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HOUSE BILL 815

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO TAXATION; PROVIDING FOR A DISTRIBUTION OF CERTAIN GROSS RECEIPTS TAXES TO DEFRAY THE COST OF MEDICAL MALPRACTICE INSURANCE PREMIUMS FOR CERTIFIED NURSE-MIDWIVES; CREATING A FUND; PROVIDING FOR ADMINISTRATION OF THE FUND BY THE SUPERINTENDENT OF INSURANCE; PROVIDING POWERS AND DUTIES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--MEDICAL MALPRACTICE PREMIUM ASSISTANCE FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the medical malpractice premium assistance fund in an amount equal to twenty percent of the net receipts attributable to the gross receipts tax on legal fees

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1 generated from medical malpractice actions as provided in
2 Subsection A of Section 2 of this act."

3 Section 2. A new section of the Gross Receipts and
4 Compensating Tax Act is enacted to read:

5 "[NEW MATERIAL] GROSS RECEIPTS FROM LITIGATION OF MEDICAL
6 MALPRACTICE ACTIONS.--

7 A. An attorney who participates in litigating
8 medical malpractice cases in New Mexico shall identify gross
9 receipts generated from that attorney's participation in the
10 litigation and report those receipts separately to the
11 department.

12 B. An attorney who applies to appear in a New
13 Mexico court pro hac vice shall attach to the motion a copy of
14 the attorney's New Mexico tax registration and tax
15 identification number and a certified statement that the
16 attorney will remit the New Mexico gross receipts taxes owed on
17 all fees for services rendered in that case.

18 C. An attorney making application to the
19 disciplinary board of the supreme court for approval of any
20 lawyer advertisement shall, as a precondition of having the
21 application approved, attach a copy of the attorney's New
22 Mexico tax registration and tax identification number and a
23 certified statement that the attorney will remit the New Mexico
24 gross receipts taxes owed on all fees for services in cases
25 filed in New Mexico courts."

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underscoring material = new
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1 Section 3. A new section of the Medical Malpractice Act
2 is enacted to read:

3 "[NEW MATERIAL] MEDICAL MALPRACTICE PREMIUM ASSISTANCE
4 FUND--SUPERINTENDENT DUTIES.--

5 A. The "medical malpractice premium assistance
6 fund" is created as a nonreverting fund in the state treasury.
7 The fund shall consist of distributions of gross receipts tax
8 payments pursuant to Subsection A of Section 2 of this act,
9 appropriations, gifts, grants and donations. The fund shall be
10 administered by the superintendent, and money in the fund is
11 appropriated to the superintendent to assist certified
12 nurse-midwives in the payment of medical malpractice premiums
13 as provided in this section. Disbursements from the fund shall
14 be by warrant of the secretary of finance and administration
15 pursuant to vouchers signed by the superintendent of insurance
16 or the superintendent's authorized representative.

17 B. A certified nurse-midwife may apply for
18 assistance from the fund, and the superintendent shall provide
19 by rule for:

- 20 (1) application forms and requirements;
21 (2) qualifications of the applicant, including
22 the applicant's history and whether the applicant is under any
23 sanctions by the board of nursing as a registered nurse or the
24 maternal health office of the department of health as a nurse-
25 midwife;

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1 (3) amount of awards; provided that an award
2 shall never be for one hundred percent of a malpractice
3 insurance premium; and

4 (4) any other information the superintendent
5 deems necessary.

6 C. To be eligible for assistance from the fund, the
7 applicant must demonstrate need by showing that medicaid
8 patients or indigent patients constitute at least one-half of
9 the obstetric practice of the applicant.

10 D. The superintendent may establish a joint
11 underwriting authority for use in providing insurance to
12 certified nurse-midwives pursuant to this section or may take
13 any other steps with money in the fund to provide insurance at
14 a lower cost to certified nurse-midwives, including negotiating
15 with medical malpractice insurers."

16 Section 4. EMERGENCY.--It is necessary for the public
17 peace, health and safety that this act take effect immediately.