Legislative Council Staff
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FINAL
FISCAL NOTE

Drafting Number:	LLS 18-0937	**Date:**	August 21, 2018
Prime Sponsors:	Rep. Esgar	**Bill Status:**	Postponed Indefinitely
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Bill Topic:	ELECTRONIC PRESCRIBING CONTROLLED SUBSTANCES

Summary of Fiscal Impact:	☐ State Revenue	☐ TABOR Refund	
	☒ State Expenditure *(minimal, potential)*	☒ Local Government *(potential)*	
	☐ State Transfer	☐ Statutory Public Entity	
	This bill would have required health care providers to prescribe controlled substances via electronic prescription, with certain exceptions. This would have increased state workload by a minimal amount and would have potentially increased state and local costs on an ongoing basis.		

Appropriation Summary:	No appropriation is required.
Fiscal Note Status:	The revised fiscal note reflects the introduced bill, as amended by the House Health, Insurance, and Environment Committee. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

This bill requires that physicians, dentists, physician assistants, podiatrists, optometrists, and advanced practice nurses prescribe controlled substances only via a prescription that is transmitted electronically to a pharmacy, with certain exceptions. For most prescribers, this requirement begins on July 1, 2021. For dentists and prescribers who work in solo practice or in rural areas, the requirement begins on July 1, 2022. The requirement applies to the aforementioned prescribers except when:

- the prescriber issues 24 or fewer prescriptions per year;
- electronic prescribing is not available due to technological or electrical failure;
- the prescription is to be dispensed at a pharmacy located outside of the state;
- the prescriber is dispensing the controlled substance directly to the patient;
- the prescription includes elements that are not supported in the most recent version of the National Council for Prescription Drug Programs SCRIPT Standard;
- the federal Food and Drug Administration does not allow a prescription with certain elements to be prescribed electronically;
- the prescription is not specific to an individual patient and allows the dispensing of a controlled substance under standing orders or similar group medication plans, in response to a public health emergency, or other allowable circumstance where a prescription is not specific to an individual patient;
- the prescription is issued under a research protocol;

- the controlled substance is to be administered to a patient in a hospital, nursing care home, hospice facility, dialysis treatment clinic, assisted living residence, or to a person in the custody of the Department of Corrections; or
- the prescriber reasonably determines that the patient would be unable to obtain controlled substances in a timely manner and that his or her medical condition would be adversely affected if a prescription is issued electronically.

The requirement to prescribe electronically is monitored via questionnaires administered by each profession's regulatory board, and failure to prescribe electronically or to truthfully respond to the survey constitutes unprofessional conduct that may result in a disciplinary action against the health care provider. A pharmacy is not required to verify whether a non-electronic prescription conforms with one of the allowable exceptions and may fill the prescription as allowed under law.

Lastly, the bill repeals several provisions of Senate Bill 18-022 that, if enacted, clarify health care provider's ability to voluntarily prescribe opioid medication electronically.

State Expenditures

This bill increases workload in the Department of Regulatory Agencies. Other state agencies that employ providers with prescription authority may have additional workload and potentially increased costs. These impacts are discussed below.

Department of Regulatory Agencies. The Division of Professions and Occupations and the various health professional regulatory boards in the Department of Regulatory Agencies will have additional workload to promulgate rules, conduct outreach with health care providers, review compliance questionnaire responses, and investigate instances of noncompliance. Any disciplinary actions for noncompliance may also increase the need for legal services provided by the Department of Law. It is assumed that health care providers will have a high level of compliance with the bill. Therefore, it is assumed that this increase in workload can be accomplished within existing appropriations.

Other agencies. Other agencies that employ health care providers with prescriptive authority may also have workload and costs to train employees on the new requirements and potentially to purchase software or hardware necessary to allow for electronic prescribing. However, agencies surveyed for this fiscal note report that they already use or have access to electronic prescribing; therefore, it is assumed that any additional workload and costs for other state agencies will be minimal.

Local Government

Similar to the state agency impact discussed above, local governments that operate health care facilities or employ health care providers with prescriptive authority may have additional workload and cost to train employees or implement or make modifications to their information technology systems to allow for electronic prescribing.

HB 18-1279

Effective Date

The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on April 25, 2018.

State and Local Government Contacts

Corrections	Health Care Policy and Financing
Higher Education	Human Services
Information Technology	Personnel
Regulatory Agencies	Public Health and Environment