

1 HOUSE BILL 349

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO HEALTH CARE; AMENDING A SECTION OF THE MEDICAL
12 MALPRACTICE ACT TO ESTABLISH CERTAIN CONDITIONS FOR BIRTHING
13 WORKFORCE RETENTION FUND AWARDS.
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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 41-5-26.1 NMSA 1978 (being Laws 2008,
17 Chapter 73, Section 1, as amended) is amended to read:

18 "41-5-26.1. BIRTHING WORKFORCE RETENTION FUND CREATED.--

19 A. The "birthing workforce retention fund" is
20 created in the state treasury. The purpose of the fund is to
21 provide malpractice insurance premium assistance for certified
22 nurse-midwives, licensed midwives or physicians whose insurance
23 premium costs jeopardize their ability to continue their
24 obstetrics practices in New Mexico. The fund shall consist of
25 appropriations, gifts, grants and donations to the fund. The

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1 fund shall be administered by the department of health, and
2 money in the fund is appropriated to the department of health
3 for the purpose of making awards pursuant to the provisions of
4 this section.

5 B. The department of health shall develop
6 procedures and rules for the application for and award of money
7 from the birthing workforce retention fund, including criteria
8 upon which to evaluate the need of the applicant and the merits
9 of the application. The rules shall require that the applicant
10 be a certified nurse-midwife licensed in New Mexico, a licensed
11 midwife in New Mexico or a physician licensed in New Mexico and
12 that the applicant demonstrate need by showing that medicaid
13 patients or indigent patients constitute at least one-half of
14 the obstetric practice of the applicant. The certified nurse-
15 midwife, licensed midwife or physician shall have a malpractice
16 liability insurance policy in force. Subject to availability
17 of funds, an award shall not be less than five thousand dollars
18 (\$5,000) and not more than ten thousand dollars (\$10,000). An
19 award shall be disbursed based on the percentage of medicaid
20 patients or indigent patients seen in the practice and on the
21 certified nurse-midwife's, licensed midwife's or the
22 physician's intent to continue obstetrics practice in New
23 Mexico during the period covered by the award. The award shall
24 be disbursed to the individual or employer who is the actual
25 purchaser of the malpractice liability insurance policy. An

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1 award shall not be granted to provide premium assistance for
2 tail coverage purchased upon practice termination. Priority
3 for the awarding of money from the birthing workforce retention
4 fund shall be in the following order:

5 (1) to certified nurse-midwives; ~~and~~

6 (2) to family practice physicians and
7 obstetricians; and

8 (3) to licensed midwives.

9 C. The department of health shall annually report
10 to the legislative finance committee on the status of the
11 birthing workforce retention fund.

12 D. Disbursements from the birthing workforce
13 retention fund shall be made by warrant of the department of
14 finance and administration pursuant to vouchers signed by the
15 secretary of health or the secretary's authorized
16 representative. Any unexpended or unencumbered balance
17 remaining in the fund at the end of a fiscal year shall not
18 revert but shall remain to the credit of the fund.

19 E. As used in this section, "tail coverage" means
20 insurance coverage providing an extended reporting period for
21 any claims related to conduct that occurred during the period
22 covered by a claims-based medical malpractice policy after it
23 has expired or been canceled."

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