



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 14, 2021)

Drafting Number: LLS 21-0832 Date: May 22, 2021
Prime Sponsors: Rep. Weissman; Neville Bill Status: Senate SVMA
Sen. Smallwood; Zenzinger Fiscal Analyst: Max Nardo | 303-866-4776
Max.Nardo@state.co.us

Bill Topic: HEALTH-CARE PROVIDER LIENS FOR INJURED PERSONS

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

The bill creates a new type of statutory lien for health care providers treating an individual injured by negligence or a wrongful act, and imposes limitations on business practices associated with these liens. It increases revenue and may affect expenditures in multiple state agencies.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill.

Table 1
State Fiscal Impacts Under HB 21-1300

Table with 4 columns: Category, Cash Funds, Budget Year FY 2021-22, Out Year FY 2022-23. Rows include Revenue (\$16,000), Expenditures (-), Transfers (-), and TABOR Refund (-).

Summary of Legislation

The bill creates a new type of statutory lien for health care providers treating individuals injured by negligence or wrongful acts, and imposes limitations on business practices associated with these liens.

Limitations on liens. The bill establishes the following requirements concerning health care provider liens asserted against money the injured person may receive from a settlement:

- the amount of the lien cannot exceed charges for services provided, which must be charged at the provider's customary rate;
- the lien cannot include additional finance charges or interest;
- if the injured person does not receive a settlement, they are not liable for any amount of the lien;
- if the injured person receives a settlement that is less than the amount of the lien, they are not liable for any amount over the settlement; and
- the lienholder cannot assign the lien to a collection agency.

Disclosure. A health care provider creating a lien must advise the injured person of the limitations described above. In addition, the provider must inform the injured person of their options for payment and provide additional disclosures about the lien, as detailed in the bill.

Filing with the state. A lienholder may file a health care provider lien with the Secretary of State (SOS), granting their lien priority over any other lien against the same settlement, with additional prioritization granted to liens with earlier filing dates.

State Revenue

The bill increases revenue in the SOS by an estimated \$16,000 per year beginning in FY 2021-22. The revenue is from an estimated 2,000 liens filed annually with an \$8 filing fee. This estimate assumes there will be two-thirds as many health care provider liens filed as there are hospital liens (3,000 per year), which is roughly equivalent to the ratio of health care spending for physicians and clinical services relative to hospital care. Per department rule, lien filings must be made online using the SOS filing system. Revenue is deposited into the Department of State Cash Fund and is subject to TABOR.

State Expenditures

The bill may affect expenditures and workload in multiple state agencies.

Department of State. The bill increases workload in the SOS to update materials and receive health care provider liens under the Colorado Lien Registration Act. Because the SOS can receive these liens under the existing *Other Statutory Lien* filing option, this work is minimal and can be accomplished within existing appropriations.

Department of Health Care Policy and Financing. Medicaid is the payer of last resort and may recover costs from a lien if there is another responsible party. Depending on the value and number of liens and the judgment of the courts, the bill may reduce the department's recoveries of Medicaid liens against settlements by prioritizing other liens over the department's. Any such impacts will accrue to the department through the annual budget process.

Other state agencies. Workload will minimally increase for the Department of Regulatory Agencies to conduct outreach and education in the Insurance and Professions and Occupations Divisions. The Uniform Consumer Credit Code, regulated by the Department of Law, is not expanded under the bill, therefore no change in appropriations is required.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Health Care Policy and Financing
Public Health and Environment
State

Judicial
Regulatory Agencies

Counties
Law