



**Colorado
Legislative
Council
Staff**

SB16-084

FISCAL NOTE

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

Drafting Number: LLS 16-0128
Prime Sponsor(s): Sen. Steadman

Date: February 1, 2016
Bill Status: Senate Judiciary
Fiscal Analyst: Bill Zepernick (303-866-4777)

BILL TOPIC: UNIFORM SUBSTITUTE HEALTH CARE DECISION-MAKING DOCS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures	Minimal workload increase.	
Appropriation Required: None.		
Future Year Impacts: Minimal ongoing workload increase.		

Summary of Legislation

This bill, *recommended by the Colorado Commission on Uniform State Laws*, adopts, with amendments, the "Uniform Recognition of Substitute Health Care Decision-making Documents Act" in Colorado law. A substitute health care decision-making document authorizes a decision-maker to act on behalf of an individual with respect to health care or personal care. Under the bill, such documents may be accepted regardless of whether the document was created within or outside of the jurisdiction where the substitute decision is needed.

The bill clarifies that a substitute health care decision-making document executed outside of the state is valid in Colorado if it complied with the law of the jurisdiction where it was executed, or, if no jurisdiction is indicated, if it complied with Colorado law. A person who accepts a substitute health care decision-making document in good faith without actual knowledge of the validity of the document and that the authority of the decision-maker is still in force, may assume without inquiry that the document and decision-maker's authority are genuine, valid, and still in effect. The bill lists circumstances under which a person can refuse to accept a substitute health care decision-making document. If a person refuses to accept a substitute decision-making document in violation of the bill, that person may be forced by a court to accept the document and is liable for reasonable attorney's fees and costs.

Background

The Colorado Commission on Uniform State Laws is charged with working with the national Uniform Law Commission (ULC) to promote uniformity in state laws where uniformity may be deemed desirable and practicable. This is achieved by developing proposed uniform legislation

through the ULC that can be adopted by the various state legislatures. Colorado's commissioners are required to be attorneys admitted to practice law in Colorado. Members include six attorneys appointed or reappointed by joint resolution of the General Assembly; any Colorado citizen who is elected as a life member of the ULC (after twenty years of membership); and the Director of the Office of Legislative Legal Services, or the Director's designee. The Office of Legislative Legal Services provides assistance to the legislative members of the Colorado Commission in their efforts to enact legislation regarding uniform acts.

State Expenditures

This bill may result in a minimal increase in workload for trial courts in the Judicial Department. The bill creates a new cause of action for decision-makers or other aggrieved parties if an acceptable substitute decision-making document is denied improperly. This new cause of action will increase trial court workload by a minimal amount. Generally, persons presented with substitute health care decision-making documents are assumed to accept them as required by the bill, so matters arising under this new cause of action are expected to be infrequent and can be addressed within existing appropriations. In addition, the bill may result in an offsetting, minimal decrease in trial court workload by providing guidance regarding the acceptability of substitute health care decision-making documents in cases where the validity of such a document may be contested under current law.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Counties	Health Care Policy and Financing	Human Services
Judicial	Public Health and Environment	Law
Municipalities	Regulatory Agencies	