

Dear Representatives Greenlick, Keny Guyer and members of the House Health Care Committee,

I thank you for once again looking at the issue of out of hospital birth in Oregon. It is sad that after 20 years since the title 'Licensed Direct Entry Midwife' was first granted by the state of Oregon that death or injury to mothers and babies continues to bring this to your attention.

I delivered my first child outside the hospital in 1980. I have worked since that time to seek greater safety guidelines for any profession involved with out of hospital birth.

The Oregon Health Licensing Agency and the Board of Direct Entry Midwifery both have been unwilling to perform their duty to protect the public and move toward strict **LOW RISK** care even though they both have been fully aware of death and injury that has occurred.

After having attended many Direct Entry Midwifery board and committee meetings and after testifying at the BIG hearing with a mediator in October of 2010 that failed to resolve the dangerous practices of most concern, I ask you to consider adding into statute the language and concepts listed below.

Please, while you have the perfect moment to once and for all deal with the serious issues of out of hospital birth, I ask you to act fearlessly and forthrightly for the safety of the public.

Thank you once again.

Yours truly,

Sharron Fuchs

### **My suggested statutory language additions:**

**Out of hospital birth either at home or in a freestanding birth center is a reasonable option for **LOW RISK** pregnancies attended by a Licensed Direct Entry Midwife.**

Voluntary licensure for midwives or birth attendants of any kind, including fee for service doulas, will cease to exist in Oregon after January 1, 2014.

No person attending or participating in a birth in any manner will receive payment of any kind, including barter, for birthing services rendered after January 1, 2014 unless they are licensed by the state of Oregon.

The Board of Direct Entry Midwifery and the title of Licensed Direct Entry Midwife will be maintained so as to firmly distinguish them in the public's eye from **Certified Nurse Midwives and Naturopathic Midwives**.

The Board of Direct Entry Midwifery will remain fully under the regulatory agency known as the Oregon Health Licensing Agency until January 1, 2020 or longer if public safety benchmarks, yet to be determined, are not met for both financial and public protection reasons. If defined and specific benchmarks developed by the multidisciplinary board described below are not met by January 1, 2020 the Board of Direct Entry Midwifery will remain fully under the Oregon Health Licensing Agency for another two year period. The number of two year extensions for failure to meet benchmarks will have no limit.

Until January 1, 2020, or longer if needed, the Oregon Health Licensing Agency will consult with the Board of Direct Entry Midwifery in certain matters but will continue to retain their statutory ability, should the need for public protection arise, to exercise sole regulatory discretion and decision making.

After January 1, 2020 if benchmarks for public safety are met the Board of Direct Entry Midwifery will move to a semi-independent status, forever keeping a multidisciplinary board as they have as of January 1, 2013, and have greater say in investigation and disciplinary matters. The semi-independent status along with duties and authorization for duties will be determined by the Governor in office in 2019.

The minimum civil penalty imposed by the Board of Direct Entry Midwifery after January 1, 2014 for unlicensed practice of Direct Entry Midwifery or any other type of 'midwifery' including but not limited to Certified Professional Midwifery or Traditional Midwifery, but not Certified Nurse Midwifery or Naturopathic Midwifery, is \$5000 per event. The maximum penalty in total cannot exceed \$125,000.

All Licensed Direct Entry Midwives must have a legend drugs and devices certification / endorsement to their license by no later than January 1, 2014. All drugs added to the Licensed Direct Entry Midwifery formulary must be added by statute with consensus and approval of a multidisciplinary panel which includes a CNM an Obstetrician and a pharmacist who are independent and not serving on the Licensed Direct Entry Board.

All Licensed Direct Entry Midwives will provide uniform board developed and approved evidence based informed consent with supporting literature which will be in writing and signed by the patient. All uniform disclosure documents including uniform consent and supporting

literature will be posted on the OHLA and Board of Direct Entry Midwifery website and updated quarterly if needed.

All supporting literature given to patients for the informed consent process will be evidence based, uniform and board approved meaning all patients will receive the same documents no matter who is the attending Licensed Direct Entry Midwife.

Patient refusal of screening tests including but not limited to glucose tolerance, group beta-strep. and necessary ultrasounds rule out the ability to assess that a pregnancy is **LOW RISK** and suitable for any type of out of hospital birth whether at home, birth center or elsewhere within the state of Oregon and therefore makes the birth unable to be attended by a Licensed Direct Entry Midwife in any manner including as a 'stand by in case of need' for mother's who wish to attempt an unassisted birth.

Uniform evidence based transport guidelines will be developed by the board and implemented no later than June 1, 2013. The transport guidelines will be posted on the OHLA and Board of Direct Entry Midwifery websites and updated regularly as needed.

All patients who choose to deliver out of hospital with a Licensed Direct Entry Midwife must sign a binding agreement that under the circumstances outlined in the board developed transport guidelines transport to a hospital will occur and cannot be refused.

No Licensed Direct Entry Midwife will engage the services of an unlicensed, uncertified or uncredentialed person to attend to a patient in any manner for any aspect of an out of hospital birth or prenatal care, including but not limited to malpositions and version of breech positions. All persons who become involved in the obstetrical aspects of a birth or prenatal care other than 'medical' services ie Internal Medicine, Endocrinology etc. with a Licensed Direct Entry Midwife will be licensed and certified in Obstetrics in their respective licensed professions.

Under no circumstances will a Licensed Direct Entry Midwife attend a birth other than a **LOW RISK** birth nor will they engage the services of any other person to participate in a birth or utilize drugs or devices in any manner other than in a **LOW RISK** birth in any out of hospital setting.

Under no circumstances will a vacuum extractor be used in any an out of hospital setting where a Licensed Direct Entry midwife is the primary midwife to whom payment is made.

Given that the Licensed Direct Entry Midwifery profession cannot function as an entirely independent profession, which at times requires the services of other health professionals who

can be held liable for outcomes, the benchmarks to which the Board of Direct Entry must achieve are to be developed by a **multidisciplinary panel** to include: 2 LDMs, 2 CNMs, 2 OB/GYNs, 2 Hospitalist / Laborists, 2 Pediatricians, 2 Neonatologists, 2 EMTs and 1 pharmacologist.

Under no circumstance will the Board of Direct Entry Midwifery seek to expand their scope of practice or standard of care above that of **LOW RISK** births.

Insurance companies, including CCOs, are able to determine the circumstances and guidelines, including the need for malpractice insurance, under which they will reimburse any contracted or noncontracted provider for an out of hospital birth.

A Fetal and Infant Mortality Review (FIMR) process will be developed immediately upon passage of this bill and information about FIMR and data collected under it will be posted to the public on the Oregon Health Licensing Agency and the Board of Direct Entry Midwifery websites:

<http://www.jhsph.edu/research/centers-and-institutes/womens-and-childrens-health-policy-center/projects/fimr.html>

All deidentified datapoints collected through the Midwives Alliance of North America (MANA) data collection system and currently submitted for annual relicensure of a Direct Entry Midwife will be collated and posted to the Oregon Health Licensing Agency and the Board of Direct Entry Midwifery websites and updated quarterly.

All deaths whether they are antepartum, intrapartum or postpartum that have involvement by a Licensed Direct Entry midwife whether the death occurred outside or inside a hospital will be reported to the state Medical Examiner for determination of the cause of death and final signature on the death certificate. As a supplement to the independent reporting of all deaths with a Licensed Direct Entry midwife involved all funeral homes within the state of Oregon will report all maternal, fetal and neonatal deaths to the state Medical Examiner also.