



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SB 26-041: CONSUMER PROTECTIONS MEDICAL CARE ENTITIES

Prime Sponsors:

Sen. Kipp; Weissman

Rep. Brown; McCormick

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Fiscal note status: This fiscal note reflects the introduced bill.

Summary Information

Overview. The bill modifies reporting requirements for health care entities involved in certain types of transactions, and requires providers to disclose specific information to patients.

Types of impacts. The bill is projected to affect the following areas on ongoing basis:

- Minimal State Workload
- State Revenue
- TABOR Refunds

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

| Type of Impact | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|----------------------------|---------------------------|------------------------|
| State Revenue (Cash Funds) | up to \$85,000 | up to \$85,000 |
| State Expenditures | \$0 | \$0 |
| Transferred Funds | \$0 | \$0 |
| Change in TABOR Refunds | up to \$85,000 | up to \$85,000 |
| Change in State FTE | 0.0 FTE | 0.0 FTE |

State revenue depends on fee setting decisions by the Attorney General and the number of pre-merger transaction filings submitted for review. The estimate above reflects potential fee revenue up to the current Department of Law costs for pre-merger transactions. Fee revenue could be \$0 if no fee is imposed or up to \$2.25 million per year if the maximum fee is levied based on the current number of transactions. See State Revenue section.

Summary of Legislation

The bill relocates the Uniform Antitrust Pre-Merger Notification Act and establishes pre-merger notification and enforcement requirements for certain transactions involving health care entities that are subject to federal antitrust review. The bill expands the Attorney General's authority to review, enforce, and take action against covered transactions that may harm competition in health care markets, and modifies existing provider referral-disclosure requirements.

Transactions

The bill applies to specified mergers, acquisitions, and other transactions involving health care entities that meet federal filing thresholds. Covered transactions are subject to antitrust review and may not be completed until applicable notice and waiting-period requirements are satisfied.

Notification

For covered transactions, the bill requires parties to submit pre-merger notification to the Attorney General 90 days in advance of the transaction in coordination with federal antitrust filings (up from 60 days under current law). The bill establishes mandatory waiting periods prior to transaction completion and authorizes the Attorney General to assess a fee of up to \$5,000 on each filing party. Under current law, any such fee is prohibited.

Enforcement

The bill authorizes the Attorney General to prohibit and take enforcement action against covered transactions that would substantially lessen competition or create a monopoly in health care markets. Enforcement mechanisms include civil penalties and injunctive relief for noncompliance with filing or waiting period requirements.

Patient Referrals

The bill requires health care providers to disclose financial relationships when referring patients for medical services and to offer alternative referral options upon request. Further, the Attorney General must study and report on the impacts of these referral-disclosure requirements and related competitive effects by November 15, 2029.

State Revenue

Starting in FY 2026-27, the bill is estimated to increase state revenue by up to \$85,000 per year from pre-merger notification filing fees. As discussed below, the fee will be set at the discretion of the Attorney General and revenue could range from \$0 (no fee) to \$2.25 million (the maximum \$5,000 fee on current filing volume). Civil penalties and court filing fees may further increase revenue by a minimal amount. These revenue impacts are described in more detail below.

Filing Fees—Notifications

Under current law, the Department of Law reviews about 450 pre-merger transaction filings per year. This work currently results in expenditures of approximately \$85,000 and 0.6 FTE. If the Attorney General sets the fee to cover these current costs, the fee will be about \$190 and generate \$85,000 in revenue. This revenue is subject to TABOR and is deposited into the Non-Profit Health Care Entity Review Cash Fund (See Technical Note for more details about fund sources).

Imposition of this fee is at the discretion of the Attorney General. If a fee is not imposed, no additional revenue to the state will be generated. The maximum fee authorized by the bill is \$5,000 on each party filing a pre-merger notification. If this maximum fee is set, state revenue would increase by \$2.25 million based on the current filing volume. However, the fiscal note assumes that if a fee is set, it will be done to cover current costs, rather than at the maximum amount allowed, and cash fund revenue will be up to \$85,000 per year.

Civil Penalties and Court Filing Fees

Under the Uniform Antitrust Pre-Merger Notification Act, a person who fails to file a pre-merger notification may be subject to a civil penalty of up to \$10,000 for each violation. The bill also creates a civil penalty of \$200 per violation for entities that fail to provide timely information to the Attorney General related to health care transactions. This revenue is classified as a damage award and not subject to TABOR. The fiscal note assumes a high level of compliance and any fine revenue is assumed to be minimal.

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

State Expenditures

Starting in FY 2026-27, workload will minimally increase in the Department of Law, the Judicial Department, and the Department of Regulatory Agencies (DORA), as discussed below.

Department of Law

Workload in the Department of Law may increase if the Attorney General performs additional assessments of covered transactions, conducts investigations, or takes action against involved entities. The Attorney General's expanded authority under the bill is permissive and the exact amount of potential workload depends on the number and types of transactions and level of compliance. Further, workload will increase for the department to study the impacts of referral-disclosure requirements. It is assumed that any required work will be prioritized and conducted within existing appropriations, including any additional fee revenue generated.

Judicial Department

The trial courts in the Judicial Department may have an increase in cases filed under the Uniform Antitrust Pre-Merger Notification Act. It is assumed that entities 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.

Department of Regulatory Agencies

Workload in the Division of Professions and Occupations in DORA will minimally increase to conduct outreach and education to licensed health care providers regarding disclosures in patient referrals. This workload can be accomplished within existing appropriations.

TABOR Refunds

The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by up to \$85,000 in FY 2026-27 and FY 2027-28. This estimate assumes the December 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2027-28. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save in FY 2026-27, FY 2027-28, and any future years when the state is over its revenue limit.

Technical Note

The bill allows the Attorney General to collect fees from pre-merger notification filing parties; however, the bill does not identify the fund to which this state revenue is deposited. Based on the structure of the department's budget and funding sources, it is assumed that these fees will be collected in the Non-Profit Health Care Entity Review Cash Fund.

Additionally, the bill creates a civil penalty for entities that do not provide timely information to the Attorney General regarding health care transactions; however, the bill does not identify the fund to which this state revenue is deposited. Therefore, it is assumed that penalties will be collected in the General Fund.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, except that provisions related to health care transactions take effect on November 1, 2026.

State and Local Government Contacts

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| Health Care Policy and Financing | Law |
| Human Services | Public Health and Environment |
| Judicial | Regulatory Agencies |