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# Final Fiscal Note

**Drafting Number:** LLS 23-0853      **Date:** May 24, 2023  
**Prime Sponsors:** Rep. Young; Amabile      **Bill Status:** Signed into Law  
 Sen. Kolker; Simpson      **Fiscal Analyst:** Erin Reynolds | 303-866-4146  
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**Bill Topic:**      **IMPLEMENTATION UPDATES TO BEHAVIORAL HEALTH ADMINISTRATION**

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

This bill delineates certain administrative responsibilities between the recently created Behavioral Health Administration and the Department of Human Services, and makes clarifications and modifications to the administration's statute. It shifts appropriations between the DHS and BHA and may increase state workload and future costs.

**Appropriation Summary:**      The bill requires and includes the reallocation of a \$2.2 million appropriation.

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

**Table 1  
State Fiscal Impacts Under HB 23-1236**

		<b>Budget Year FY 2023-24</b>	<b>Out Year FY 2024-25</b>
<b>Revenue</b>		-	-
<b>Expenditures<sup>1</sup></b>	General Fund	\$0	\$0
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>		-	-

<sup>1</sup> The bill requires the reallocation of a \$2.2 million appropriation from the BHA to the DHS, resulting in no net change in state expenditures. See State Appropriations section.

## Summary of Legislation

This bill delineates certain administrative responsibilities between the recently created Behavioral Health Administration (BHA) and the Department of Human Services (CDHS). The bill also formally repeals the Office of Behavioral Health, which is now functioning as the recently renamed Office of Civil and Forensic Mental Health (OCFMH) in CDHS.

Additionally, the bill makes the following clarifications and modifications, including but not limited to:

- authorizing the BHA to seek, accept, and expend gifts, grants, or donations for the purpose of administering any behavioral health program and service;
- requiring a behavioral health safety net provider to include services that address the necessary language and cultural barriers to serve communities of color and other underserved populations;
- requiring the BHA to create a regional subcommittee structure as part of the behavioral health administrative services organization;
- clarifying the role of the BHA and OCFMH in jail-based behavioral health services, including that the OCFMH is responsible for competency restoration and the BHA is the central organizing structure and responsible entity for the remaining jail-based behavioral health services;
- requiring the BHA to provide, directly or through contract, care navigation services and align the services with the care coordination infrastructure;
- continuously appropriating funding to the 988 crisis hotline cash fund;
- expanding the rights of a person detained by a certified peace officer or emergency medical services provider and transported to an outpatient mental health facility or other facility to any person detained, whether or not the person is transported to a facility;
- codifying that the BHA is a health oversight agency charged with overseeing the behavioral health-care system in Colorado and discharging the BHA's duties;
- adding BHA representatives to serve on certain boards and commissions;
- requiring the BHA to allocate funding to community-based behavioral health providers;
- modifying timelines for licensing behavioral health entities; and
- authorizing the BHA to revoke or not renew a behavioral health entity's license in certain circumstances.

## Background

[House Bill 21-1097](#) required the CDHS to submit a plan for the creation of the BHA. The BHA was established in July 2022 within the Department of Human Services (DHS) upon the passage of [House Bill 22-1278](#).

## State Revenue

The bill may increase state revenue to the BHA from gifts, grants, and donations. This funding is not subject to TABOR.

## State Expenditures

The bill makes several clarifications and adjustments to the authority of the DHS and the BHA. Most of these changes, other than for jail-based competency services, do not require a change in appropriations, and overall there is no net change in state expenditures. These changes are described below.

**Behavioral Health Administration.** The bill makes the following programmatic clarifications and modifications in BHA, which do not require an adjustment in appropriations:

- rolls care navigation services into care coordination;
- makes the 988 Crisis Hotline Cash Fund continuously appropriated and removes the repeal date; and
- requires funding to be allocated to community-based behavioral health providers in rural areas, which will utilize the BHA's discretionary direct-to-agency stimulus funding.

**Department of Human Services.** The bill's delineation of authority for various programs codifies existing practice; no change in appropriations is required for these changes.

**Jail-based competency services (DHS and BHA).** The bill's clarification that the Competency Enhancement Program services are provided by the OCFMH requires a reallocation of \$2,250,400 General Fund from the Jail-based Behavioral Health Services line item in the Behavioral Health Administration budget to the Jail-based Competency Restoration Program line item in the OCFMH budget, which results in no net change in expenditures.

**Department of Law.** To the extent that the bill's codification of the BHA as a health oversight agency as defined by federal law generates the need for legal support, those resources will be provided by the Department of Law; the fiscal note assumes existing BHA legal resources are sufficient. The bill also gives the BHA the ability to summarily suspend a behavioral health entity's license to operate; which will require legal resources. These will be addressed through the annual budget process as suspension activity is known.

**Department of Public Health and Environment.** The CDPHE is currently in its wind-down period of licensing of behavioral health entities; however, the bill extends this period. As such, it is assumed that CDPHE will be required to inspect, license, and enforce 20 facilities at an estimated cost of \$67,300 in FY 2023-24, and \$7,600 in FY 2024-25. The BHA will continue to provide financial support with Behavioral Health Entity Cash Fund and federal funding to CDPHE through the bill's adjusted timeline within existing appropriations. Additionally, the bill minimally increases CDPHE workload to add a BHA representative to the Health Equity Commission, which is staffed by the Office of Health Equity.

**Department of Health Care Policy and Financing.** The bill may increase workload and potential costs in HCPF from the bill's requirement to provide services that address the necessary language and cultural barriers to serve communities of color and other underserved populations, as well as data reporting on the usage of navigation services. Resources will be addressed through the annual budget process as potential cost drivers are known.

## Effective Date

The bill was signed into law by the Governor on May 16, 2023, and takes effect August 7, 2023, assuming no referendum petition is filed.

## State Appropriations

For FY 2023-24, the bill requires and includes an increase of \$2,250,400 General Fund to the Jail-based Competency Restoration Program line item in the Office of Civil and Forensic Mental Health in the DHS and a corresponding decrease in General Fund appropriations to the Jail-based Behavioral Health Services line item in the Behavioral Health Administration.

## Departmental Difference

The CDPHE assumes it requires \$67,289 in FY 2023-24, including spending authority of \$51,500 from the Behavioral Health Entity Cash Fund and \$15,789 from the General Fund, as well as \$7,596 in FY 2024-25 from the cash fund, to manage behavioral health entity licensing. As discussed in the State Expenditures section, the fiscal note assumes that the BHA will continue to provide support to the CDPHE within its existing appropriations and no adjustment to state expenditures is required.

## State and Local Government Contacts

Behavioral Health Administration  
Health Care Policy and Financing  
Information Technology  
Personnel  
Regulatory Agencies

Counties  
Human Services  
Law  
Public Health and Environment