FINAL REPORT OF RECOMMENDATIONS AND FINDINGS

By the Midwifery Technical Review Committee
on the Proposal to License Direct Entry Midwives in Nebraska

To the Nebraska State Board of Health, the
Director of the Department of Health and Human Services Regulation
and Licensure, and the Legislature

June 30, 2006

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INTRODUCTION

The Credentialing Review Program is a review process advisory to the Legislature which is designed to assess the need for state regulation of health professionals. The credentialing review statute requires that review bodies assess the need for credentialing proposals by examining whether such proposals are in the public interest.

The law directs those health occupations and professions seeking credentialing or a change in scope of practice to submit an application for review to the Health and Human Services Department of Regulation and Licensure. The Director of this Agency will then appoint an appropriate technical review committee to review the application and make recommendations regarding whether or not the application in question should be approved. These recommendations are made in accordance with four statutory criteria contained in Section 71-6221 of the Nebraska Revised Statutes. These criteria focus the attention of committee members on the public health, safety, and welfare.

The recommendations of technical review committees take the form of written reports that are submitted to the State Board of Health and the Director of the Agency along with any other materials requested by these review bodies. These two review bodies formulate their own independent reports on credentialing proposals. All reports that are generated by the program are submitted to the Legislature to assist state senators in their review of proposed legislation pertinent to the credentialing of health care professions.

MEMBERS OF THE MIDWIFERY TECHNICAL REVIEW COMMITTEE

Daryl Wills, D.C. (Chairperson)
(Gering)

Bruce Beins, Paramedic / EMS Instructor
(Republican City)

Marcus Nichols, Administrator, O.P.P.D.
(Plattsmouth)

Susan Stranghoener, Guidance Counselor
(Norfolk)

Heather Swanson, M.S.N., C.N.M.
(Wilcox)

Bruce Taylor, M.D.
(Lincoln)

Beth Wilson, Pharm.D., R.P.
(Lincoln)

SUMMARY OF THE APPLICANT'S PROPOSAL

Heather Swanson, M.S.N., C.N.M., is the applicant. The applicant's proposal seeks licensure for those Direct Entry Midwives (DEMs) who satisfy standards defined in the proposal. The proposal states that those Direct Entry Midwives who seek licensure must pass the North American Registry of Midwives (NARM) Examination. Those who pass this exam would be required to pay a fee that would permit them to use the title Certified Professional Midwife (CPM). Those who earn this title could then be granted a license as a Licensed Midwife (LM) by the state of Nebraska. **(The Applicant's Proposal, Pages 3 and 4)**

Groups exempted from the terms of the proposal include Certified Nurse Midwives (CNMs), physicians, midwifery students, parents, and persons lending assistance in an emergency situation. **(Appendix Number 13, The Applicant's Proposal)**

The proposal provides for a temporary license of three years duration for those students in the process of completing their training. **(The Applicant's Proposal, Pages 4)**

The proposal provides for the creation of a Board of Midwifery Practice consisting of five members, including two CPMs, one CNM, one physician, and one consumer. **(The Applicant's Proposal, Pages 7)**

The license would be renewed every two years. The proposal would also require that each practitioner maintain their CPM certification. **(The Applicant's Proposal, Pages 9 and 10)**

SUMMARY OF COMMITTEE RECOMMENDATIONS

The committee members recommended against approval of the applicant's proposal by voting against it on all four of the statutory criteria.

The specific actions and discussion on these actions can be found on pages seven through ten of this report.

FULL COMMITTEE RECOMMENDATIONS ON THE PROPOSAL

During the fourth meeting of the review process for the proposal, the committee members made their recommendations on the proposal. The committee members discussed the statutory criteria of the Credentialing Review Program as defined under Section 71- 6201 through Section 71- 6230 that must be used to make recommendations. (All information in this section of the report was generated at the fourth meeting)

The committee members discussed the four criteria of the credentialing review program, and then took action on the first criterion**.**

Criterion one states:

> **Absence of a separate regulated profession creates a situation of harm or danger to the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument.**

David Montgomery, Division Administrator, HHSS Regulation and Licensure, commented that the first criterion asks committee members to make a recommendation as to whether there is harm to the public in the current situation of the profession under review.

Swanson moved and Taylor seconded that the proposal satisfies the first criterion. Chairperson Wills reminded the committee members that a yes vote indicates support for the motion on criterion one. The committee voted on the motion. Voting aye were Swanson and Wilson. Voting nay were Nichols, Stranghoener, Taylor and Beins. Chairperson Wills abstained from voting. The motion did not pass. By this vote the committee members determined that they were not going to approve the proposal since by program rule a proposal must satisfy all four criteria in order to receive a positive recommendation.

Dr. Wills then asked the committee members to discuss why they voted as they did on this criterion. Bruce Beins stated that it seems to him that to argue that there is harm to the public under the current situation because expectant mothers are not allowed to choose Direct Entry Midwives for home delivery is a tenuous argument. Mr. Beins added that he has concerns about the level of education and training of members of this profession. Dr. Beth Wilson stated that she supported the proposal on this criterion because the State needs to provide the protection that licensure provides for those who want have a home birth. She stated that there is harm currently from untrained lay midwives who are providing home birth services. Heather Swanson stated that there is harm in a situation in which consumers are not provided assurance of competency from home birth services by the State. She argued that regardless of whether the proposal is passed, direct entry midwives will continue to provide their services anyway. Marcus Nichols stated that he is concerned about the levels of DEM education and training. Mr. Nichols went on to state that he did not agree with the argument that the State should license this profession just because they will continue to ignore current legal prohibitions if they are not licensed. He stated that he does not agree with the viewpoint that there is harm just because a particular option for birthing is disallowed. Susan Stranghoener commented that she has concerns about the DEM education and training. She also questions their ability to relate to the rest of the health care system in emergency circumstances where cooperation with other health care professionals is important. Dr. Bruce Taylor also expressed concerns about the level of education and training for DEMs.

The committee members then acted on the second criterion.

Criterion two states:

> **Creation of a separate regulated profession would not create a significant new danger to the health, safety or welfare of the public.**

Mr. Montgomery stated that this criterion asks that the committee members determine whether or not the proposal would create any new kinds of harm to the public that might have the effect of canceling out any potential benefits.

Swanson moved and Taylor seconded that the proposal satisfies criterion two. The committee members then voted on the motion. Voting aye was Swanson. Voting nay were Nichols, Stranghoener, Taylor, Wilson, and Beins. Chairperson Wills abstained from voting. The motion did not pass.

Dr. Wills then asked the committee members to discuss why they voted as they did on this criterion. Mr. Beins stated that he opposed the proposal on this criterion because of concerns that it could create new harm to the public by encouraging home births. He expressed concerns about the education and training of DEMs. Mr. Nichols stated that the proposal would create a new source of harm. Ms. Swanson argued that it is the current situation that is a source of harm, not the proposal. There were no comments from the other committee members regarding this criterion.

The committee members then acted on the third criterion.

Criterion three states:

> **Creation of a separate regulated profession would benefit the health, safety or welfare of the public.**

Mr. Montgomery characterized criterion three as asking whether this proposal would create significant benefit to the public health and welfare. Swanson moved and Beins seconded that the proposal satisfies criterion three. The committee members then voted on the motion. Voting aye was Swanson. Voting nay were Nichols, Stranghoener, Taylor, Wilson, and Beins. Chairperson Wills abstained from voting. The motion did not pass.

Dr. Wills then asked the committee members to discuss why they voted as they did on this criterion. Mr. Beins stated that he felt that to support the proposal would send the message that review committees will recommend licensure for people who are not educated or trained to work with other health professionals to handle emergency situations. Dr. Wilson stated that one possible benefit of the proposal is that it offered consumers a safer alternative to those who are just lay midwives, but that she was also concerned about the relative lack of education and training of the DEMs as well. Dr. Taylor stated that the concerns about safety are overriding concerns as regards this criterion. Ms. Swanson stated that both The World Health Organization and the American Public Health Association have documented the benefits of the work of this profession in many countries around the world. There were no comments on this criterion from the other committee members.

The committee members then acted on the fourth criterion.

Criterion four states:

> **The public cannot be effectively protected by other means in a more cost-effective manner.**

Mr. Montgomery commented that criterion four asks the committee members to try to envision alternative ways the problems identified in the proposal could be resolved. It also asks the committee members whether this proposal is effective in addressing the problems identified in the proposal, and if so, whether it is the most practical way to address these concerns.

Swanson moved and Wilson seconded that the proposal satisfies criterion four. The committee members then voted on the motion. Voting aye was Swanson. Voting nay were Nichols, Stranghoener, Taylor, Wilson, and Beins. Chairperson Wills abstained from voting. The motion did not pass.

Dr. Wills then asked the committee members to discuss why they voted as they did on this criterion. Dr. Taylor stated that the great potential for new harm from this proposal means that it is not the most cost-effective way of dealing with the issues under review. Dr. Wilson commented that there would be costs associated with the DEM proposal that would not be incurred with the CNM proposal, such as those associated with the creation of a new board and all the costs to the State of actually creating a licensure process for this group. There were no comments from the other committee members on this criterion.

By these four votes on the criteria, the committee members recommended against approval of the proposal.

COMMITTEE DISCUSSION ON ISSUES OF THE REVIEW

1) Does the current situation of DEMs create a situation of harm or potential for harm to the public health and welfare?

- Access to home birth as an alternative to hospital birth services:

  Heather Swanson, C.N.M., the applicant representative on the technical committee stated that under the current situation, the act of having a home birth attended by a midwife is illegal in Nebraska, and that any midwife attending a home birth can be cited for practicing medicine without a license. Ms. Swanson informed the committee members that this has not stopped those Nebraskans who seek these services from pursuing the birthing services of midwives. She went on to state that expectant mothers are finding it increasingly difficult to access the services of midwives willing to attend a home birth. She informed the committee members that many consumers came forward during the last legislative session to testify in support of proposed legislation that would have legalized midwifery attended home births. These consumers voiced their desire for these services and requested that they be legalized and regulated so that consumers can be assured of reasonably safe and good quality services. **(The Applicant's Proposal, Page 5)**

  Ms. Swanson informed the committee members that some expectant mothers in western Nebraska have reported traveling to Wyoming to have midwife-attended births in hotel rooms. Ms. Swanson stated that some expectant mothers have arranged for midwives from out-of-state to come to their homes to attend a home birth for them. She stated that some expectant mothers have not been able to find a midwife to attend their home birth and have had to rely on family members for assistance. She added that the current legal situation is to blame for these access problems. **(The Applicant's Proposal, Page 6)**

  Ms. Swanson informed the committee members that of thirty-three midwifery consumers who responded to a survey, eleven cited cost as an important reason why they sought out the services of a midwife. According to Ms. Swanson, these consumers wanted more value for their health care dollar than they would receive from hospital care. **(Survey of Midwifery Consumers Conducted by Heather Swanson regarding the Availability of Midwifery Services in Nebraska, The Applicant's Proposal, Appended Item # 15)**

  Ms. Swanson commented that midwives take more time for prenatal visits and spend more time with expectant mothers than do physicians, for example, and for low-to moderate-risk expectant mothers, care outcomes have been just as good, if not better, for midwife-attended births than physician-attended births. She stated that studies have shown that home births attended by midwives are significantly less costly than hospital births attended by physicians. **(The Applicant's Proposal, Page 23 and 24, and Hodges, S., and Goer, H., "Effects of Hospital Economics on Maternity Care," Citizens for Midwifery News, Spring/Summer 2004)**

  Krynn Buckley, M.D., an opponent testifier, stated that the current situation in which birthing services are located in hospital settings is the most optimal one for the safety of both expectant mothers and their babies. In these settings emergency care can

be provided as required by the circumstances without delays associated with emergency medical transport. This testifier also commented that in the current hospital delivery setting in Nebraska, expectant mothers do have the option of utilizing the services of a nurse midwife. These professionals work with physicians and other professionals to provide delivery services in hospital settings. **(The Transcript of the Public Hearing Held on April 20, 2006, Page 80)**

Todd Pankratz, M.D., another opponent testifier, informed the committee members that he knows that there are hospitals in Nebraska that deliver services consistent with the midwifery model of care to expectant mothers. Such services are offered by nurse midwives who are employed by the facility to work with other professionals in the hospital setting to provide services that are responsive to the needs and wishes of expectant mothers as well as safe for both mother and child. **(The Transcript of the Public Hearing Held on April 20, 2006, Page 96 and 97)**

Dr. Pankratz expressed concerns about the education and training of direct entry midwives, and commented that they lack the labor and delivery experience and medical training of nurse midwives. He stated that nurse midwives have hundreds—perhaps as many as a thousand—labor and delivery experiences, whereas direct entry midwives would only need to attend forty deliveries to qualify for certification. Dr. Pankratz stated that concerns about the cost of services should not override concerns about the safety of services. **(The Transcript of the Public Hearing Held on April 20, 2006, Page 98)**

- <u>Costs of hospital services compared with home birth alternatives</u>:

  Ms. Swanson stated that hospital delivery costs are consistently higher than deliveries provided at home by midwives. For expectant mothers who do not have health insurance, hospital costs can be prohibitive. Ms. Swanson stated that the average home birth fee in 1999 ranged from $2,300 to $5,000 while hospital births ranged from $4,300 to $16,000 for that same time period. Ms. Swanson stated that home births with a midwife have been found to be sixty-eight percent cheaper than hospital births. **(The Applicant's Proposal, Page 23, and Hodges, S., and, Goer, H., "Effects of Hospital Economics on Maternity Care," Citizens for Midwifery News, Spring/Summer 2004, and, Anderson, R., and Anderson, D., "The Cost-Effectiveness of Home Birth, Journal of Nurse Midwifery, 44, pp. 30-35,1999)**

  Ms. Swanson informed the committee members that patients who do not have health insurance may choose the home birth alternative. Dr. Taylor, the representative of the Nebraska Medical Association on the committee, commented that his knowledge and professional experience indicates that some hospitals in Nebraska are willing to reduce the price of their fee for patients who lack health insurance, and will allow the patient to pay one-third of the cost in advance and still deliver in the hospital. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006)** Roger Keetle, General Counsel representing the Nebraska Hospital Association, commented that Nebraska hospitals do provide charitable care for persons unable to pay for services, and this kind of charitable care is extended to expectant mothers and their children as well. **(The Transcript of the Public Hearing Held April 20, 2006, Page 108)**

Mr. Keetle commented that home births are not necessarily more cost-effective than hospital delivery. He stated that if there is a need to transport to a hospital setting, the expectant mother would then incur the costs of the hospital delivery plus midwifery costs up to that point in time. This circumstance could add up to real financial difficulties for someone without health insurance. **(The Transcript of the Public Hearing Held April 20, 2006, Page 107)**

- Treatment interventions in hospital birth services:

  Ms. Swanson noted what she perceives to be an increasing tendency of hospitals to utilize costly and complex monitoring and delivery technologies, regardless of the level of risk. She feels this is a source of potential harm to those expectant mothers whose pregnancies are not considered high-risk. Ms. Swanson referred to this phenomenon as "rising intervention" in physician-attended hospital births, which includes such things as continuous electronic fetal monitoring, episiotomy, labor augmentation, labor induction, instrumental delivery, C-sections and suture repair. She argued that low-risk pregnancies of healthy expectant mothers do not require these kinds of interventions. She stated that low-risk expectant mothers in hospital situations are incurring unnecessary risks because they are subjected to treatments that they do not need. Ms. Swanson stated that births attended by midwives result in fewer lacerations requiring suture repair. **(The Applicant's Proposal, Page 24)**

  Dr. Pankratz provided statistics from his OB/GYN practice in Hastings, Nebraska which employs two certified nurse midwives. According to Dr. Pankratz, in 2005 these two CNMs performed hospital deliveries for 189 expectant mothers who were in the low-risk category, and of these deliveries, forty-nine percent required no anesthesia. The primary C-section rate was fifteen percent, and the rate of operative deliveries via forceps or vacuum procedures was only four percent. **(The Transcript of the Public Hearing Held on April 20, 2006, Page 98)**

  Dr. Pankratz stated that hospitals are the safest places to deliver a child, and the fact that insurance companies will always insure the work of a CNM as long as their services are provided in a hospital setting is testimony to that fact. **(The Transcript of the Public Hearing Held on April 20, 2006, Page 98)**

  Mr. Keetle stated that other reasons why hospitals are the best places to deliver babies pertain to peer review and quality assurance programs. He stated that taken together, these kinds of programs ensure the highest level of quality and safety possible for birthing services. **(The Transcript of the Public Hearing Held on April 20, 2006, Pages 105 and 106)** Ms. Swanson presented information in the proposal which clarified that five contact hours of participation in peer review activities is a component of CPM re-credentialing requirements. **(The Applicant's Proposal, Appended item #4)**

- Risk from unlicensed home birth providers due to lack of State regulation:

  Ms. Swanson stated that under the current situation wherein midwives are not allowed to attend home births, it is quite challenging for expectant mothers who want these services to find a midwife who is qualified and competent. These women sometimes end up choosing a practitioner who may not have all of the qualifications or competencies to provide a safe delivery. Ms. Swanson stated that legal

recognition and regulation by the State would correct this risk-laden situation. **(The Applicant's Proposal, Page 26)**

Opponent testifiers stated that the current situation wherein birth services are located in hospital settings is the most optimal one for the safety of both expectant mothers and their babies. In these settings, emergency care can be provided as required by the circumstances without delays associated with emergency medical transport. For this reason, these opponents indicated that there is no need to allow home births, and no need to license direct entry midwives to provide such services. The opponents indicated that direct entry midwifery services should continue to be illegal. **(The Transcript of the Public Hearing Held on April 20, 2006, Pages 80, 96, and 97)**

2) Would the proposal to license DEMs create significant new potential for harm to the public health and welfare?

- Comparative risk of home births versus hospital births:

  Opponents of the proposal commented that concerns about freedom of choice should not override concerns about safety. They argued that even in the case of a low-risk pregnancy, things can go wrong very fast, and that it is best for safety reasons to have delivery in a hospital setting where the technology and expertise is present to deal with emergencies as they arise. Ms. Swanson responded by stating that bad outcomes can occur in any setting, including hospitals, and that home settings are not inherently more unsafe than other kinds of settings for healthy expectant mothers. Ms. Swanson added that healthy women should be allowed to choose the birth setting they desire and the level of risk that goes along with that setting. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006)**

  Representatives of the Nebraska Medical Association submitted research articles on potential infant and maternal complications during childbirth. These articles dealt with the following topics: fetal macrosomia and shoulder dystocia, meconium aspiration syndrome and obstetrical hemorrhage. Research on the risks associated with hemorrhaging stated that serious hemorrhaging can occur at any time during pregnancy. This research stated that one of the risk factors for this problem is substandard care, including the lack of availability of obstetrical and anesthetic services. **(Chapter 25 of a medical text referred to as "Williams Obstetrics", pages 620 and 621)** The research on meconium aspiration indicated that meconium-stained amniotic fluid is seen in a median of fourteen percent of deliveries and is associated with increased risk of respiratory disorders. The research shows that respiratory distress occurs in eleven percent of newborns that have meconium-stained amniotic fluid. **("Clinical features and diagnosis of meconium aspiration syndrome" by Joseph A. Garcia-Prats, M.D.)** The research submitted on shoulder dystocia indicates that this is a problem in 0.2 to two percent of births and can be a devastating obstetrical emergency. The research indicated that typically this occurs in an absence of risk factors. The risk with this problem is that the infant can be asphyxiated during delivery unless the attendee is well prepared to deal with the problem. **("Management of fetal macrosomia and shoulder dystocia" by John F. Rodis, M.D.)**

Applicant testifiers stated that midwives are trained to recognize conditions such as meconium aspiration syndrome and shoulder dystocia. They stated that midwives are trained to transfer patients with moderate to thick meconium to a hospital setting. The applicants added that midwives are also trained in techniques to alleviate shoulder dystocia. **(The Transcript of the Public Hearing Held on April 20, 2006, Pages 141-145)**

Ms. Swanson informed the committee members that one study on births found that that there are lower rates of low-birth-weight infants and lower rates of one-minute APGAR scores less than seven for home births as opposed to hospital births. **(The Transcript of the Public Hearing Held April 20, 2006, Pages 20 and 21, and Hosmer, L., Clinical Obstetrics and Gynecology, 44(4), (2000), Pages 671-680, and, Declercq, E.R., Paine, L.L., and Winters, M.R., "Home Birth in the United States, 1989-1992: A Longitudinal Descriptive Report on National Birth Certificate Data, Journal of Nurse Midwifery, 40, Pages 474-481, (1995))**

Ms. Swanson provided research articles and data to support the contention that home births are as safe as hospital births. One study done in Tennessee compared outcomes of 1,707 planned home births by lay midwives with 14,033 hospital deliveries by physicians between 1971 and 1989. The findings were that birth weight and maternal demographics were matched, and there was no significant difference in perinatal mortality rates or APGAR scores. Cesarean section rates were significantly different in that for physicians it was 16.46 percent while for midwives it was 1.2 percent. **(Hosmer, L., Clinical Obstetrics and Gynecology, 44(4), (2000), Pages 671-680, and, Johnson, K.J., and Daviss, B., "Outcomes of Planned Home Births with Certified Professional Midwives: A Large Perspective Study in North America, The British Medical Journal, 330, Page 1416 (2005))**

Opponents to the proposal argued that studies that make it appear that home births are as safe as or safer than hospital births often do not control for all relevant medical and demographic variables, and do not consider that women who choose to have a home birth are a self-selected group whereas those women who deliver in hospitals cover the entire range of expectant mothers including those who are high-risk. **(Nebraska Hospital Association written testimony, Attachment 2, Carly Runestad, Health Policy Specialist, April 28, 2006**) Ms. Swanson responded to these opponent comments by stating that the studies presented by her to the committee did factor in demographic and medical variables. **(Written Testimony Provided by Heather Swanson dated April 29, 2006)**

Opponents of the proposal stated that a study done in the state of Washington documents the risks associated with planned home birthing. **(Pang, J., Heffelinger, J., and Huang, G., et. al., "Outcomes of Planned Home Births in Washington State: 1989-1996, Obstetrics and Gynecology, 100(2), Pages 253-259, 2002)** Ms. Swanson responded to these comments by stating that the study cited by the opponents used data that could not differentiate between planned and unplanned home births, and therefore could not validly be used to document the supposed harm associated with planned home births. **(Transcript of the Public Hearing Held on April 20, 2006, Page 135)**

Carly Runestad, testifying for the Nebraska Hospital Association, stated that transfer time to a hospital by ambulance is a critical concern in any discussion of home birth issues. Ms. Runestad informed the committee members that in Nebraska the average transfer time is fifty-three minutes, and given that a newborn may suffer brain damage after fifteen minutes or within thirty minutes in the case of a C-section, this amount of transfer time does not provide for necessary protection. Ms. Runestad clarified that this is in no way a criticism of EMS services, but rather is an argument for the importance of having services located in facilities wherein all necessary emergency personnel and technology are already in place. **(The Transcript of the Public Hearing Held April 20, 2006, Page 167, and the Nebraska Ambulance Rescue Service Information System, Douglas Fuller, Southeast EMS Specialist, Contact Person)**

Ms. Swanson responded to opponent comments about distance factors pertinent to the safety of home birth by stating that studies supportive of home birth do not show that distance from a hospital increases risk of harm, and that one of these studies gathered data from rural areas all over North America. **(Johnson, K.J., and Daviss, B., "Outcomes of Planned Home Births with Certified Professional Midwives: A Large Perspective Study in North America, The British Medical Journal, 330, Page 1416 (2005))**

Applicant testifiers commented that birth is typically a normal, natural, low-risk condition that does not require medical intervention or hospital care. These testifiers stated that if a situation arises that is not in the realm of normal birth, the midwife must use her or his training to recognize the situation before it becomes a crisis and transport or refer in a timely and precautionary manner. According to these testifiers, home delivery should not be viewed as being inherently more risky than hospital delivery. **(Written Testimony from the North American Registry of Midwives, April 20, 2006)**

- Education and training of DEMs to manage home births and handle emergency care situations:

  Ms. Swanson informed the committee members that most midwives who achieve the CPM certification have received some formal education and training and have been reviewed for performance competency. These practitioners would have already taken the NARM examination and would then be required to pay a fee to receive their license as a DEM under the terms of the proposal**. (Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006)**

  Mr. Nichols asked why the proposal does not mandate formal education and training for DEM licensure. The applicant responded that not all midwifery programs are accredited, but that passing the NARM exam is mandated, which will ensure that the applicants are well-qualified. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006)**

  Mr. Nichols commented that some candidates for DEM licensure would not receive any kind of formal medical education or training in order to be able to competently handle medical emergencies. Ms. Swanson responded that candidates for DEM licensure would be given a temporary license for three years duration, during which they would have to demonstrate competency and pass the NARM exam. During

these three years these licensure candidates could be subject to disciplinary action. Ms. Swanson also stated that DEMs are trained to handle emergencies, and discussed the various skill sets required for their credentialing. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006, and The Applicant's Proposal, Appended item #4)**

Testimony from supporters of the proposal informed the committee members that development of skills in the area of risk assessment is a focal point of midwifery education and training, and that the emphasis of the NARM examination of midwifery skill sets centers around the evaluation of risk assessment abilities. This testimony informed the committee members that every CPM must know how to nurture the normal process of birth as well as recognize any and all signs of abnormality before the mother or baby are at risk. **(Written Testimony from the North American Registry of Midwives, April 20, 2006)**

Opponents of the proposal argued that given the lack of medical training of direct entry midwives, these practitioners are not adequately prepared to handle birthing emergencies. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006; and Transcript of the Public Hearing Held on April 20, 2006, Pages 87 and 88)**

- Education and training of DEMs to evaluate health risks and manage health care conditions of mothers:

  Ms. Swanson provided information on the education and training of certified midwives pertinent to primary care for expectant mothers. This information stated that midwives are trained in management strategies and therapeutics for the treatment of common problems of essentially healthy women, and that they are trained to refer any serious health problems that might arise to an appropriate practitioner. **(The College of Nursing, University of New Mexico, April 20, 2006)**

  Other applicant testifiers responded to this question by stating that the midwife evaluates not only the medical condition of the woman's pregnancy, but her emotional and nutritional condition and needs as well. These testifiers went on to state that lab work is done during the pregnancy so that appropriate information can help practitioners in their evaluation. These testifiers stated that a midwife's care focuses on prevention so that nutrition and health are optimized. They cautioned that midwives are taught to recognize and treat such abnormalities as hemorrhages, but do not attempt to diagnose or treat such problems as diabetes or placenta previa, for example. They are trained to refer their client to a physician for diagnosis and treatment of such conditions. **(Written Testimony from the North American Registry of Midwives, April 20, 2006)**

  Opponents of the proposal argued that given the lack of medical training of direct entry midwives, they are not adequately trained or educated to manage the health care conditions of expectant mothers. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006; and Transcript of the Public Hearing Held on April 20, 2006, Pages 87 and 88)**

- Knowledge of the health care system by DEMs:

Ms. Swanson provided information regarding how midwives interact in the health care system. The committee members were informed that every CPM must have an emergency plan for transport or referral which is shared with each client, and that every CPM must have an informed consent document that details her or his relationship with referral physicians**. (Written Testimony from the North American Registry of Midwives, April 20, 2006)**

Ms. Swanson provided information that certified midwives are trained to recognize the presence of emergency conditions and situations, and to make appropriate responses to them, including referral to other practitioners and transport of the expectant mother to a hospital. **(The College of Nursing, University of New Mexico, April 20, 2006)**

Opponents of the proposal indicated that lay midwives do not know the health care system and that they lack specific training in medical procedures, and that this increases the considerable risk associated with home births. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006; and Transcript of the Public Hearing Held on April 20, 2006, Pages 87 and 88)** Ms. Swanson stated that licensing DEMs would allow them to become a more visible part of the health care system. **(The Applicant's Proposal, Pages 35 and 36)**

3) Would the proposal to license DEMs benefit the public health and welfare?

- Access to the services of home birth providers:

Ms. Swanson stated that the proposal would provide a corrective to the current situation wherein the services of direct entry midwives are illegal. The proposal would provide those expectant mothers who want home birth services with a legal and safe means of accessing such services. Currently, expectant mothers who seek a home birth must circumvent the law to get access the services of midwives. The proposal would provide midwifery practitioners who seek to attend home births the legal right to do so. **(The Applicant's Proposal, Page 36)**

Opponents of the proposal stated that the proposal would not benefit the public health and welfare. They expressed concerns about legalizing home delivery services that, in their judgment, were by their very nature unsafe. These persons indicated that expectant mothers should have their babies delivered in hospital settings where emergency personnel and technology are available to deal with any medical emergencies that might arise. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006)**

Ms. Swanson informed the committee members that those expectant mothers who seek out a midwife do so because they want to avoid unnecessary medical interventions that are typical of birthing services of hospitals. She commented that these expectant mothers often prefer a lay midwife over a CNM for similar reasons, and often perceive CNMs as following a medical model of care rather than a midwifery model wherein birth is dealt with as a natural process rather than a medical procedure. Ms. Swanson argued that these expectant mothers should have the freedom of choice to employ a lay midwife duly licensed by the state as a DEM to

attend a home birth if that is what they desire. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006)**

- Upgrading the qualifications of non-nurse midwifery home birth services:

  Ms. Swanson stated that the proposal would provide the means by which quality assurance could be brought to bear in the area of midwifery services in Nebraska. By legalizing and licensing midwifery service providers, the proposal would facilitate a consistent upgrading of the education and training standards of midwives, thereby for the first time enabling the profession to benefit from the application of the Uniform Licensing Law, including the disciplinary provisions that are components of this law. **(The Applicant's Proposal, Pages 3 through 11, and Page 36; and The Transcript of the Public Hearing Held April 20, 2006, Page 27)**

  Krynn Buckley, M.D., an opponent testifier, indicated that direct entry midwives do not have the education or training to provide the services being proposed safely. **(The Transcript of the Public Hearing Held April 20, 2006, Page 87 and 88)**

4) Is this proposal the most cost-effective means of resolving the problems identified by the applicant group?

- Comparative costs of home birth services to hospital birth services:

  Pertinent to the issue of cost of services, Ms. Swanson stated that the proposal would help lower costs for expectant mothers who do not have health insurance. Dr. Taylor commented that his professional experience indicates that many hospitals in Nebraska are willing to reduce fees for patients who do not have health insurance. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006)** Mr. Keetle added that experience with Nebraska hospitals indicates that they are willing to cover the cost of services for patients who do not have insurance, and that this charitable policy extends to birthing services as well. **(The Transcript of the Public Hearing Held on April 20, 2006, Page 105)**

  Ms. Swanson was asked about the levels of cost for deliveries. Ms. Swanson commented that cost savings can be achieved by minimizing the use of expensive technologies, and that home births can play a role in such cost savings opportunities. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006)**

  Mr. Keetle commented that the consumer can end up paying for both the hospital costs and midwifery costs if it becomes necessary to transport. **(The Transcript of the Public Hearing Held April 20, 2006, Page 107)**

  Ms. Swanson was asked if there is any evidence from other states that credential CPMs as to whether or not third-party payers reimburse CPMs for their services. Ms. Swanson responded that some states cover them for Medicaid, and that some private insurance companies do pay for their services. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006, and The Applicant's Proposal, Page 44, and Appended Item # 11)** Mr. Keetle commented that his professional experience indicates that it is highly unlikely that direct entry midwives

would receive either malpractice insurance or third-party reimbursement for their services. He stated that the client would, in all likelihood, have to pay for services out-of-pocket. **(The Transcript of the Public Hearing Held on April 20, 2006, Page 105)**

Ms. Swanson expressed the opinion that licensing DEMs to provide home birth services would provide consumers with a less costly birth alternative. She stated that hospital birth services involve the use of expensive technology, medical tests and lab work that are not done by midwives. Additionally, with a home birth, the consumer would not need to pay a fee to a hospital for the use of its facilities. She commented that some of those expectant mothers who choose to have a home birth do so because they do not have health insurance and cannot afford the services of a hospital. **(The Applicant's Proposal, Pages 41 and 42)**

Opponents to the proposal expressed concerns about the safety of home births, and indicated that expectant mothers and their babies would be safer in hospitals where emergency personnel and technology are available to deal with any medical emergencies, regardless of concerns about cost. **(Minutes of the Second Meeting of the Technical Review Committee, April 1, 2006; and The Transcript of the Public Hearing Held April 20, 2006, Pages 87 and 88)**

- Access to quality home birth service providers:

  Ms. Swanson argued that her proposal would upgrade the educational and training standards of midwifery practitioners in Nebraska by creating a standard of training and education that would be supported by the licensure of all direct entry midwifery practitioners. This would provide greater assurance that the consumers of midwifery services would be served by qualified and competent practitioners. **(The Applicant's Proposal, Page 36)**

  Opponents of the proposal expressed concerns about the ability of DEMs to provide safe services given their lack of education and training. **(The Transcript of the Public Hearing Held April 20, 2006, Pages 87 and 88)**

- Choices available to consumers for birth services:

  Ms. Swanson informed the committee members that her proposal would provide those consumers who want home births with a range of choice for accessing these services. The applicant felt that the proposal, once it is passed, would increase the number of qualified providers of these services as well. **(The Applicant's Proposal, Pages 5 and 6)**

  Opponents of the proposal argued that given the lack of medical training of direct entry midwives, expectant mothers and their unborn children would be safer being under the care of a physician or a CNM employed in a hospital setting. These testifiers indicated that concerns about freedom of choice should not override concerns about safety. **(The Transcript of the Public Hearing Held April 20, 2006, Pages 87 and 88)**

OVERVIEW OF COMMITTEE PROCEEDINGS

The committee members met for the first time on **February 10, 2006** in Lincoln, at the Nebraska State Office Building. The committee members received an orientation regarding their duties and responsibilities under the Credentialing Review Program.

The committee members held their second meeting on **April 1, 2006** in Lincoln, in the HHSS Regulation and Licensure Hearing Room in the Gold's Building. The committee members thoroughly discussed the applicant's proposal and generated questions and issues that they wanted discussed further at the next phase of the review process, which is the public hearing.

The committee members met for their third meeting on **April 20, 2006** in Kearney, at the Buffalo County Extension Building. This meeting was the public hearing on the proposal, during which both proponents and opponents were each given one half-hour to present their testimony. Individual testifiers were given ten minutes to present their testimony. There was also a rebuttal period after the formal presentations for testifiers to address comments made by other testifiers during the formal presentation period. A public comment period lasting ten days beyond the date of the public hearing was also provided for, during which the committee members could receive additional comments in writing from interested parties.

The committee members met for their fourth meeting on **June 2, 2006** in Lincoln, in the Nebraska State Office Building. The committee members continued their discussion on the proposal, and then formulated their recommendations on the proposal.

The committee members met for their fifth meeting on **June 30, 2006** in Lincoln, in the Nebraska State Office Building and by teleconference. At this meeting the committee members made corrections to the draft report of recommendations, and then approved the corrected version of the report as the official document embodying the recommendations of the committee members on the proposal. The committee members then adjourned sine die.