



Legislative
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FISCAL NOTE

Drafting Number: LLS 19-0812
Prime Sponsors: Rep. Melton

Date: February 13, 2019
Bill Status: House Public Health
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Bill Topic: MENTAL HEALTH PROFESSIONAL ACCESS TO DISMISSED COMPLAINT

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill allows mental health professionals to access the records of a dismissed complaint with certain information redacted. The bill will increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill requires a \$27,173 appropriation to the Department of Regulatory Agencies.

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

**Table 1
State Fiscal Impacts Under HB 19-1125**

		FY 2019-20	FY 2020-21
Revenue	Cash Funds	at least \$20,625	at least \$20,625
	Total	at least \$20,625	at least \$20,625
Expenditures	Cash Funds	\$27,173	\$26,869
	Centrally Appropriated	\$5,655	\$6,969
	Total	\$32,828	\$33,838
	Total FTE	0.4 FTE	0.5 FTE
Transfers		-	-
TABOR Refund	General Fund	at least \$20,625	-

Summary of Legislation

Under current law, if a complaint is dismissed by the overseeing professional board, records of investigations, examinations, hearings, meetings, and other proceedings of the board are exempt from the Colorado Open Records Act (CORA). This bill creates an exception to allow the mental health professional who is a respondent to a dismissed complaint to have access to the regulatory board's or Division of Professions and Occupations's records regarding the dismissed complaint. The names or any other identifiable information about a client, recipient of service, complainant or witness must also be redacted. The boards subject to the bill include:

- State Board of Psychologist Examiners;
- State Board of Social Work Examiners;
- State Board of Licensed Professional Counselor Examiners;
- State Board of Marriage and Family Therapist Examiners;
- State Board of Registered Psychotherapists; and
- State Board of Addiction Counselor Examiners.

Background

Under current law, the Division of Professions and Occupations and regulatory boards in the Department of Regulatory Agencies (DORA) provide mental health professionals with a copy of the complaint except in specific circumstances. The file on a dismissed complaint is not subject to CORA. DORA receives an average, 745 complaints each year, of which with 549 are dismissed. DORA charges \$25 per hour after the first hour, to respond to CORA requests.

Assumptions

The fiscal note assumes that of the 549 dismissed complaints, 50 percent of respondents (275) will submit a CORA request. The fiscal note further assumes that each request will require four hours of staff time to prepare a response to the request; including redacting certain information.

State Revenue

Beginning in FY 2019-20, the bill will increase state revenue to the Division of Professions and Occupation Cash Fund by at least \$20,625 per year from CORA request processing fees. This is based on 275 respondents paying a \$25 per hour fee and for each request to take an average of 4 hours. More fees may apply depending on the length and complexity of the request.

State Expenditures

Beginning in FY 2019-20, the bill will increase state cash fund expenditures by \$32,828 and 0.4 FTE in FY 2019-20 and by \$33,838 and 0.5 FTE in FY 2020-21 from the Division of Professions and Occupations Cash Fund. These expenditures are required for the division and regulatory board staff to copy, redact, and send out complaint files. Staff will also conduct education and outreach to licensees on the law change. The increase in expenditures are shown in table 2 below.

Table 2
Expenditures Under HB 19-1125

	FY 2019-20	FY 2020-21
Department of Regulatory Agencies		
Personal Services	\$21,995	\$26,394
Operating and Capital Costs	\$5,178	\$475
Centrally Appropriated Costs*	\$5,655	\$6,969
FTE – Personal Services	0.4 FTE	0.5 FTE
Total Cost	\$32,828	\$33,838
Total FTE	0.4 FTE	0.5 FTE

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

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 and supplemental employee retirement payments, are estimated to be \$5,655 in FY 2019-20 and \$6,969 in FY 2020-21.

TABOR refunds. The bill is expected to increase state General Fund obligations for TABOR refunds by at least \$20,625 in FY 2019-20. Under current law and the December 2018 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State Appropriations

In FY 2019-20, the bill requires an appropriation of \$27,173 from the Division of Professions and Occupations Cash Fund to the Department of Regulatory Agencies and an allocation of 0.4 FTE.

State and Local Government Contacts

Information Technology Law Regulatory Agencies