Table 3 and discussed below:

- \$68,089 and 0.5 FTE in FY 2019-20;
- \$98,806 and 0.6 in FY 2020-21;
- \$165,293 and 1.8 FTE in FY 2021-22; and
- \$33,239 and 0.2 FTE in FY 2022-23 and future years.

**Table 3
Expenditures Under HB 19-1010**

| Cost Components | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 |
|--------------------------------------|-------------------|-------------------|-------------------|-------------------|
| Public Health and Environment | | | | |
| Personal Services | \$38,070 | \$45,073 | \$113,210 | \$11,988 |
| Operating and Capital Outlay | \$5,178 | \$570 | \$6,413 | - |
| Legal Services | \$2,591 | \$2,591 | \$2,591 | \$4,145 |
| Computer System Updates | - | \$26,760 | - | - |
| Travel | - | - | \$1,990 | - |
| Centrally Appropriated Costs* | \$22,250 | \$23,812 | \$41,089 | \$17,106 |
| Total | \$68,089 | \$98,806 | \$165,293 | \$33,239 |
| Total FTE | 0.5 FTE | 0.6 FTE | 1.8 FTE | 0.2 FTE |

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

Licensing and inspection staff. In the first two years, the CDPHE requires policy staff to establish program rules and procedures for the new freestanding emergency department license and to conduct stakeholder outreach. This will result in the need for 0.5 FTE in FY 2019-20 and 0.6 FTE in FY 2020-21. In FY 2021-22, the CDPHE will require 1.8 FTE to conduct an initial inspection of all freestanding emergency departments that apply for the new license type between December 1, 2021, and July 1, 2022. In FY 2022-23 and future years, it is assumed that 0.2 FTE will be required to inspect freestanding emergency departments on a rotating schedule once every three years. This staff will also be responsible for addressing any consumer complaints about freestanding emergency departments. Personal services, operating, and capital outlay expenses for this staff are shown in Table 3 above.

Legal services. The CDPHE will have legal services costs of \$2,591 per year from FY 2019-20 to FY 2021-22. This is for 25 hours of legal services per year for rulemaking and general counsel associated with establishing the new license type. In FY 2022-23, costs will increase to \$4,145 per year for 40 hours of legal services associated with enforcement actions regarding freestanding emergency centers.

Computer system modifications. To create the new license type and track required information about freestanding emergency departments, the CDPHE requires \$26,760 in FY 2020-21 to make computer system modifications to its licensing and data system. This cost is based on a total of 120 hours of new-systems computer programming at a rate of \$169 per hour and 60 hours of established-systems computer programming at \$108 per hour using the Office of Information Technology's FY 2020-21 rate structure.

Travel. Travel costs of \$1,990 to conduct initial facility inspections will be incurred by the CDPHE in FY 2021-22. These costs are based on hotel and staff per diem for 5 overnight trips.

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. These costs, which include employee insurance, supplemental employee retirement payments, and indirect cost recoveries, are shown in Table 3.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2019-20, this bill requires an appropriation of \$45,839 to the CDPHE from the General Licensure Cash Fund and an allocation of 0.5 FTE. Of this amount, \$2,591 is reappropriated to the Department of Law for legal services.

State and Local Government Contacts

| | |
|------------------------|----------------------------------|
| Counties | Health Care Policy and Financing |
| Information Technology | Law |
| Personnel | Public Health and Environment |
| Regulatory Agencies | |