

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5547-01  
Bill No.: HB 1678  
Subject: Medical Procedures and Personnel; Health Care Professionals; Health Care;  
 Licenses - Professional  
Type: Original  
Date: April 17, 2012

Bill Summary: This proposal changes the laws regarding midwifery.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(Unknown greater than \$379,606)	(\$329,851)	(\$329,851)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown greater than \$379,606)</b>	<b>(\$329,851)</b>	<b>(\$329,851)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Insurance Dedicated Funds	\$5,000	\$0	\$0
PR Fees Fund	(\$113,586)	\$0	\$0
Board of Professional Midwives' Fund	\$0	\$270,237	(\$115,261)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$108,586)</b>	<b>\$270,237</b>	<b>(\$115,261)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 14 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</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 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator, Office of Prosecution Services, Missouri Senate, Office of Administration - Administrative Hearing Commission and Office of State Treasurer** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS 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 SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Office of the State Public Defender (SPD)** assume increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the SPD could absorb the costs of the proposed legislation within existing resources. **Oversight** assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the **Department of Corrections (DOC)** state penalty provisions for violations, the component of this bill to have a potential fiscal impact for the DOC, is for a class A misdemeanor. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY 10 average of \$3.92 per offender, per day, or an annual cost of \$1,431 per offender). Supervision by the DOC through probation 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 **Office of the Governor (GOV)** do not anticipate the GOV will incur added costs as a result of this bill. 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 Health and Senior Services (DHSS)** provide the following information:

**Division of Community and Public Health (DCPH)**

**Section 193.085.4 and 324.1418**

Both sections 193.085.4 and 324.1418 will 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 be initially printed. Each set related to births consists of one birth certificate form and two worksheets at a cost of \$0.12 for birth certificate forms and \$0.10 per worksheet. Total costs for 20,000 sets related to birth certificates would be \$4,400 ( $\$0.22 \times 20,000$ ).

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 \$0.12 for Report of fetal death forms and \$0.10 per worksheets. Total costs for 1,500 sets related to fetal deaths would be \$330 ( $\$0.22 \times 1,500$ ).

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.

**Section 324.1418**

The proposed legislation would require the DHSS to maintain and publish on its 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. The department will need a half-time Research Analyst III (Range A25, step G) to collect and analysis the data, prepare statistical analysis to report on the website, respond to date requests concerning the new data, and assist in developing reports to be published.

ASSUMPTION (continued)

This section also states data related to breastfeeding should be published on DHSS website. The cost of collecting data on breastfeeding 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.

**Office of Administration, Information Technology Services Division (ITSD)**

**Section 193.085.4**

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 for the vendor to add new fields to the database and user screens, as well as add program code changes to populate the birth certificate to print the information identifying the person who completed the certificate/report. The vendor will need to perform additional programming, trouble shooting, testing, and related activities to assure functionality of the system. It will be necessary for the data vendor who developed the system to amend and modify the systems within the data application. The one-time, first year ITSD related costs are unknown for this section of the proposed legislation, but expected to exceed \$100,000.

**Section 324.1418**

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 proposal. 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 assumed 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.

The DHSS assumes costs exceeding \$140,122 for FY 13; FY 14 costs of \$36,153; and FY 15 costs of \$36,606.

**Oversight** assumes the DHSS would not hire 0.5 FTE Research Analyst III, but would instead assign the additional duties to existing staff. As a result, equipment and expenses have been

ASSUMPTION (continued)

reduced for FTE-related expenses.

Officials from the **Attorney General's Office** assume they will need one AAGI to assist with increased caseload resulting 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 **Governor's Office** assume there should be no added cost to their office as a result of this measure.

Officials from the **Department of Social Services (DOS), MO HealthNet (MHD)** assume Section 324.1415 will have a fiscal impact on the MO HealthNet Division (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 the North American Registry of Midwives (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 MO HealthNet program 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 MO HealthNet eligible therefore there will be no additional utilization. The bill outlines the components of care the MHD will be required to pay the licensed professional midwife. 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
Newborn Care (99463; Same day discharge)	\$68
Total Fee for One Birth	\$2,229

Payment to a licensed professional midwife:

Global Fee (59400; Antepartum care, delivery, postpartum care)	\$1,184
Home birth fee (½ of hospital fee)	\$484
Newborn Care (99463; Same day discharge)	\$68
Total Fee for One Birth	\$1,736

There were 37,675 births paid for by the MO HealthNet program in 2009 (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 MO HealthNet population as in the general population. It is estimated 377 (37,675 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.

Current cost of 377 uncomplicated vaginal births to MHD is \$840,333 (\$2,229 x 377). The cost for the same number of births assisted by licensed professional midwives is \$654,472 (\$1,736 x 377).

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 - \$345,652.

	Total	GR	Federal Funds
Payment Physician/Hospital	\$840,333	\$324,621	\$515,712
Payment Midwife	\$654,472	\$654,472	\$0
Cost/(Savings)	(\$185,861)	\$329,851	(\$515,712)

## ASSUMPTION (continued)

The cost would be as follows:

FY 13 (10 months) - \$274,876 (GR)

FY 14 - \$329,851 (GR)

FY15 - \$329,851 (GR)

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume insurers would be required to submit amendments to their policies to comply with legislation. Policy amendments must be submitted to the department for review along with a \$50 filing fee. The number of insurance companies writing these policies in Missouri fluctuates each year. One-time additional revenues to the Insurance Dedicated Fund are estimated to be up to \$5,000.

Additional staff and expenses are not being requested for the insurance divisions with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews the department will need to request additional staff to handle increase in workload.

According to DIFP, they assume the board would be similar in size to the board for Acupuncturists. Based on a projection from the Missouri Economic Research and Information Center, it is estimated there will be approximately 50 licenses. In addition, a 3% growth rate has been estimated.

The projected revenue reflects an initial licensing fee of \$8,000 per licensee beginning in FY 14 and renewal fees will not be collected until FY 17. It is also important to note, that once the fees for the board are established by rule other fees could offset the estimated costs.

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 payback of any outstanding loans would be made in FY 2017. However, should the number of licenses largely vary from the number estimated above, the licensure fees will be adjusted accordingly.

The proposed legislation will create the need for 2 FTE as follows: 1 FTE Principal Assistant (annual salary \$49,104) to serve as the senior executive officer of the licensing agency; 1 FTE Processing Technician II (annual salary \$25,380) to provide technical support, process applications for licensure, and respond to inquiries related to the licensure law an/or rules and regulations.



ASSUMPTION (continued)

It is assumed the board will meet four times per year for two days. Board meeting expenses are estimated to be \$5,832 for FY 13, \$5,978 for FY 14 and \$6,127 for FY 15 plus per diem of \$50 per day per board member (6).

Printing and postage expenses for the first year include printing of rules, applications, letterhead and envelopes, as well as cost associated with mailings for initial licensure. Subsequent years' printing and postage is based on a board of similar size. Printing and postage expenses are estimated to be \$625 for FY 13; and \$79 annually for FY 14 and FY 15.

Based on a board of similar size, it is estimated that the board will receive approximately one complaint, beginning in FY 14. It is estimated that 30% of the complaints files will require field investigations and it is anticipated that 50% of the complaints that are investigated would require an investigator to incur overnight expenses. Therefore, beginning in FY 14, it is estimated there will be approximately \$137 annually in travel and investigative expenses.

Costs are calculated for services provided to the division by the Attorney General's Office and the Administrative Hearing Commission (AHC). It is anticipated \$600 will be incurred annually, based on a board of similar size, for the AGO and AHC.

Boards within the division incur division-wide expenses based on specific board licensee averages, in addition to the DIFP and Office of Administration cost allocation plans. Approximately \$707 in additional expenses will be considered in calculating the anticipated license and renewal fees although these costs will not require additional appropriation for the Professional Transfer Core budget.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>GENERAL REVENUE FUND</b>			
<u>Costs - DHSS</u>			
Printing costs, system modifications, and data presentation costs	(Unknown greater than \$104,730)	\$0	\$0
<u>Costs - DOS, MO HealthNet</u>			
Loss of Federal Matching Funds	(\$274,876)	(\$329,851)	(\$329,851)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(Unknown greater than <u>\$379,606</u>)</b>	<b><u>(\$329,851)</u></b>	<b><u>(\$329,851)</u></b>
<b>INSURANCE DEDICATED FUND</b>			
<u>Revenue - DIFP</u>			
Filing Fees	<u>Up to \$5,000</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>Up to \$5,000</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<b>PR FEES FUND</b>			
<u>Cost - DIFP</u>			
Salaries (2 FTE)	(\$64,470)	(\$77,629)	(\$78,381)
Fringe Benefits	(\$31,469)	(\$38,141)	(\$38,522)
Equipment & Expense	(\$16,640)	(\$12,652)	(\$12,950)
Other Fund Costs	<u>(\$1,007)</u>	<u>(\$1,340)</u>	<u>(\$1,408)</u>
	(\$113,586)	(\$129,762)	(\$131,261)
<u>Transfer Out - Transfer out from E1 Fund</u>	<u>\$0</u>	<u>(\$129,763)</u>	<u>(\$131,261)</u>
<b>ESTIMATED NET EFFECT ON PR FEES FUND</b>	<b><u>(\$113,586)</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
Estimated FTE on PR Fees Fund	2	2	2

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
<b>BOARD OF PROFESSIONAL MIDWIVES' FUND</b>			
Costs- PR Fees Fund, Attorney General & Administrative Hearing Commission	\$0	(\$129,763)	(\$131,261)
Revenue - Professional Midwives' Fund License Fees	<u>\$0</u>	<u>\$400,000</u>	<u>\$160,000</u>
<b>ESTIMATED NET EFFECT ON BOARD OF PROFESSIONAL MIDWIVES' FUND</b>	<b><u>\$0</u></b>	<b><u>\$270,237</u></b>	<b><u>(\$115,261)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<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.

DESCRIPTION (continued)

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;

(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;

DESCRIPTION (continued)

(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;

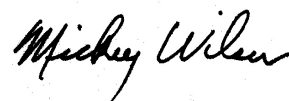
Any person violating the provisions of the bill will be guilty of a class A misdemeanor.

The proposed legislation changes the laws regarding midwifery.

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

Office of Attorney General  
Office of Administration -  
    Administrative Hearing Commission  
Office of State Courts Administrator  
Department of Insurance, Financial Institutions, and Professional Registration  
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 Secretary of State  
Office of State Public Defender  
Office of Secretary of State



Mickey Wilson, CPA

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