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Final Fiscal Note

Drafting Number: LLS 21-0256 Date: June 28, 2021
Prime Sponsors: Rep. Geitner Sen. Smallwood; Ginal Bill Status: Postponed Indefinitely
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Bill Topic: HOSPITAL PATIENT LONG-TERM CARE RESIDENT VISIT RIGHTS

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

The bill would have required hospitals, nursing care facilities and assisted living residences to allow their patients and residents to have at least one visitor of their choosing. The bill would have increased state expenditures on an ongoing basis.

Appropriation Summary: For FY 2021-22, this bill would have required an appropriation of \$41,648 to the Department of Public Health and Environment.

Fiscal Note Status: This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 21-1172

Table with 3 columns: Category, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue, Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and TABOR Refund.

Summary of Legislation

The bill requires health care facilities, including hospitals, nursing care facilities and assisted living residences, to allow their patients and residents to have at least one visitor of their choosing. The bill also requires these health care facilities to have written policies and procedures concerning visitation, including any restrictions or limitations that are placed on visitation and the reasons for these restrictions or limitations.

The bill prohibits health care facilities from disallowing visitation if the sole reason is to reduce the risk of transmission of a pandemic disease, but allows health care facilities to impose requirements and limitations on visitors to reduce the risk of transmission of a pandemic disease as follows:

- during a period of heightened pandemic disease transmission risk, health care facilities may designate entry points, deny visitors with known symptoms of the pandemic disease, require visitors to wear face coverings or other protective equipment, and require them to sign a waiver acknowledging the risks of visitation;
- during a period of known community transmission of a pandemic disease, health care facilities may require all visitors to be screened for symptoms of the disease before visitation, and deny entrance to any visitor who has symptoms of the disease; and
- during widespread community transmission of the disease, facilities may limit visitation to essential caregivers or for compassionate care visits from a friend or family member to alleviate physical or emotional distress.

Background

The Department of Public Health and Environment (CDPHE) licenses and regulates approximately 3,620 health care facilities. From March 2020 to March 2021, CDPHE received a total of 52 complaints regarding visitation of nursing facilities, assisted living residences and group homes.

Assumptions

This fiscal note assumes that most health care facilities will comply with requirements of the bill, but that 52 additional individuals will file complaints against health care facilities starting in FY 2021-22. The fiscal note also assumes that CDPHE will be required to review all of the additional complaints, investigate facilities for 25 percent of complaints and that half of complaints will require a plan of correction review.

State Expenditures

The bill increases costs in the CDPHE by \$59,319 and 0.6 FTE in FY 2021-22 and \$55,925 and 0.6 FTE in FY 2022-23 from the Health Facilities General Licensure Cash Fund. The bill also minimally increases workload in the Department of Human Services for FY 2021-22. Costs are shown in Table 2 and discussed in more detail below.

**Table 2
Expenditures Under HB 21-1172**

	FY 2021-22	FY 2022-23
Department of Public Health and Environment		
Personal Services	\$34,638	\$37,784
Operating Expenses	\$810	\$810
Capital Outlay Costs	\$6,200	-
Centrally Appropriated Costs ¹	\$17,671	\$17,331
FTE – Personal Services	0.6 FTE	0.6 FTE
Total Cost	\$59,319	\$55,925
Total FTE	0.6 FTE	0.6 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Health and Environment. In FY 2021-22, the department will require 0.6 FTE to review, investigate and resolve visitation complaints filed against health care facilities as a result of this bill.

Department of Human Services. The bill requires the department to enact written visitation policies for residents at their facilities. This work can be done within existing appropriations.

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, supplemental employee retirement payments, and indirect cost recoveries, are estimated to be \$17,671 in FY 2021-22 and \$17,331 in FY 2022-23.

Effective Date

The bill was postponed indefinitely by the House Health and Insurance Committee on April 21, 2021.

State Appropriations

For FY 2021-22, the bill would have required an appropriation of \$41,648 to the Department of Public Health and Environment from the Health Facilities General Licensure Cash Fund.

Departmental Difference

The CDPHE estimates that it requires \$2.0 million and 22.0 FTE in FY 2021-22 to receive and investigate approximately 3,600 complaints against health care facilities per year, which is an average of one complaint for each health facility in the state covered by the bill. The CDPHE staffing estimate includes time to review complaints, conduct on-site investigations, and implementation of corrective action plans. The CDPHE estimates that fees on health facilities would need to be raised to cover its costs paid from the Health Facilities General Licensure Cash Fund.

The fiscal note does not include these costs for several reasons. First, this analysis assumes a lower number of complaints, based on the actual number of complaints received about visitation issues under current law during the pandemic. In addition, the pandemic health situation is expected to improve in the near future, which would decrease the likelihood of a significant number of complaints received on an ongoing basis. Lastly, the fiscal notes assumes that health facilities will have a high level of compliance with the bill and that ongoing monitoring of health facility visitation policies as part of the existing facility inspection process will further promote compliance. Therefore, the fiscal note has included the lower staffing and cost estimate (\$59,319 and 0.6 FTE in FY 2021-22) described in the State Expenditures section above.

State and Local Government Contacts

Department of Human Services
Information Technology

Health Care Policy and Financing
Public Health and Environment