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FISCAL IMPACT STATEMENT

LS 6438

BILL NUMBER: HB 1135

NOTE PREPARED: May 1, 2013

BILL AMENDED: Apr 27, 2013

SUBJECT: Midwives.

FIRST AUTHOR: Rep. Lehe

FIRST SPONSOR: Sen. Patricia Miller

BILL STATUS: Enrolled

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *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, and the location of the birth. It includes complications resulting from a home delivery in the definition of "birth problems" for purposes of the birth problems registry.

Rules Adoption- The bill requires the State Department of Health to adopt rules to establish reporting requirements regarding birth problems for home deliveries.

Establishes the Midwifery Committee- The bill establishes the Midwifery Committee (MC) to provide information and recommendations to the Medical Licensing Board (MLB) concerning the practice of midwifery by a certified direct entry midwife (CDEM).

Certification of CDEMs- The bill provides requirements that an applicant must meet before the MLB may issue a certificate for a CDEM. The bill provides for the issuance of certificates beginning January 1, 2014, and sets qualifications. It requires the MLB to: (1) establish continuing education requirements; (2) develop peer review procedures; and (3) adopt rules concerning the competent practice of a CDEM.

Physician Requirements- The bill requires a physician to examine a client of a CDEM at least one time during the client's first trimester and one time during the client's third trimester. The bill requires a CDEM to collaborate with a physician. The bill allows a CDEM to administer certain prescription drugs only under a physician's protocol or order.

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

Health Finance Commission- The bill requires certain information to be reported to the Health Finance Commission (HFC). The bill makes technical and conforming changes.

Effective Date: July 1, 2013.

Summary of Net State Impact: The Professional Licensing Agency (PLA) would incur additional administrative expenditures. The Midwifery Committee (MC) would have expenditures for various items, including member per diem and subsistence (as necessary), telephone expenses, office supplies, and meeting supplies printing. Cost could be offset by the fees set for the certification of certified direct entry midwives (CDEMs). The Medical Licensing Board (MLB) may also incur additional expenditures for additional meetings, if necessary, to carry out the provisions of the bill.

Explanation of State Expenditures: *Health Officer Recording Person in Attendance/Rules Adoption-* This provision should have a minimal impact on the State Department of Health (SDOH). The SDOH would not have to revise the birth certificate registry fields as the necessary fields are in the registry already. The SDOH should be able to adopt the required rules, under the bill, within existing resources.

Establishes the Midwifery Committee (MC)- The nine-member MC would be appointed by the Governor to advise and propose to the MLB recommendations for the certification of CDEMs.

Medical Licensing Board (MLB)- The MLB would set the standards for applicants for a CDEM via the North American Registry of Midwives (NARM). The MLB would also set fees, continuing education requirements, and make rules for conduct of midwives, and collaboration with physicians.

Professional Licensing Agency (PLA)- The PLA would provide the administrative staff to the MC. 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.

Health Finance Commission- The bill also requires the Health Finance Commission to study issues during the 2013 interim concerning: (1) facilitating the availability of liability insurance for CDEMs licensed under the bill; and (2) physicians' willingness to enter into collaborative agreements with CDEMs. Additionally, the MLB would be required to report to the HFC all action taken with respect to CDEMs, including Midwifery Committee membership appointments, proposed rules, number of applicants submitted for a certificate, number of certificates issued, and names of physicians that registered for midwifery collaboration under the bill.

Penalty Provision: The bill would require that after July 1, 2014, an individual that knowingly or intentionally practices midwifery without a certificate, as required under 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.

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: *Certification of CDEMs-* 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. Certification would begin January 1, 2014.

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.

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

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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