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FISCAL NOTE

Drafting Number:	LLS 18-0104	Date:	April 20, 2018
Prime Sponsors:	Rep. Foote; Beckman Sen. Lundberg; Aguilar	Bill Status:	House Health, Insurance, and Environment
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Bill Topic: HEALTH CARE CHARGES BILLING REQUIRED DISCLOSURES

Summary of Fiscal Impact:

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

This bill requires health care facilities, health care providers, health insurers, and pharmacies to disclose certain rate, price, and billing information to consumers. It will increase state and local expenditures and create a diversion from the General Fund on an ongoing basis.

Appropriation Summary: For FY 2018-19, this bill requires an appropriation of \$175,545 to the Department of Public Health and Environment and \$43,873 to the Department of Regulatory Agencies.

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

**Table 1
State Fiscal Impacts Under HB 18-1358**

		FY 2018-19	FY 2019-20
Revenue		-	-
Expenditures	General Fund	\$175,545	\$171,589
	Cash Funds	\$43,873	\$42,203
	Centrally Appropriated	\$54,402	\$62,633
	Total	\$273,820	\$276,425
	Total FTE	2.9 FTE	3.6 FTE
Diversions	General Fund	(\$32,207)	(\$31,842)
	Cash Funds	\$32,207	\$31,842
	Total	\$0	\$0
TABOR Refund		-	-

Summary of Legislation

This bill requires the disclosure of cost, price, and billing information to consumers in the health care system starting on January 1, 2019. The following sections outline the specific requirements on health care providers and facilities, pharmacies, and health insurance carriers.

Health providers and facilities. Under the bill, licensed and certified health care providers and health care facilities licensed by the Colorado Department of Public Health and Environment (CDPHE) that bill consumers must make their fee schedules or chargemasters available to the public at their physical locations and on their websites. In addition, the bill specifies that health care providers must itemize billing statements and disclose information to patients about the provider or facility's participation in the patient's health insurance plan and provider network, as well as whether services will be provided by out-of-network providers at an in-network facility. The bill specifies that if a health care provider or facility has not published its fees as required, then it cannot bill the patient or third-party payer for services rendered in an amount higher than the lowest established rate for patients paying directly or the lowest negotiated rate paid or reimbursed by a third-party payer.

The bill outlines information that must be disclosed, including billing codes, service descriptions, and price, among other things. In addition, the bill requires hospitals to include a separate billing line item showing the amount collected for the Colorado Healthcare Affordability and Sustainability Fee. The bill requires the CDPHE to issue rules for the implementation and administration of health care provider disclosures. Health care providers and facilities must update their fee schedule at least annually and maintain a record of changes to the published fee schedule. Lastly, the bill repeals, and in effect replaces, the provisions of House Bill 17-065, which took effect on January 1, 2018, and requires certain health care providers and facilities to disclose direct pay prices for their most common procedures performed.

Pharmacies. Every pharmacy is required to publish a list of its retail drug prices at its physical location and on its website. The information must be updated promptly when prices change, and the pharmacy must maintain a record of all changes to its price list. The State Board of Pharmacy in the Department of Regulatory Agencies (DORA) is required to establish rules on price disclosures by pharmacies. If the state board determines that a pharmacy does not comply with the requirements of the bill, this constitutes unprofessional conduct and may be subject to disciplinary action.

Health insurance carriers. The bill requires health insurance carriers to post on their website and make available to covered persons upon request the contract terms, cost-sharing arrangements, and prescription drug prices for each provider, health care service, and line of business for each type of health benefit plan it offers.

In addition, health insurance carriers must publish detailed information on all forms of remuneration derived from rebates and other forms of incentives received as a result of health care services or prescription drugs. The Commissioner of Insurance is required to promulgate rules concerning the bill's requirements on insurance carriers. The bill authorizes the commissioner to use all of his or her enforcement powers to ensure compliance with the bill. Lastly, the bill specifies that contracts between insurance carriers and health care providers and facilities cannot contain any provision that restricts the ability of the health insurance plan, third-party payer, or health care provider to furnish patients any required information that must be published under the bill. Any such provision in a contract is void and unenforceable.

State Diversions

This bill diverts \$32,207 from the General Fund in FY 2018-19 and \$31,842 in FY 2019-20. This revenue diversion occurs because the bill increases costs in the Department of Regulatory Agencies, Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill increases state expenditures by \$273,820 and 2.9 FTE in FY 2018-19 and \$276,425 and 3.6 FTE in FY 2019-20. Costs in the CDPHE are paid from the General Fund and costs in DORA are split between the Division of Professions and Occupations Cash Fund and the Division of Insurance Cash Fund. The bill will also impact workload and potentially costs in several other state agencies. These costs are summarized in Table 2 and the discussion below.

**Table 2
 Expenditures Under HB 18-1358**

Cost Components	FY 2018-19	FY 2019-20
Department of Public Health and Environment		
Personal Services	\$138,809	\$168,739
Operating Expenses and Capital Outlay Costs	\$26,080	\$2,850
Legal Services	\$10,656	-
Centrally Appropriated Costs*	\$47,363	\$55,317
FTE – Personal Services	2.3 FTE	3.0 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE
CDPHE Subtotal	\$222,908	\$226,906
Department of Regulatory Agencies		
Personal Services	\$33,367	\$36,400
Operating Expenses and Capital Outlay Costs	\$5,178	\$475
Legal Services	\$5,328	\$5,328
Centrally Appropriated Costs*	\$7,039	\$7,316
FTE – Personal Services	0.5 FTE	0.5 FTE
DORA Subtotal	\$50,912	\$49,519
Total	\$273,820	\$276,425
Total FTE	2.9 FTE	3.6 FTE

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

Colorado Department of Public Health and Environment. The CDPHE will have costs of \$222,908 in FY 2018-19 and \$226,906 in FY 2019-20. While the CDPHE currently regulates licensed health facilities such as hospitals and surgical centers, it does not presently have oversight over many of the entities required to disclose cost data to consumers such as physician offices, dentists, medical groups, and urgent care centers, among others. In order to promote compliance

with the bill, the CDPHE will have costs for staff to conduct outreach, respond to provider questions, and other tasks. Specifically, the CDPHE will require 2.3 FTE in FY 2018-19 and 3.0 FTE in FY 2019-20. First-year FTE and costs are prorated to reflect the General Fund paydate shift and staff are assumed to be phased in starting in August 2019. Salary, operating, and capital outlay costs for these personnel are shown in Table 2 above. The CDPHE will also have costs for 100 hours of legal services concerning rulemaking in FY 2018-19.

Department of Regulatory Agencies. DORA is required to establish rules for disclosures by pharmacies and insurance carriers. Generally, it is assumed that outreach with pharmacies and insurance carriers will be conducted within existing communication channels by staff in the Division of Professions and Occupations and the Division of Insurance respectively. Starting in FY 2018-19, DORA requires an additional 0.5 FTE for rulemaking in the first year and to respond to consumer complaints and inquiries on an ongoing basis. First-year costs are prorated to reflect an August 2019 start date. The Division of Insurance in DORA will have increased legal services expenses for 50 hours of legal services relating to rulemaking and enforcement activity.

State employee health insurance. To the extent that this bill increases administrative costs for health insurance carriers and health care providers, costs for state employee health insurance may increase. Because state employee health insurance contributions are based upon prevailing market rates, with costs shared between the employer and employee, this bill is not expected to affect the state's share of employee health insurance premiums until FY 2019-20. Because insurance rates are influenced by a number of variables, the exact effect of this bill cannot be determined. Any increase caused by the bill will be addressed through the total compensation analysis included in the annual budget process.

Office of Administrative Courts and trial courts. The bill may potentially increase workload for the Office of Administrative Courts in the Department of Personnel and Administration and the trial courts in the Judicial Department in several ways. First, pharmacies and insurance carriers may challenge any enforcement action against them for noncompliance with the bill, which would likely first be heard by an administrative law judge, and potentially appealed to the trial courts. Assuming a high level of compliance, these impacts are likely minimal. Limiting the fees that may be charged by health care providers if their fees or chargemaster are not published could result in litigation and increased workload for the trial courts. It is unknown how frequently such cases would arise and it is assumed that they can be accomplished by existing judicial staff. If additional appropriations are required, they will be requested through the annual budget process.

Department of Law. The Department of Law will require an additional 0.1 FTE to provide legal services to the CDPHE and DORA. The costs of this staff will be paid using reappropriated funds.

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 estimated to be \$54,402 in FY 2018-19 and \$62,633 in FY 2019-20.

Local Government Impact

Similar to the state employee insurance impact discussed above, local governments offering health insurance coverage to their employees may experience an increase in costs. To the extent that the requirements of the bill lead to higher insurance premiums, local government costs for employee health insurance may increase. Health insurance premiums depend on a variety of factors and an exact estimate of any potential increase cannot be determined.

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 4 and 5 take effect January 1, 2019.

State Appropriations

For FY 2018-19, the bill requires the following appropriations:

- \$175,545 General Fund and an allocation of 2.3 FTE to the CDPHE, of which \$10,656 is reappropriated to the Department of Law for legal services;
- \$27,984 from the Division of Insurance Cash Fund and an allocation of 0.3 FTE to DORA, of which \$5,328 is reappropriated to the Department of Law for legal services;
- \$15,888 from the Division of Professions and Occupations Cash Fund and an allocation of 0.2 FTE to DORA; and
- an allocation of 0.1 FTE to the Department of Law.

State and Local Government Contacts

Corrections	Counties	Health Care Policy and Financing
Higher Education	Human Services	Information Technology
Judicial	Law	Public Health and Environment
Municipalities	Regulatory Agencies	