

Legislative Auditor

OVERVIEW

SUNSET EVALUATION REPORT: REGULATION OF MIDWIVES

Honolulu, Hawaii

December 1989

Summary

Most midwives today are nurses with a specialty in nurse-midwifery. They care for women during pregnancy, labor and the postpartum period, and for newborns and infants. Their work may extend to family planning and gynecological services. Although the activities of lay midwives have been circumscribed and even prohibited in some states for many years, the shortage of obstetrical providers has prompted many states to reconsider.

Like all other states, Hawaii permits the practice of nurse-midwifery. The Maternal and Child Health Branch of the Department of Health regulates the practice. To qualify for a license, an applicant must be licensed as a registered nurse in the State

of Hawaii, be certified in nurse-midwifery by the American College of Nurse-Midwives, and comply with the college's continuing education requirements.

As of March 1989, there were only five licensed nurse-midwives in the state.

Under Hawaii's Sunset Law, the auditor is responsible for evaluating the licensing programs and recommending whether regulation should continue and under what conditions. This report found that the Department of Health should continue to regulate midwives, but that changes are needed in the statutes and rules.

FINDINGS

Regulation should continue because the practice of midwifery has the potential to harm the public. The current licensing law is not adequate. It does not establish the scope of practice, standards for licensing, prohibited practices, grounds for disciplinary action, and sanctions.

Some of the department's rules are unnecessarily restrictive. They prohibit nurse-midwives from providing gynecological care and using mechanical means in childbirth, and require them to be under the supervision of a physician.

The department's enforcement program is weak. It has not taken action in cases of unlicensed activity and it has not taken advantage of enforcement services of the Department of Commerce and Consumer Affairs.

RECOMMENDATIONS

The licensing program for midwives should remain with the Department of Health, but regulation should continue under new statutes. If the statutes are not repealed, then they should be amended to define the scope of practice, eliminate the health and character requirement, and ensure the proper notification of licensees prior to forfeiture.

In amending its rules, the department should include gynecological care in the practice of midwifery, delete the provision prohibiting artificial or mechanical means of assisting in childbirth, and delete the requirement for physician supervision.

As required by law, the department should collect a compliance resolution fee from each licensee and arrange to have the Department of Commerce and Consumer Affairs

handle complaints and cases of unlicensed activity.

RESPONSE

The Department of Health suggests that any new statute regulating midwives should incorporate the standards of the American College of Nurse-Midwives. The department agrees to amend its rules, deleting the requirement for physician supervision and adding rules that recognize continuing education credits approved by the American College of Nurse-Midwives or the department's midwifery committee.

The Department of Commerce and Consumer Affairs believes the referral of cases and the assessment of a compliance resolution fee may be a problem. The director urges that this problem be referred to the Legislature for resolution.