

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

1.13.16

DRAFT

LLS NO. 16-0439.01 Christy Chase x2008

SUNSET BILL

Sunset Process - House Health, Insurance,  
and Environment Committee

**BILL TOPIC:** "Continue Regulation Direct-entry Midwives"  
**DEADLINES:** Finalize by: FEB 1, 2016 File by: FEB 3, 2016

**A BILL FOR AN ACT**

101 CONCERNING THE CONTINUATION OF THE REGULATION OF  
102 DIRECT-ENTRY MIDWIVES BY THE DIRECTOR OF THE DIVISION OF  
103 PROFESSIONS AND OCCUPATIONS IN THE DEPARTMENT OF  
104 REGULATORY AGENCIES, AND, IN CONNECTION THEREWITH,  
105 IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE  
106 SUNSET REPORT PREPARED BY THE DEPARTMENT.

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billssummaries>.)*

**Sunset Process - House Health, Insurance, and Environment**

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

**Committee.** The bill implements the recommendations of the department of regulatory agencies (department) contained in the sunset review of direct-entry midwives as follows:

*Recommendation 1*

- Continues the regulation of direct-entry midwives by the director of the division of professions and occupations in the department for 7 years, through September 1, 2023;

*Recommendation 2*

- Authorizes direct-entry midwives to perform sutures of first- and second-degree perineal tears and to obtain and administer local anesthetics in connection with the sutures procedure;

*Recommendation 3*

- Requires direct-entry midwives to perform or arrange for the performance of newborn pulse oximetry screenings to detect critical congenital heart disease in newborns under their care;

*Recommendation 4*

- Repeals the requirement that the director send letters of admonition to direct-entry midwives via certified mail;

*Recommendation 5*

- Establishes failure to properly address a physical or mental illness or condition that affects one's ability to practice direct-entry midwifery with reasonable skill and safety to clients as a grounds for disciplining a direct-entry midwife and authorizes the director to enter into a confidential agreement with the direct-entry midwife to limit his or her practice.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 *Recommendation 1*

3 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-37-110 as  
4 follows:

5 **12-37-110. Repeal of article.** (1) This article is repealed,  
6 effective September 1, ~~2016~~ 2023.

7 (2) Prior to such THE repeal, THE DEPARTMENT OF REGULATORY  
8 AGENCIES SHALL REVIEW the registering of direct-entry midwives by the  
9 division of professions and occupations ~~shall be reviewed~~ as provided in

1 section 24-34-104, C.R.S.

2 SECTION 2. In Colorado Revised Statutes, 24-34-104, repeal  
3 (47.5) (h); and add (54) (b) as follows:

4 24-34-104. General assembly review of regulatory agencies  
5 and functions for termination, continuation, or reestablishment.

6 (47.5) The following agencies, functions, or both, shall terminate on  
7 September 1, 2016:

8 (h) ~~The registration of direct-entry midwives by the division of~~  
9 ~~registrations in accordance with article 37 of title 12, C.R.S.~~

10 (54) The following agencies, functions, or both, terminate on  
11 September 1, 2023:

12 (b) THE REGISTRATION OF DIRECT-ENTRY MIDWIVES BY THE  
13 DIVISION OF PROFESSIONS AND OCCUPATIONS IN ACCORDANCE WITH  
14 ARTICLE 37 OF TITLE 12, C.R.S.

15 *Recommendation 2*

16 SECTION 3. In Colorado Revised Statutes, 12-37-105, amend  
17 (2) as follows:

18 12-37-105. Prohibited acts - practice standards - informed  
19 consent - emergency plan - risk assessment - referral - rules. (2) A  
20 direct-entry midwife shall not perform any operative or surgical  
21 procedure; EXCEPT THAT A DIRECT-ENTRY MIDWIFE MAY PERFORM  
22 SUTURES OF PERINEAL TEARS IN ACCORDANCE WITH SECTION 12-37-105.5.

23 SECTION 4. In Colorado Revised Statutes, 12-37-105.5, amend  
24 (2) (c) and (2) (d); add (2) (e); and recreate and reenact, with  
25 amendments, (6) as follows:

26 12-37-105.5. Limited use of certain medications - limited use  
27 of sutures - limited administration of intravenous fluids - emergency

1 **medical procedures - rules.** (2) Except as otherwise provided in  
2 subsection (3) of this section, a registrant may obtain and administer:

3 (c) Postpartum antihemorrhagic drugs to mothers; and

4 (d) Eye prophylaxis; AND

5 (e) LOCAL ANESTHETICS, AS SPECIFIED BY THE DIRECTOR BY RULE,  
6 TO USE IN ACCORDANCE WITH SUBSECTION (6) OF THIS SECTION;

7 (6) A REGISTRANT MAY PERFORM SUTURES OF FIRST-DEGREE AND  
8 SECOND-DEGREE PERINEAL TEARS, AS DEFINED BY THE DIRECTOR BY RULE,  
9 ON A CLIENT AND MAY ADMINISTER LOCAL ANESTHETICS TO THE CLIENT  
10 IN CONNECTION WITH SUTURING PERINEAL TEARS.

11 ***Recommendation 3***

12 **SECTION 5.** In Colorado Revised Statutes, 12-37-105, amend  
13 (9) as follows:

14 **12-37-105. Prohibited acts - practice standards - informed**  
15 **consent - emergency plan - risk assessment - referral - rules.** (9) (a) A  
16 direct-entry midwife shall provide eye prophylactic therapy to all  
17 newborn children in such THE direct-entry midwife's care in accordance  
18 with section 25-4-301, C.R.S.

19 (b) A DIRECT-ENTRY MIDWIFE WHO IS PROPERLY TRAINED IN THE  
20 USE OF PULSE OXIMETRY SHALL TEST ALL NEWBORN CHILDREN IN THE  
21 DIRECT-ENTRY MIDWIFE'S CARE FOR CRITICAL CONGENITAL HEART  
22 DEFECTS USING PULSE OXIMETRY IN ACCORDANCE WITH SECTION  
23 25-4-1004.3, C.R.S. IF THE DIRECT-ENTRY MIDWIFE IS NOT TRAINED IN THE  
24 USE OF PULSE OXIMETRY, THE DIRECT-ENTRY MIDWIFE SHALL ARRANGE  
25 FOR ALL NEWBORN CHILDREN IN HIS OR HER CARE TO BE SCREENED FOR  
26 CONGENITAL HEART DEFECTS IN ACCORDANCE WITH SECTION 25-4-1004.3,  
27 C.R.S.

1 *Recommendation 4*

2 SECTION 6. In Colorado Revised Statutes, 12-37-107, amend  
3 (7) (a) and (7) (b) as follows:

4 12-37-107. Disciplinary action authorized - grounds for  
5 discipline - injunctions - rules. (7) (a) When a complaint or  
6 investigation discloses an instance of misconduct that, in the opinion of  
7 the director, does not warrant formal action by the director but that should  
8 not be dismissed as being without merit, THE DIRECTOR MAY ISSUE AND  
9 SEND a letter of admonition ~~may be issued and sent, by certified mail,~~ to  
10 the registrant.

11 (b) When THE DIRECTOR SENDS a letter of admonition ~~is sent by~~  
12 ~~the director, by certified mail,~~ to a registrant, ~~such~~ THE DIRECTOR SHALL  
13 INFORM THE registrant ~~shall be advised~~ that he or she has the right to  
14 request in writing, within twenty days after receipt of the letter, that THE  
15 DIRECTOR INITIATE formal disciplinary proceedings ~~be initiated~~ to  
16 adjudicate the propriety of the conduct upon which the letter of  
17 admonition is based.

18 *Recommendation 5*

19 SECTION 7. In Colorado Revised Statutes, 12-37-105, amend  
20 (14) as follows:

21 12-37-105. Prohibited acts - practice standards - informed  
22 consent - emergency plan - risk assessment - referral - rules. (14) A  
23 registrant shall not practice beyond the scope of his or her education and  
24 training. ~~or with a mental or physical impairment sufficient to render the~~  
25 ~~registrant unable to perform midwifery services with reasonable skill and~~  
26 ~~with safety to the client.~~

27 SECTION 8. In Colorado Revised Statutes, 12-37-107, amend

1 (3) (l) and (3) (m); and **add** (3) (n) as follows:

2 **12-37-107. Disciplinary action authorized - grounds for**  
3 **discipline - injunctions - rules.** (3) The director may deny, revoke, or  
4 suspend a registration or issue a letter of admonition or place a registrant  
5 on probation for any of the following acts or omissions:

6 (l) Aiding or knowingly permitting any person to violate any  
7 provision of this article; or

8 (m) Advertising through newspapers, magazines, circulars, direct  
9 mail, directories, radio, television, web site, e-mail, text message, or  
10 otherwise that the registrant will perform any act prohibited by this  
11 article; OR

12 (n) (I) FAILING TO NOTIFY THE DIRECTOR, AS REQUIRED BY  
13 SECTION 12-37-108.5 (1), OF A PHYSICAL OR MENTAL ILLNESS OR  
14 CONDITION THAT RENDERS THE REGISTRANT UNABLE, OR LIMITS THE  
15 REGISTRANT'S ABILITY, TO PRACTICE DIRECT-ENTRY MIDWIFERY WITH  
16 REASONABLE SKILL AND SAFETY TO THE CLIENT;

17 (II) FAILING TO ACT WITHIN THE LIMITATIONS CREATED BY A  
18 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE  
19 REGISTRANT UNABLE TO PRACTICE DIRECT-ENTRY MIDWIFERY WITH  
20 REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR  
21 SAFETY OF PERSONS UNDER HIS OR HER CARE; OR

22 (III) FAILING TO COMPLY WITH THE LIMITATIONS AGREED TO  
23 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION  
24 12-37-108.5.

25 **SECTION 9.** In Colorado Revised Statutes, **add** 12-37-108.5 as  
26 follows:

27 **12-37-108.5. Confidential agreement to limit practice -**

1 **violation - grounds for discipline.** (1) IF A REGISTERED DIRECT-ENTRY  
2 MIDWIFE HAS A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT  
3 RENDERS HIM OR HER UNABLE TO PRACTICE DIRECT-ENTRY MIDWIFERY  
4 WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE REGISTRANT SHALL  
5 NOTIFY THE DIRECTOR OF THE ILLNESS OR CONDITION IN A MANNER AND  
6 WITHIN A PERIOD DETERMINED BY THE DIRECTOR. THE DIRECTOR MAY  
7 REQUIRE THE REGISTRANT TO SUBMIT TO AN EXAMINATION TO EVALUATE  
8 THE EXTENT OF THE ILLNESS OR CONDITION AND ITS IMPACT ON THE  
9 REGISTRANT'S ABILITY TO PRACTICE DIRECT-ENTRY MIDWIFERY WITH  
10 REASONABLE SKILL AND SAFETY TO CLIENTS.

11 (2) (a) UPON DETERMINING THAT A REGISTRANT WITH A PHYSICAL  
12 OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED SERVICES  
13 WITH REASONABLE SKILL AND SAFETY TO CLIENTS, THE DIRECTOR MAY  
14 ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE REGISTRANT IN WHICH  
15 THE REGISTRANT AGREES TO LIMIT HIS OR HER PRACTICE BASED ON THE  
16 RESTRICTIONS IMPOSED BY THE ILLNESS OR CONDITION, AS DETERMINED  
17 BY THE DIRECTOR.

18 (b) AS PART OF THE AGREEMENT, THE REGISTRANT IS SUBJECT TO  
19 PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED APPROPRIATE  
20 BY THE DIRECTOR.

21 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS  
22 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR MONITORING.

23 (3) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR  
24 PURSUANT TO THIS SECTION TO LIMIT HIS OR HER PRACTICE, A REGISTRANT  
25 IS NOT ENGAGING IN ACTIVITIES THAT ARE GROUNDS FOR DISCIPLINE  
26 UNDER SECTION 12-37-107 (3). THE AGREEMENT DOES NOT CONSTITUTE  
27 A RESTRICTION OR DISCIPLINE BY THE DIRECTOR. HOWEVER, IF THE

1 REGISTRANT FAILS TO COMPLY WITH THE TERMS OF AN AGREEMENT  
2 ENTERED INTO PURSUANT TO THIS SECTION, THE FAILURE CONSTITUTES A  
3 GROUND FOR DISCIPLINE PURSUANT TO SECTION 12-37-107 (3) (n), AND  
4 THE REGISTRANT IS SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION  
5 12-37-107.

6 (4) THIS SECTION DOES NOT APPLY TO A REGISTRANT WHO IS  
7 SUBJECT TO DISCIPLINE FOR ENGAGING IN ACTIVITIES AS DESCRIBED IN  
8 SECTION 12-37-107 (3) (f).

9 **SECTION 10. Act subject to petition - effective date.** This act  
10 takes effect at 12:01 a.m. on the day following the expiration of the  
11 ninety-day period after final adjournment of the general assembly (August  
12 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a  
13 referendum petition is filed pursuant to section 1 (3) of article V of the  
14 state constitution against this act or an item, section, or part of this act  
15 within such period, then the act, item, section, or part will not take effect  
16 unless approved by the people at the general election to be held in  
17 November 2016 and, in such case, will take effect on the date of the  
18 official declaration of the vote thereon by the governor.