

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6599

BILL NUMBER: HB 1101

DATE PREPARED: Dec 8, 1999

BILL AMENDED:

SUBJECT: Licensure of midwives.

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**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: (A) This bill establishes the Indiana Midwifery Board. It sets qualifications for a licensed certified professional midwife (CPM). It requires the Board to: (1) develop peer review procedures; (2) require the purchase of liability insurance as a condition for licensure when the board determines liability insurance is sufficiently available; and (3) adopt rules limiting the scope of practice of licensed certified professional midwives to nonhospital settings.

(B) It makes it a Class B misdemeanor to practice midwifery without a license.

(C) It allows the Board to specify circumstances under which a licensed certified professional midwife may administer certain prescription drugs.

(D) It provides that the following persons are not civilly liable for acts or omissions relating to services provided to a woman who is under the care of a licensed certified professional midwife: (1) A health care provider who renders care in an emergency. (2) An employee, a student, an intern, a trainee, or an apprentice who acts under the direction and supervision of a licensed certified professional midwife.

(E) It requires the Office of Medicaid Policy and Planning to seek a waiver from the United States Department of Health and Human Services to allow Medicaid reimbursement for licensed certified professional midwives.

(F) It requires certain agencies to adopt rules.

Effective Date: July 1, 2000.

Explanation of State Expenditures: **Provision A:** This bill creates a new health care professional category for licensed certified professional midwives and reclassifies nurse midwives as certified nurse midwives. Certified nurse midwives would remain under the jurisdiction of the Board of Nursing while the certified professional midwives would be under the jurisdiction of the Indiana Midwifery Board established by this bill. The Health Professions Bureau reports that it currently licenses 90 nurse midwives in Indiana.

This seven-member Indiana Midwifery Board would be responsible for overseeing the licensing process,

establishing fees and continuing education requirements, supervising the peer review process, and preparing consent and other relevant forms. The estimated annual cost of travel and per diem for Board members for meetings is \$14,700. Other costs for postage, printing, telephone, and supplies are approximately \$5,500 annually. The total estimated annual cost for the Board is \$20,200.

The Health Professions Bureau, which will provide staff to the Board, anticipates it will need a PAT I position and Secretary III position to carry out the provisions of this bill. The additional costs for both positions would be \$73,767 in FY 2001 and \$73,090 in FY 2002.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified (As of November 1999, the Health Professions Board had 43 authorized positions and four vacant positions.); (4) Funds that, otherwise, would be reverted; or (5) New appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Provision B: Under current law, any person other than a registered nurse practicing midwifery without a license commits a Class D felony. This bill would change the penalty to a Class B misdemeanor for a person who practices midwifery without a license. This provision potentially reduces the costs to the state if an offender is convicted of a misdemeanor rather than a felony. This is because offenders convicted of a misdemeanor who are given a prison term are generally incarcerated in county jails. A Class D felony is punishable by a prison term ranging between six months and three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances.

Provision E: Midwife Reimbursement Under the Medicaid Program: This bill also requires OMPP to seek a waiver from the U.S. Department of Health and Human Services (HHS) to allow Medicaid reimbursement for licensed certified professional midwives (CPMs) who are not registered nurses. According to OMPP, federal financial participation is not currently available for services rendered by a midwife when the practitioner is not a registered nurse. The bill provides that if HHS does not grant a waiver from these regulations, Medicaid will still not reimburse these midwifery services and, thus, the state General Fund will not incur any additional costs. If HHS does grant the waiver, the bill adds licensed CPM's to the list of practitioners able to receive Medicaid reimbursement. Since this does not represent an expansion of Medicaid services, the Medicaid program should not incur additional costs.

Provision F: The Office of the Secretary of Family and Social Services, the Office of Medicaid Policy and Planning (OMPP), and the Department of Insurance will also incur additional costs for rulemaking. These agencies can absorb the costs associated with this bill given their current resources and appropriations.

Explanation of State Revenues: Provision A: The Indiana Midwifery Board establishes fees for the examination and licensure of midwives. Presumably, fees will be set at a level designed to cover expenses. The amount of revenue that will be generated by this proposal is indeterminable but will depend on the number of CPMs who seek licensure. The Board may also impose fines up to \$500 upon a person licensed under this article who violates certain provisions of this proposal.

Provision B potentially reduces the revenue to the Common School Fund if additional court cases occur and a fine is assessed. The maximum fine for a Class B misdemeanor is \$1,000 while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Explanation of Local Expenditures: **Provision B** could increase local expenditures if offenders are incarcerated in local jails rather than in state prisons. A Class B misdemeanor is punishable by up to 180 days in jail.. The average daily cost of housing a prisoner in jail is roughly \$44.

Explanation of Local Revenues:

State Agencies Affected: Health Professions Bureau, Office of the Secretary of Family and Social Services, Office of Medicaid Policy and Planning, and the Department of Insurance.

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

Information Sources: Barb McNutt, Health Professions Bureau, Kathy Gifford, OMPP, 233-4455.