



**Colorado
Legislative
Council
Staff**

HB16-1360

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0439 **Date:** March 31, 2016
Prime Sponsor(s): Rep. Landgraf; Lontine **Bill Status:** House Health, Insurance, and
 Sen. Lundberg Environment
Fiscal Analyst: Bill Zepernick (303-866-4777)

BILL TOPIC: CONTINUE REGULATION DIRECT-ENTRY MIDWIVES

| Fiscal Impact Summary | FY 2016-2017 | FY 2017-2018 | |
|---|---------------------|---------------------|--------------|
| This bill changes and continues a program that would otherwise end September 1, 2016, so the fiscal note shows the new and continuing fiscal impacts. | New | New | Continuation |
| State Revenue | | \$100,000 | |
| Cash Funds | | | 100,000 |
| State Expenditures | Workload increase. | \$80,530 | |
| Cash Funds | | | 80,530 |
| TABOR Impact | | \$100,000 | |
| FTE Position Change | | | 0.2 FTE |
| Appropriation Required: None. | | | |
| Future Year Impacts: Program continuation through FY 2023-24. | | | |

Summary of Legislation

The bill implements the recommendations made by the Department of Regulatory Agencies (DORA) in its sunset review of the regulation of direct-entry midwives, with some modifications. It continues the regulation of direct-entry midwives by the Division of Professions and Occupations in the DORA for seven years, through September 1, 2023. In addition, the bill makes the following changes to the scope of practice for direct-entry midwives:

- permits direct-entry midwives to suture first- and second-degree perineal tears, if the registrant demonstrates to the director that he or she has received specific training, and to obtain and administer local anesthesia for the procedure;
- makes changes to the disclosure form that direct-entry midwives must provide to clients;
- requires direct-entry midwives to inform parents of the importance of critical congenital heart defect screening, and requires a direct-entry midwife to refer parents to a health care provider who can provide the screening if the direct-entry midwife is unable to perform the screening;

- allows a direct-entry midwife to enter into a confidential agreement to voluntarily limit his or her practice if a physical or mental illness or condition renders him or her unable to practice direct-entry midwifery safely;
- adds prohibited practices for direct-entry midwives concerning the failure to notify DORA of such an illness or conditions affecting his or her ability to practice midwifery or noncompliance with practice limitations under a confidential agreement; and
- repeals the requirement that the director send letters of admonition via certified mail.

The bill also requires DORA to convene a stakeholder group to review data that is reported by direct-entry midwives. The stakeholder group must report to specified legislative committees by January 31, 2017. Finally, the bill requires DORA to establish a working group to investigate ways of managing risks in the practice of midwifery, including the need for, and access to, professional liability insurance. The working group must report its findings to DORA by October 1, 2016, and DORA must report any recommendations for legislation as a result of the report to certain legislative committees by November 1, 2016.

Background

Direct-entry midwives are independent practitioners who provide prenatal, childbirth, and postpartum care. Direct-entry midwives generally assist with natural births that occur at their clients' homes. To practice in Colorado, direct-entry midwives must register with the Division of Professions and Occupations in DORA. Direct-entry midwives are regulated separately from certified nurse midwives, who are regulated under the Nurse Practice Act. To register as a direct-entry midwife, a candidate must pass the North American Registry of Midwives examination, which assesses a candidate's competency in direct-entry midwifery. Applicants must also have graduated from an accredited midwifery program, and meet various other requirements, including completion of a minimum number of hours providing prenatal and postpartum care and as a birth attendant. There are approximately 65 registered direct-entry midwives in Colorado. The initial registration fee is \$200 and annual renewal fee is \$954.

Fiscal Impact of Programs Set to Expire

This bill continues a program in DORA that is set to repeal effective September 1, 2016. Under current law, state agencies may be appropriated funds to wind up the affairs of an expiring program for 12 months following the repeal date. To account for the wind-up period, the impact of extending the program beyond the current repeal date is shown as beginning in FY 2017-18, one year after the repeal date. For FY 2016-17, there is no need for an appropriation of the \$96,636 in base funding and allocation of 0.2 FTE since the program's authorization has not yet expired and ongoing funding for the program is included in the department's base budget request.

The state revenue and state expenditures impact for FY 2017-18 reflects the program's anticipated fee revenue and base budget request beginning that year if the program is continued. Based on current program expenditures, continuation costs are expected to be \$80,530 and 0.2 FTE in FY 2017-18. These expenditures are prorated to reflect the September 1 repeal date following the wind-up period. It is expected that about \$100,000 per year will be collected from fees to cover program costs.

TABOR Impact

By continuing the regulation of direct-entry midwives, this bill increases state cash fund revenue from fees beginning in FY 2017-18, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund budget will decrease by an identical amount.

State Expenditures

In addition to the program continuation costs discussed above, the bill also increases workload in DORA in FY 2016-17 only. This workload increase is for staff in DORA to facilitate the working groups created by the bill concerning midwifery data and professional liability insurance, as well as to provide outreach to inform midwives of changes under the bill. This workload can be accomplished within existing appropriations.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Information Technology Law Regulatory Agencies

Research Note Available

An LCS Research Note for HB 16-1360 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.