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Revised Fiscal Note

(replaces fiscal note dated January 31, 2023)

Drafting Number: LLS 23-0191 Date: March 24, 2023
Prime Sponsors: Rep. Willford; Garcia Bill Status: Senate Health & Human Services
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Bill Topic: INFORMED CONSENT TO INTIMATE PATIENT EXAMINATIONS

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill requires health professionals, students, and trainees to obtain informed consent from sedated or unconscious patients before performing intimate examinations. It increases state expenditures on an ongoing basis beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$25,218 to the Department of Public Health and Environment.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

Table 1
State Fiscal Impacts Under HB 23-1077

Table with 4 columns: Category, Budget Year FY 2023-24, Out Year FY 2024-25, and values for Revenue, Expenditures, Transfers, and Other Budget Impacts.

Summary of Legislation

The bill requires licensed health professionals, students, and trainees to obtain informed consent from sedated or unconscious patients before performing intimate examinations, unless in emergency situations when it is medically necessary. In addition to patient consent, students or trainees may only perform intimate examinations if it is related to the planned procedure to be performed, the patient has recognized them as part of the care team, and they are under direct supervision.

For intimate examinations of sedated or unconscious patients for educational or training purposes, health care facilities are required to either develop a policy that prohibits the examination or develop and use a consent form prior to performing the examination. Health care facilities must report any violations to the provider's regulator.

The bill outlines the process for obtaining patient consent and subjects non-compliant professionals and health-care facilities to disciplinary action or sanctions by their regulator or the Department of Public Health and Environment (CDPHE). The bill also specifies that limitations on liability damages do not apply to violations by health professionals. Health care facilities are required to either develop their own consent forms or use a form developed by their regulator.

State Expenditures

The bill increases state expenditures in CDPHE by \$30,885 in FY 2023-24 only, paid from the General Fund. Expenditures are shown in Table 2 and detailed below. The bill also increases workload for the departments of Regulatory Agencies and Human Services.

Table 2
Expenditures Under HB 23-1077

	FY 2023-24	FY 2024-25
Department of Public Health and Environment		
Personal Services	\$25,218	-
Centrally Appropriated Costs ¹	\$5,667	-
Total Cost	\$30,885	-
Total FTE	0.3 FTE	-

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Health and Environment. CDPHE will require 0.3 FTE for rulemaking, and will also have a workload increase to handle complaints.

- **Staff.** CDPHE will require 0.3 FTE to add rules to their health facilities regulations and statutes. This includes preparing, facilitating, and providing subject matter expertise for stakeholder meetings and board hearings.

- **Complaints.** It is estimated that each complaint will require about 50 hours of staff time to process and evaluate. The fiscal note assumes that health care facilities will abide by the law and any initial complaints can be accomplished within current appropriations. Any additional resources will be requested through the annual budget process as needed based on the number of complaints received.
- **Legal services.** CDPHE will require legal services from the Department of Law for general counsel and rulemaking support, but this support is expected to be minimal and can be accommodated within existing resources.

Department of Regulatory Agencies. The bill increases workload for DORA to handle additional complaints against the health professionals. The fiscal note assumes a high level of compliance with the bill. No change in appropriations is required.

Department of Human Services. Workload in the department may increase to notify health-care facilities of changes in requirements. This impact is minimal and requires no additional appropriation

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 and supplemental employee retirement payments, are shown in Table 2.

Effective Date

The bill takes effect January 1, 2024, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of \$25,218 to CDPHE, and 0.3 FTE.

State and Local Government Contacts

Corrections

Information Technology

Regulatory Agencies

Higher Education

Law

Human Services

Public Health and Environment