



Colorado *Legislative Council Staff Fiscal Note*
STATE
FISCAL IMPACT

Drafting Number: LLS 08-0784
Prime Sponsor(s): Sen. Boyd
 Rep. Ferrandino

Date: February 26, 2008
Bill Status: Senate Health and Human Services
Fiscal Analyst: Amy Larsen (303-866-3488)

TITLE: CONCERNING LICENSURE OF HOME CARE AGENCIES BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue		
Cash Funds		
Home Care Agency Cash Fund*	\$398,590	\$866,500
Fees – Background Checks	10,235	12,015
Fees – Pass-through Fees to FBI	7,935	9,315
State Expenditures		
Cash Funds		
Home Care Agency Cash Fund*	\$179,121	\$736,301
Fees – Background Checks	10,235	15,780
Fees – Pass-through Fees to FBI	7,935	9,315
FTE Position Change	2.9 FTE	11.5 FTE
Effective Date: Unless a referendum petition is filed, the bill is effective August 6, 2008, assuming that the General Assembly adjourns as scheduled on May 7, 2008.		
Appropriation Summary for FY 2008-2009: See State Appropriations section of the fiscal note.		
Local Government Impact: See Local Government Impact section of the fiscal note.		

* Fees are set to cover both the direct and indirect costs of a program's implementation. Pursuant to JBC policy, the fiscal note does not include all costs incurred under the bill. See **Expenditures Not Included** section of the fiscal note for these costs.

Summary of Legislation

This bill establishes licensing requirements for home health agencies providing both skilled and personal care services. The bill includes the following provisions:

- ▶ beginning June 1, 2009, home care agencies that provide skilled services must apply for licensure with the Department of Public Health and Environment, and home care placement agencies must notify the department in writing if they provide referrals for skilled home health services;
- ▶ beginning June 1, 2009, home care agencies must require new employees to submit to a criminal history record check;

- ▶ beginning June 1, 2010, home care agencies that provide in-home personal care must apply for licensure with the department;
- ▶ the State Board of Health must promulgate rules providing for the minimum standards for operating agencies including inspections, educational requirements, enforcement remedies, and annual license fees;
- ▶ the Home Care Advisory Committee is established to make recommendations to the department and the board;
- ▶ persons operating home care agencies that do not comply with licensing requirements are guilty of a misdemeanor and may be subject to a civil penalty; and
- ▶ the Department of Regulatory agencies is required to review the licensing of Home Care Agencies prior to the program's repeal in 2014.

State Revenue

State cash funds revenue is expected to increase by \$416,760 in FY 2008-09 and by \$887,830 in FY 2009-10. Revenue is expected from license fees and background check fees paid by home health agencies.

Department of Public Health and Environment - Licenses Fees. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. The bill requires the State Board of Health to establish annual license fees for home health agencies. Fees are to be set to cover both the direct and indirect costs of the program. In addition, the fee schedule must be tiered to reflect the differences in type and volume of services of home care agencies including participation in Medicaid.

At this time, the fee schedule is unknown. The fiscal note assumes that fees will be collected from about 230 agencies providing skilled services in FY 2008-09 and from about 500 agencies providing skilled and personal care services in FY 2009-10, and that the *average* fee will be \$1,733 to cover the costs of the program. Actual license fees may vary substantially from the average included here.

Type of License Fee	Average Fee	Number Affected	Total Fee Impact
FY 08-09 Home Health Agency	\$1,733	230	\$398,590
FY 2009-10 Home Health Agency	\$1,733	500	\$866,500

Department of Public Health and Environment - Penalties. The bill includes both misdemeanor and civil penalties for violations. The penalty for the misdemeanor is a fine of \$50 to \$500. Civil penalties, up to \$10,000, may also be assessed. Penalty revenue is deposited into the Home Care Agency Cash Fund. For FY 2008-09, no revenue is anticipated because provisions go into effect June 1, 2009. For FY 2009-10, a minimal amount of fine revenue (< \$5,000 per year) is assumed under the bill.

Department of Public Safety – Background Check Fees. The Colorado Bureau of Investigations (CBI) will receive \$18,170 in FY 2008-09 from owners of home health agencies for criminal history checks. Criminal history checks are \$39.50 each and will be done on about 460 owners (2 per agency) in FY 2008-09 and about 540 in FY 2009-10. Of the \$39.50, \$22.00 passes through to the FBI to cross-check criminal histories against the national criminal database. The total pass-through amount to the FBI is \$7,935 in FY 2008-09. The remaining \$17.50 is retained by the CBI to cover background check costs, totaling \$10,235 in FY 2008-09.

The fiscal note assumes that criminal background checks for new employees of home health agencies will be conducted through private companies who provide this service, and will not result in additional revenue or expenditures for the department.

State Expenditures

Total expenditures are \$197,291 and 2.9 FTE in FY 2008-09 and \$757,631 and 11.5 FTE for FY 2009-10. Expenditures are primarily in the Department of Public Health and Environment, with background check costs in the Department of Public Safety.

Department of Public Health and Environment. The department is responsible for the registration, regulation, and enforcement of home health agencies. Table 2 and the discussion that follows detail the costs.

Table 2 — Department of Public Health and Environment Costs under SB08-153		
	FY 2008-09	FY 2009-10
Personal Services	\$ 162,275	\$ 659,243
<i>FTE</i>	2.9	11.5
Operating Expenses and Capital Outlay	13,965	45,120
Mileage and Travel	0	26,176
Legal Services	2,881	5,762
Total	\$ 179,121	\$ 736,301

Staff will be responsible for the following:

- ▶ license application processing and applicant technical assistance;
- ▶ general program oversight and rule development;
- ▶ applicant review, including verification of the background check;
- ▶ on-site inspections, plan of correction review, and related follow up; and
- ▶ addressing complaints and representing the program in disciplinary proceedings.

In FY 2008-09, staff will focus on gathering stakeholder input, developing rules and fee schedules, providing technical assistance, and processing license applications for skilled home care agencies. The department is expected to receive 229 applications in May 2008 and perform the initial review for about one-half of them. Application review includes not only processing the application but also reviewing background check information and compliance history.

In FY 2009-10, workload for the program increases once inspections begin for skilled home care agencies and license applications are received for personal care agencies. Inspections involve assessing the agency's policies and procedures as well as the delivery of care. Revisits are assumed for one-half of the agencies to allow for correction of any deficiencies. About 150 inspections are anticipated. The department will also assess and investigate about 80 complaints and reported occurrences, such as falls and unexpected deaths.

In addition, the department is expected to place license conditions on about 20 agencies. The conditions will provide a means to address serious and/or repeated violations before proceeding to license revocation or denial. At this time, only 1 license denial is expected in FY 2009-10. Legal services will be required for these enforcement actions.

FY 2010-11 and subsequent years. Workload for the department may increase further in FY 2010-11 since the majority of license applications for personal care home care agencies will be processed in FY 2010-11. However, these applications are expected to be simpler since personal care services are less technical in nature than skilled services. In out-years, workload is expected to stabilize once agencies are familiar with licensing and inspection requirements and compliance histories are established.

Department of Law. Legal services will be provided by the Department of Law at a rate of \$72.03 per hour. In FY 2008-09, 40 hours of legal services are for rulemaking. For FY 2009-10, 80 hours are anticipated for enforcement activities.

Department of Public Safety, Colorado Bureau of Investigations (CBI). The CBI will process fingerprint-based criminal history checks. Of the \$18,170 from background checks fees, \$10,235 is for state costs and \$7,935 will be passed through to the FBI in FY 2008-09. For FY 2009-10, the total cost increases to \$21,330 based on the anticipated number of fingerprint-based background checks.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, funding for the items noted below will not be included in fiscal note expenditure estimates. However, indirect costs are calculated for the purpose of identifying the "per applicant" cost of a new or revised fee to reflect the total direct and indirect costs required to support a particular program. For FY 2008-09, these costs total \$68,921 in the Department of Public Health and Environment.

- group health, life and dental insurance (\$18,267)
- short-term disability (\$211)
- amortization equalization disbursements (\$2,596)
- supplemental amortization equalization disbursements (\$811)
- indirect costs (\$47,036 - 23.4%)
- inflation
- leased space

State Appropriations

For FY 2008-09, the fiscal note indicates that the Department of Public Health and Environment should receive a cash funds appropriation of \$179,121 and 2.9 FTE from the Home Care Agency Cash Fund. Of this amount, the Department of Law should receive an appropriation of \$2,881 (reappropriated funds).

Also for FY 2008-09, the Department of Public Safety requires a cash funds appropriation of \$18,170, with \$7,935 passed through to the FBI.

Departments Contacted

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|-------------------------------|----------------------------------|
| Public Health and Environment | Health Care Policy and Financing |
| Human Services | Regulatory Agencies |
| Personnel and Administration | Judicial Branch |
| Public Safety* | |

* The Department of Public Safety did not formally respond to the request for fiscal analysis for this bill. Cost estimates included in this fiscal note are based on standard fees for fingerprint-based background checks.