



Legislative Council Staff
Research Note

Version: Consideration of
Amendments

Date: 4/26/2016

Bill Number

House Bill 16-1360

Sponsors

***Representatives Landgraf
& Lontine
Senator Lundberg***

Short Title

***Continue Regulation
Direct-entry Midwives***

Research Analyst

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Status

The bill is currently pending before the Senate on Consideration of Amendments. This research note reflects the rerevised bill.

Summary

The bill implements the recommendations made by the Department of Regulatory Agencies (DORA) in its sunset review of the regulation of direct-entry midwives, with some modifications. It continues the regulation of direct-entry midwives by the Division of Professions and Occupations in the DORA for five years, through September 1, 2021. In addition, the bill makes the following changes to the scope of practice for direct-entry midwives:

- permits direct-entry midwives to suture first- and second-degree perineal tears, if the registrant demonstrates to the director that he or she has received specific training, and to obtain and administer local anesthesia for the procedure;
- makes changes to the disclosure form that direct-entry midwives must provide to clients;
- requires direct-entry midwives to inform parents of the importance of critical congenital heart defect screening, and requires a direct-entry midwife to refer parents to a health care provider who can provide the screening if the direct-entry midwife is unable to perform the screening;
- allows a direct-entry midwife to enter into a confidential agreement to voluntarily limit his or her practice if a physical or mental illness or condition renders him or her unable to practice

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direct-entry midwifery safely;

- adds prohibited practices for a direct-entry midwife concerning the failure to notify DORA of such an illness or conditions affecting his or her ability to practice midwifery or noncompliance with practice limitations under a confidential agreement; and
- repeals the requirement that the director send letters of admonition via certified mail.

The bill also requires DORA to convene a stakeholder group to review data that is reported by direct-entry midwives. The stakeholder group must report to specified legislative committees by January 31, 2017. Finally, the bill requires DORA to establish a working group to investigate ways of managing risks in the practice of midwifery, including the need for, and access to, professional liability insurance. The working group must report its findings to DORA by October 1, 2016, and DORA must report any recommendations for legislation as a result of the report to certain legislative committees by November 1, 2016.

Background

Direct-entry midwives. Direct-entry midwives are independent practitioners who provide prenatal, childbirth, and postpartum care. Direct-entry midwives generally assist with natural births that occur at their clients' homes. To practice in Colorado, direct-entry midwives must register with the Division of Professions and Occupations in DORA. Direct-entry midwives are regulated separately from certified nurse midwives, who are regulated under the Nurse Practice Act. To register as a direct-entry midwife, a candidate must pass the North America Registry of Midwives examination, which assesses a candidate's competency in direct-entry midwifery. Applicants must also have graduated from an accredited midwifery program, and meet various other requirements, including completion of a minimum number of hours providing prenatal and postpartum care and as a birth attendant.

Sunset review. DORA conducted a sunset review of the regulation of direct-entry midwives in 2015. The review made the following recommendations:

- continue the regulation of direct-entry midwives until 2023;
- allow direct-entry midwives to suture first- and second-degree perineal tears and obtain and administer local anaesthesia during the procedure;
- require direct-entry midwives to administer pulse oximetry testing to newborns to screen for potential critical congenital heart defects, or to arrange for such testing;
- to authorize the director to send letters of admonition to direct-entry midwives through means other than certified mail;
- to establish failure to address a midwife's own physical or mental health condition as grounds for discipline and allow the director to enter into a confidential agreement with a direct-entry midwife;

- require the director to convene a task force to examine current data reporting requirements for midwives; and
- require the director to promulgate rules concerning the supervision of student midwives.

House Action

House Health, Insurance, and Environment Committee (April 5, 2016). At the hearing, representatives of the Colorado Midwives Association, Colorado Midwives Alliance, Elephant Circle, and the Birth Rights Bar Association testified in support of the bill. Representatives of Colorado Citizens for Science in Medicine testified in opposition to the bill. Representatives of the Colorado Chapter of the American College of Emergency Physicians, the Colorado Medical Society, and the Colorado Section of the American Congress of Obstetricians and Gynecologists, and two private citizens testified regarding the bill. A representative of the Department of Regulatory Agencies responded to questions regarding the bill.

The committee adopted amendments L.002, L.003, and L.007 and referred the bill, as amended, to the House Committee of the Whole. Amendment L.002 prohibited a direct-entry midwife from providing care to a pregnant woman who has had a previous delivery by cesarean section. Amendment L.003 required that the task force to examine data reporting requirements for midwives include an obstetrician and certified nurse midwife. Amendment L.007 made a technical change to the Colorado Medical Practice Act.

House second reading (April 7, 2016). The House adopted the House Health, Insurance, and Environment Committee report and amendment No. 2, which amended the committee report to require that the task force to examine data reporting requirements for midwives include a pediatrician. The House passed the bill on second reading, as amended.

House third reading (April 11, 2016). The House passed the bill on third reading with no amendments.

Senate Action

Senate Health and Human Services Committee (April 21, 2016). At the hearing, representatives of the Colorado Midwives Association, Colorado Section of the American Congress of Obstetricians and Gynecologists, and the Colorado Medical Society and 17 private citizens testified in support of the bill, and many witnesses also spoke in support of amendments to the bill. A representative of Colorado Citizens for Science in Medicine and three private citizens testified in opposition to the bill. Representatives of the Department of Regulatory Agencies responded to questions from the committee.

The committee adopted amendments L.011, L.012, L.015, and L.020 and referred the bill, as amended, to the Senate Committee of the Whole. Amendment L.011 struck the provision of the bill that prohibited a direct-entry midwife from providing care to a woman who had a previous delivery by cesarean section. As introduced, the bill specified that an applicant for authorization to perform suturing of first- and second-degree tears must demonstrate that he or she has received education and training on suturing with the previous six months. Amendment L.012 changed this time period to one year or within another period of time the Director of the Division of Professions and Occupations deems appropriate. Amendment L.015 defined the term "perinatal." Amendment L.020 continued the regulation of direct entry midwives for five, rather than seven, years.

Senate second reading (April 25, 2016). The Senate adopted the Senate Health and Human Services Committee report and passed the bill on second reading, as amended.

Senate third reading (April 26, 2016). The Senate passed the bill on third reading with no amendments.

Relevant Research

Department of Regulatory Agencies, *2015 Sunset Review: Direct-entry Midwives*, October 2015: <http://tinyurl.com/hrcge3k>