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Final Fiscal Note

Drafting Number: LLS 21-0367 **Date:** July 9, 2021
Prime Sponsors: Sen. Fields; Story **Bill Status:** Signed into Law
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Bill Topic: **SUNSET DIRECT-ENTRY MIDWIVES**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

Sunset Bill. SB 21-101 continues the regulation of direct-entry midwives in the Department of Regulatory Agencies, which is scheduled to repeal on September 1, 2021. State fiscal impacts include both increased expenditures from changes to the program under the bill, as well as the continuation of the program's current revenue and expenditures. The program is continued through September 1, 2028.

Appropriation Summary: For FY 2021-22, the bill requires and includes an appropriation of \$80,080 to the Department of Public Health and Environment.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 21-101¹

New Impacts		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures	Cash Funds ²	\$106,394	-
	New FTE	0.6 FTE	-
TABOR Refund		-	-
Continuing Impacts			
Revenue	Cash Funds	-	\$55,000
Expenditures	Cash Funds	-	\$55,000
	Continuing FTE	-	0.1 FTE
TABOR Refund		-	-

¹ Table 1 shows the new impacts resulting from changes to the program under the bill and the continuing impacts from extending the program beyond its current repeal date. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal.

² This amount includes centrally appropriated costs that are excluded from the bill's appropriation.

Summary of Legislation

The bill continues the regulation of direct-entry midwives by the Division of Professions and Occupations in the Department of Regulatory Agencies (DORA), which repeals September 1, 2021, for seven years. In addition, the bill permits direct-entry midwives to work in birth centers and repeals a reporting requirement during registration renewal. The bill makes several adjustments to the authority of direct-entry midwives by:

- permitting direct-entry midwives to apply for additional authority administer group B streptococcus prophylaxis;
- removes a requirement that direct-entry midwives renew any additional authority once approved by the division director;
- directs DORA to develop rules regarding direct-entry midwives in training; and
- permits DORA to order a physical or mental examination of a direct-entry midwife if there is reasonable cause to believe that the direct-entry midwife is subject to a disability that renders them unable to treat patients.

The bill also requires the Department of Public Health and Environment (CDPHE) to include on the birth certificate worksheet form whether a live birth occurred after a transfer to a hospital by a direct-entry midwife.

Background

Direct-entry midwives receive training from a midwifery school, apprenticeship, or college program and provide prenatal care and attend births. Under existing Colorado law, they are only permitted to attend home births. As of June 30, 2019, there were 76 direct-entry midwives registered in Colorado. Initial registration costs \$400 and registration renewal costs \$304. Fee revenue is subject to state TABOR limits.

Birth centers are healthcare facilities established specifically for childbirth that are licensed by CDPHE. There are currently eight licensed birth centers in Colorado.

Continuing Program Impacts

Based on the department's FY 2021-22 budget request, the DORA is expected to have annual revenue and expenditures of \$55,000 to administer the regulation of direct-entry midwives. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2022-23. This continuing revenue is subject to the state TABOR limits. If this bill is not enacted, the program will end on September 1, 2022, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2022-23 by the amounts shown in Table 1. The changes to the program that drive additional revenue and costs are discussed in the State Revenue and State Expenditures sections below.

State Revenue

The bill may minimally affect fee revenue collected DORA and CDPHE. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency, and these impacts are described below.

Fee impact on direct-entry midwives. Currently, direct-entry midwives pay an annual application fee for registration. In addition, they can opt to pay an annual fee to apply for renewal of certain additional authorities that may be approved by the division director. Since the bill repeals the requirement to renew additional authorities, DORA will adjust registration renewal fees to include revenue that was received from the renewal of additional authorities. Each year, an estimated 75 percent of direct-entry midwives renew one or more additional authorities; annual renewal fees for these midwives will decrease, whereas annual fees for those who do not apply for special authorities will increase. Actual fees will be set administratively by DORA based on cash fund balance, estimated program costs, and the estimated number of registrations subject to the fee. Overall fee revenue will not change.

Fee impact on health facilities. The bill may increase fees on health facilities licensed by the CDPHE by a small amount to the recoup the one-time increase in expenditures described in the State Expenditures section below. Any fee change on health facilities, if needed, will be set administratively by the CDPHE and has not been estimated.

State Expenditures

The bill increases state cash fund expenditures by \$106,394 and 0.6 FTE in FY 2021-22 only. These costs, primarily in CDPHE’s Health Facilities and Emergency Medical Services Division, are summarized in Table 2 and discussed below.

**Table 2
Expenditures Under SB 21-101**

	FY 2021-22	FY 2022-23
Department of Public Health and Environment		
Personal Services	\$43,070	-
Operating Expenses	\$810	-
Capital Outlay Costs	\$6,200	-
Computer Programming	\$30,000	-
Centrally Appropriated Costs ¹	\$26,314	-
FTE – Personal Services	0.6 FTE	-
Total Cost	\$106,394	-
Total FTE	0.6 FTE	-

¹ Centrally appropriated costs are not included in the bill's appropriation.

CDPHE. The Health Facilities and Emergency Medical Services Division will have increased expenditures of \$70,244 and 0.6 FTE in FY 2021-22 only. These expenditures, paid from the General Licensure Cash Fund, are for staff time to research, hold three stakeholder meetings, and facilitate board rulemaking to allow direct-entry midwives to work in birth centers. In addition, the bill requires vendor modifications to the Electronic Birth Registry System, estimated at \$30,000.

Department of Regulatory Agencies. Workload will increase in the Division of Professions and Occupations in FY 2021-22 to conduct rulemaking, outreach, and education. In addition, workload associated with processing renewal applications for additional authorities will decrease on an ongoing basis. These changes in workload can be accomplished within existing appropriations.

Department of Law. Workload will increase in FY 2021-22 to assist state departments with rulemaking processes. This workload can be accommodated within existing appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$26,314 in FY 2021-22.

Effective Date

This bill was signed into law by the Governor on May 28, 2021 and takes effect September 1, 2021.

State Appropriations

For FY 2021-22, the bill requires and includes appropriations of \$50,080 from the General Licensure Cash Fund and \$30,000 from the Vital Statistics Cash Fund to the Department of Public Health and Environment, and 0.6 FTE.

State and Local Government Contacts

Information Technology
Public Health and Environment

Law
Regulatory Agencies