

**STATE
FISCAL IMPACT**

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Prime Sponsor(s): Rep. Liston
Sen. Tochtrop

Bill Status: House Economic and Business Development
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TITLE: CONCERNING MODIFICATIONS TO THE SYSTEM OF REGULATION OF HEALTH FACILITIES CURRENTLY REGULATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
Cash Funds		
Department of Public Health and Environment	(\$71,250)	(\$71,250)
Department of Human Services	71,250	71,250
State Expenditures		
Multiple Fund Sources		
Department of Public Health and Environment	\$135,929	\$122,859
Department of Human Services	115,641	115,641
FTE Position Change	2.9 FTE	2.9 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2012-2013: See Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

Under current law, the Department of Public Health and Environment (DPHE) licenses and establishes and enforces standards for the operation of health facilities in the state. Facilities that must be licensed include rehabilitation centers, community mental health centers, acute treatment units, facilities for persons with developmental disabilities, nursing care facilities, hospice care, assisted living residences, and home care agencies. Both DPHE and the Department of Human Services (DHS) jointly regulate community residential homes for persons with developmental disabilities.

The bill eliminates DPHE's authority to license and develop standards for the operation of community residential homes and establishes that authority in the DHS. Further, if home care agency personal care services otherwise regulated by DPHE are provided in a community residential home, DHS is required to include the inspection of those services as part of its overall inspection of

the home. DHS is required to develop and institute an abbreviated, periodic inspection system for community residential homes and a performance incentive system to reduce renewal license fees for community residential homes that have no specific deficiencies.

The bill also:

- requires DPHE to develop an abbreviated, periodic inspection system for health facilities that have been licensed for at least three years and that have not been subject of any enforcement activity or complaints within the past three years;
- restricts DPHE from imposing construction standards that are more strict than, or that do not comply with, applicable national, state, and local building and fire codes when considering a license application or renewal;
- places limits on DPHE's authority in determining an applicant's fitness to conduct and maintain a health facility;
- allows Program of All-inclusive Care for the Elderly (PACE) organizations to submit evidence of accreditation or regulation found in three-way agreements between the PACE provider, the Centers for Medicare and Medicaid Services (CMS), and the Department of Health Care Policy and Financing (HCPF) to satisfy state licensing requirements;
- prohibits the State Board of Health (board) from increasing provisional or full license fees above the levels set in rule as of the effective date of the applicable section of the bill;
- establishes the Health Care Industry Facility Advisory Council (council) in DPHE to advise the board on matters related to state licensure of health care facilities; and
- clarifies that home care placement agencies are not licensed or certified by DPHE and subjects facilities who make such a claim to a civil penalty.

State Revenue

The bill affects revenue in two ways. First, revenue from inspections of community residential homes, estimated at \$71,250 annually, will move from DPHE to DHS. Secondly, overall inspection and licensing fee revenue is expected to decline through time under the bill.

The abbreviated, periodic inspection system created in the bill is designed to reduce the frequency and length of inspections needed for licensure renewal. Fee revenue from inspections will drop if facilities qualify for abbreviated inspections. This reduction will be offset to the extent that facilities previously unlicensed are successfully licensed. The fiscal note does not estimate the revenue impact of the abbreviated inspection system.

A provision in the bill prevents the State Board of Health from increasing fees above the levels in place at the time that the applicable section is enacted, prompting an eventual decline in revenue relative to current law (which allows periodic administrative adjustment of fees) and absent an influx of offsetting new licensees.

State Expenditures

Under the bill, net expenditures will increase by \$251,570 and 2.9 FTE for FY 2012-13, and by \$238,500 and 2.9 FTE for FY 2013-14. The net impact of the bill on the expenditures of affected agencies is summarized in Table 1.

Table 1. Net Expenditures Under HB12-1268		
Cost Components	FY 2012-13	FY 2013-14
Human Services		
Personal Services	\$108,543	\$108,543
FTE	1.5	1.5
Operating Expenses and Capital Outlay	7,098	7,098
Total Human Services	\$115,641	\$115,641
Public Health and Environment		
Current Licensure/Inspection Program	(79,068)	(78,649)
New duties under the bill	<u>200,143</u>	<u>200,143</u>
Net Personal Services Impact	121,075	121,494
Current Licensure/Inspection Program	(1.5)	(1.5)
New duties under the bill	<u>2.9</u>	<u>2.9</u>
Net FTE Impact	1.4	1.4
Current Licensure/Inspection Program	(1,370)	(1,362)
New duties under the bill	<u>16,224</u>	<u>2,727</u>
Net Operating Expenses and Capital Outlay	14,854	1,365
Total Public Health and Environment	\$135,929	\$122,859
Net Fiscal Impact	\$251,570	\$238,500

Department of Human Services. For DHS, expenditures will increase by \$115,641 and 1.5 FTE for fiscal years 2012-13 and 2013-14. The fiscal note assumes that the DHS will hire 1.5 FTE, the same amount that DPHE is reducing its staff, to comply with its duty to regulate community residential homes under the bill.

Department of Public Health and Environment. Net expenditures in the DPHE will increase \$135,929 and 1.4 FTE for FY 2012-13, and by \$122,859 and 1.4 FTE for FY 2013-14. The fiscal note assumes that DPHE retains health survey responsibilities under the bill, and that the remaining responsibilities associated with licensure of community residential homes become the sole responsibility of DHS. DPHE currently has 3.6 FTE assigned to required licensure and inspection activities associated with community residential homes. The elimination of DPHE's role in the inspection and licensing of community residential facilities will result in a reduction of \$80,438 (personal services, operating, and capital outlay) and 1.5 FTE to the DPHE's FY 2012-13 budget for personal services and operating costs. These reductions are offset by an increase in expenditures of \$216,367 to fund 2.9 new FTE, with expenditures comprised of the following:

- developing the abbreviated survey, developing the incentive program, promulgating rules, and evaluating accrediting standards requires expenditures of \$184,495 and 2.6 FTE for FY 2012-13;
- staffing the Health Care Industry Facility Advisory Council requires \$15,648 and 0.3 FTE for FY 2012-13; and
- operating and capital outlay expenditures for the 2.9 FTE identified above requires \$16,224.

For FY 2013-14, net expenditures in DPHE will increase by \$122,859 and 1.4 FTE. Costs for personal services remain about the same; however, capital outlay costs are not incurred pursuant to the common policy.

No appropriation clause. The bill specifies that affected state agencies are required to implement the provisions of the bill within existing appropriations and that no separate appropriation of state moneys is required to carry out the purposes of the bill. Notwithstanding this clause, legislative rules require that fiscal notes analyze the workload and cost impacts to state agencies that are expected to result from the bill. To the extent that workload increases as estimated in the fiscal note and funding is not provided in the bill, agencies may be required to seek additional funding through the annual budget process in the future.

Expenditures Not Included

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. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Net Expenditures Not Included Under HB12-1294*		
Cost Components	FY 2012-13	FY 2013-14
Employee Insurance (Health, Life, Dental, and Short-term Disability)		
Public Health and Environment	\$9,049	\$8,891
Human Services	7,956	7,956
Supplemental Employee Retirement Payments		
Public Health and Environment	6,454	7,548
Human Services	6,458	6,458
Indirect Costs		
Public Health and Environment	29,510	26,973
Human Services	12,496	12,496
TOTAL	\$71,923	\$70,322

*More information is available at: <http://colorado.gov/fiscalnotes>

State Appropriations

While the bill specifies that no appropriation is required, this analysis concludes that for FY 2012-13, the Department of Public Health and Environment requires a cash funds appropriation of \$135,929 and 1.4 FTE and the Department of Human Services requires a cash funds appropriation of \$115,641 and 1.5 FTE. The source of these funds will be identified in a revised fiscal note.

Departments Contacted

Public Health and Environment
 Health Care Policy and Financing
 Local Affairs
 Law

Human Services
 Municipal League
 Counties