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Final Fiscal Note

Drafting Number: LLS 24-1123 Date: June 26, 2024
Prime Sponsors: Rep. Mabrey; Jodeh Sen. Roberts Bill Status: Signed into Law
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Bill Topic: IMPLEMENT PRESCRIPTION DRUG AFFORDABILITY PROGRAMS

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

The bill makes changes to the insulin and epinephrine affordability programs in the Department of Regulatory Agencies. It increases state expenditures and revenue beginning in FY 2024-25, and may increase local workload beginning in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill requires and includes an appropriation of \$8,874 to the Department of Regulatory Agencies.

Fiscal Note Status: The final fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 24-1438

Table with 4 columns: Category, Sub-category, Budget Year FY 2024-25, and Out Year FY 2025-26. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund).

## Summary of Legislation

The bill makes changes to the insulin and epinephrine affordability programs in the Department of Regulatory Agencies (DORA).

First, the bill moves the affordability programs from the Division of Insurance to the Division of Professions and Occupations (DPO) within DORA.

Then, it modifies the fines for manufacturer noncompliance from \$10,000 for each month of noncompliance to an amount and frequency of the fine permitted under the Consumer Protection Act. It also authorizes the Attorney General to enforce the affordability programs, and makes it a deceptive trade practice for a manufacturer to fail to comply with the Insulin Affordability Program or the requirements for the emergency supply of prescription insulin.

Finally, the bill requires the DPO to make certain changes to the application form for the Epinephrine Auto-Injector Program, including requiring the application to be accessible online and including information for pharmacy reimbursement purposes. The DPO must also provide pharmacies with information about the program to provide to individuals seeking to access the program.

## State Revenue

State revenue to the Division of Professions and Occupations Cash Fund in DORA is estimated to increase by approximately \$12,000 in FY 2024-25 and \$7,000 in FY 2025-26. The division adjusts its fees to cover its estimated costs to implement the bill. Revenue to the cash fund is subject to the state's TABOR limit. State revenue may also increase from civil penalties and filing fees beginning in FY 2024-25.

**Fee impact on pharmacy businesses and professions.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DORA based on cash fund balance, program costs, and the number of licenses subject to the fee. Based on the number of licensees and upcoming license renewal schedule, the fiscal note assumes fees for pharmacy businesses and pharmacists will be adjusted, but pharmacy interns and technicians may also be affected. The table below identifies the fee impact of this bill.

**Table 2**  
**Fee Impact on Pharmacy Businesses and Professions**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Current Fee</b>	<b>Estimated Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<b>FY 2024-25</b>	Pharmacy Businesses	\$459	\$463	3,460	\$12,110
<b>FY 2025-26</b>	Pharmacists	\$138	\$138.80	8,548	\$6,838

**Civil penalties.** Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

**Filing fees.** The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

### **State Expenditures**

The bill increases expenditures in DORA by about \$12,000 in FY 2024-25 and \$6,000 in FY 2025-26 and following years, paid from the DPO Cash Fund. Expenditures are shown in Table 3 and detailed below. The bill also increases workload for the Department of Law and the Judicial Department.

**Table 3**  
**Expenditures Under HB 24-1438**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$8,574	\$4,287
Translation	\$300	
Centrally Appropriated Costs <sup>1</sup>	\$3,201	\$1,601
<b>Total Cost</b>	<b>\$12,075</b>	<b>\$5,888</b>
<b>Total FTE</b>	<b>0.2 FTE</b>	<b>0.1 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Regulatory Agencies.** The DPO requires 0.2 FTE initially and 0.1 FTE annually in subsequent years, to transition the programs from the DOI; modify the program application, website, and materials; provide information to pharmacies for the Epinephrine Auto-Injector Affordability Program; and manage any public inquiries regarding the programs. The DPO will also have one-time costs of \$300 for translation services for changes made to the application forms. Costs in the DPO are funded by license renewal fees on pharmacy businesses and professions, as described in the State Revenue section.

**Department of Law.** Workload in the Department of Law will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

**Judicial Department.** The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that manufacturers will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required.

## Local Government

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

## Effective Date

This bill was signed into law by the Governor and took effect on June 3, 2024.

## State Appropriations

For FY 2024-25, the bill requires and includes an appropriation of \$8,874 from the Division of Professions and Occupations Cash Fund to the Department of Regulatory Agencies, and 0.2 FTE.

## State and Local Government Contacts

District Attorneys  
Regulatory Agencies

Judicial

Law

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).