

Auditor's Summary

Sunrise Analysis: Regulation of Certified Professional Midwives

Report No. 17-01



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Should Certified Professional Midwives Be Regulated?

IN REPORT NO. 17-01, *Sunrise Analysis: Regulation of Certified Professional Midwives*, we found that the State's proposed regulation of Certified Professional Midwives, who comprise just a small segment of the midwifery profession, is insufficient and inconsistent with the State's regulatory policies. The proposed regulation we reviewed applies only to midwives who have obtained the Certified Professional Midwife credential from the North American Registry of Midwives, which is one of several midwifery associations, but the proposed regulation does not require even those individuals to be licensed to provide services as a midwife.

Although the regulation, *as proposed*, is flawed, we found that the Hawai'i Regulatory Licensing Reform Act's criteria supports mandatory licensure of the *entire* midwifery profession. Midwives assist women in home childbirth. They can perform exams



Hawai'i Home Births Increasing

From 1991 through 1996, an average of 171 births occurred at home (or in other out-of-the-hospital settings). In 2015, the number of home births had risen to 339, the State Department of Health reported.

monitoring the pregnant mother’s health as well as the weight, heart rate and position of the baby, provide prenatal care, assist during labor and delivery, and offer guidance about breastfeeding and other newborn care issues. They typically provide such services as an alternative to a medical doctor such as an obstetrician. Their work directly impacts—and can endanger—the health and safety of both mothers and babies. Given the nature of the work performed by midwives, we recommend that the Legislature consider establishing a mandatory licensing framework for all midwives, not just Certified Professional Midwives, to protect the consumers of the services, i.e., the mothers and newborns.

Why did we perform this review?

DURING THE 2016 SESSION, the Legislature considered legislation to regulate Certified Professional Midwives and, by concurrent resolution, asked us to review the appropriateness of the proposed regulation.

The Hawai‘i Regulatory Licensing Reform Act requires us to assess legislative proposals that will create a regulatory scheme for professions and vocations that currently are unregulated. These reviews, which are known as a “Sunrise Analysis,” examine whether regulation is necessary to protect the health, safety, or welfare of consumers of the services and is consistent with other regulatory policies.

The Hawai‘i Regulatory Licensing Reform Act mandates that a profession or vocation be licensed where the nature of services offered may jeopardize the health, safety, or welfare of consumers. At the same time, the Act establishes policies to ensure that the State exercises its power to regulate only where such regulation is reasonably necessary to protect consumers.



Even Barbers are Regulated

THE STATE OF HAWAI‘I, through the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs, regulates 49 professions and vocations. Physicians, dentists, nurses, and pharmacists are regulated by the State, as are barbers, automobile mechanics, massage therapists, and real estate agents. **Midwives, however, are not regulated in Hawai‘i, meaning that the State does not license or otherwise oversee those providing services as a midwife.**

Hawai‘i Regulatory Licensing Reform Act

The Hawai‘i Regulatory Licensing Reform Act requires the Auditor to analyze proposed regulatory measures that, if enacted, would subject unregulated professions and vocations to licensing or other regulatory controls. The policies that the Legislature adopted regarding regulation of professions and vocations are as follows:

The State may regulate professions and vocations only where reasonably necessary to protect the health, safety, or welfare of consumers, and not that of the regulated profession or vocation;

The State must regulate professions or vocations when the health, safety, or welfare of the consumer may be jeopardized by the nature of the service offered by the provider;

Evidence of abuses by providers of the service must be given great weight in determining whether regulation is desirable;

Regulation must be avoided if it will artificially increase the cost of goods and services to consumers, except in cases where this cost is exceeded by the potential danger to the consumer;

Regulation must not unreasonably restrict entry into professions and vocations by all qualified persons; and

Aggregate costs for regulation and licensure must not be less than the full costs of administering that program.