

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4838-01  
Bill No.: HB 1363  
Subject: Medical Procedures and Personnel; Health Care Professionals; Health Care;  
 Licenses - Professional  
Type: Original  
Date: April 23, 2014

Bill Summary: This proposal changes the laws regarding midwifery.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Unknown - greater than \$356,927)	(\$302,636)	(\$302,636)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown - greater than \$356,927)</b>	<b>(\$302,636)</b>	<b>(\$302,636)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
PR Fees Fund	(\$150,520)	\$0*	\$0*
Board of Professional Midwives Fund	\$0	\$558,714	(\$114,791)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$150,520)</b>	<b>\$558,714</b>	<b>(\$114,791)</b>

\*Costs and Revenues net to zero.

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 15 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Federal Funds*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\* Losses and savings of approximately \$300,000 each year nets to zero.

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
PR Fees Fund	2	2	2
<b>Total Estimated Net Effect on FTE</b>	<b>2</b>	<b>2</b>	<b>2</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Section 191.331

Officials from the **Department of Social Services (DOS)** state that this adds professional midwives to this section, which deals with testing infants for metabolic and genetic diseases. There would be no additional fiscal impact to MO HealthNet Division (MHD) for this testing, which would have been done regardless.

#### Section 193.085

Officials from the DOS state that this adds professional midwives to this section, which deals with birth certificates. This would have no fiscal impact to MHD.

Officials from the **Department of Health and Senior Services (DHSS)** assume this section would require that the Missouri Certificate of Live Birth certificates, Report of Fetal Deaths, and worksheet forms be modified to accommodate the additional items. Printing costs will be needed to replace the current inventory of forms. It is estimated that 20,000 sets of forms related to births would initially be printed. Each set related to births consists of one birth certificate form and two worksheets at a cost of \$.12 per birth certificate forms and \$.10 per set of worksheets. Total costs for 20,000 sets related to birth certificates would be \$4,400 ( $$.22 \times 20,000$ ).

It is estimated that 1,500 sets of forms related to fetal deaths would need to be modified and printed. Each set related to fetal deaths consists of one report of fetal death form and two worksheets for a cost of \$.12 per report of fetal death forms and \$.10 per set of worksheets. Total costs for 1,500 sets related to fetal deaths would be \$330 ( $$.22 \times 1,500$ ).

The printing costs will be a one-time cost to replace the current inventory maintained to ensure forms are available as needed. The core budget will cover on-going cost of printing these revised forms once the initial inventory is established.

Officials from the DHSS - OA ITSD state that this section will require changes to both birth certificate and report of fetal death forms, as well as modification to the electronic registration of these events and the underlying database exports, layouts, and master file to accommodate new check boxes for the certified professional midwives. To address the modifications needed to the electronic birth and fetal death registration systems, it will be necessary to perform additional programming, trouble shooting, testing, and related activities to assure functionality of the system including adding new fields to the database and user screens, as well as add program code

ASSUMPTION (continued)

changes to populate the birth certificate to print the information identifying the person who completed the certificate/report. The one-time, first year ITSD related costs are unknown for this section of the proposed legislation, but expected to exceed \$100,000.

Section 324.1400

Officials from the DOS state that this defines the terms used in section 324.1400 - 324.1427, including a definition for professional midwife.

Section 324.1403

Officials from the DOS state that this creates and establishes within the division of professional registration the "Board of Professional Midwives". This would have no fiscal impact to MHD.

Section 324.1406

Officials from the DOS state that this defines the application requirements for licensure as a professional midwife, including current certification by the North American Registry of Midwives (NARM). This section will have a fiscal impact to MHD. Currently, federal regulation, 42 CFR 440.165 allows nurse-midwife services to be reimbursed by Medicaid only if the midwife is a certified nurse-midwife who is certified by the American College of Nurse-Midwives and fulfills the other criteria set forth in the regulation.

This proposal would allow a midwife to be licensed if they are certified by NARM, which does not require the midwife to be a certified nurse-midwife. Their services would not be reimbursable under the federal Medicaid program so payments would not receive a federal match. Therefore, if this legislation passes and the MHD is required to reimburse licensed professional midwives, the cost for these services would be all state funds.

It is assumed the intent of the legislation is to reimburse for births that are already MHD eligible therefore there will be no additional utilization.

On the fee-for-service side, the payment is to be the same compensation rate as paid to physicians. An additional amount equal to half the hospital fee for uncomplicated vaginal birth and routine newborn care shall also be paid the midwife as a home birth fee.

ASSUMPTION (continued)

Current cost to a physician and hospital for an uncomplicated vaginal birth and routine newborn care:

Global Fee (59400; Antepartum care, delivery, postpartum care)	\$1,184
One day of hospital fee	\$967
<u>Newborn Care (99463; Same day discharge)</u>	<u>\$68</u>
Total Fee for One Birth	\$2,219

Payment to a licensed professional midwife:

Global Fee (59400; Antepartum care, delivery, postpartum care)	\$1,184
Home birth fee (1/2 of hospital fee)	\$484
<u>Newborn Care (99463; Same day discharge)</u>	<u>\$68</u>
Total Fee for One Birth	\$1,736

There were 33,018 births paid for by MHD in 2011 (Missouri Department of Health and Senior Services). According to the Centers for Disease Control (CDC) the incidence of out-of-hospital births is one percent. It is assumed the incidence would be the same in the MHD population as in the general population. It is estimated 330 (33,018 x 1%) potential births that may be assisted by licensed professional midwives. The CDC states out-of-hospital births are thought to be under-reported; therefore, this estimate should be considered the lowest in a range.

The Managed Care birth payment is \$4,552, which is an average cost for all Managed Care births, including uncomplicated vaginal deliveries, C-sections, and more complicated births. MHD assumes that the Managed Care rates will not be affected by this legislation.

Current cost of 330 uncomplicated vaginal births to MHD is \$732,270 (\$2,219 x 330). The cost for the same number of births assisted by licensed professional midwives is \$572,880 (\$1,736 x 330).

Although the total cost is lower for those births assisted by licensed professional midwives there is a cost to the MHD because of the loss of federal matching funds which results in an additional need for general revenue - \$302,636.

	<u>Total</u>	<u>General Revenue</u>	<u>Federal Funds</u>
Payment Physician/Hospital	\$732,270	\$270,244	\$462,026
<u>Payment Midwife</u>	<u>\$572,880</u>	<u>\$572,880</u>	<u>\$0</u>
Cost/(Savings)	(\$159,390)	\$302,636	(\$462,026)

LO:LR:OD

ASSUMPTION (continued)

The cost would be as follows:

FY15 (10 months) - \$252,197 (GR)  
FY16 - \$302,636 (GR)  
FY17 - \$302,636 (GR)

Section 324.1409

Officials from the DOS state that this defines the powers and duties of the board. This would have no fiscal impact to MHD.

Section 324.1412

Officials from the DOS state that this creates a "Board of Professional Midwives Fund", which shall be a dedicated fund and, upon appropriation, used solely for the administration of sections 324.1400 to 324.1427. This would have no fiscal impact to MHD.

Section 324.1415

Officials from the DOS state that this requires every licensed profession midwife to present a statement to each client that shall include, but not be limited to such things as: licensure; benefits and risks; malpractice insurance; and a written plan to obtain medical care. This would have no fiscal impact to MHD.

Section 324.1418

Officials from the DOS state that this requires the department of health and senior services to maintain and publish on their website statistics on birth outcomes. This would have no fiscal impact to MHD.

Officials from DHSS state that this proposal will required them to maintain and publish on their website prospective statistics tracking all birth outcomes for all Missouri maternity care providers. Some of these measures are not currently captured and would require additional ITSD costs related to modification of the birth certificate and report of fetal deaths, as well as modifications to the data application for the electronic birth and fetal death registration system. There also will be costs associated with the analysis of this new set of health statistics, as well as the preparation and publication of the statistics on the DHSS' website.

ASSUMPTION (continued)

DHSS would need a half-time Research Analyst III (Range A25, step G) to collect and analyze the data, prepare statistical analysis to report on the website, respond to data requests concerning the new data, and assist in developing reports to be published.

**Oversight** assumes the DHSS would not hire .5 FTE Research Analyst III, but would instead assign the additional duties to existing staff. As a result, equipment and expenses have been reduced for FTE-related expenses.

This section also states data related to breast feeding should be published on DHSS website. The cost of collecting data on breast feeding at six weeks is unknown because this data is not currently collected. Also, there are concerns that reliable contact information would not be available for follow-up contact with mothers to obtain this information. Some type of follow-up with mothers and/or access to the patient encounter data from physician office visits would be necessary to collect this information. The cost associated with DHSS collecting (including follow-up), preparing, analyzing, and publishing the data for this section of the proposed legislation is unknown. Presently, the DHSS does not have authority to collect non-facility patient encounter data.

Officials from the DHSS state that this section also requires the forms in Section 193.085.4 to be produced.

Officials from the DHSS - OA ITSD state that this requires the collection and tracking of birth outcomes for all Missouri maternity care providers. A significant number of these measures are not currently being collected, as specified in the bill. For fiscal note purposes DHSS assumes that these new measures will need to be added to the new electronic birth and fetal death registration systems. DHSS also assumes that the statistics displayed on the website would reflect the total aggregation of all Missouri recorded births and fetal deaths. The cost of the modifications to the systems for this section of the proposed legislation is unknown.

Section 324.1427

Officials from the DOS state that this makes it a class A misdemeanor for any person who violates the provisions of sections 324.1400 to 324.1427. This would have no fiscal impact to MHD.

ASSUMPTION (continued)

Section 334.010

Officials from the DOS state that this section previously stated that it is unlawful to practice midwifery. This has been struck from this section. This would have no fiscal impact to MHD.

Section 334.120

Officials from the DOS state that this removes midwives from the jurisdiction of the board of registration for the healing arts. This would have no fiscal impact to MHD.

Section 334.260

Officials from the DOS state that this section is removed, which deemed midwives to be licensed under this chapter and subject to all provisions of this chapter. This would have no fiscal impact to MHD.

Bill as a Whole

Officials from the **Attorney General's Office** assumes a need for one AAG I to assist with increased caseload resulting from appeals from licensure denials and disciplinary actions.

**Oversight** assumes this potential increase in the workload can be absorbed within the agency. Should the extent of the work be more than anticipated, the agency can request additional appropriations and/or FTE through the budget process.

Officials from the **Office of Prosecution Services**, the **Office of the State Treasurer**, the **Administrative Hearing Commission**, the **Office of the State Courts Administrator**, and the **Missouri Senate** each assume the current proposal will not fiscally impact their respective agencies.

For the purpose of this proposed legislation, and as a result of excessive caseloads, the **Office of State Public Defender (SPD)** cannot assume existing staff will provide competent, effective representation for any indigent persons are charged with the proposed new crimes regarding midwifery - all new Class A misdemeanors. The Missouri State Public Defender System is currently providing legal representation in caseloads in excess of recognized standards.

While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.



ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **Office of the Governor** assume there should be no added cost as a result of the measure. However, if additional duties are placed on the office related to appointments in other TAFP legislation, there may be the need for additional staff resources in future years.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs through supervision provided by the Board of Probation and Parole (FY 2013 average \$5.07 per offender, per day or an annual cost of \$1,851 per offender).

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state that based on information received from a representative of the group seeking legislation, the division estimates that the 50 individuals in the state of Missouri will be required to be licensed. In addition, a 3% growth has been estimated.

DIFP assumes two FTE will be needed. 1 Principle Assistant (Executive Director) needed to serve as the senior executive officer of the licensing agency and 1 Processing Technician II needed to provide technical support, process applications for licensure, and respond to inquiries related to the licensure law and/or rules and regulations.

Printing and postage expenses for the first year include printing of rules, applications, letterhead and envelopes, as well as costs for mailing associated with initial licensure. Subsequent year's printing and postage is based on a board of similar size, the Board of Athlete Agents.

The 6 board members each received \$234 per meeting, totaling \$1,458. Each of the 6 board member also receives \$50.00 per diem per day of each meeting. Meetings usually last 2 days each, there are 4 annually. (6 members X 4 meetings x 2 days = 48 days per diem. 48 days X \$50 = \$400 annually)

During the first year of implementation costs are calculated for the design, program and implementation of the licensure program for new boards. (30 hours X \$18 = \$540).

Based on a board of similar size, the Board of Athlete Agents, it is estimated that the board will receive the below referenced complaints. The division does not anticipate receiving any complaints until FY16. It is estimated that 30% of the complaints filed would require field investigations. It is estimated that 50% of the complaints that are investigated would require an investigator to incur overnight expenses. Therefore, there will be traveling expenses incurred of approximately \$274 annually, starting FY16. Costs are calculated for services provided to the division by the Attorney General's Office (AGO) and the Administrative Hearing Commission (AHC). It is anticipated these costs will be incurred from the AGO and AHC in FY15. Estimates are based on a board of similar size, the Board of Athlete Agents. (\$300 AGO + \$300 AHC = \$600 Total AGO & AHC Expenses)

The projected revenue reflects the fees listed below for all categories of licensure. In addition, a 3% growth rate has been estimated. It is estimated that the collection of initial license fees will begin in FY16 and renewal fees will not be collected until FY19. It is also important to note, that once fees for the board are established by rule other fees could offset the estimated costs. Renewals are to be completed every three years. The initial license fee estimated is \$14,000 (x 50 applicants = \$700,000), and in 3 years, a first renewal fee estimated of \$14,000. In response

ASSUMPTION (continued)

to a similar proposal in 2012 (HB 1678), DIFP estimated a fee of \$8,000 per license (\$400,000 of fee revenue).

It is assumed that all fees collected would be deposited into the Board of Professional Midwives Fund and that all expenses would be paid out of that fund. It is assumed no revenue will be generated by the Board of Professional Midwives in the first year, therefore, expenses incurred by the board will be paid back to the PR Fees Fund by a lending board within the division, pursuant to section 324.016, RSMo. It is estimated that payback of any outstanding loans would be made in FY19. However, should the number of licensees largely vary from the number estimated above, the licensure fees will be adjusted accordingly.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>GENERAL REVENUE FUND</b>			
<u>Costs - DOS - MHD</u>			
Loss of matching federal funds	<u>(\$252,197)</u>	<u>(\$302,636)</u>	<u>(\$302,636)</u>
<u>Costs - DHSS</u>			
Printing costs, system modifications, data presentation costs	(Unknown greater than <u>\$104,730</u> )	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Unknown greater than \$356,927)</u></b>	<b><u>(\$302,636)</u></b>	<b><u>(\$302,636)</u></b>
<b>FEDERAL FUNDS</b>			
<u>Savings - DOS - MHD</u>			
No longer matching funds for births	\$252,197	\$302,636	\$302,636
<u>Loss - DOS - MHD</u>			
Loss of matching federal funds for births	<u>(\$252,197)</u>	<u>(\$302,636)</u>	<u>(\$302,636)</u>
<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>	<b><u>\$0*</u></b>	<b><u>\$0*</u></b>	<b><u>\$0*</u></b>

\*Savings and Losses net to zero.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>PROFESSIONAL REGISTRATION FEES FUND</b>			
<u>Costs - DIFP</u>			
Personal Service	(\$86,772)	(\$87,616)	(\$88,468)
Fringe Benefits	(\$43,993)	(\$44,421)	(\$44,853)
Equipment and Expense	<u>(\$19,155)</u>	<u>(\$8,634)</u>	<u>(\$8,824)</u>
<u>Total Costs - DIFP</u>	(\$150,520)	(\$141,286)	(\$142,791)
FTE Change - DIFP	2 FTE	2 FTE	2 FTE
<u>Revenue - DIFP</u>			
Transfer in from EI Fund	<u>\$0</u>	<u>\$141,286</u>	<u>\$142,791</u>
<b>ESTIMATED NET EFFECT ON PROFESSIONAL REGISTRATION FEES FUND</b>	<b><u>(\$150,520)</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
Estimated net FTE Change on the Professional Registration Fees Fund	2 FTE	2 FTE	2 FTE
<b>BOARD OF PROFESSIONAL MIDWIVES FUND</b>			
<u>Costs - DIFP</u>			
PR Fees Fund, AGO and AHC	\$0	(\$141,286)	(\$142,791)
<u>Revenue - DIFP</u>			
Fee Income	<u>\$0</u>	<u>\$700,000</u>	<u>\$28,000</u>
<b>ESTIMATED NET EFFECT ON BOARD OF PROFESSIONAL MIDWIVES FUND</b>	<b><u>\$0</u></b>	<b><u>\$558,714</u></b>	<b><u>(\$114,791)</u></b>
<u>FISCAL IMPACT - Local Government</u>			
	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

### FISCAL IMPACT - Small Business

This proposal could impact small business to the extent that individuals in this profession incur additional expenditures to maintain compliance with licensing requirements.

### FISCAL DESCRIPTION

This bill changes the laws regarding midwifery. In its main provisions, the bill:

- (1) Adds a professional midwife to the list of professionals who must collect the appropriate specimens to be submitted to the Department of Health and Senior Services in order to test newborns for metabolic and genetic diseases;
- (2) Specifies that a birth certificate filed by a professional midwife as the certifier of the birth certificate cannot require the signature of a notary or any other witness;
- (3) Establishes the Board of Professional Midwives within the Division of Professional Registration in the Department of Insurance, Financial Institutions and Professional Registration.

The six-member board is to be appointed by the Governor with the advice and consent of the Senate. The powers, duties, terms, and membership of the board are specified in the bill;

- (4) Requires an applicant to provide evidence of current certification as a certified midwife by the North American Registry of Midwives and current certification in basic life support for healthcare providers and infant or neonatal cardiopulmonary resuscitation, pay the required fee, and comply with the written disclosure requirement;
- (5) Requires a licensee to attend at least 10 hours of continuing education and at least three hours of peer review every year in order to be eligible for license renewal which will be for a three-year period;
- (6) Authorizes the board to refuse to issue or renew, suspend, limit, restrict, or revoke a certificate of registration and cause a complaint to be filed with the Administrative Hearing Commission;
- (7) Authorizes the board to establish fees at a level to produce revenue that does not substantially exceed the costs of the administration of the provisions of the bill. Moneys collected will be deposited into the newly created Board of Professional Midwives Fund;
- (8) Requires a licensed midwife to present each client with a written disclosure statement containing specified information which must be signed by the client and kept by the midwife in the client's records;

DESCRIPTION (continued)

(9) Requires, as a condition of licensure, a professional midwife to carry medical malpractice insurance under the same conditions as physicians;

(10) Exempts certain specified medical providers from civil liability when treating a woman or infant during childbirth as a consequence of care received from a licensed midwife unless the act or omission was the result of negligence or willful misconduct on the part of the physician, nurse, medical technician, hospital, or its agent;

(11) Requires a licensed professional midwife to be reimbursed under the MO HealthNet Program at the same compensation rate as a physician;

(12) Requires the Department of Health and Senior Services to maintain and publish on its website specified statistics regarding births for all Missouri maternity care providers;

(13) Prohibits a registered midwife from prescribing drugs; performing vacuum deliveries, medical inductions, cesarean sections, or abortions; and using forceps during a delivery;

(14) Removes midwives from the supervision of the State Board of Registration for the Healing Arts; and

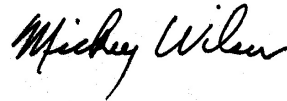
(15) Removes the provision which specifies that anyone who engages in the practice of midwifery other than a licensed physician will be guilty of the unlawful practice of medicine and repeals Section 334.260, RSMo, regarding the licensure of midwives;

Any person violating the provisions of the bill will be guilty of a class A misdemeanor.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance, Financial Institutions and Professional Registration  
Attorney General's Office  
Administrative Hearing Commission  
Office of the State Courts Administrator  
Department of Corrections  
Department of Health and Senior Services  
Department of Social Services  
Office of the Governor  
Office of Prosecution Services  
Missouri Senate  
Office of the Secretary of State  
Office of the State Public Defender  
Office of the State Treasurer



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