

OVERVIEW

Sunrise Analysis of a Proposal to Regulate Certified Professional Midwives

Report No. 99-14, March 1999

Summary

We analyzed whether certified professional midwives should be regulated as proposed in House Bill No. 3123 introduced during the 1998 Regular Session. We also assessed the probable effects of regulation and which state agency would be best suited to implement any regulation. The Legislature requested this analysis in Senate Concurrent Resolution No. 64, Senate Draft 1 of the 1998 session.

Midwives are nonphysicians who care for women during pregnancy, assist with labor and delivery, and provide aftercare for the mother and child. Midwives fall into two broad categories: nurse midwives and non-nurse (or lay) midwives. Both types of midwives attend to healthy, normal, low-risk women and newborns. In most situations, both types of midwives can conduct deliveries on their own with little medical or technical intervention.

Lay midwives may be trained in midwifery with some medical basis, but they do not need a nursing degree. Their education and training vary widely; some have no formal education. They are more limited in their scope of practice than are nurse midwives.

The specific title given to a midwife depends on such factors as custom, training, credentials, and state laws. Currently, *certified professional midwife* is a title given to certain lay midwives by an organization called the North American Registry of Midwives. Our analysis focused on certified professional midwives and other lay midwives. We did not assess the need to regulate nurse midwives, although our report does include some discussion of that group.

Reportedly 20 to 25 lay midwives were active in Hawaii in 1998. The Department of Health reports that from 1991 through 1996, an average of 171 births occurred at home or in other out-of-hospital settings. Lay midwives probably attended many of the out-of-hospital births, but precise numbers are not available.

The Hawaii Regulatory Licensing Reform Act states that professions and vocations should be regulated only when necessary to protect the health, safety, or welfare of consumers. Because of the harm that incompetent practice can cause, we found that regulation of certified professional midwives and other lay midwives is warranted. With regulation, the State could examine whether persons wishing to practice lay midwifery have the necessary basic competencies and could establish standards of care.

Regulation could have other benefits for the public, including encouraging the utilization of midwives by families that might otherwise receive little or no care. However, this is not certain. There is also concern about the costs of regulation.



Although regulation is warranted, House Bill No. 3123 raises concerns that must be addressed before any regulation is enacted. One concern is fragmented regulation (for example, the bill would regulate only one type of lay midwife and would do so at a time when regulation of *nurse* midwives in Hawaii has been reduced). Another concern is lack of agreement about qualifications and practice standards for lay midwifery. Until these problems are resolved, regulation would be premature.

We also found that if regulation of lay midwives does occur, either the Department of Commerce and Consumer Affairs or the Department of Health could administer the regulatory program. Each department has advantages and disadvantages.

Recommendations and Response

We recommend that House Bill No. 3123 not be enacted.

The Department of Health agrees that legislation at this time is premature. The department supports a comprehensive approach that includes establishing qualifications and standards of practice for lay midwives.

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