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FISCAL NOTE

Drafting Number: LLS 18-0633 Date: February 12, 2018
Prime Sponsors: Sen. Kefalas; Smallwood Rep. Sias; Singer Bill Status: Senate Health and Human Services
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Bill Topic: FREESTANDING EMERGENCY DEPT CONSUMER NOTICES

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

This bill requires freestanding emergency departments to provide certain notices to patients seeking care about prices and services. This bill will increase state expenditures and potentially state revenue from fees on an ongoing basis.

Appropriation Summary: For FY 2018-19, this bill requires an appropriation of \$34,725 to the Colorado Department of Public Health and Environment.

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

Table 1 State Fiscal Impacts Under HB 18-146

Table with 4 columns: Category, Sub-category, FY 2018-19, FY 2019-20. Rows include Revenue, Expenditures, and Transfers.

## **Summary of Legislation**

This bill requires freestanding emergency departments (FSED) to provide certain written and oral disclosures to a patient before and after screening for an emergency condition. The State Board of Health may promulgate rules to implement and enforce these disclosure requirements.

Prior to screening a patient, the FSED must provide a written statement to patients that lists the patient's rights, which FSED staff must also explain orally to the patient. This written statement must indicate that:

- the FSED will screen and treat the individual regardless of their ability to pay;
- the individual has a right to ask questions about treatment options and costs and to receive a prompt and reasonable response;
- the individual has a right to reject treatment;
- the FSED encourages the individual to defer questions until after being screened for an emergency medical condition; and
- the facility is an emergency medical facility that treats emergency conditions and that it is not an urgent care center or primary care provider.

In addition, the FSED must post a sign that states the public and private health plans that it accepts, indicates the insurance networks in which it participates, and lists the prices for the 25 most common health services it provides. If an FSED determines that a patient does not have an emergency condition after the initial screening, it must provide an additional written disclosure that:

- lists its prices and indicates that the prices are the maximum charge that any patient will be billed and that the actual charge may be lower based on health insurance benefits, discounts, and financial assistance;
- includes a statement urging a person covered by a health insurance plan to contact his or her insurer about his or her financial responsibility and for a person without health insurance to contact the FSED's financial services office to discuss payment options and availability of assistance before receiving treatment; and
- provides information on facility fees that the FSED charges.

The written disclosure must also be posted on the FSED website and updated at least once every six months. The disclosure must be available in languages appropriate to the communities served by the FSED.

## **State Revenue**

This bill may increase fee revenue to the Health Facilities General Licensure Cash Fund in the Colorado Department of Public Health and Environment (CDPHE) by up to \$50,000 in FY 2018-19 and up to \$20,000 in FY 2019-20 to cover the costs under this bill. The CDPHE sets fees on licensed health facilities in rule in order to cover the direct and indirect cost of regulation. It is assumed that any fee increase on a per facility basis, across all regulated health facilities, will be minimal and has not been estimated. For reference, the Health Facilities General Licensure Cash Fund is projected to have a beginning fund balance of \$283,270 and revenue and expenditures of approximately \$2.0 million in FY 2018-19.

**TABOR Refund**

The bill may increase state revenue subject to TABOR by \$50,000 in FY 2018-19 and up to \$20,000 in FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

**State Expenditures**

The bill increases costs in the CDPHE by \$50,699 and 0.5 FTE in FY 2018-19 and by \$30,062 and 0.3 FTE in FY 2019-20 and future years. These costs, which are paid from the Health Facilities General Licensure Cash Fund, are summarized in Table 2 and discussed below.

**Table 2  
Expenditures Under SB 18-146**

	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Department of Public Health and Environment</b>		
Personal Services	\$34,250	\$20,550
Operating Expenses	\$475	-
Centrally Appropriated Costs	\$15,974	\$9,512
FTE – Personal Services	0.5 FTE	0.3 FTE
<b>Total Cost</b>	<b>\$50,699</b>	<b>\$30,062</b>
<b>Total FTE</b>	<b>0.5 FTE</b>	<b>0.3 FTE</b>

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

**Personal services.** The CDPHE will require 0.5 FTE in FY 2018-19 for staff to develop rules for disclosures and to conduct outreach with licensed FSED. In FY 2019-20 and future years, 0.3 FTE is required to address consumer complaints regarding disclosures. Costs for this staff are shown in Table 2 above.

**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 estimated to be \$15,974 in FY 2018-19 and \$9,512 in FY 2019-20.

**Effective Date**

The bill takes effect January 1, 2019, assuming no referendum petition is filed.

**State Appropriations**

For FY 2018-19, the bill requires an appropriation of \$34,725 to the CDPHE from the Health Facilities General Licensure Cash Fund and an allocation of 0.5 FTE.

**State and Local Government Contacts**

Health Care Policy and Financing  
Information Technology  
Public Health And Environment

Higher Education  
Law