



South Carolina
Department of Labor, Licensing and Regulation



Henry D. McMaster
Governor

Emily H. Farr
Director

110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
(803) 896-4300
FAX (803) 896-4393

References DHEC Recommendation 1.22

July 18, 2017

Via Email (JenniferDobson@schouse.gov)

The Honorable Phyllis J. Henderson
South Carolina House of Representatives
Legislative Oversight Committee
Healthcare and Regulatory Subcommittee
Post Office Box 11867
Columbia, South Carolina 29211

Dear Madam Chairperson:

Thank you for giving the South Carolina Department of Labor, Licensing and Regulation (LLR) an opportunity to respond to law changes DHEC proposed to the Committee that would potentially affect this agency. This letter is intended to provide LLR's input and perspective on one of the recommendations in particular regarding the regulation of lay midwives in our state. DHEC currently licenses lay midwives under its general public health powers pursuant to § 44-1-140, and other related statutes. However, we understand DHEC has recommended consideration of whether DHEC is the appropriate agency to license lay midwives, noting LLR as the agency to be impacted. LLR respectfully submits that DHEC is the proper regulatory home for lay midwives for the reasons below.

First, although clarification of the requirements for licensing lay-midwives may be needed, DHEC has the regulatory framework already in place for licensing lay midwives. DHEC has established standards for licensure, apprenticeship, and scope of practice restrictions in Regulation 61-24. The Regulation also establishes a Midwifery Advisory Council to assist in setting forth and carrying out those standards. We submit that no public interest would be served in undertaking the legislative and logistical changes needed to disassemble the existing regulatory construct and reassemble it again at another agency like LLR. It is also important to note that, while DHEC itself is the regulatory body for administering licensed lay midwives in this state, LLR would not be in the same position if they were moved to this agency. LLR's boards are the regulatory bodies for the various professions and occupations, which are typically comprised of individuals practicing in that industry. LLR as an agency only provides administrative oversight and support to those boards.

Second, DHEC notes that it's "expertise largely involves regulating health care facilities." While that is true and it is also true that LLR's boards generally regulate individuals, there are also cross-overs in both agencies where it makes sense and is appropriate. For example, LLR licenses pharmacists, but it also licenses and regulates pharmacies. DHEC not only regulates lay midwives, but it also regulates birthing centers.

Midwives also are not the only health care providers that DHEC regulates, which include Certified Nursing Assistants (CNAs) and Emergency Medical Technicians (EMTs). We believe that licensed lay midwives are more akin to CNAs and EMTs in the training required for certification and limited scopes of practice than the licensed healthcare providers regulated by LLR's boards. Further, because DHEC also regulates birthing centers, it is most appropriate for DHEC to retain regulation of lay midwives. Based upon DHEC's proficient regulation of lay midwives and similarly situated healthcare workers, the proposed transition of lay midwives to another entity appears unnecessary and inefficient.

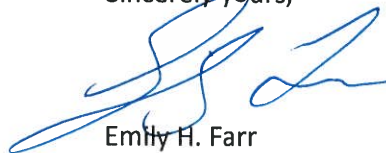
Further, LLR would be concerned about transitioning lay midwives to be regulated under the State Board of Medical Examiners or the State Board of Nursing. Neither the State Board of Medical Examiners nor the State Board of Nursing has experience regulating healthcare workers similarly situated to lay midwives. Most importantly, a transition away from DHEC will cost this small group of healthcare workers the stability and insight currently available through DHEC and its Midwifery Advisory Council.

Also, if lay midwives are transitioned to the State Board of Nursing, the public may be confused easily by the commingling of similar titles with very different scopes of practice and disparate educational and experiential requirements. The Board of Nursing licenses certified nurse-midwives, who are advanced practice registered nurses (APRNs) who have attained at least a master's degree and specialty certification by a board-approved credentialing organization. (See § 40-33-34.) A certified nurse-midwife practices pursuant to an approved written protocol and performs approved delegated medical acts "under the general supervision of a licensed physician or dentist who must be readily available for consultation." A certified nurse-midwife may also apply for prescriptive authority. A lay midwife, on the other hand, is a person "who is not a medical or nursing professional licensed by an agency of the State of South Carolina." (Regulation 61-24.) A licensed midwife may provide care for low-risk women and neonates in certain circumstances, but they "shall not administer any drugs or injections of any kind, except as indicated in Sections G.5 and M.2.b." and may not operate or perform surgery.

Other states have also found regulation of lay midwives properly rests with their Departments of Health. The majority of the 32 states currently regulating lay midwives do so through their Departments of Health.

In conclusion, LLR submits that an appropriate and efficient regulatory framework already exists at DHEC and, accordingly, any clarifications or changes to the enabling statutes to make that regulation "consistent with current science, terminology, and/or practice" (as noted in DHEC's recommendation) should be made within the regulatory framework that already exists.

Sincerely yours,



Emily H. Farr
Director

Legislative Oversight Committee
Healthcare and Regulatory Subcommittee
July 18, 2017
Page 3

cc: The Honorable William K. "Bill" Bowers
The Honorable MaryGail K. Douglas
The Honorable Bill Taylor