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## FISCAL IMPACT REPORT

SPONSOR Komadina DATE TYPED 2/02/05 HB \_\_\_\_\_

SHORT TITLE Midwife Risk Insurance Coverage SB 292

ANALYST Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

Duplicates SB 418  
Relates to SB 6 & SB 427

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
		See Narrative		

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Health Policy Commission (HPC)  
Public School Insurance Authority (PSIA)  
Department Of Health (DOH)  
Public Regulation Commission (PRC)

#### No Response From

General Services Department (GSD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 292 allows licensed midwives to collaborate for the purpose of purchasing risk insurance. It extends Risk Management Division's (RMD) authority to offer insurance or to self-

insure these types of midwife associations, cooperatives or mutual alliances.

Two or more midwives may purchase risk insurance coverage upon becoming part of an association, cooperative or mutual alliance, whereupon the RMD shall maintain a separate account for them.

As defined in the bill, "Midwife" means a Midwife who is licensed through the DOH, or a Certified Nurse Midwives (CNM) who is licensed through the Board of Nursing and the DOH.

### Significant Issues

The increase in the cost of medical malpractice insurance, particularly for providers involved in childbirth, has caused these providers to limit or stop services. Availability of coverage through RMD offers another option for these providers.

Licensed Midwives (LMs) and CNMs perform 33% of the deliveries in New Mexico Records, as well as other health services to women and babies. In two counties they provide more than half the pregnancy health services. The loss of these providers could have a serious negative impact on New Mexico women's ability to access health care. Both LMs and CNMs provide safe, high quality services and serve high proportions of poor, underserved women and families. The average CNM sees 65% Medicaid patients.

CNMs do most of their deliveries at hospitals, which require liability insurance. Only one insurer offers liability insurance to CNMs for hospital deliveries and other health care services. This company's rates increased by 60% for 2005, and are expected to increase by 30% for 2006. The liability insurance rate in 2005 for a CNM is between \$14 thousand and \$18 thousand.

Many women and families choose out of hospital births for reasons of privacy, personal attention and greater family involvement. Numerous studies have shown that professionally attended home births and birthing center births for low-risk women have outcomes at least as good as hospital births for low-risk women (e.g., women who give birth at home have fewer procedures during their labor compared to those planned hospital births). These deliveries cost less because there is no hospital charge for home births, and midwives use fewer interventions like forceps or epidurals that add to the cost of delivery.

DOH claims there have been no lawsuits naming CNMs in New Mexico since at least 1996. Only three claims have been filed against LMs in the last ten years, and two of them were dismissed.

### **FISCAL IMPLICATIONS**

The PSIA notes all medical providers are experiencing significant problems due to rising medical malpractice. Midwives and OB/GYN specialists represent a small portion of all providers. It is not likely that RMD would not be able to provide substantial savings in its premium for New Mexico Midwives compared to medical malpractice insurers who cover larger pools of providers.

## **ADMINISTRATIVE IMPLICATIONS**

The PRC notes the mission of the RMD is to provide risk management and insurance-related services to the various agencies of state government. Although associations of midwives would not be part of state government, the door to allowing non-government entities to enjoy access to insurance coverages procured by the Risk Management Division has already been opened by Subsection B of §15-7-3 which requires the RMD to provide liability coverage to certain non-profit corporations under certain circumstances.

## **DUPLICATION/RELATIONSHIP**

SB 292 duplicates SB 418

SB 292 relates to SB 6, Malpractice for Certified Nurse-Midwives and SB 427, Health Facility & Care Provider Insurance

## **OTHER SUBSTANTIVE ISSUES**

Presently no insurer offers professional liability insurance for out-of-hospital deliveries. LMs and CNMs are essentially the only providers of out-of-hospital delivery services, including home deliveries and birthing center deliveries, for pregnant women and their families. Most midwives provide over half their services to Medicaid patients. Practitioners who do not have liability insurance cannot qualify for reimbursement from Medicaid.

DW/sb