

AN ACT PROMOTING ACCESS TO MIDWIFERY CARE AND OUT-OF-HOSPITAL BIRTH OPTIONS

Why H.2209 and S.1457 Should Be Revised

January 2, 2024

Home births account for less than one percent of the approximately 70,000 babies born annually in Massachusetts.^[1] Advocates are lobbying for legislation to increase access to midwife-attended home births. Their hopes are currently riding on identical House and Senate bills H.2209 and S.1457 titled “An Act promoting access to midwifery care and out-of-hospital birth options.”^[2] ^[3]

The changes to the general laws of Massachusetts the bills propose may increase access to home births attended by midwives. But, to ensure that the resulting laws would adequately protect the safety of mothers and their babies, the bills would have to be substantially revised.

Approximately 290 *Certified Nurse Midwives* (CNMs) practice in Massachusetts.^[4] Usually integrated into the obstetric services of hospitals, they deliver about 17% of the babies born in the Commonwealth.^[5] CNMs must have a bachelor's degree or higher for certification.^[6] ^[7] Massachusetts CNMs are licensed and regulated by the Board of Registration in Nursing.^[8] Scientific evidence shows that there are no significant differences in maternal or neonatal mortality or complications for routine hospital births attended by CNMs and obstetricians.^[9] ^[10] ^[11] Pregnancies that involve serious threats to the mother or newborn are usually managed by obstetricians.^[12]

In contrast, *Certified Professional Midwives* (CPMs) usually attend home births. They need only a high school education and often obtain their midwife training as apprentices.^[13] ^[14] Bills H.2209 and S.1457 propose a Board of Registration in Midwifery to license CPMs in Massachusetts. The bills specify that “to be eligible for registration and licensure by the board as a licensed midwife, an applicant shall: (i) be of good moral character; (ii) be a graduate of a high school or its equivalent; and (iii) possess a valid certified *professional midwife credential* from the NARM [North American Registry of Midwives].”^[15]

The bills call for a new section in the Massachusetts general laws specifying that “a licensed midwife duly registered ... may order, possess, purchase, and administer pharmaceutical agents consistent with the scope of midwifery practice ...”^[16] But applicants for licensure would not be required to document that they have taken a course in pharmacology or passed a written examination on drug therapy. The NARM qualifying examination requires only “knowledge of the benefits and risks and appropriate administration” of 11 drugs used in childbirth and resuscitation.^[17]

A recent *Washington Post* article is germane: “A home birth midwife faces scrutiny after a baby dies. It’s not the first time.” The article reports details of three neonatal deaths after home births attended by a CPM. Testimony from distraught mothers and their husbands, obstetricians, police officers, and emergency medical technicians could not stop her. None of the three states in which the deaths occurred had laws rigorous enough to prevent the CPM from doing further harm.^[18]

Yet H.2209 and S.1457 specify that a Massachusetts license would, “without examination,” be issued to a midwife who is licensed by any state that, “in the opinion of the board,” has licensing requirements equivalent to those of the Commonwealth. No background check, primary source verification, or other inquiry would be required.^[19]

The proposed changes in the Massachusetts general laws would not prohibit CPMs from attending complex deliveries. One of the neonatal deaths reported in the *Washington Post* article followed the birth of twins. Another presented as a footling breach, which if in a hospital, would have been managed with a life-saving emergency Cesarean delivery.[18] If CPNs are licensed in Massachusetts, they should be limited to attending only routine births.

The above examples show that many of the proposed general laws would grant CPMs a scope of practice that would not be justified by their education and training. The new laws would not do enough to prevent unsafe home births. Even litigation would be unlikely to stop dangerous practices because the proposed laws would not be explicit enough to prove to a court that laws have been broken. Requiring home-birth midwives to adhere to a strict set of standards, including rules for monitoring and the requirement to call 911 at the first sign of fetal distress, could save lives.

H.2209 and S.1457 should not be enacted into law without substantial revision.

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All references below were accessible via the hyperlinks on January 2, 2024.

- [1] **“Changes in Home Births by Race and Hispanic Origin and State of Residence of Mother: United States, 2019–2020 and 2020–2021.”** Table 2 on page 9: **“Home births, by state of residence.”** National Vital Statistics Reports.
<https://www.cdc.gov/nchs/data/nvsr/nvsr71/nvsr71-08.pdf>
- [2] **“As Maternal Health Crisis Worsens, Advocates Host ‘Midwife Advocacy Day’ at MA State House to Call for Expanded Access to Midwifery Care.”** Reproductive Equity Now.
<https://reproequitynow.org/press/as-maternal-health-crisis-worsens-advocates-host-midwife-advocacy-day-at-state-house-to-call-for-expanded-access-to-midwifery-care>
- [3] **Bills S.1457 and H.2209** 193rd (Current): An Act promoting access to midwifery care and out-of-hospital birth options” **Section 2** at <https://malegislature.gov/Bills/193/S1457> and <https://malegislature.gov/Bills/193/H2209> propose a new general law: **Section 110 of Chapter 13: Division and Boards of Registration.**
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter13>
- [4] **“May 2022 State Occupational Employment and Wage Estimates – Massachusetts.”** U.S. Bureau of Labor Statistics. https://www.bls.gov/oes/current/oes_ma.htm
- [5] **“Certified Nurse Midwives and Maternity Care in Massachusetts.”** Massachusetts Health Policy Commission, January 2022.[data current as of 2017]
<https://www.mass.gov/doc/certified-nurse-midwives-and-maternity-care-in-massachusetts-chartpack-1/download>
- [6] **“Comparison of Certified Nurse-Midwives, Certified Midwives.”**
<https://www.midwife.org/acnm/files/ccLibraryFiles/FILENAME/000000006807/FINAL-ComparisonChart-Oct2017.pdf>
- [7] **“AMCB Certification Exam Candidate Handbook Nurse-Midwifery and Midwifery.”** American Midwifery Certification Board, January 1, 2023.
<https://www.amcbmidwife.org/docs/default-source/national-board-exam/candidate-handbook---updated-october-2018.pdf>

- [8] “**Regulation 244 CMR 4.03(1)(b): Clinical Categories of Advanced Practice Registered Nursing: Certified Nurse Midwife (CNM).**” <https://www.mass.gov/doc/244-cmr-4-advanced-practice-registered-nursing/download>
- [9] “**Early and total neonatal mortality in relation to birth setting in the United States, 2006-2009.**” Table 3 on page 4: “**Term early neonatal mortality.**” American Journal of Obstetrics & Gynecology (October 2014). <https://www.porod-doma.cz/wp-content/uploads/2018/08/Early-and-total-neonatal-mortality-in-relation-to-birth-setting-in-the-United-States.pdf>
- [10] “**The impact of birth settings on pregnancy outcomes in the United States.**” Table 1 on page 3: “**Neonatal mortality per 10,000 live births by birth attendant.**” American Journal of Obstetrics & Gynecology (May 2023). The full article is behind the publisher’s firewall, but the abstract is available at: <https://pubmed.ncbi.nlm.nih.gov/37164501/>. Note: This more recent study does not report data on obstetrician-attended births, but the data for nurse midwives are comparable to those in the 2014 article above.
- [11] “**Comparison of Midwifery and Obstetric Care in Low-Risk Hospital Births.**” Table 4 on page 7: “**Maternal Outcomes.**” and Table 5 on page 8: “**Neonatal Outcomes.**” Obstetrics & Gynecology (November 2019). The full article is behind the publisher’s firewall, but the abstract is available at <https://pubmed.ncbi.nlm.nih.gov/31599830/>.
- [12] “**High-Risk Pregnancy.**” Cleveland Clinic.
<https://my.clevelandclinic.org/health/diseases/22190-high-risk-pregnancy>
- [13] “**Comparison of Certified Nurse-Midwives, Certified Midwives, Certified Professional Midwives Clarifying the Distinctions Among Professional Midwifery Credentials in the U.S.**” American College of Nurse-Midwives.
<https://www.midwife.org/acnm/files/ccLibraryFiles/FILENAME/000000006807/FINAL-ComparisonChart-Oct2017.pdf>
- [14] “**NMI Apprenticeship Opportunities.**” National Midwifery Institute.
<https://www.nationalmidwiferyinstitute.com/nmi-apprenticeship-opportunities>
- [15] **Bills H.2209/S.1457: Section 15** at <https://malegislature.gov/Bills/193/S1457> and <https://malegislature.gov/Bills/193/H2209> propose a new **Section 281** of Chapter 112: **Registration Of Certain Professions and Occupations** at <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112>.
- [16] **Bills H.2209/S.1457: Section 15** at <https://malegislature.gov/Bills/193/S1457> and <https://malegislature.gov/Bills/193/H2209> propose a new **Section 279** of Chapter 112: **Registration Of Certain Professions and Occupations** at <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112>.
- [17] “**Examination Test Specifications**” Page 35. “**NARM Candidate Information Booklet, August 2023.**” <https://narm.org/pdf/CIB.pdf>
- [18] “**A home birth midwife faces scrutiny after a baby dies. It's not the first time.**” Washington Post (November 14, 2023).
<https://www.washingtonpost.com/investigations/interactive/2023/home-birth-midwife-karen-carr/>
- [19] **Bills H.2209/S.1457 Section 15** at <https://malegislature.gov/Bills/193/S1457> and <https://malegislature.gov/Bills/193/H2209> propose a new **Section 282** of Chapter 112: **Registration Of Certain Professions and Occupations** at <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter112>.