

SB

238

SENATE COMMITTEE RE
First Committee of Referral

DATE: 1/14/98

FURTHER: Finance

Date of 5-Day Notice: 2/19/98
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/25/98

Health, Education and Social Services Committee considered SENATE BILL NO. 238

"An Act extending the termination date of the Board of Certified Direct-Entry Midwives."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR# _____

<u>SIGNING DO PASS</u>	<u>DP</u>	<u>OTHER RECOMMENDATIONS</u>	<u>NR</u>	<u>DNP</u>	<u>AM</u>
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Commerce + Econ Dev	1/27/98		✓

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 238

Reviser Date: _____ Department: Commerce and Economic Development
 Title: Extend termination date of the Board of Certified BRU: Occupational Licensing
Direct-Entry Midwives Component: Operations
 Sponsor: Senate Labor and Commerce
 Requestor: Senate HESS COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: \$ 17.5

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS (Attach a separate page if necessary)

SB 238 extends the Board of Certified Direct-Entry Midwives to June 30, 2002. Funding for continuation of the board in the amount of \$17.5 is included in the department's FY 99 operating budget request; therefore, new funds are not needed. The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by Commission: Deborah B. Sedwick
 Agency: Commerce and Economic Development

Phone: 465-2144
 Date: 1/27/98
 Date: 1-27-98

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Senate Labor & Commerce Committee

Sponsor Statement

SB 238: BOARD OF CERTIFIED DIRECT-ENTRY MIDWIVES

The Board of Certified Direct-Entry Midwives was established by ch. 130, SLA 1992. SB 238 extends the Board another 4 years to June 30, 2002.

The Board is tasked with the following duties:

- examining applicants and issuing certificates to qualified applicants
- issue permits to apprentice direct-entry midwives
- report annually to the governor and the department
- approve curricula and adopt standards for basic education, training and apprentice programs

The Legislative Audit of the Board points out two problems with the board:

- high fees, and
- although Medicaid eligible providers, no method for Medicaid reimbursement has been embraced by the Department of Health and Social Services and the Legislature.

The Senate Labor and Commerce Committee introduced the bill to ensure the extension could be considered by the Legislature.

Alaska State Board of Direct-Entry Midwives

Narrative Statement

Alaska remains one of the fourteen enlightened states which now license their Direct-Entry Midwives and we are grateful for that status. In this our fifth year, we continue to make rapid progress toward the establishment of a state regulated CDM community.

In developed nations with the lowest infant mortality rates, healthy birth outcomes are linked to three factors: early and sustained pre-natal care by midwives, reciprocity between the midwifery and medical communities and universal health insurance coverage.

Alaskans naturally want the best for our children, yet we as a state fall below an already abysmal national ranking of 23rd among developed nations for infant mortality. Instead of using midwives for 70-80% of our births as the top five ranking nations do, we use midwives for about 5%. At the same time, Alaskans value the profession enough to provide their CDMs with a regulatory board.

Perhaps it is time to recognize the enormous advantages to be gained by adopting yet another attribute of the more successful birth outcome nations: universal health coverage to low income families, in this case medicaid with reimbursement to Direct-Entry Midwives. Please note as you read through this report how many times this one issue relates to our current board activities. For example, the cost of licensure engendered much discussion and effort on the part of the Division of Occupational Licensing. With third party reimbursement, in the form of Medicaid, high licensing fees would be less of a burden. More CDMs would train to enter the profession and the costs would be spread among many.

This past year has seen a number of dialogues on this subject and next year promises more. 4,500 pregnant Alaskan women are eligible for medicaid each year. CDMs have been placed on the list of providers by the state legislature. We know from the experience of other cultures that the hands on, sustained care, non-invasive methods and knowledgeable training provided by midwives goes a long way toward ensuring healthy birth outcomes and avoiding costly and unnecessary surgery. A Fairbanks Army hospital saved over \$1 million the first year two midwives were introduced into its obstetrics practice. They lowered the c-section rate from 26% to 12%. Also, it is worthwhile to note that midwifery is about self-responsibility and can help families to overcome a cycle of welfare dependency in a positive and lasting way.

After five years of licensing and regulation, it is time for the State of Alaska to take some serious steps toward providing medicaid funding for Certified Direct-Entry midwifery. Our board agrees this is a win-win health care option for all Alaskan families and will reap substantial cost savings for the State.

Identification of the Board

Officers:

Pam Weaver, CDM	Chair
Marilyn Holmes, Public Member	Secretary

Remainder of the board:

Kaye Kanne, CDM
Paula Korn, CNM
Dr. Mark Richie MD, OBGYN

At this time we are actively seeking a CNM to replace Paula Korn whose term has expired. We will miss Paula, who has contributed a great deal of valuable expertise, especially on the subject of pharmacology.

Steve Snyder continues as our adroit and efficient licensing examiner whom we sincerely appreciate.

Goals and accomplishments:

1. Proposed legislation to assure confidentiality of clients' records in the peer review process.

In compliance with the Division's policy to submit legislative requests in a standard format Kaye Kanne submitted a form proposing that CDMs be added to statute 18.23.070(3) which assures the confidentiality of clients records in the peer review process. She notes that medical records are by nature considered confidential and that we need to ensure that this confidentiality remains intact for the integrity of the midwife/client relationship.

2. The State is adding CDMs to the birth certificate.

Marilyn Holmes met with Dr. Peter Nakamura, dir. of Public Health, and requested that CDMs be added to the Alaskan birth certificates under "birth attendants". He agreed and noted that it will be an excellent way to capture data about midwifery birth outcomes. There are currently a substantial number of

certificates (about 50,000) to be used before new ones need to be printed, so in the meantime, our licensees will write "CDM" on the line following the word "other". The software for electronic birth certificates will be altered to reflect this addition as well.

3. Saved Board money by consolidating Board Business into one meeting.

As chairwoman Pam Weaver has noted in her letter to Director Reardon, the Board members were attempting to be both responsible and financially prudent by not holding an extra meeting where there was no pressing business and they had just received notice that renewal fees would be \$2000.00. We met again in Juneau in February of 1997.

4. Discussed with Health and Social Services the feasibility of using CDMs in a pilot project to develop a managed care system for recipients of medical assistance under AS47.07.

During the summer of 1996 and in February of 1997, Pam Weaver and Kaye Kanne had numerous discussions with Karen Purdue and staff members Nancy Weller and Jay Livey on this topic. What seemed like an ideal opportunity to try medicaid funding for midwifery in the State was turned down in favor of other programs. A great deal of valuable information was exchanged and viewpoints clarified, which the Board is hopeful has laid the groundwork for future progress in this area.

5. Created the first issue of CDM Board information letter to licensees

Board secretary Marilyn Holmes compiled and wrote the attached letter which hopes to clarify the boards activities to the licensees as well as provide an ongoing reference.

6. Created an information brochure for the general public about CDMs which incorporated a tollfree phone number for more information.

At the direction of the Board, secretary Marilyn Holmes was delegated to work with the Midwives Association of Alaska (MAA) to create a new brochure to replace the outdated original. The process included a polling of information from licensees which resulted in the text and design of the attached brochure. The professional design work was paid for by members of MAA and the photography was donated by Marilyn Holmes with one exception.

7. Responded to Bartlett Hospital's concerns with CDM standards of care.

Kaye Kanne responded to the Bartlett staff to clarify the Board's position not to make any changes to regulations 12 AAC 14.500 re: declining to treat the group B strep and laboring women with intravenous antibiotics as a prophylactic measure. She also addressed their concerns re: inappropriate gestational size. They have not corresponded further with us on either of these topics.

8. Responded to Valley Hospital's concerns with unlicensed midwifery activity.

Marilyn Holmes discussed the Board's position on unlicensed midwifery activity with the director of the Hospital's obstetrical unit pointing out that when the Board declines to license an individual, they remain outside of our regulatory control and are instead delegated to the Division's investigative staff.

9. Created an emergency transport form for the peer review process.

Please refer to the attached newsletter and form which will clarify the usefulness of this new method of gathering data for the ongoing review of licensed CDMs.

10. Outlined the procedures manual for CDM's

The Board reviewed Secretary Holmes' summary of the manual the Board is compiling which will help clarify requirements, costs and deadlines of the licensing and review process to prospective licensees, new board members and others.

11. Acquired a new Board member: Dr. Mark E. Richey, MD.

We are delighted to have Dr. Richie on our Board and grateful that he is willing to contribute his energy and expertise to licensing and regulating CDMs.

Networking

Chairwoman Pam Weaver who works on an international level with regulation issues and nationally with examination standards attended the CLEAR conference held in Anchorage in October 1996 and reported back to the Board on issues related to PEW (health care reform), False Memory Syndrome, Credentialing in a Global Environment, Examination Security and Selling Your Agency.

Pam has had an exciting and eventful year networking with individual midwives all over the United States and Canada as a board member of NARM (North American Registry of Midwives), MiANA (Midwives Alliance of North America), MEAC (Midwifery Education and Accreditation Council) as well as MAA (Midwives Association of Alaska). She is also a board member of the National Midwifery Coalition which includes NARM, MANA, MEAC and CfM (Citizens for Midwifery) working with issues relating to the national certification, examination and regulation of direct-entry midwives who are called Certified Professional Midwives or CPMs. (Many of Alaska's CDMs are also CPMs.) Throughout this demanding work pace which repeatedly challenges her physical and mental stamina, Pam maintains the attitude, "What joy and a privilege to be part of history in the making".

Board Secretary Marilyn Holmes joined the national Citizens for Midwifery or CfM and has been networking electronically with advocates all over the country to promote midwifery through education and legislation. This year CfM published the Midwifery Model of Care, a well crafted definition of midwifery which Holmes then used as the foundation for the text of the brochure mentioned in #6 above for the Midwives Association of Alaska.

Holmes was also the first presenter during the first Governor's Open Door Session - a video conference with sites in Anchorage, Fairbanks and Juneau. She spoke as an advocate for Medicaid funding for midwifery.

Future goals and activities:

1. Get a Certified Nurse Midwife who will replace Paula Korn.
2. Effect changes in the confidentiality status of peer review records through state legislation. See #1 above.
3. Begin the process of establishing birth center examining regulations.
4. Continue work on the procedures manual. See #10 above.
5. Get Medicaid funding for Certified Direct-entry Midwives.
6. Continue to cooperate with the Division to find ways to lower the cost of individual CDM licenses.

Audit Report



DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF CERTIFIED
DIRECT-ENTRY MIDWIVES

January 9, 1998



Audit Control Number:

08-1454-98

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

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January 9, 1998

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF CERTIFIED DIRECT-ENTRY MIDWIVES

January 9, 1998

Audit Control Number
08-1454-98

The objective of the audit was to determine whether the Board of Certified Direct-Entry Midwives should continue its existence. Currently Alaska Statute 08.03.010(c)(8) has the board scheduled for termination on June 30, 1998. If no action is taken by the legislature, the board has one year in which to conclude its affairs and will be dissolved on June 30, 1999. We recommend that the legislature extend the board's termination date to June 30, 2004.

This report does not include a response from the state agency responsible for the program's administration. This is an exception to generally accepted government auditing standards.

With the exception noted in the previous paragraph, the audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

Handwritten signature of Pat Davidson in cursive.

Pat Davidson, CPA
Acting Legislative Auditor

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OBJECTIVES, SCOPE AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Certified Direct-Entry Midwives to determine if it should continue in existence.

As required by statute, the legislative committee of reference is to consider this report as part of the oversight process in determining whether the board should be reestablished. The law currently specifies that the board will terminate on June 30, 1998 and will have one year from that date to conclude its affairs.

The major areas of our review were board proceedings, examination, licensing, investigations, and licensing/fee structure as it relates to financial self-sufficiency of the board. We reviewed and evaluated the following:

1. Applicable statutes and proposed regulations.
2. Tests of files and documents of licensees.
3. Interviews with employees of the Department of Commerce and Economic Development, Division of Occupational Licensing.
4. Interviews with research staff at the Division of Medical Assistance, Department of Health and Social Services.
5. Minutes of board meetings, annual reports, and budget documents.
6. Complaints filed with the Division of Occupational Licensing, the Ombudsman's Office closed case files, and the Department of Law.
7. Discussions with board members and licensees.

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ORGANIZATION AND FUNCTION

Chapter 130, SLA 1992 established the Board of Certified Direct-Entry Midwives effective June 26, 1992. While there was no intent statement attached to the legislation, the prime sponsor of the bill testified during committee meetings as to his intention in sponsoring the legislation. He stated the legislation was intended to protect the health and safety of the public by separating midwives who choose to take training and become licensed from those who choose not to meet the stricter qualifications.

According to the sponsor, insurance companies will pay for midwife services only if they are properly licensed and certified. He testified that a board is needed to "*develop strict regulations and monitor professional practice by peer review and education. Certified, licensed, high-quality care would be available to Alaskans who either prefer home births or are denied financial or geographic access to physicians' care.*" The sponsor also identified midwife care as one way to reduce health care costs and related health insurance premiums.

The board promotes the public's health, safety, and welfare by establishing educational, experience, and continuing education requirements for licensed midwives. These requirements are intended to provide assurance that licensed individuals provide a minimum standard of care. However, the statutes allow for midwife services to be provided by unlicensed individuals. As stated in AS 08.65.150 the differentiation is that those not certified under Chapter 65 (Direct-Entry Midwives) "*may not practice midwifery for compensation.*"

Membership on board

As set out in AS 08.65.010, the board is composed of five members (see inset at right). By statute, board membership consists of two direct-entry midwives certified in Alaska, one physician who has an obstetrical practice or has specialized training in obstetrics and is licensed by the State Medical Board in Alaska, one certified nurse midwife licensed by the Board of Nursing in Alaska, and one public member. The members are appointed by the governor subject to confirmation by the legislature in joint session. Once appointed, the members serve staggered terms of four years.

Board of Certified Direct-Entry Midwives Members

Pam Weaver, Certified Direct-Entry Midwife,
Chairperson
Marilyn Holmes, Secretary, Public Member
Kaye Kanne, Certified Direct-Entry Midwife
Martha J. Linden, Certified Nurse Midwife
Dr. Mark E. Richey, Physician

Duties of the board

The board responsibilities under AS 08.65.030 include:

1. Examining applicants and issuing certificates to those applicants it finds qualified;
2. Adopting regulations establishing certification and certificate renewal requirements;
3. Issuing permits to apprentice direct-entry midwives;
4. Holding hearings and ordering the disciplinary sanction of a person who violates statute or regulation regarding direct-entry midwives;
5. Supplying forms for applications, licenses, permits, certificates, and other papers and records;
6. Reporting annually to the governor and the Department of Commerce and Economic Development (DCED) on the board's proceedings during the year;
7. Approving curricula and adopting standards for basic education, training, and apprentice programs: and
8. Approving education, training, and apprentice programs that meet the requirements of statute and the board, and denying, revoking, or suspending approval of programs that fail to meet the requirements.

Duties of the Department of Commerce and Economic Development

DCED provides administrative and investigative assistance to the board (AS 08.01.050). This assistance is funded by licensing and application fees as appropriated by the legislature. Administrative assistance includes budgetary services and functions such as: collecting fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings. On its own initiative, or in response to a complaint, DCED may conduct an investigation if it appears a person has engaged in or is about to engage in a practice over which DCED has authority. DCED can issue an order that the person stop the practice, bring an action in Superior Court to enjoin the act, examine the books and records of a person, and issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSION

As set out in AS 08.03.010(c)(8), the Board of Certified Direct-Entry Midwives is presently scheduled for termination on June 30, 1998. The board has one year in which to conclude its affairs if the legislature does not enact legislation for the continuance of the board.

The regulation and licensing of qualified professionals is necessary to promote the public's health, safety, and welfare. The board provides this service by establishing minimum educational, experience, and continuing education requirements that provide reasonable assurance that licensed individuals provide a minimum standard of care. Active investigation of complaints and revocation or suspension of licenses assure licensed professionals act in a competent manner.

Creation of the board has served as a means to make people practicing midwifery aware of the level of experience and education expected of them. Also, by having a board, individuals in the midwifery practice can now be held accountable to an established standard of care. Elimination of the board would likely result in the same lack of oversight that existed prior to the creation of the board in 1992. The board has displayed an ability to conduct its business in a professional, competent, and efficient manner. The board continues to propose changes to statute and regulation to improve its effectiveness.

In our view, the Board of Certified Direct-Entry Midwives is operating in an efficient and effective manner and should continue. We believe the board is safeguarding the public interest by promoting the competence and integrity of those who hold themselves out as licensed midwives or midwife apprentices. We recommend that the legislature extend the board's termination until June 30, 2004.

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AUDITORS COMMENTS

High fees a barrier to entry

Due to the fees charged for licensure, continued licensing of Direct-Entry midwives is problematic over the long term. The licensing fees required of midwives are higher than those of any other licensed profession, except one.¹ Licensure costs have increased from an original two-year fee of \$350 to \$1,550 for the current biennial period. Additionally, prospective license fees due at the end of 1998 for the next biennial licensing period, will probably be even higher since the number of new midwife applicants to date have been less than expected. The fees are relatively higher because of the limited number of licensed midwives, and the statutory requirement that licensing fees be set at a level sufficient to cover the regulatory costs for the occupation.

As of July 1997, there were only 15 licensed Certified Direct-Entry Midwives (CDMs), and 5 apprentice midwives. These 20 licensed individuals were required to cover estimated biennial operating costs of almost \$31,000 — a relatively modest operational cost for a licensing board. AS 08.01.065 requires the licensed CDMs, like all professions, to cover these operational costs.

There is some concern given the market situation for many CDMs, that high licensing fees serve as a barrier to entry into the profession. The fees may be required to be set so high, that they prove to be a significant disincentive for qualified individuals to seek licensure as a CDM. As a result, the public policy benefits that were attributed to developing a licensure process for midwives when the board was created in 1992, may be compromised in total or in part if the already high fees continue to increase.

In July 1997 the director of the Division of Occupational Licensing wrote all licensed midwives soliciting their perspective on alternatives to the high fee structure faced by CDMs. These options, presented in full in the inset on the following page, ranged from disbanding the board altogether, to seeking a general fund appropriation to subsidize the operations of the board. From our review of the options, we could not identify any particular choice that we believe more advantageous than the other. Further, no preference or other suggestions were expressed or offered in discussions with selected board members nor were written comments received from licensees.

¹ The Board of Marine Pilots charges \$4,500 for a biennial license, and had 84 license holders at the end of FY 97. The board has a full time licensing supervisor to support its activities. Because of the structure of the market for marine pilot services, this large fee has not appeared to be too onerous of a charge for most marine pilots. By way of further comparison, biennial renewal fees for physicians and dentists are \$180 and \$250 respectively.

DIRECTOR'S LETTER SETS OUT EIGHT OPTIONS FOR CONSIDERATION OF THE BOARD AND ALL LICENSED CDMs

In a July 7, 1997 letter to all licensed Certified Direct-Entry Midwives (CDMs), the director of Occupational Licensing set out eight options for consideration and discussion. Presented below is an excerpt of the letter. The director, before presenting the following discussion did write, "I am not advocating any of these changes, but am simply setting them out for discussion."

1. Eliminate state licensing of CDM's by repealing the licensing law. All licenses fees would be eliminated . The results could be danger to public health from untrained midwives, elimination of insurance coverage for midwifery services, or the determination that lay midwifery for compensation is an illegal practice of medicine.
2. Eliminate the board and transfer all responsibility for regulation to the Division of Occupational Licensing. The cost of travel to board meetings (\$1,500—\$2,500/year) and staff work-related to meetings would be eliminated. Department staff would write regulations instead of experienced CDM's. . . . Overall savings may be minimal.
3. Create a board which licenses several health care professions to increase the number of board licensees. The medical and nursing boards may not be comfortable locations for CDM's. Professions such as naturopathy and acupuncture do not currently have boards, so their fees would increase if they shared board meeting costs with CDM's. CDM's could see a slight decline in fees related to board meeting travel and meeting staff work as these costs would be spread among all board license holders. An increase in the membership, number, or length of board meetings could offset that savings. . . .
4. Base fees on the number of babies delivered by a specific midwife instead of charging all midwives the same license fee. Overall expenses and revenue would remains the same, but fees would vary substantially depending on the amount of activity/income of each CDM. Since the number of births was known, the Division and Board would face the challenge of dealing with CDM's who fail to pay.
5. Pay some costs of regulating midwives with General Fund money from the state treasury instead of license fees. The Governor and the Legislature would have to cut other state programs or increase the state budget deficit. This is very difficult in a time of oil revenue decline and budget reduction.
6. License CDM's annually instead of biennially. This would increase the amount of staff time spent on license renewal, but would all CDM's to pay half the fee each year.
7. Reduce employee costs. The CDM program is staffed by a licensing examiner and investigator who bill midwives only for those hours they spend on regulation [of] your profession. Division salaries and benefits are set in union contracts. If staff duties remain the same, personnel costs will not decrease
8. Increase the number of Certified Direct-Entry Midwives. While the Division cannot contribute a great deal to this goal, license fees would be lower if there were more people to split the costs of regulation.

Medicaid eligibility and reimbursement was a factor behind creating the board — however, services continue to be nonreimbursable

Prior to establishment of a CDM board, midwives registered with the Department of Health and Social Services (DHSS). This registration function did not satisfy the federal regulatory requirements requiring licensure of practice in accord within a "scope of practice." Creation of the board, and subsequent adoption of licensing regulations satisfied this requirement. As such, midwife services could now be covered under the Medicaid program, which was part of the motivation for originally establishing the board.

Circumstances brought on by funding decisions by the legislature have served to deny Medicaid reimbursement for midwife services.² An estimated 40% of the births in the State are covered by Medicaid. This excludes independently operating CDMs from providing services for payment to a significant number of individuals. In the view of board members we interviewed, this exclusion from Medicaid reimbursement is a central factor in limiting the number of individuals seeking licensure as CDMs.

At the request of DHSS Commissioner Perdue, Division of Medical Assistance personnel and representatives from the Midwives Association of Alaska met to discuss the options and obstacles in obtaining Medicaid reimbursement for midwives. Five Medicaid coverage options and the estimated cost of each were discussed. A synopsis of this analysis may be obtained from DHSS.

Concluding observations and comment

In 1992, the legislature approved establishment of the Board of Certified Direct-Entry Midwives without a dissenting vote. Such a vote suggests the legislature accepted and was in full agreement regarding the prospective public policy benefits that such a board licensing structure would provide. However, since the board was established, circumstances have developed that have limited realization of those perceived public policy benefits.

In order to better accomplish the public policy benefits of the board or licensure of midwives, the legislature should consider the various policy options related to both license fee costs and Medicaid reimbursement. Such consideration may require a reevaluation of the established self-sufficiency policy for occupational boards in addition to developing an avenue to allow Medicaid reimbursement for midwifery services. While each of these options has a varying fiscal impact, such actions may be necessary in order to provide greater opportunity and incentive for individuals to become a member of the direct-entry midwife profession.

² Under federal regulations a state can offer reimbursement under Medicaid for medical or other remedial care provided by licensed practitioners within the scope of practice defined under state law. In Alaska, the legislature retains control over what optional groups of people and services are covered under Medicaid. The legislature has chosen to prioritize optional groups of people and services within state law so that the Department of Health and Social Services is given specific guidance over what groups and services are to be excluded from coverage when Medicaid funding is insufficient to cover the full program costs. In 1993 CDM services were made eligible for Medicaid reimbursement.

The legislature added the services to the optional service provider list set out in AS 47.07.030 for the Medicaid program. Because of federal requirements, midwives were delayed in fully qualifying for Medicaid reimbursement until May 1994. However, for the FY 95 budget, midwives through legislative intent, were eliminated from receiving Medicaid reimbursement. In FY 98, the legislature provided funding for a limited number of optional services, however, midwifery services remain unfunded.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, Alaska Statute (AS) 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

The Board of Certified Direct-Entry Midwives (CDM) has served the public by examining and licensing qualified applicants, and by proposing changes to statute and regulation in order to enhance the quality of midwifery care in Alaska.

The board developed regulations to establish a peer review committee to review birth summaries and other required medical records to determine if the midwife acted in accordance with regulations and statutes governing CDMs.

The board is currently developing a handbook for applicants, licensees, new board members, and other interested individuals. The handbook will outline the functions of the board as well as clarify licensing requirements, costs and deadlines of the review, and licensing process.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

General licensing statutes require that the Department of Commerce and Economic Development adopt regulations that establish the amount of fees to be charged to licensees of an occupation. The department must adopt fees that provide for financial self-sufficiency. Additionally, the department must perform an annual review to determine whether the financial self-sufficiency requirement has been met.

The licensing fees for the midwifery profession have increased twice since the inception of the board and it is facing another potential increase. The biennial licensing fee has increased from \$350 to \$850 to \$1,550 over the course of four years. The current number of licensed midwives is fifteen. The most recent budget documents were based on optimistic estimates that a small increase in licensees would occur; however, to date this increase has not materialized.

Appointment of the physician board member was not made in a timely manner. This seat was vacant from April 1995 through February 1997. The original physician appointed board member was absent from three meetings immediately preceding his resignation. The newly appointed physician board member was unable to attend the first meeting after his appointment. These circumstances resulted in eight consecutive board meetings being conducted, over a four year period, without benefit of physician representation on the board, as required by statute.

The board failed to meet twice annually as required by AS 08.65.020. In FY 96 the board cancelled their second regularly scheduled meeting due to a lack of pressing business and in an effort to be financially prudent. This cancellation had no significant impact to the board.

Submission of the FY 95 annual report was untimely. The board is required to submit their annual report to the department by August 1; however, the department did not receive the FY 95 annual report until mid-November. Due to the untimely submission, the report was excluded from the department's *Boards, Commissions, and Licensing Programs Annual Performance Reports* publication.

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The board has proposed that CDMs be added to the definition of "health care provider" as used at AS 18.23.070(3). This statute assures the confidentiality of client records reviewed in the course of a professional peer review process. Currently, peer review regulation does not provide for confidentiality of client records. Alaska Statute 18.23.070(3) defines "health care provider" and applies to confidentiality of records of review organizations. Inclusion of CDMs to the definition of "health care provider" under AS 18.23.070(3) will ensure the necessary confidentiality of client records.

The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

The location, date and time of board meetings and examinations are published in Anchorage, Fairbanks, and Juneau newspapers so that interested public members can attend or make written comment. The department has established a policy and procedure regarding public notices that defines adequate public notice for each specific event such as regularly scheduled meetings, examinations, and unplanned teleconferences. We reviewed advertising orders for the period under review and determined that one regularly scheduled meeting date and two exam dates failed to be published timely in any of the three newspapers.

As discussed in the Auditor Comments section of the report, the Director of Occupational Licensing wrote all licensed CDMs in July 1997 to solicit feedback regarding the various options for addressing concerns over the relatively high CDM license fees. The letter, presented in part on page 8 discussed eight prospective options for consideration and discussion by licensees.

The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Public notices of proposed regulations are published in major newspapers. As previously mentioned, regularly scheduled meetings and exams were adequately advertised except as noted above, and time was set aside for public testimony.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

Overall, the investigation of complaints against licensees received by the Division of Occupational Licensing is effective; however, timeliness is a concern. Factors contributing to lengthy closure times include case load and priority assignment. For the period under review, three investigative cases were opened. Two cases involved allegations of unprofessional conduct; one involved allegations of practicing without a license. Two cases were closed without a formal hearing and without license action. One case remains open as of the date of this report.

There were no complaints filed with the Office of the Ombudsman for the period under review.

The extent to which the board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Overall, the application process for certified direct-entry midwife licensure appears reasonable and appropriate. The licensing process is neither unduly restrictive nor too lax.

At the end of FY 97, the board had issued a total of 23 CDM licenses (currently 15 active) and 15 CDM-Apprentice permits (currently 5 active). We reviewed twelve license applications: seven CDM and five CDM-Apprentice. We found no errors during our review. We believe that the licensing criteria established by the board is reasonable and appropriate.

The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

We found no evidence that the board was not complying with state personnel practices, including affirmative action, in qualifying applicants. The application for CDM licensure requires a photograph of the applicant. We determined that the photograph is not available for viewing when the board review an application for licensure. Each time the board has denied an applicant a license the reason has been based on experience requirements and not personal attributes of the applicant.

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

See Auditor Comments section of this report.

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APPENDIX A
Department of Commerce and Economic Development
Board of Certified Direct-Entry Midwives
Application, License, and Other Fees³

Application and Other Fees⁴

Type of Fee	Amount
Application	\$400
Examination fee	\$300

License Fees

License Category	Initial and Biennial Renewal Fee ⁵
Direct-Entry Midwife Certification	\$1,550
Apprentice Direct-Entry Midwife Permit	\$300

³The licensing fees charged by the Division of Occupational Licensing for the Board of Certified Direct-Entry Midwives are set out in the Alaska Administrative Code at § 12 AAC 02.145. The current fees for this licensing board became effective November 15, 1996.

⁴The Division of Occupational Licensing is also authorized to charge administrative fees (12 AAC 02.105). Administrative fees include: duplicate license fee, photocopying fee, and penalty for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days.

⁵The biennial renewal period for the Board of Certified Direct-Entry Midwives is December 31, 1998.