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FISCAL IMPACT STATEMENT

LS 6438

BILL NUMBER: HB 1135

NOTE PREPARED: Feb 25, 2013

BILL AMENDED: Feb 20, 2013

SUBJECT: Midwives.

FIRST AUTHOR: Rep. Lehe

FIRST SPONSOR: Sen. Patricia Miller

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Health Officer Recording Person in Attendance*- The bill requires the local health officer to make a permanent record of the person in attendance at a birth.

Establishes the Midwifery Board- The bill establishes the Midwifery Board (MB). The bill sets qualifications for a certified direct entry midwife (CDEM). The bill requires the MB to: (1) establish continuing education requirements; (2) develop peer review procedures; and (3) adopt rules concerning liability insurance and the competent practice of CDEMs.

License Requirements- The bill establishes procedures and qualifications for certain practicing CDEMs to receive a license.

Penalty Provision- The bill establishes a Class D felony for practicing midwifery without a license.

Protection from Liability- The bill provides that certain individuals may not be held jointly or severally liable for the acts or omissions of a CDEM.

Culpability Standards- The bill adds culpability standards to the crimes of practicing medicine or osteopathic medicine and acting as a physician assistant without a license.

CDEMs Administering Drugs- The bill allows CDEMs to administer certain prescription drugs. The bill allows certain individuals to act under the supervision of a CDEM.

Repealers & Definitions- The bill repeals the definition of "midwife" in the medical malpractice law, and adds the definition of "certified nurse midwife". The bill makes conforming changes.

Effective Date: July 1, 2013.

Summary of Net State Impact: The Professional Licensing Agency (PLA) would incur additional administrative expenditures. The Midwifery Board would have expenditures for various items, including member travel mileage, telephone expense, office supplies, and printing. Cost could be offset by the fees set by the MB for the certification of CDEMs.

Explanation of State Expenditures: *Establishes the Midwifery Board-* The nine-member Midwifery Board would be appointed by the Governor to oversee the certification of midwives. The MB would require an applicant to be certified by the North American Registry of Midwives (NARM). The MB would be allowed to adopt standards that require more training than the requirements of the NARM.

Professional Licensing Agency- The PLA would provide the administrative staff to the MB. Need for additional staff would depend on the number of applicants for the license and the workload of current PLA staff with existing professional boards and commissions. As an example only, an additional COMOT III to process licenses would require \$40,707 in expenditures during FY 2014. The amount includes salary, fringe benefits, and indirect costs associated with establishing the position. However, given the lower number of persons that are likely to seek a CDEM, it is likely the PLA would place the new certification within an existing license workgroup.

Interim Study: The bill also requires the Health Finance Commission to study issues during the 2013 interim concerning facilitating the availability of liability insurance for certified direct entry midwives licensed under the bill. This provision is expected to have no fiscal impact.

Penalty Provision: The bill would require that after July 1, 2014, that an individual that knowingly or intentionally practices midwifery without a license, established by the bill, would commit a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Protection from Liability- Court Fee Revenue: This provision may reduce the number of lawsuits that could be brought against certain health care providers with respect to deliveries of babies involving licensed midwives. If fewer civil actions occur and fewer court fees are collected, revenue to the state General Fund would decrease.

Background- As of September 2012, 138 nurse midwives were licensed to practice in Indiana. NARM identifies in their most recent available annual report that 12 individuals in Indiana maintain a Certified Professional Midwife (CPM) credential. There were 57 CPMs listed in the four states bordering Indiana.

Explanation of State Revenues: *Establishes the Midwifery Board-* The amount of revenue that would be

generated by this proposal would depend on the number persons seeking a CDEM credential. (Presumably, the fees for the certification of direct entry midwives would be set at a level to cover certification expenses.) For example, if the certification fee were set at \$100, which is similar to fees for other health professions, 12 individuals seeking certification would raise approximately \$1,200 in the first year of implementation. A direct entry midwife license would expire after two years.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

Protection from Liability- Court Fee Revenue: If fewer civil actions occur as a result of the bill, local governments would receive less revenue from civil cost fees and other fees charged at the time of filing a civil suit.

State Agencies Affected: Professional Licensing Agency; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Professional Licensing Agency, active license count: 9/19/2012; North American Registry of Midwives, *2010 Annual Report*, released 9/2011.

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