



**Legislative  
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# FISCAL NOTE

**Drafting Number:** LLS 18-0937  
**Prime Sponsors:** Rep. Esgar  
                           Sen. Priola; Moreno

**Date:** March 21, 2018  
**Bill Status:** House Health, Insurance, and Environment  
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**Bill Topic:** ELECTRONIC PRESCRIBING CONTROLLED SUBSTANCES

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

This bill requires health care providers to prescribe controlled substances via electronic prescription, with certain exceptions. This will increase state workload and costs on an ongoing basis.

**Appropriation  
Summary:** For FY 2018-19, this bill requires an appropriation of \$141,500 to the Department of Corrections

**Fiscal Note  
Status:** The fiscal note reflects the introduced bill.

**Table 1**  
**State Fiscal Impacts Under HB-1279**

		<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Revenue</b>		-	-
<b>Expenditures</b>	General Fund	\$141,500	\$3,300
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

### **Summary of Legislation**

This bill requires that physicians, dentists, physician assistants, podiatrists, optometrists, and advanced practice nurses prescribe controlled substance only via a prescription that it transmitted electronically to a pharmacy, with certain exceptions, starting on July 1, 2020. For prescribers who work in solo practice or in rural areas, the requirement begins on July 1, 2021. The requirement applies to the aforementioned prescribers except when:

- electronic prescribing is not available due to technological or electrical failure;
- the prescription is to be dispensed at a pharmacy located outside of the state;
- the prescriber is dispensing the controlled substance directly to the patient;
- the prescription includes elements that are not supported in the most recent version of the National Council for Prescription Drug Programs SCRIPT Standard;
- the federal Food and Drug Administration does not allow a prescription with certain elements to be prescribed electronically;
- the prescription is not specific to an individual patient and allows the dispensing of a controlled substance under standing orders or similar group medication plans, in response to a public health emergency, or other allowable circumstance where a prescription is not specific to an individual patient;
- the prescription is issued under a research protocol;
- the controlled substance is to be administered to a patient in a hospital, nursing care home, hospice facility, dialysis treatment clinic, or assisted living residence; or
- the prescriber reasonably determines that the patient would be unable to obtain controlled substances in a timely manner and that his or her medical condition would be adversely affected if a prescription is issued electronically.

The requirement to prescribe electronically is monitored via questionnaires administered by each profession's regulatory board, and failure to prescribe electronically or to truthfully respond to the survey constitutes unprofessional conduct that may result in a disciplinary action against the health care provider. A pharmacy is not required to verify whether a non-electronic prescription conforms with one of the allowable exceptions and may fill the prescription as allowed under law.

Lastly, the bill repeals several provisions of Senate Bill 18-022 that, if enacted, clarify health care provider's ability to voluntarily prescribe opioid medication electronically.

### **State Expenditures**

The bill increases General Fund expenditures in the Department of Corrections (DOC) by \$141,500 in FY 2018-19 and at least \$3,300 in FY 2019-20 and future years. It will also increase workload in the Department of Regulatory Agencies. Other state agencies that employ providers with prescription authority may have additional workload and potentially increased costs. Costs are summarized in Table 2 and the costs and other impacts are described below.

**Table 2**  
**Expenditures Under HB 18-1279**

<b>Cost Components</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Department of Corrections</b>		
Programming and Software Licensing	\$102,800	-
Hardware	\$38,700	\$3,300
<b>Total</b>	<b>\$141,500</b>	<b>\$3,300</b>
<b>Total FTE</b>	-	-

**Department of Corrections.** The DOC will have costs of \$141,500 in FY 2018-19 to make modifications to the health care components of its offender management information technology system to allow for electronic prescribing. While this system currently allows for electronic management of health data, including prescriptions to be dispensed within the closed DOC health care system, it does not allow for electronic signature or verification of a prescriber's identity, as is required for full electronic prescribing. First-year costs include \$102,800 for programming and software, and \$38,700 for hardware. Ongoing software licensing costs in FY 2019-20 and beyond will be \$3,300 per year. For FY 2020-21, and continuing every two years, the DOC will have costs of \$20,000 to have the system audited.

**Department of Regulatory Agencies.** The Division of Professions and Occupations and the various health professional regulatory boards in the Department of Regulatory Agencies will have additional workload to promulgate rules, conduct outreach with health care providers, review compliance questionnaire responses, and investigate instances of noncompliance. Any disciplinary actions for noncompliance may also increase the need for legal services provided by the Department of Law. It is assumed that health care providers will have a high level of compliance with the bill. Therefore, it is assumed that this increase in workload can be accomplished within existing appropriations.

**Other agencies.** Other agencies that employ health care providers with prescription authority may also have workload and costs to train employees on the new requirements and potentially to purchase software or hardware necessary to allow for electronic prescribing. However, other than the DOC, other agencies report that they already use electronic prescribing; therefore, it is assumed that any additional workload and costs for other state agencies will be minimal.

### **Local Government**

Similar to the state agency impact discussed above, local governments that operate health care facilities or employ health care providers with prescribing authority may have additional workload and cost to train employees or implement or make modifications to their information technology systems to allow for electronic prescribing.

**Effective Date**

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed, except that sections 14 through 18 only take effect if SB18-022 becomes law. These sections take effect on the effective date of this bill or SB 18-022, whichever is later.

**State Appropriations**

For FY 2018-19, this bill requires a General Fund appropriation of \$141,500 to the Department of Corrections.

**State and Local Government Contacts**

Corrections	Health Care Policy and Financing
Higher Education	Human Services
Information Technology	Personnel
Regulatory Agencies	Public Health and Environment