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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/18/19  
 SPONSOR Harper LAST UPDATED 1/21/19 HB 226  
 SHORT TITLE Add Lay Midwives as Practitioners SB \_\_\_\_\_  
 ANALYST Chilton

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$7.0	NFI	NFI	\$7.0	Nonrecurring	General Fund
	NFI	\$18.2	\$18.2	\$36.4	Recurring	General Fund
<b>Total</b>	\$7.0	\$18.2	\$18.2	\$43.4	Mixed, as above	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to 2018 House Bill 299

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)

Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of Bill

House Bill 226 adds registered lay midwives to the list of “practitioners” subject to all the privileges and responsibilities conferred by the New Mexico Drug, Device and Cosmetic Act (Section 26-1 NMSA 1978).

It does so by inserting an addition to the definition of “practitioner in Subsection 26-1-2. K of that act to include lay midwives licensed by the department of health as being able to “procure, carry and administer drugs” subject to the act (page 7 of HB 226). In addition, “registered lay midwives” are added to those entitled to use “prescription devices” (page 12 of HB 226).

## FISCAL IMPLICATIONS

DOH estimates that “The cost associated with repealing and replacing the regulations for licensed midwives is estimated at \$7,000. There may be additional costs associated with increased administrative oversight, as described in the next [paragraph].

The Maternal Health Program Manager in the NMDOH Family Health Bureau would need to spend approximately 10 hours/month reviewing, approving, and documenting the continuing education (CE) hours needed by individual LMs for license renewal requirements. The Program Manager and the Office of General Counsel would also need to devote time to revising the Licensed Midwives Practice Rule 16.11.3.” Ten hours per week at a wage of \$35/hour for 52 weeks calculates to an additional recurring cost of \$18,200.

## SIGNIFICANT ISSUES

The Board of Nursing, in responding to similar House Bill 299 (2018), stated that “Nurse Midwives, as well as Registered Lay Midwives, are increasingly being called upon to bridge the gap in a shortage of care providers in New Mexico to meet the increasing demand for care to those patients who sign up under the Affordable Care Act (ACA). Many of these patients are already in strained underserved urban and rural settings.”

At that time, House Bill 299’s original version contained a section instructing the Department of Health to issue regulations allowing registered lay midwives to prescribe and administer controlled substances. This provision of the original bill prompted the comment from the Medical Board that safety issues might be aggravated, given the uncertain training in pharmacy and use of pharmaceuticals that lay midwives undergo. In response, the House Judiciary Committee amended the original version to make certain that lay midwives would not be prescribing such drugs, only administering them. Language as to lay midwives prescribing pharmaceuticals is not part of current House Bill 226.

DOH notes the importance of registered licensed nurse midwives among providers of pregnancy care in New Mexico:

In 2017, there were 518 out-of-hospital (home or birth center) births which represents approximately 1.8% of the over 23,708 NM births recorded in that year (see <http://ibis.health.state.nm.us/> Retrieved on January 18, 2019). New Mexico is currently working toward an option for low-risk pregnant clients covered under a Medicaid managed care plan to give birth at home or in a birth center. Out-of-hospital births have been an option since 2006 for pregnant clients under the NM Birth Options Plan (BOP), a recognized arrangement with the Human Services Department, Medicaid Division.

In some communities, such as in northern NM and along the border area with Mexico, access to adequate prenatal care is improved by the presence of trained lay midwives in the community who provide appropriate and affordable care in out-of-hospital settings.

The population served by this bill is pregnant women, including those on Medicaid, who opt for out-of-hospital birthing. In 2017, there were 518 out-of-hospital births (1.8% of NM births) recorded on Vital Statistics birth certificates. According to 2015 data, with a

similar number of out-of-hospital births, roughly 60% were recorded as white race, 30% were Hispanic, and 3.5% were Native American race.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Current language in the unamended statute (Section 26-1-2-K 1978 NMSA) defines “practitioner” to include not only physicians, pharmacists and numerous others but also “other person[s] licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device, and Cosmetic Act.” It does not appear as if registered lay midwives would be included among those “other person[s]”.

**AMENDMENTS**

RLD suggests the language following be added to the bill: "Practitioner" also means a registered lay midwife licensed by the department of health who is certified or licensed in accordance with department of health rules to procure, carry and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act, in accordance with department of health rules"

LAC/sb