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FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/09

SPONSOR Picraux LAST UPDATED _____ HB 422

SHORT TITLE Licensed Midwives Administering Certain Drugs SB _____

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1 Indeterminate			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Medical Board (Medical Board)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

House Bill 422 amends the Public Health Act and the Pharmacy Act to enable Licensed Midwives (LM) to obtain, possess, order and administer, basic prescription drugs and devices needed to provide safe care of women in pregnancy, birth and postpartum, newborns, or for resuscitation. LM's would be able to obtain these drugs from a pharmacy on presentation of their license. These drugs are currently on the certified formulary for Licensed Nurse Midwives to prescribe. DOH, the Board of Pharmacy and the Medical Board would develop and enforce rules for education and training requirements for LM's, including the use of these drugs and devices. The same agencies may approve additions or deletions of drugs from the formularies LM's would be able to obtain, possess, order and administer.

The bill also amends other state laws by updating references to "registered lay midwives," replacing them with the words "licensed midwives."

FISCAL IMPLICATIONS

HB 422 requires the DOH, Board of Pharmacy and Medical Board to jointly adopt training requirements and promulgate rules. There will be an administrative and fiscal impact to these state entities for the development and implementation of education and training requirements for the use of certain drugs and devices by LM's.

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SIGNIFICANT ISSUES

DOH provides the following:

LMs are licensed independent practitioners who are the near exclusive providers of out-of-hospital births in New Mexico. In 2005, LMs attended 376 deliveries, 1.3% of all the deliveries in the State. Safe outcomes of planned, out-of-hospital births for selected low-risk mothers with a qualified attendant such as a licensed midwife in attendance, has been shown by many studies to be equivalent to that of low-risk women delivered in hospitals.

A few prescription drugs are needed to assure the safety of mothers and babies during pregnancy, during, and after births. Some examples include ointments that law requires to be put in a newborn's eyes to prevent the possibility of infections which could cause blindness. A mother may hemorrhage unexpectedly after giving birth, and this can in almost all cases can be easily treated with antihemorrhagic drugs if administered quickly. A newborn may need oxygen to be administered immediately after birth as it begins to breathe on its own.

LMs have often been able to obtain prescription drugs through physicians. However, the Medical Board has adopted a rule that prevents medical doctors from prescribing drugs to be available on an "expressed needs" basis for midwives to use for their clients at a birth. HB 422 would enable licensed midwives to have available such necessary drugs for appropriate use.

PERFORMANCE IMPLICATIONS

The Medical Board provides the following:

The Medical Board is being required in the bill to participate in certain activities related to Midwives who are regulated under the Public Health Act. These requirements are being promulgated neither with the Medical Board having been granted the opportunity to determine the need for such participation, nor having been granted the opportunity to participate in the design of the requirements and the shaping of the language defining them.

The Medical Board has no responsibility in the training, evaluating, or licensing of midwives. In addition, while the Medical Board could consult with the Board of Pharmacy on "additions or deletions" to the midwife's armamentarium of "drugs and devices", this is not a defined activity of the Medical Board. The Medical Board is supportive of any collaborative effort between agencies that would facilitate midwifery and lessen the perception of a lack of access to the substances required for these births.

ADMINISTRATIVE IMPLICATIONS

HB 422 requires the DOH, Board of Pharmacy and Medical Board to jointly adopt education and training requirements and promulgate rules.

OTHER SUBSTANTIVE ISSUES

The Public Health Act authorizes DOH to regulate the practice of midwifery. HB 422 would place authority for promulgating rules for training requirements with three different agencies, DOH, the Board of Pharmacy and the Medical Board. Instead, DOH suggests it could enlist the

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collaboration of the Board of Pharmacy and Board of Medicine in making and promulgating rules for the instruction of licensed midwives in the use of drugs and devices necessary for safe midwifery care. Midwifery is a separate discipline from pharmacology and medicine.

ALTERNATIVES

The Medical Board suggests removing its involvement in HB 422. The Medical Board supports the formation of an ad hoc Committee of experts and stake-holders to review proposed changes to any healthcare profession's scope of practice prior to implementation. Policy makers should assure that scope of practice changes are justified by appropriate and relevant education, training, examination, and experience. This review of proposed changes must also include a review of the rules and the governing act for the profession to be sure that the authority for any new rules proposed or already in existence, are authorized under that professional practice act.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Licensed Midwives would continue to need medical physicians to prescribe certain drugs and devices necessary for safe midwifery care.

POSSIBLE QUESTIONS

What is the difference between a "Licensed Midwife" and "Certified Nurse-Midwife"?

AMENDMENTS

The following amendments were suggested by DOH:

- On page 2, lines 2 through 5, replace the words, "The department, the board of pharmacy and the New Mexico medical board shall promulgate rules for education and training requirements that shall include instruction in the use of these drugs and devices." With the words, "The department shall collaborate with the board of pharmacy and the New Mexico medical board to develop rules for the education and training requirements for licensed midwives in the use of these drugs and devices."
- On page 13, line 12, after the word "midwifery", add the words "other than a certified nurse-midwife."

AHO/svb