



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**SB 19-079**

# FINAL FISCAL NOTE

|                         |   |                        |   |
|-------------------------|---|------------------------|---|
| <b>Drafting Number:</b> | LLS 19-0607                               | <b>Date:</b>           | May 23, 2019  |
| <b>Prime Sponsors:</b>  | Sen. Todd; Priola<br>Rep. Esgar; Landgraf | <b>Bill Status:</b>    | Signed into Law   |
|                         |   | <b>Fiscal Analyst:</b> | Aaron Carpenter   303-866-4918<br>Aaron.Carpenter@state.co.us |

**Bill Topic:** ELECTRONIC PRESCRIBING CONTROLLED SUBSTANCES

|                                      |  |  |
|--------------------------------------|--|--|
| <b>Summary of<br/>Fiscal Impact:</b> | <input type="checkbox"/> State Revenue                                   | <input type="checkbox"/> TABOR Refund                |
|                                      | <input checked="" type="checkbox"/> State Expenditure ( <i>minimal</i> ) | <input checked="" type="checkbox"/> Local Government |
|                                      | <input type="checkbox"/> State Transfer                                  | <input type="checkbox"/> Statutory Public Entity     |

The bill requires podiatrists, physicians, physician assistants, advanced practice nurses, and optometrists to electronically prescribe certain controlled substances. The bill minimally increases state workload on an ongoing basis. The bill may also increase local government expenditures and workload on an ongoing basis.

**Appropriation  
Summary:** No appropriation is required.

**Fiscal Note  
Status:** This fiscal note reflects the enacted bill.

## Summary of Legislation

Under current law, podiatrists, physicians, physician assistants, advanced practice nurses, and optometrists all may prescribe opioid medication electronically. This bill repeals this provision and requires that all podiatrists, dentists, physicians, physician assistants, advanced practice nurses, and optometrists that prescribe a schedule II, III, or IV controlled substance do so electronically, with certain exceptions. For most prescribers, the requirement begins July 1, 2021. For dentists and prescribers who work in a solo practice, or are in rural area, the requirement begins July 1, 2023. A prescriber does not need to prescribe a controlled substance electronically if:

- electronic prescribing is not available due to a temporary technological failure;
- the pharmacy is located outside of the state;
- the prescriber is dispensing the controlled substance to the patient;
- the prescription includes one or more elements that are not supported by the National Council for Prescription Drug Programs SCRIPT Standard;
- the federal Food and Drug Administration does not allow that prescription to be satisfied with electronic prescribing;
- the prescription is not specific to a patient and allows dispensing of a controlled substance under a standing order, approved protocol of drug therapy, collaborative drug management or comprehensive medication management plan, in response to public health emergency, or under other circumstances that are not specific to an individual patient;
- the controlled substance is under a research protocol;
- the prescriber writes 24 or fewer prescriptions for a controlled substance per year;

- the prescription is administered to a patient in a hospital, nursing care facility, hospice, dialysis treatment clinic, or assisted living residence or a person in the custody of the Department of Corrections;
- the prescriber reasonably determines that the patient would be unable to obtain the prescription in a timely manner and that the delay would adversely affect the patient's medical condition; or
- the prescriber demonstrates economic hardship, as specified by rules adopted by the prescriber's professional board.

Compliance with the requirement to prescribe electronically is verified through license renewal questionnaires administered by each profession's regulatory board. Failure to truthfully respond to the survey constitutes unprofessional conduct that may result in disciplinary action taken against the prescriber. Failure to electronically prescribe a controlled substance does not constitute negligence.

Finally, the bill does not require pharmacists to verify the applicability of an exception to electronic prescribing and may dispense the controlled substance pursuant to an order that is written, oral, or facsimile-transmitted that is valid and consistent with current law.

### **State Expenditures**

The bill will increase workload to the Department of Regulatory Agencies and state agencies that employ providers with prescription authority, as described below.

**Department of Regulatory Agencies.** Starting in FY 2019-20, this bill will increase workload for the Division of Professions and Occupations and the various health professional regulatory boards in the Department of Regulatory Agencies to adopt rules, conduct outreach with providers, update questionnaires, and respond to additional complaints. The increase in workload is expected to be minimal and to be accomplished within existing appropriations.

**Other state agencies.** Starting in FY 2019-20, any state agency that employs providers with prescription authority will see an increase of workload to educate and train their employees on the new standards. Costs to state agencies may also increase to purchase software or hardware necessary to electronically prescribe medication. However, agencies surveyed for this fiscal note report that they already use electronic prescribing or they are exempt from the bill. Therefore, it is assumed that any additional workload and cost will be minimal.

### **Local Government**

Local governments that operate health care facilities or employ health care providers with prescriptive authority may have additional costs and workload to train their employees on the new standards, make modifications to their information technology systems to allow for electronic prescribing, and to purchase electronic medical record software to allow for electronic prescribing. While the exact cost for local governments cannot be determined at this time, it is estimated that a new electronic prescribing system may cost anywhere from \$7,000 to \$25,000 depending on whether multiple local governments agree to use the same software and pharmacy.

**Effective Date**

This bill was signed into law by the Governor on April 8, 2019, and takes effect August 2, 2019, assuming no referendum petition is filed; except for the following sections of the bill:

- sections 18 and 21 through 25 take effect on October 1, 2019;
- section 16 takes effect July 1, 2021; and
- sections 17, 19, and 20 of the bill take effect on July 1, 2023.

**State and Local Government Contacts**

|             |                                  |
|-------------|----------------------------------|
| Corrections | Health Care Policy and Financing |
| Counties    | Human Services                   |
| Law         | Information Technology           |
| Personnel   | Public Health and Environment    |
| Sheriffs    | Regulatory Agencies              |