



Oregon

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To: The Honorable Mitch Greenlick, Chair,
House Committee on Health Care

From: Holly Mercer, Interim Director, Oregon Health Licensing Agency (OHLA)

Date: March 15, 2013

Re: **HB 2997 – Mandatory Licensure of Midwives; Transfers Authority for Investigations, Disciplinary Matters and Rulemaking from Oregon Health Licensing Agency to Board of Direct Entry Midwifery**

What the measure would do: The measure would require licensure of all state direct entry midwives except for those "...acting as a traditional midwife within a religious or cultural group that holds a religious, spiritual or philosophical belief related to the practice of direct entry midwifery."

Those midwives under the religious or cultural group exemption referenced above would not be able to access or use legend drugs and devices; and would be required to disclose the following to each client:

- That the person does not possess a professional license issued by the state.
- That the person is not authorized to carry and administer potentially life-saving medications.
- That the risk of harm or death to a mother or newborn may increase as a result
- The types of midwives who are licensed by the state, including nurse midwives, who are licensed by the Board of Nursing as Clinical Nurse Specialists.
- That the client will not have recourse through the complaint process.

The measure also would require applicants for licensure to successfully complete written and oral examinations approved by the board.

HB 2997 also would transfer rulemaking authority and investigatory and disciplinary powers to the Board of Direct Entry Midwifery from the Oregon Health Licensing Agency.

Section 15(1) of HB 2997 establishes the Board of Direct Entry Midwifery as its own account within the State Treasury, which would be outside of the OHLA account. The board would have its own budget and have limitation continuously appropriated to the board to carry out the duties, functions and powers of the board.

Background: Currently the statutes governing the **Board of Direct Entry Midwifery** authorize the use of the title "licensed direct entry midwife" only if the individual possesses a valid license issued under ORS 687.405 to 687.495.

A license to practice direct entry midwifery under ORS 687.405 to 687.495 is required for purposes of reimbursement under medical assistance programs and is not required for the practice of direct entry midwifery in Oregon.

Currently, OHLA has statutory authority to impose discipline on direct entry midwifery licensees in consultation with the Board of Direct Entry Midwifery.

Currently, OHLA has rulemaking authority in consultation with the Board of Direct Entry Midwifery.

Under HB 2997, OHLA would continue to have authority to determine applicant qualifications, conduct examinations and grant licenses to qualified applicants, in consultation with the Board of Direct Entry Midwifery.

The qualification standards for direct entry midwives would remain the same under this legislation.

Fiscal Considerations: Regarding Section 15(1) of HB 2997 establishing the Board of Direct Entry Midwifery as its own account within the State Treasury, such action would be plausible only if the board would have a positive ending balance. The board's litigation and investigatory costs, low number of license holders, and fee rates have combined to place the board in a negative balance.

OHLA's cost allocation structure allows boards with negative ending balances to continue operations.

Regarding Section 15(2), the agency does not believe that reimbursement to the board "...for expenses related to the administration of ORS 687.405 to 687.495" would be appropriate, as the agency would be carrying out the functions of administration and would need to be reimbursed by the board for administrative functions.

Solution: The Oregon Health Licensing Agency will continue to work with the Board of Direct Entry Midwifery to license and regulate the profession of direct entry midwifery in Oregon with the overarching goal of protecting the health and safety of mother and baby while providing Oregon consumers choice and flexibility in the birth setting and provider.

The agency will continue to assist in efforts to ensure that the unique fiscal concerns of the Board of Direct Entry Midwifery are addressed. The goal is to establish the lowest possible fees and positive ending balance, all within the regulatory environment of this particular board and licensee group.

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