

HB

49

<TARGET><BILL>HB 49</BILL><SUBJECT>HB
49</SUBJECT><COMM>HL&C30</COMM></TARGET>



Representative Sam Kito

Alaska State Legislature

House District 33

Downtown Juneau
Douglas
Haines
Klukwan
Skagway
Gustavus
Excursion Inlet

Chair
House Labor &
Commerce

Chair
Legislative Council

Member
House Health &
Social Services

Member
House Rules

Contact

Rep. Sam Kito
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Sponsor Statement

House Bill 49

"An Act extending the termination date of the Board of Certified Direct-Entry Midwives; and providing for an effective date."

House Bill 49 extends the termination date for the Board of Certified Direct-Entry Midwives until June 30, 2021.

Legislative Audit conducted their review of this board and determined that "The board is serving the public's interest by effectively licensing and regulating certified direct-entry midwives and apprentice midwives. The board monitors licensees and works to ensure only qualified individuals practice. Furthermore, the board adopts regulations to improve the practice of midwifery. In accordance with AS 08.03.010(c)(8), the board is scheduled to terminate on June 30, 2017. We recommend that the legislature extend the board's termination date to June 30, 2021."

The board currently oversees 52 active licensees and is composed of five members: two certified direct-entry midwives, one physician licensed by the State Medical Board, one certified nurse midwife licensed by the Board of Nursing, and one public member.

The continuation of the Board of Certified Direct-Entry Midwives is important to the health and safety of Alaska's women and children, as it serves an important role in protecting the well-being of Alaskans by identifying individuals who are willing to pursue technical training and meet specified technical qualifications necessary for license as midwives.

Thank you for your support of House Bill 49.

HOUSE BILL NO. 49

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KITO

Introduced: 1/18/17

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act extending the termination date of the Board of Certified Direct-Entry**
2 **Midwives; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 08.03.010(c)(8) is amended to read:

5 (8) Board of Certified Direct-Entry Midwives (AS 08.65.010) -
6 June 30, 2021 [2017];

7 *** Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 49
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB049-DCCED-CBPL-01-27-17
Title: EXTEND BOARD OF DIRECT-ENTRY MIDWIVES
Sponsor: KITO
Requester: (H) L&C

Department: Department of Commerce, Community and
Economic Development
Appropriation: Corporations, Business and Professional
Licensing
Allocation: Corporations, Business and Professional
Licensing
OMB Component Number: 2360

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES								
Personal Services								
Travel		4.3	4.3	4.3	4.3			
Services		0.2	0.2	0.2	0.2			
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	4.5	4.5	4.5	4.5	4.5	0.0	0.0

Fund Source (Operating Only)

1156 Rcpt Svcs (DGF)		4.5	4.5	4.5	4.5			
Total	0.0	4.5	4.5	4.5	4.5	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed? N/A

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Janey Hovenden, Director	Phone: (907)465-2538
Division: Corporations, Business and Professional Licensing	Date: 01/27/2017 11:15 AM
Approved By: Catherine Reardon, Director	Date: 01/27/17
Agency: Division of Administrative Services, DCCED	

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 49

Analysis

HB 49 extends the statutory authority for the existing Board of Certified Direct-Entry Midwives through June 30, 2021. Adoption of the bill will continue existing activities by the board and administration by the division. If this legislation is not adopted, it will result in a one-year wind-down of the board in FY2018, and the division would assume all licensing responsibility in FY2019.

If the bill passes the following expenses will be incurred:

Travel: \$4.3 (one staff and board members to attend two board meetings per year)
Services: \$0.1 (advertising of public notice of board meetings)
\$0.1 (honorarium/stipend for board meetings)

Professional licensing programs within the Division of Corporations, Business and Professional Licensing are funded by Receipt Supported Services, fund source 1156 Rcpt Svcs (DGF). Licensing fees for each occupation are set per AS 08.01.065 so the total amount of revenue collected approximately equals the occupation's actual regulatory costs.

Report Highlights

Why DLA Performed This Audit

The purpose of the audit was to determine if there is a need for the board's continued existence and whether its termination date should be extended. The board is set to sunset June 30, 2017, and will have one year from the date to conclude its administrative operations.

What DLA Recommends

1. Division of Corporations, Business and Professional Licensing (DCBPL) management, in conjunction with the board, should increase licensing fees to eliminate the board's operating deficit.
2. The DCBPL director should take steps to ensure license records are accurately recorded.
3. The legislature should consider alternate forms of regulating the midwifery profession.

A Performance Audit of the Department of Commerce, Community, and Economic Development, State Board of Certified Direct-Entry Midwives (board)

April 30, 2016

Audit Control Number 08-20095-16

REPORT CONCLUSIONS

The board is serving the public's interest by effectively licensing and regulating certified direct-entry midwives and apprentice midwives. The board monitors licensees and works to ensure only qualified individuals practice. Furthermore, the board adopts regulations to improve the practice of midwifery.

In accordance with AS 08.03.010(c)(8), the board is scheduled to terminate on June 30, 2017. We recommend that the legislature extend the board's termination date to June 30, 2021.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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Juneau, AK 99811-3300
(907) 465-3830
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June 13, 2016

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the State Board of Certified Direct-Entry Midwives and the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
STATE BOARD OF CERTIFIED DIRECT-ENTRY MIDWIVES

April 30, 2016

Audit Control Number
08-20095-16

The audit was conducted as required by AS 44.66.050(c) and under the authority of AS 24.20.271(1). Per AS 08.03.010(c)(8), the State Board of Certified Direct-Entry Midwives is scheduled to terminate on June 30, 2017. We recommend that the legislature extend the board's termination date to June 30, 2021.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in black ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA
Legislative Auditor

ABBREVIATIONS

AAC	Alaska Administrative Code
ACN	Audit Control Number
AG	Attorney General
AS	Alaska Statute
board	State Board of Certified Direct-Entry Midwives
CDM	Certified Direct-Entry Midwife
CISA	Certified Information Systems Auditor
CPA	Certified Public Accountant
DCBPL	Division of Corporations, Business and Professional Licensing
DCCED or department	Department of Commerce, Community, and Economic Development
DLA	Division of Legislative Audit
FY	Fiscal Year
SLA	Session Laws of Alaska

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ORGANIZATION AND FUNCTION

State Board of Certified Direct-Entry Midwives

The State Board of Certified Direct-Entry Midwives (board) is composed of five members, two certified direct-entry midwives (CDM), one physician licensed by the State Medical Board, one certified nurse midwife licensed by the Board of Nursing, and one public member.

Board members are appointed by the governor to serve staggered four year terms. Board members may not serve more than two consecutive terms. The board is responsible for appointing a chair and secretary from among its members. The public member may not be engaged in the midwifery profession, have association by legal contract with a midwife, or have a direct financial interest in the midwifery profession. Current members of the board, as of March 31, 2016, are listed in Exhibit 1.

Alaska Statute 08.65.030 establishes the duties and powers of the board. They include:

1. Issuing midwife licenses and apprentice permits to qualified applicants.
2. Adopting regulations establishing practice requirements for certified direct-entry midwives.
3. Ordering the disciplinary sanction when a person violates midwifery-related statutes or regulations.
4. Adopting standards for basic education, training, and apprentice programs. Approving education, training, and apprentice programs that meet the requirements of the statute.

Exhibit 1

**Board of Certified
Direct-Entry Midwives
as of March 31, 2016**

Deborah Schneider
CDM, Chair

Cheryl Corrick
CDM

Vacant
Physician

Kathryn Roberts
Certified Nurse Midwife

Jennifer A. Swander
Public Member

**Department of Commerce,
Community, and Economic
Development**

By statute, the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing (DCBPL) provides administrative support to the board. Administrative support includes investigative assistance, budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings. Investigative assistance is available upon request, or DCBPL may initiate an investigation if an individual appears to have engaged, or is about to engage, in a practice over which the DCBPL has authority. DCBPL staff can issue an order that an individual stop a practice, bring an action in Alaska's Superior Court to enjoin the act, examine the books and records of a license holder and/or association, and subpoena witnesses and records.

Alaska Statute 08.01.065 requires the Department of Commerce, Community, and Economic Development to adopt regulations to establish the amount and manner of payment of fees for applications, examinations, licenses, registration, permits, and investigations.

REPORT CONCLUSIONS

In developing our conclusion regarding whether the board's termination date should be extended, board operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A of this report. Under the State's "sunset" law, these factors are to be considered in assessing whether an entity has demonstrated a public need for continuing operations.

Overall, the audit found the board is serving in the public's interest by effectively licensing and regulating certified direct-entry midwives (CDM) and apprentice midwives. The board monitors licensees and works to ensure only qualified individuals practice. Furthermore, the board adopts regulations to improve the practice of midwifery in Alaska.

In accordance with AS 08.03.010(c)(8), the board is scheduled to terminate on June 30, 2017. We recommend that the legislature extend the board's termination date to June 30, 2021.

The audit reiterates a prior year recommendation to increase licensing fees to reduce the board's deficit (see Recommendation 1). The audit also makes two new recommendations: one to Division of Corporations, Business and Professional Licensing (DCBPL or division) management to take steps to ensure license records are accurately recorded (see Recommendation 2) and one to the legislature to consider alternate forms of regulating the midwifery profession (see Recommendation 3).

Detailed report conclusions are as follows.

The board operated in the public interest and does not duplicate the efforts of other entities.

Board operations have been conducted in an effective manner. From July 1, 2014, through February 15, 2016, the board held at least two meetings each year as required by statute. A review of three board meetings held during the audit period found that meetings were public noticed timely, and each meeting allowed time for public comment. Although a quorum was consistently achieved, the physician position on the board has been vacant since March 1, 2015. According to staff from the Office of the Governor, applications for the vacant position have been received and are awaiting the governor's formal appointment.

Overall, the audit determined investigations were handled timely. There were 32 complaints against board licensees, applicants, or unlicensed

individuals that were open or opened between July 1, 2014, and February 15, 2016. Of the 32 complaints, 29 were closed during the audit period. All six case files tested as part of this audit were found to have been actively investigated.

The board supported statutory changes and proposed regulation changes as summarized below.

- In FY 15, the required midwifery practices contained in statute were removed as a result of Senate Bill 156,¹ which passed in April 2014. The change requires the board to adopt regulations regarding the practice of direct-entry midwifery in the state. Moving the required practices to regulation allows the board to efficiently update standard of care requirements to stay current with industry practices. The new regulations were adopted by the board at the February 2016 meeting.
- An amendment to AS 18.15 requires congenital heart disease screenings by birthing service providers who attend births in the state.² The added requirement became effective January 1, 2014, except for birthing service providers who attend fewer than 20 births a year. The requirement became effective January 1, 2016, for this subset. The board drafted regulations to ensure CDMs comply with the new statutory requirement; the regulations were public noticed on April 22, 2016.

The audit also determined that the board does not duplicate the efforts of another governmental agency or the private sector.

The board licensed individuals according to statutes and regulations.

The board operated in the public's interest by licensing individuals in accordance with state laws and regulations. As part of the audit, a sample of seven licensee files were tested for compliance with statutes and regulations. All seven licensees (four CDM license renewals, two new apprentices, and one new CDM) were licensed in compliance with state law. Licensee file testing included review of peer review requirements.

Licensed CDMs are subject to peer review per regulation (12 AAC 14.900) which stipulates the board designate a qualified organization to provide

¹Chapter 99, Session Laws of Alaska (SLA) 14.

²Chapter 56 SLA 13, Senate Bill 87.

peer review concerning the quality of care provided by a CDM. During peer review, the designated organization reviews birth summaries submitted by CDMs and, if considered necessary, birth charts are also reviewed. All four CDM renewals tested were compliant with peer review regulations.

To promote continued competency, all licensees are required to comply with continuing education requirements prior to license renewal. Per DCBPL policy and procedures, 10 percent of license renewals are subject to a continuing education audit each biennial licensing cycle. The audit confirmed DCBPL complied with the 10 percent audit policy.

From FY 14 through FY 15, the board issued 18 licenses (see Exhibit 2). As of February 15, 2016, there were 39 licensed CDMs and 15 apprentice midwives. This is a 13 percent increase in licensees when compared to the prior 2014 sunset audit.³ The prior audit reported a license count of 48, of which 35 were CDMs and 13 were apprentice midwives.

Exhibit 2

Certified Direct-Entry Midwife Licenses And Apprentice Permits Issued FY 14 through FY 15			
License Type	FY 14	FY 15	Total Licenses as of February 15, 2016
Certified Direct-Entry Midwives	2	2	39
Apprentice Direct-Entry Midwives	6	8	15
Totals	8	10	54

Source: DCBPL's licensing database.

³Department of Commerce, Community, and Economic Development, Board of Certified Direct-Entry Midwives, Sunset Audit, June 30, 2014 (Audit Control No. 08-20089-14) reported licenses as of March 31, 2014.

Licensing fees should be increased to cover the cost of board operations.

High regulatory costs relative to the low number of licensees has led to high license fees. The board primarily receives its revenue from license and renewal fees. Renewals are conducted on a biennial basis, creating a two-year cycle in board revenues. Fee levels were increased in FY 15, but fees were not high enough to cover operating costs. As shown in Exhibit 3, the board's deficit grew to \$183,081 as of February 29, 2016, the second year of its biennial licensing period (see Recommendation 1.)

Exhibit 3

**Board of Certified Direct-Entry Midwives
Schedule of Revenues and Expenditures
FY 15 through February 29, 2016
(Unaudited)**

	FY 15	July 1, 2015 – February 29, 2016
Total Revenue	\$67,010	\$17,490
Direct Expenditures		
Personal Services	51,565	23,852
Travel	4,280	2,594
Contractual	11,097	1,678
Supplies	90	6
Total Direct Expenditures	67,032	28,130
Indirect Expenditures*	23,547	14,368
Total Expenditures	90,579	42,498
Annual Surplus (Deficit)	(23,569)	(25,008)
Beginning Cumulative Surplus (Deficit)	(134,504)	(158,073)
Ending Cumulative Surplus (Deficit)	(158,073)	(183,081)

Source: DCBPL management.

*Indirect expenditures are estimated based on actual expenditures as of February 29, 2016, using the prior year allocation percentage for the board.

Increases to licensing fees are necessary to cover the cost of board operations. DCBPL management estimates the board will be out of deficit if licensing fees are increased by 50 percent each biennium until FY 20. This would result in CDM and apprentice license renewal fees of nearly \$4,000 and \$2,000, respectively, for renewals and applications made during the year 2020. The high licensing fees projected by DCBPL could limit entry into the profession. The legislature should consider alternate forms of oversight to reduce the deficit, including merging with another board that regulates a similar profession (see Recommendation 3.)

Exhibit 4 is a schedule of fees from FY 13 through FY 15. It shows fees were adjusted in FY 15 as recommended in the 2014 sunset audit. However, fee increases were not adequate to cover the board's regulatory costs or address its deficit.

Exhibit 4

Board of Certified Direct-Entry Midwives License Fees FY 13 through FY 15			
	FY 13	FY 14	FY 15
Nonrefundable Midwife Application Fee	\$ 250	\$ 250	\$ 250
Midwife Initial Certification and Renewal Fee	1,450	1,450	1,750
Nonrefundable Apprentice Application Fee	125	125	125
Apprentice Permit and Renewal Fee	125	125	825

Source: DCBPL management.

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FINDINGS AND RECOMMENDATIONS

The prior 2014 sunset audit contained four recommendations.

- The Department of Commerce, Community, and Economic Development (DCCED) commissioner should take immediate action to pursue disciplinary sanctions for Certified Direct-Entry Midwife (CDM) cases when warranted.
- The Division of Corporations, Business and Professional Licensing (DCBPL) management, in consultation with the board, should increase licensing fees to eliminate the board's operating deficit.
- The board should communicate certificate requirements to continuing education providers to facilitate compliance with centralized licensing regulations.
- The board should approve apprentice permit applications in accordance with statutes.

The prior recommendation that the DCCED commissioner take immediate action to pursue disciplinary sanctions when warranted was resolved. The four cases involving two individuals were transferred from DCBPL investigators to the attorney general (AG) for review. Consent agreements for both people were drafted by an assistant AG in November and December of 2015. One consent agreement was subsequently signed by the respondent and approved by the board at their February 2016 meeting. The remaining consent agreement has not been resolved as of the time of this audit, but was actively being worked on by staff.

The prior audit recommendation to increase licensing fees to eliminate the board's operating deficit is not resolved. The recommendation is reiterated as Recommendation 1 of this audit.

The prior recommendation to communicate certificate requirements to continuing education providers has been resolved. Both the board and DCBPL staff have communicated the requirements to the providers and licensees.

Finally, the prior recommendation that the board approve apprentice permit applications in accordance with statutes has been resolved. The current audit found permit applications were approved by the board.

This audit makes two new recommendations.

**Recommendation 1:
DCBPL management,
in consultation with the
board, should increase
licensing fees to eliminate
the board's operating
deficit.**

Prior Finding

As of March 31, 2014, the board had an operating deficit of \$115,261. Alaska Statute 08.01.065(c) requires DCCED to set occupational fees so that fees collected approximately equal the board's regulatory costs.

The sufficiency of licensing fees has been an ongoing issue for the board. Historically, expenditures have significantly fluctuated depending on the board's investigative and regulatory activities. Licensing fees increased in FY 11 and again in FY 13; however, the fee increases were insufficient to cover the board's regulatory costs.

Current Status of Prior Finding

Revenue for licensing fees continues to be less than the cost of regulating the board which has resulted in continued noncompliance with state law. License fees for CDMs increased from \$1,450 to \$1,750 in 2015. At that time, apprentice fees increased from \$125 to \$825. Even with the fee increases, FY 15 revenues were insufficient to cover operating costs. The cumulative operating deficit as of February 29, 2016, was \$183,080.

We again recommend DCBPL management, in consultation with the board, increase licensing fees to eliminate the board's operating deficit.

**Recommendation 2:
The DCBPL director should
take steps to ensure license
records are accurately
recorded.**

Audit test work identified two instances where DCBPL staff provided insufficient support to the board. In one instance, division staff noted the wrong license as *on probation* in the online licensing database. In another instance, a consent agreement approved by the board had the wrong year. Both instances were due to administrative error by DCBPL staff.

One of the administrative duties of the department, under AS 08.01.050, is to maintain records and files relating to individual licensees. Publicly available information that is recorded incorrectly for a licensee impacts the public's ability to understand the current status of a licensed CDM.

This type of misreporting could impact public safety.

We recommend the DCBPL director take steps to ensure records and files relating to individual licensees are accurately reported.

**Recommendation 3:
The legislature should
consider alternate forms of
regulating the midwifery
profession.**

Historically, the board has operated in a deficit due to its high investigative costs relative to the small number of licensees. As of February 29, 2016, the board had a cumulative operating deficit of \$183,080. Alaska Statute 08.01.065(c) requires DCCED to set occupational fees so that fees collected approximately equal the board's regulatory costs.

In order to address the deficit, licensing fees would need to be significantly increased. Fees are expected to be upwards of \$4,000 for CDMs and \$2,000 for apprentice permits by the year 2020. The high licensing fees could limit entry into the profession.

We recommend the legislature consider alternate forms of regulating the midwifery profession, such as placing the profession under the oversight of the State Medical Board or the Board of Nursing.

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and 44 of the Alaska Statutes, we have reviewed the activities of the State Board of Certified Direct-Entry Midwives (board) to determine if there is a demonstrated public need for its continued existence and if it has been operating in an efficient and effective manner.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the board should be reestablished. Currently, under AS 08.03.010(c)(8), the board will terminate on June 30, 2017, and will have one year from that date to conclude its administrative operations.

Objectives

The four central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest.
3. To determine if the board has exercised appropriate regulatory oversight of certified direct-entry midwives and apprentice midwives.
4. To determine the status of recommendations made in the prior sunset audit.

Scope

The assessment of operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in the statute relates to the determination of a demonstrated public need for the board. We reviewed the board's activities from July 1, 2014, through February 15, 2016. Financial information is presented, unaudited, from July 1, 2014, through February 29, 2016.

Methodology

During the course of the audit, the following were reviewed and evaluated:

- Applicable statutes and regulations to identify board functions and responsibilities. Changes made during the audit period were reviewed to determine whether the changes enhanced or impeded board activities and to ascertain if the board operated in the public's interest.
- Board and Division of Corporations, Business and Professional Licensing internal control procedures relating to various audit objectives, including procedures over licensing and investigations were assessed. Controls over the investigative case management system and the licensing database were also assessed.
- The prior sunset audit report to identify previous and existing issues affecting the board.
- Board meeting minutes and annual reports to understand board proceedings, activities, goals and objectives, the nature and extent of public input, whether a quorum was maintained, and whether board vacancies impeded operations.
- The State's online public notice system to determine whether public notice for board meetings and regulatory changes were adequately public noticed.
- Expenditure, revenues, and fee levels for the board to determine whether fee levels covered the costs of operations.
- To identify and evaluate board activities, we conducted interviews with state agency staff and board members. Specific areas of inquiry included board operations, duplication of effort, investigative activities, and regulation changes.

During the audit, the following samples were selected:

- A sample of seven initial and renewal licensing files was selected from 52 active licenses and assessed for statutory and regulatory compliance. In determining sample size, the inherent risk was considered low. The sample consisted of six random and one

judgmentally selected licensing files. Test results of the random sample were projected to the population.

- Thirty-two complaints against board licensees, applicants or unlicensed individuals were either open or opened by DCBPL between July 1, 2014, and February 29, 2016. Four of the 32 cases were reviewed to determine the current status of a prior year recommendation. From the remaining universe of 28, a random sample of six complaints was selected to assess the efficiency of the investigative process. In determining sample size, inherent risk was considered moderate. Test results of the random sample were projected to the population.
- A sample of three board meeting minutes was selected from six meetings held between July 2013 and February 2016. The systematic sample selected every other board meeting minutes beginning with the first meeting held after March 31, 2014, the ending scope period of our prior sunset audit.⁴ The sample size was considered appropriate, as results of the review of board meeting minutes were significant to the evaluation of board operations. Test results were not projected to the population.

⁴*Department of Commerce, Community, and Economic Development, Board of Certified Direct-Entry Midwives, Sunset Audit, June 30, 2014 (ACN 08-20089-14).*

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APPENDICES SUMMARY

Appendix A — Analysis of Public Need Criteria

In developing our conclusion regarding whether the board's termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c). Under the State's "sunset" law, these factors are to be considered in assessing whether an entity has demonstrated a public need for continuing operations.

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APPENDIX A

Analysis Of Public Need Criteria (AS 44.66.050(c))

A determination as to whether a board or commission has demonstrated a public need for its continued existence must take into consideration the following factors:

- (1) the extent to which the board or commission has operated in the public interest;
- (2) the extent to which the operation of the board or commission has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters;
- (3) the extent to which the board or commission has recommended statutory changes that are generally of benefit to the public interest;
- (4) the extent to which the board or commission 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;
- (5) the extent to which the board or commission has encouraged public participation in the making of its regulations and decisions;
- (6) the efficiency with which public inquiries or complaints regarding the activities of the board or commission filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved;
- (7) the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public;
- (8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board or commission to its own activities and the area of activity or interest;

-
-
- (9) the extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection;
 - (10) the extent to which the board or commission has effectively attained its objectives and purposes and the efficiency with which the board or commission has operated;
 - (11) the extent to which the board or commission duplicates the activities of another governmental agency or the private sector.

Agency Response from the Department of Commerce, Community, and Economic Development



THE STATE
of ALASKA
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

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September 7, 2016

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P.O. Box 113300
Juneau, AK 99811

Re: Confidential Preliminary Audit Report, Department of Commerce, Community, and Economic Development (DCCED), State Board of Certified Direct-Entry Midwives, April 30, 2016

Dear Ms. Curtis:

Thank you for the opportunity to comment on the Confidential Preliminary Audit Report regarding the Board of Certified Direct-Entry Midwives. I am pleased to know that you are recommending an extension of this board to June 30, 2021.

Recommendation No. 1

The department concurs with the findings and recommendation of this audit. Despite increasing fees each cycle since 2011, the midwives licensing program continues to incur costs that are outpacing revenues.

With the full support of the Board of Certified Direct-Entry Midwives, the director of the Division of Corporations, Business and Professional Licensing is currently recommending a 169% fee increase for certified direct-entry midwife licensees and a 55% fee increase for apprentice licensees during the fall renewal cycle to eradicate this debt. These proposed fee increases are currently in the public comment period. The new fees will be in place in time for the December license renewal.

Recommendation No. 2

The department accepts responsibility for the administrative errors in the two instances noted. We will address how those errors occurred and what remediation has been undertaken below:

- The first administrative error occurred when a former employee inadvertently indicated license probation against the licensee's temporary license versus her permanent license. This error was corrected and training and accountability processes have improved.

Response to Preliminary Audit Report, Department of Commerce, Community, and Economic
Development (DCCED), Board of Certified Direct-Entry Midwives
September 7, 2016
Page 2

We have since modified our processes so that only licensing staff with program responsibility have the ability to access licensing files and annotate license actions. This, coupled with our reporting process—accomplished by our division paralegals through the National Practitioner's Data Bank (NPDB) and other licensing authorities—provides checks and balances to prevent a reoccurrence of this error.

There was negligible public safety risk associated with this error because a public license search by name (the most common search) reveals both licenses and all associated license discipline against the licensee.

- The second error noted was an administratively incorrect date on a board Order presented by staff during one calendar year and not actioned by the board until after the Christmas holiday; therefore, it should have been dated as the following year. The Chief Investigator will apply increased scrutiny to actions that cross calendar years to prevent this issue.

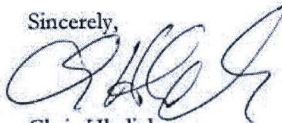
Again, the risk in this instance to public safety was negligible since the adoption of the action was recorded in the board meeting minutes at the time the board voted on the Order. This created another parallel record of when the matter was decided. Those meeting minutes are published and are available on the board's public website.

Recommendation No. 3

As this is a recommendation to the board, DCCED has no response. The department does, however, concur that merging with a similar existing licensing board might improve the program's fiscal position due to economies of scale and that the benefits and costs of merger should be analyzed.

Again, thank you for the opportunity for the DCCED to provide input on this matter. Should you have any questions about the contents of this letter, please do not hesitate to contact me at 907-465-2500.

Sincerely,



Chris Hladick
Commissioner

cc: Janey Hovenden, Director, Division of Corporations, Business and Professional Licensing
Micaela Fowler, DCCED Legislative Liaison

Agency Response from the State Board of Certified Direct-Entry Midwives



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

BOARD OF CERTIFIED DIRECT-ENTRY MIDWIVES
Renee Hoffard, Licensing Examiner

P.O. Box 110806
Juneau, AK 99811-0806
Main: 907.465.2694
Fax: 907.465.2974

September 7, 2016

RECEIVED

SEP 13 2016

LEGISLATIVE AUDIT

Kris Curtis
Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

Dear Ms. Curtis,

Thank you for the opportunity to review and respond to the Legislative Audit Recommendations and Findings.

I agree with this conclusion. The Board and the licensees would like to see the Sunset date extended as long as possible but I understand that the budget concerns warrant closer monitoring.

The Board is fulfilling all of the duties of Statue 08.65.030. The Board is ensuring that midwifery licenses and apprentice permits are issued to qualified applicants. The Board has utilized the secure State website to review and approve applications in a timely manner. The Board completed the regulation project from 2014 and the new regulations go into effect on Sept. 9, 2016. The new regulations reflect current standards of care and best practices. This ensures that the care families received who were served by Alaskan CDMs is safe and comprehensive. The Board worked with DCBPL and DCCED to improve how investigations for CDM's are handled. We have seen the 4 outstanding cases completed. The Board adopted standards for Consent Agreements and preceptors ability to remain in good standing with the Board. Over time these will help reduce costs. The Board will be working on educational programs and standards to reflect the new recommendations by USMERA.

Recommendation #1 – I concur with this recommendation. The Board has been and remains in favor of increasing fees in order to reduce the board deficit with the goal of eliminating the deficit within a reasonable amount of time.

This board has had difficulties in the past because of the high costs of investigations (particularly unlicensed persons which our board is required to pay for) and we paid up that debt and requested to keep the licensing fees at that higher rate but that was denied and we were told we weren't allowed to carry a surplus budget forward. However, as the deficit began

Curtis
9/7/16
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Recommendation #1 – I concur with this recommendation. The Board has been and remains in favor of increasing fees in order to reduce the board deficit with the goal of eliminating the deficit within a reasonable amount of time.

This board has had difficulties in the past because of the high costs of investigations (particularly unlicensed persons which our board is required to pay for) and we paid up that debt and requested to keep the licensing fees at that higher rate but that was denied and we were told we weren't allowed to carry a surplus budget forward. However, as the deficit began to climb again we requested raises in the licensing fees numerous times and were denied until we are now in this untenable position. It is a matter of public record that the Board has historically requested and approved raises in the licensing fees. The Midwives Association of Alaska (MAA), which is the representative membership of the licensees, has always supported paying for our board's costs as it is extremely important to the licensees to maintain this board. However, we have been billed for mistakes made by both Investigations and the DCBPL staff. That, along with the billing of costly Investigations for unlicensed individuals, the increasing cost of Alaska employees and their benefits that is billed to our board, and the cost of regulating our profession combined with a small number of licensees, has played a significant role in this debt. The CDMs are in favor of eliminating this debt but the fees proposed by the Department to eliminate the debt in 2 licensing periods require exorbitant fees (\$4,700 per biennium for at least 2 licensing periods). MAA surveyed the membership and at least 1/3 of midwives would not be able to re-license with the proposed fees. If we lose these CDMs then the debt would not decrease at all and the licensees who are able to pay the fees would be making a significant sacrifice and would still not see any progress towards the debt reduction.

The board has implemented a number of cost saving measures that we are confident will make a positive difference in the budget and allow us to function within a reasonable budget. One major goal is to continue to promote and grow this profession, which will have a positive impact on the budget. If licensing fees are exorbitant it will be difficult to do this.

Recommendation #2 – I concur with this recommendation. The DCBPL director should take steps to ensure license records are accurately recorded.

Recommendation #3 - I do not concur with this recommendation. The position of the board and the MAA membership is to keep the Board of Certified Direct-entry Midwives as an independent board and find creative solutions to financial difficulties.

Midwifery is a unique profession that any other board would have difficulty regulating. The suggestion of the Board of Nursing or the Physician's Board would be problematic on several different levels. These two boards have historically been competitive to the CDM profession and often oppose legislation that we have introduced to improve the standard of care and safety of our clients. I am concerned that we would be regulated out of practice or to a very minimal practice, which is what the majority of the Alaskan population clearly does not want.

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Also, I believe that the doctor's and nurse's board would not want CDMs sitting on their Board (which we would need to do if we were to have proper representation) and having a voice in decisions regarding their regulations and practices.

I would like to ask to Legislative Audit Committee to also consider the savings to the state that Certified Direct-entry Midwives bring to the table. The cost of CDMs caring for pregnant women, delivering them safely at home or in birth centers, and caring for moms and babies at home is significantly less than physician and hospital care for those women who exercise their right to choose midwifery. Alaskan midwives deliver over 500 babies out of the hospital yearly. Many more women have prenatal, intrapartum, and/or postpartum care with midwives but deliver in hospitals. These savings to Medicaid alone are estimated to be in the hundreds of thousands of dollars annually. The State could pay midwives licensing fees just to benefit from this savings! MAA is currently in the process of requesting these figures so we can give exact figures but I can tell you that it is a significant savings. A low risk woman is 5-10 times less likely to require a caesarean section if she is attended by midwives than a woman who goes to the hospital for labor and birth. This is not only a cost savings but represents a savings of recovery time and better health for the mother and a better likelihood that she will be able to breastfeed her infant, which projects into future health and savings benefits for that child.

Thank you again for this opportunity and I hope that you will seriously consider these arguments. Please feel free to contact me if you have any further questions.

Sincerely,



Deborah Schneider, CDM
Chair of the Board of Direct-entry Midwives

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Crystal Koeneman

From: courtneyanne12@gmail.com
Sent: Thursday, February 02, 2017 10:03 AM
To: Rep. Sam Kito
Subject: Support of HB 49

Dear Rep. Kito,

I'm writing a letter in support of HB 49 to extend the termination date of the CDM midwifery board.

I have two sons, ages 1 and 4, both who were born at a birth center in Anchorage with the help of a Direct Entry midwife. Both of my births were without fear or complications, and I count them as the two most empowering and wonderful days of my life. I look back on those two days with nothing but positive memories. But I know enough about the maternal care system in our country that this is not the experience that many women have. The norm is unfortunately for maternal care and birth to be a highly medicalized experience --- one that disempowers women and frequently causes more complications than it solves. I won't even mention the financial costs of this system, which are well documented.

If we are to reverse this trend and increase the number of women who have the opportunity to birth with the support of a midwife, we have to support the midwives we already have! Our Alaska midwives provide a valuable and necessary service for mothers in our community. Without midwives to support the emotional and physical needs of pregnant and birthing women and new mothers, all of society loses.

I strongly support this bill and any other efforts to support the efforts of midwives and as a result, mothers and babies. Please let me know what else I can do to support the bill.

Thank you,

Courtney Munson

Anchorage, AK

Sent from my iPhone

Crystal Koeneman

From: Veronica Temple <vtemple.93@gmail.com>
Sent: Wednesday, February 01, 2017 11:42 PM
To: Rep. Sam Kito
Subject: HB 49 - Termination of Midwife Board

Mr. Kito,

I am writing in regards to HB 49 - supporting the request to extend the board of midwives. I truly believe midwives play a crucial role in the care of women and children, not just during the birthing process, but during prenatal and postnatal care. Midwives and birthing centers provide the BEST alternative to labor and delivery as hospitals can be daunting and scary for women who are already having to go through the most terrifying experience of their life - childbirth. I can say with complete confidence that the midwives I worked with to deliver my son are the reason he is here today. I've never received such support, kindness, and maternal medical care in my life. They are essential to our medical community and state especially in villages where doctors are scarce. So please, I beg you to accept their bill to extend the termination of their board, furthermore I ask that you fight for their board to not be terminated at all.

Kindest regards,
Veronica Temple Hoxie

Crystal Koeneman

From: Sarah Robertson <sarahski63@gmail.com>
Sent: Wednesday, February 01, 2017 5:07 PM
To: Rep. Sam Kito
Subject: House Bill 49

Dear Representative Kito,

My name is Sarah Robertson, I am an apprentice midwife at Rite of Passage Midwifery and a student at Via Vita Midwifery School. I am 53 years old and live in Homer Alaska, I am developing and building the Homer Birth and Wellness Center. The midwife I work under and the Board of Midwifery are integral to maintaining an accountable profession, that ensures our population has access to safe out of hospital birth.

This is a licensed profession, with a Midwifery Board, that wants an opportunity to comply with the States requirements. To maintain this board it is imperative to vote yes to House Bill 49. There have been difficulties in the past that need more time to resolve, and there has been forward movement to do just that, please give us the extension we need and deserve.

Thanks for your time, sincerely, Sarah Robertson AM

Crystal Koeneman

From: Jess <sawyer.jessica@yahoo.com>
Sent: Wednesday, February 01, 2017 3:01 PM
To: Rep. Sam Kito
Subject: Support of HB 49

Dear Representative Kito,

I am writing in support of HB 49 to extend the board of Certified Direct-Entry Midwives. CDMs provide an integral service to Alaska's families, also providing financial savings to the state in health care costs.

There have recently been positive changes regarding the governing of this board, which I expect will help bring the board out of the financial trouble brought about by previous poor handling by the state.

Thank you for your part in supporting the excellent service and value CDMs provide for Alaskans.

Sincerely,

Jessica Sawyer, CDM, CPM
Treasurer, Midwives Association of Alaska Commissioner for CABC (Commission for the Accreditation of Birth Centers) sawyer.jessica@yahoo.com
2124 N Tabasco Cat Dr.
Palmer, AK 99645

Crystal Koeneman

From: samantha meekin keller <nelliejuan@hotmail.com>
Sent: Wednesday, February 01, 2017 3:04 PM
To: Rep. Sam Kito
Subject: Supporting hb49

Hi, my name is Samantha Keller, a direct- entry midwife in Wasilla. I believe it is very important that direct- entry midwives have a regulating board. I believe that our profession should be stringently regulated, but with input from those who work in our field, or know about our profession.

Thank you, Samantha Keller

Sent from my iPhone



Juniper Tree Midwifery LLC

Phone: (907) 299-4399

Fax: (907)-782-4394

Email:

junipertreemidwifery@gmail.com

P.O. Box 811 Kasilof, AK 99610

Rep. Sam Kito,

I am a home birth midwife on the Kenai Peninsula and I would like to represent my positive support for the HB49.

Thank you,

Juniper Lanmon-Freeman CPM, CDM

Crystal Koeneman

From: Elke Saunders <emscpm@gmail.com>
Sent: Wednesday, February 01, 2017 2:44 PM
To: Rep. Sam Kito
Subject: HB 49

Hello. I am writing in support of HB 49. A direct-entry midwifery board ensures public safety by providing close oversight to midwifery practice in the state of Alaska. It is necessary to continue this vital service and provide access to maternity care in underserved areas and for underserved populations. Thank you for your time.

--

Elke Saunders, CPM, CDM
Certified Professional Midwife

Crystal Koeneman

From: Flea Roberts <flearoberts@hotmail.com>
Sent: Wednesday, February 01, 2017 2:34 PM
To: Rep. Sam Kito
Subject: HB 49

I am writing to express my support for HB 49 to extend the CDM board sunset until 2021. Midwifery care is highly valued by the people of Alaska with some of the highest out of hospital births nationally. Midwifery care is shown to improve maternity outcomes, decreasing intervention. This decreases the cost to both the consumer and the State of Alaska.

Thank you for taking the time to hear me.

Felicity Smith

Anchorage, Alaska

Crystal Koeneman

From: deborah schneider <midwifeds@gmail.com>
Sent: Wednesday, February 01, 2017 2:26 PM
To: Rep. Sam Kito
Subject: HB 49 information Medicaid study 2014

Dear Representative Sam Kito,

I would like to pass this informative study on to you for inclusion with HB 49. As the State of Alaska considers the cost of maintaining a separate Board of Direct Entry Midwives, this study shows how much we currently save the State and how much more it could cost if the Profession of Midwifery is not able to continue.

Deborah Schneider, CDM

Crystal Koeneman

From: Judi C Davidson <jcdstork@icloud.com>
Sent: Wednesday, February 01, 2017 2:15 PM
To: Rep. Sam Kito
Subject: HB 49

Dear Representative Kito,

I am writing in support of HB 49 for the extension of the sunset bill for Direct-Entry Midwives of Alaska. I have been a midwife in this state since the first year of licensure, and we have always had a state board to offer safe guidelines for our unique profession. Our state has made great progress in Maternal Health Care due to the jurisdiction of our board. Please support this bill in the interest of health and safety for our many recipients of care.

Sincerely,

Judi Davidson, CDM, CPM

Director: Mat-Su Midwifery & Family Health Wasilla, AK Sent from my iPad

Crystal Koeneman

From: Deborah Gillespie <gillespiend@gmail.com>
Sent: Wednesday, February 01, 2017 10:18 AM
To: Rep. Sam Kito
Subject: HB49

Hello,

I am a practicing CDM, Certified Direct-Entry Midwife, practicing in Juneau. I have been serving families in Juneau for 13 years.

I am writing today to ask for support for extending the termination date of the Board of Certified Direct-Entry Midwives, HB 49.

Thank you,
Deborah Gillespie CDM, ND

Crystal Koeneman

From: Cheryl Corrick <cherylcorrick@yahoo.com>
Sent: Tuesday, January 31, 2017 3:21 PM
To: Rep. Sam Kito
Subject: HB 49: Sunset Bill for the Board of Certified Direct-entry Midwives

Dear Representative Kito,

Thank you for sponsoring this bill. The Board of Certified Direct-entry Midwives (CDMs) has worked diligently to ensure that the statutes and regulations for CDMs are up to date and represent current "best practices". It is very impressive that the licensees want to keep their board and are willing to pay extremely high licensing fees to manage the debt that has accrued largely due to poor management by DCBPL and Investigations. This speaks volumes considering that the income CDMs make is much lower than many other healthcare professionals in the state who have licensing fees that are a fraction of CDMs. As current and former board members and board chairpersons, we are strongly in favor of HB 49, continuing the Board of CDMs. Again, thank you for your support of this bill and all of the work you and your staff have done and are doing on behalf of it.

Warmly,

Dana Brown, CDM
Board Member
Executive Director of Alaska Family Health & Birth Center
Fairbanks, Alaska

Cheryl Corrick
Former Board Member/Chair
Administrative Director of Alaska Family Health & Birth Center
Fairbanks, Alaska

Crystal Koeneman

From: Chelsea Jahn <chelsea@juneaubirthcenter.org>
Sent: Tuesday, January 31, 2017 1:37 PM
To: Rep. Sam Kito
Subject: HB49

Mr. Chairman,

My name is Chelsea Jahn. I am a certified direct entry midwife practicing in Juneau, AK. I am writing in support of HB49. I believe the profession of midwifery needs to continue in Alaska under the direction of a board that understands the difficulties in providing midwifery care to mothers and babies in our unique state. Midwifery is in the unique position to serve families all over the state and great cost savings to our already stretched health care dollars. The members of our board know the work of midwifery and we, as licensees, depend on them to understand our work. I urge you to support HB 49.

Thank you,
Chelsea Jahn, CDM
Juneau, AK

--

Chelsea Jahn, CDM

Juneau Family Health and Birth Center
1601 Salmon Creek Lane
Juneau, Alaska 99801

Crystal Koeneman

From: Sarah Robertson <sarahski63@gmail.com>
Sent: Tuesday, January 31, 2017 1:26 PM
To: Rep. Sam Kito
Subject: Midwifery Board - HB 49

Dear Representative Kito,

My name is Sarah Robertson, I am an apprentice midwife at Rite of Passage Midwifery and a student at Via Vita Midwifery School. I am 53 years old and live in Homer Alaska, I am developing and building the Homer Birth and Wellness Center. The midwife I work under and the Board of Midwifery are integral to maintaining an accountable profession, that ensures our population has access to safe out of hospital birth.

This is a licensed profession, with a Midwifery Board, that wants an opportunity to comply with the States requirements. To maintain this board it is imperative to vote yes to House Bill 49. There have been difficulties in the past that need more time to resolve, and there has been forward movement to do just that, please give us the extension we need and deserve.

Thanks for your time, sincerely, Sarah Robertson AM

Crystal Koeneman

From: mangapenwell@gmail.com
Sent: Sunday, January 29, 2017 7:19 PM
To: Rep. Sam Kito
Subject: In support of HB 49

I am writing in support of HB 49. "This would extend the board of direct entry midwives. Direct entry midwifery is good for the families of Alaska who rely on quality midwifery care to birth their babies safely.

Direct entry midwives save the State of Alaska hundreds of thousands of dollars while delivering safe birth care with excellent outcomes!

Direct Entry Midwives are unique care providers who rely on a board to set safe guidelines and manage licenses.

Thank you for helping Alaskans keep the board of direct entry midwives!

Amanda Penwell

Direct entry midwife and mother of 2 children who were born with direct entry midwives.