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H.B. 537
(1_136_2149-3)
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 537's Bill Analysis](#)

Version: In House Children and Human Services

Primary Sponsors: Reps. McClain and M. Miller

Local Impact Statement Procedure Required: No

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Highlights

- The Board of Nursing (NUR) and the Department of Commerce (COM) will experience costs to regulate the practice of certified midwives (CM) and licensed midwives (LM), respectively. NUR and COM will also realize a gain in fee revenue associated with licensure. Impacts will primarily depend on the number of licensees.
- NUR will realize costs to expand its board membership by two members and COM will realize costs to establish the Licensed Midwifery Advisory Council.
- Costs to add CMs and LMs to the eLicensing system could increase costs paid out of the Occupational Licensing and Regulatory Fund (Fund 4K90).
- Public hospitals could experience minimal administrative costs to establish standard care arrangements with certified midwives.
- The Ohio Department of Health (ODH) and COM may realize a minimal increase in costs to collect certain reports required by the bill and to adopt rules.

Detailed Analysis

Regulation and practice of certified midwives and licensed midwives

The bill requires the Board of Nursing (NUR) to regulate the practice of certified midwives (CMs) and the Department of Commerce (COM) to regulate the practice of licensed midwives (LMs), including by issuing licenses and taking disciplinary actions, and promulgating rules. The bill outlines the eligibility criteria for licensure and specifies permitted and prohibited activities. For instance, CMs and LMs will be authorized to engage in specified activities, including attending births in hospitals, homes, medical offices, and freestanding birthing centers, among other

activities. Additionally, CMs will be required to practice in collaboration with a physician under a standard care arrangement and will be authorized to prescribe drugs. However, a CM must check the Ohio Automated Rx Reporting System (OARRS), which is administered by the State Board of Pharmacy, before issuing an initial prescription for an opioid analgesic and periodically check OARRS if the patient's course of treatment continues for more than 90 days. The bill also generally prohibits an individual from practicing as a CM or LM without a license and specifies penalties for violations. Additionally, under the bill a CM and collaborating physician each may be subject to professional discipline if a standard care arrangement is not maintained or entered into.

NUR and COM will realize costs to regulate these professionals, which include costs to issue certificates or licenses, address questions regarding this profession, and to investigate any complaints. These costs would primarily depend on the number of licenses issued. The bill would also likely result in eLicense costs. The total eLicense costs could include a one-time cost for system reconfigurations, as well as ongoing records management costs. Revenue for licenses may offset at least some of these costs. It is not immediately clear how many CMs and LMs currently practice in the state and subsequently how many would seek licensure. The bill requires an amount equal to the fee for licensure to practice as an advanced practice registered nurse for application for licensure to practice as a certified midwife. Additionally, the renewal fee for a license will be equal to the fee for renewal of a license to practice as an advanced practice registered nurse. Based on current fees, NUR will collect a fee of \$150 for initial licensure from each applicant seeking to practice as a CM. The license may be renewed biannually with a \$135 fee. Similarly, an individual seeking initial licensure to practice as an LM must file an application with COM in the manner prescribed by the Department. The application fee is to be set in rule, which shall not exceed \$45. The license may be renewed biannually, with the renewal fee to be established in rule, with the amount not to exceed \$20. For NUR, revenues would be deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90) and expenses would be paid out of Fund 4K90 line item 884609, Operating Expenses.

Additionally, government-owned hospitals could realize costs to establish standard care arrangements with CMs. If there were any violations of the law governing unlicensed practice, there could be local court and incarceration costs. Additionally, NUR and the State Medical Board, which regulates physicians, could realize disciplinary costs if standard care arrangement violations occur. However, it is anticipated that the number of violations would be small in either of these situations. Lastly, the State Board of Pharmacy may realize costs to allow additional access to OARRS.

Council and Board memberships

The bill establishes the Licensed Midwifery Advisory Council under COM. COM will realize costs for reimbursements to the Council members and any other related Council expenses. In addition, the bill increases from 13 to 15 the number of NUR members with the inclusion of a certified nurse-midwife and a CM. This will result in additional costs to NUR.

Adverse incident reports

The bill also requires NUR and COM to each adopt rules establishing the circumstances in which licensees are prohibited from attending home births, including a high-risk pregnancy. Both will experience administrative costs to develop these rules. Beginning July 1, 2027, the bill requires a certified nurse-midwife, CM, and LM who attends a birth planned for a facility or

setting other than a hospital to report any adverse incident, along with a medical summary of events, to the Ohio Perinatal Quality Collaborative. In the case of a certified nurse-midwife or CM, the adverse incident also must be reported to the Ohio Department of Health (ODH), while an LM must report to the Licensed Midwifery Advisory Council. Reports must be made within 15 days. These practitioners must also report to ODH or the Licensed Midwifery Advisory Council certain information when the midwife provided services when the intended place of birth at the onset of care was in a facility or setting other than a hospital. ODH and COM will each experience a minimal increase in costs to adopt rules governing the reporting of adverse incidents and annual report submissions and to develop a form to be used when making reports.

Freestanding birthing centers

Currently, each freestanding birthing center is required have a written transfer agreement with a hospital for the transfer of a mother or a newborn in the event of medical complications, emergency situations, or as the need arises.¹ Under the bill, each freestanding birthing center is required to have a written plan for the transfer of a mother or newborn to a hospital in the event of medical complications, emergencies, or as otherwise necessary. ODH is prohibited from requiring a freestanding birthing center to establish a written transfer agreement with a hospital if the center is (1) accredited by the Commission for the Accreditation of Birth Centers (CABC) or its successor organization and (2) located within 30 miles of a hospital subject to the provisions of the Emergency Medical Treatment and Labor Act, which includes all Medicare-participating hospitals with emergency departments. The bill requires a freestanding birthing center that is not accredited by the CABC to have a written transfer agreement with a local hospital. The bill also prohibits ODH from requiring a freestanding birthing center that is exempt from licensure based on religion to establish a written transfer agreement with a hospital. The bill outlines some requirements for freestanding birthing centers that are exempt due to religion.

ODH will realize rule promulgation costs to update its rules regarding freestanding birthing centers. If fewer centers are required to have a written transfer agreement with a hospital, then government-owned hospitals may realize a minimal reduction in administrative duties associated with establishing and maintaining agreements.

Immunity from civil liability

The bill specifies that emergency medical service personnel or an emergency medical service organization, hospital, facility, or physician that provides services or care following a certified nurse-midwife's, certified midwife's, or licensed midwife's adverse incident or transfer of care is not liable in damages in a tort or other civil action unless services or care were provided in a manner that constitutes willful or wanton misconduct. This immunity could reduce the number of civil actions brought forward, which could reduce civil court costs.

Certified nurse-midwives

Under current law, Ohio licenses certified nurse-midwives (CNMs) as a type of advanced practice registered nurse (APRN) which requires completion of a master's or doctoral degree in a nursing specialty and certification in nurse midwifery from a national certifying organization. At the end of FY 2025, there were 574 active certified nurse-midwife licenses. The bill expands

¹ O.A.C. 3701-83-37.

the Board of Nursing's existing authority to regulate CNMs, including by establishing conditions on their provision of certain midwifery services. This could result in costs to adjust any applicable rules, and to inform these practitioners of changes.

Day of the Midwife

The bill designates May 5 as the Day of the Midwife. This will not result in any costs to state or local entities as the bill does not require any actions.

Synopsis of Fiscal Effect Changes

H.B. 537, As Introduced, would have required hospitals that are Medicaid providers and that operate a maternity unit to agree to written transfer agreements at the request of a freestanding birthing center if the freestanding birthing center is located within 30 miles of the hospital. The As Introduced bill also required a transfer agreement to specify an effective procedure for the transfer of patients from the freestanding birthing center to the hospital when medical care beyond that which can be provided at the center is required and that each freestanding birthing center file a copy of a transfer agreement with ODH. Government-owned hospitals would have experienced administrative costs if they had to enter into an agreement with a freestanding birthing center. The substitute bill (I_136_2149-3) instead requires each freestanding birthing center to have a written plan for the transfer of a mother or newborn to a hospital in the event of medical complications, emergencies, or as otherwise necessary. The substitute bill also prohibits ODH from requiring a freestanding birthing center to establish a written transfer agreement with a hospital if the center meets certain criteria. Finally, the substitute bill prohibits ODH from requiring a freestanding birthing center that is exempt from licensure based on religion to establish a written transfer agreement with a hospital and requires these facilities to meet specified criteria (e.g., have at least one of specified practitioners attend each birth). ODH will realize rule promulgation costs to update associated rules. If fewer transfer agreements are required, then government-owned hospitals may have a minimal reduction in administrative duties to establish and maintain these agreements.

Any other changes made by the substitute bill would likely have no change regarding the fiscal effects.