



## **2023 Legislative Issue Form**

1.) **Contact Information** (of person bringing forth issue):

- a. **Name:** Jake Niece
- b. **Title:** Ouray County Commissioner
- c. **County:** Ouray County
- d. **Phone Number:** 970 318 8204
- e. **E-Mail Address:** jniece@ouraycountycyco.gov

2.) **Issue/Problem to be addressed** (What is the problem this legislation is seeking to solve?)

Sexual assault is a significant problem that unfortunately impacts all communities. One barrier in responding to sexual assaults is a lack of health care professionals who are trained and certified as a Sexual Assault Nurse Examiner (SANE) to perform trauma-informed examination of victims (rape kits). An exam performed by a SANE provider is required for any physical evidence collected to be legally admissible for prosecution.

In Colorado, UCHealth interprets state statute to exclude midwives from being trained as SANE providers despite midwives' training and experience in the relevant, anatomy, physiology and client-interface skills. UCHealth is responsible for Colorado's SANE project.

The nurse shortage on top of pre-existing lack of access in some counties, results in long waiting times and lengthy travel before a sexual assault victim can be examined by a SANE provider, which too often prevents a person from seeking an exam, and ultimately results in a lack of prosecution for a rapist and a lack of justice for a victim.

3.) **Background on this Issue/Problem** (How did this come to be? Why are you seeking a legislative remedy?)

Midwives have always been recognized as legitimate health care providers and were licensed in early Colorado history.<sup>1,2,3,4</sup> However, beginning in the 1920s, a cultural shift medicalized pregnancy, and delegitimized midwives with the goal of replacing midwifery with obstetrics. Midwives reemerged in the 1970s with nurse-midwives practicing under doctors, first being licensed in 1976. Midwives were re-regulated in 1993 to create two classes of midwives: licensed nurse-midwives, and registered midwives. Initially, registered midwives were excluded from health infrastructure like health and malpractice insurance and tort reform.<sup>5</sup> However, those exclusions were removed from statute in 2011,<sup>6</sup> and now both nurse-midwives and registered midwives are independent providers.

Furthermore, DORA, acknowledged in a 2000 Sunset Report<sup>7</sup> that the regulatory scheme for registered midwives was a licensing program and not a simple registry. DORA recommended this language be changed in statute,<sup>8</sup> but that change has not yet been made. The American Congress of Obstetricians and Gynecologists have acknowledged internationally recognized standards with regard to the licensure of midwives.<sup>9</sup> A 2020 National Academies of Science, Engineering and Medicine report on Birth Settings also makes that point.<sup>10</sup> Colorado's midwife program satisfies these requirements in all but name.

C.R.S. 12-20-102(9)

“License” means a grant of authority issued by the director or a board or commission pursuant to a part or article of this title 12 that authorizes a person to engage in a profession or occupation regulated by that part or article.

C.R.S. 12-20-102 (11)

“Register” means to record the information required by a part or article of this title 12 in the form and manner determined by the regulator that regulates the practice of a profession or occupation pursuant to that part or article. “Registered” and “registration” have corresponding meanings.

**Please submit this completed form to Katie First at [kfirst@ccionline.org](mailto:kfirst@ccionline.org)**

**By Friday, July 8.**



The Direct-Entry Midwives Practice Act in Title 12, Article 225 is a licensing act by this definition. UCHealth’s Memorial Hospital assumed responsibility for the Colorado State SANE/SAFE Project in 2013 through a competitive grant offered through the Division of Criminal Justice. See the attached statement from UCHealth in response to a Ouray County midwife seeking SANE training that states in part, “Unfortunately, this has nothing to do with refusal to provide the training but everything to do with licensure.”

**4.) Proposed Solution/Legislative Remedy to this issue.**

In Colorado Revised Statutes Title 12 Article 225 (§12-225-101 - §12-225-114), replace the words “register” and “registration” with “license,” “licensure,” or “licensing.”

This change will grant all midwives unambiguous access to SANE training so that they may perform sexual assault exams, can collect physical evidence that is admissible in court for prosecution, and provide better support for sexual assault survivors.

**5.) Have you explored a non-legislative solution to this problem?**

Yes. An advocacy organization, Elephant Circle, has been working on this for many years. They are considering filing for a declaratory judgment to get a court order recognizing the direct-entry midwife program as a licensing program based on the definition in Colorado law and the facts of the program. However they are confident that even if such an order were issued a statutory change would still be needed to reinforce it.

**6.) Statutory Citation to be modified AND proposed/revised language (The Colorado Revised Statute is available for free at [this link](#), by selecting “Colorado Revised Statutes”).**

In Colorado Revised Statutes Title 12 Article 225 (§12-225-101 - §12-225-114), replace the words “register” and “registration” with “license,” “licensure,” or “licensing.”

**7.) Relationship of this issue to County Commissioner’s roles and/or authorities.**

Ouray County, including the Sheriff’s Office, partners with our municipalities to furnish a Sexual Assault Response Team. The Ouray County Board of County Commissioners also acts as the Board of Social Services and Board of Health, whose duties encompass support for sexual assault survivors, and enabling tools for prosecution.

**8.) Has this proposal been approved by the Board of County Commissioners?**

Yes.

**9.) List any potential Proponents/Opponents & their perspective; indicate any groups/individuals with whom you have already discussed this issue.**

Proponents:

Elephant Circle, Soul 2 Soul Sisters, the Colorado Organization for Latina Opportunity and Reproductive Rights, the Colorado Consumer Health Initiative, ProgressNow, The American Association of Birth Centers, the National Association of Certified Professional Midwives, the Birth Rights Bar Association, Men Ending Rape Culture (MEND), Victim Advocate Support Alliance (VASA), Ouray County Sheriff’s Office

Potential Opponents:

UCHealth  
Colorado American College of Obstetricians and Gynecologists (ACOG)  
American Academy of Pediatrics, Colorado Chapter (AAP-CO)

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10.) **Have you visited with your legislator(s) about this proposal? What was their reaction? Are members of your delegation likely to sponsor, support, or oppose this proposal?**

No. Ouray County was redistricted from House District 59 to 58 with substantial boundary changes, our future representative will be determined in the 2022 general election. Our Senate District 6 was also substantially changed to exclude incumbent Senator Coram, with our future senator unknown until the 2022 general election.

11.) **Anticipated Fiscal Impact (to counties, state, other stakeholders, etc.).**

No fiscal impact. The request makes a simple language change that would unambiguously include midwives in an already existing DORA licensing program for health care professionals.

12.) **Please list the local subject matter experts CCI staff can follow-up with for more information on this proposal.**

Indra Lusero - Elephant Circle  
Jaime Doty - Midwife in Ouray County  
Tammy Stroup - Ouray County Undersheriff  
Jaime Doty - Victim Advocate Support Alliance

13.) **If your county is submitting multiple issue forms, please rank each issue.**

This is the only issue Ouray County is submitting.

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<sup>1</sup> Judy Barrett Litoff, *The American Midwife Debate: A Sourcebook on its Modern Origins*, Greenwood Press (1986);

<sup>2</sup> Kimberly Jensen, *The Open Way of Opportunity*, 27 *THE WESTERN HISTORICAL QUARTERLY* 327 (1996)

<sup>3</sup> Patricia G. Tjaden, *Midwifery in Colorado: A Case Study of the Politics of Professionalization*, 10 *QUALITATIVE SOCIOLOGY* 32 (1987)

<sup>4</sup> COLORADO DEPT. OF REGULATORY AGENCIES, *COLORADO MIDWIVES REGISTRATION PROGRAM: 2000 SUNSET REVIEW* (2000)

<sup>5</sup> Indra Lusero, *Redefining Birth: The Legal History of Midwifery in Colorado and Forging a Path Toward Perinatal Care that Prioritizes Health and Wellness for All*, forthcoming, *Drexel L. Rev.* 2022; H.B. 1051, 59th Gen. Assemb., Reg. Sess. (Co. 1993)

<sup>6</sup> Indra Lusero, *Redefining Birth: The Legal History of Midwifery in Colorado and Forging a Path Toward Perinatal Care that Prioritizes Health and Wellness for All*, forthcoming, *Drexel L. Rev.* 2022.

<sup>7</sup> Colorado Midwives Registration Program, 2000 Sunset Review,

<https://static1.squarespace.com/static/57126eff60b5e92c3a226a53/t/6037f39a04c8f22aafa277f9/1614279579628/2000Midwives.pdf>, accessed 6/30/2022

<sup>8</sup><https://static1.squarespace.com/static/57126eff60b5e92c3a226a53/t/6057b00848c4b957099f1309/1616359432696/2000DORA-License-Rec-Pages.pdf>, accessed 6/30/2022

<sup>9</sup> ACOG Endorses the International Confederation of Midwives Standards for Midwifery Education, Training, Licensure And Regulation <https://www.acog.org/news/news-releases/2015/04/acog-endorses-the-international-confederation-of-midwives-standards-for-midwifery-education-training-licensure-and-regulation>, accessed 6/30/2022

<sup>10</sup> *Assessing Health Outcomes by Birth Settings*, 2020 National Academies of Science, Engineering and Medicine <https://www.nationalacademies.org/our-work/assessing-health-outcomes-by-birth-settings>, accessed 6/30/2022

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