



Board of Certified Direct-Entry Midwives Proposed Regulations - FAQ

August 2016

1. Why are new fees being proposed?

By law, fees must be analyzed annually and set to approximately recover the cost of program operations. Alaska's professional licensing statutes (AS 08.01.065) require the Division of Corporations, Business and Professional Licensing (CBPL) to "annually review each fee level to determine whether the regulatory costs of each occupation are approximately equal to fee collections related to that occupation." Alaska's licensing fee statutes go on to say, "If the review indicates that an occupation's fee collections and regulatory costs are not approximately equal, the department shall calculate fee adjustments and adopt regulations ... to implement the adjustments."

With the exception of one year when the program just broke even, the licensing program has been in deficit since 2002. Fees have been increased, but the increases thus far have not been enough to cover biennial program expenses. This means the deficit is growing exponentially. The Division of Legislative Audit, as well as the Alaska State Legislature itself, has been outspoken of its criticism of fees not being set high enough to comply with the statutory requirements mentioned above. The Board of Certified Direct-Entry Midwives recognizes the problem and the risks to the program if a serious effort is not made in addressing the deficit.

The Director of the Division of Corporations, Business and Professional Licensing will adopt fees after considering all public comments. Fees will become effective 30 days after signed by the Lieutenant Governor. The division will post this information on the website and begin sending out renewal applications to current licensees at that time.

2. Why is the licensing program in deficit?

The main reason why the program is in deficit is because its expenses outpace the revenues brought in through licensing fees. With only 62 licensees, it is expensive to maintain the costs of staff, a board, attorney support, enforcement, and the basic infrastructure of the duties in statute and regulation.

3. What are the proposed fees for licensure?

At its June meeting, the board proposed to increase fees to \$2700 for midwives and \$1275 for apprentices, with a \$4000 surcharge due in December 2018. The Department of Law advised the

division against writing regulations to demand a surcharge, so the director opted to split the \$4000 fee into two payments that were incorporated into the licensing fee, one due this December at renewal and one due December 2018.

Fees **proposed** for the 2017-2018 licensing period are below. Fees in **bold** and underlined are proposed; those without such treatment are current fees.

Fees for direct-entry midwives and apprentices:

- (1) nonrefundable application fee for initial certification, **\$500** [\$250];
- (2) certification fee for all or part of the initial biennial certification period, **\$4,700** [\$1,750];
- (3) biennial certification renewal fee, **\$4,700** [\$1,750];
- (4) apprentice direct-entry midwife permit fee, **\$1,275** [\$825];
- (5) biennial apprentice direct-entry midwife permit renewal fee, **\$1,275** [\$825];
- (6) nonrefundable application fee for initial apprentice direct-entry midwife permit, **\$250** [\$125].

4. How are the estimated costs determined? What do licensing fees pay for?

AS 08.01.065 requires all costs of regulating the profession to be borne by its licensees. The regulatory requirements enacted in other states have no bearing on Alaska's state statute; therefore, the cost of licensure in another state is not a reasonable barometer of what should be charged in Alaska.

The proposed fees are based on the known costs of a similarly sized and structured licensing program. The law requires licensees to adhere to many provisions, and it gives ample authority to the board to determine many of the requirements of licensure. For example:

- The agency must create, publish, and manage licensing application forms and fees, which entail adherence to the state's recordkeeping, security, payment, and refund policies and procedures.
- Requirement of licensees to meet professional fitness standards, which are evaluated by the license examiner and referred to the agency's investigative unit if necessary for further review.
- Enforcement of disciplinary sanctions available to the agency if a licensee violates the state licensing statutes or regulations or an individual practices the profession without a license. Because state law requires all costs of a licensing program to be borne by the licensees of that program (AS 08.01.065), any investigative, attorney, or appeal expenses of the state will be recovered in the licensing fee.
- Alaska statutes defer to the board to adopt necessary regulations for management of the licensing program. This requires board and investigator travel, legal support, and other resources the board and division needs to comply with the expectations of law. The Alaska Administrative Code prescribes the requirements for public notice and adoption of agency regulations, the cost of which is borne by the licensing program.

5. Why do midwives have such high biennial fees as compared to physicians and nurses, who have much lower fees?

Many factors go into a fee analysis to determine if fees are set to not only cover the biennial expenses of the program, but it must also cover any carry forward deficits. The costs to administer a program are complex and the costs are borne by the licensees. Due to economy of scale, smaller programs with few licensees may require higher fees of their licensees. For example, the Board of Nursing has over 16,000 nurses and over 3,000 CNAs to share their costs. The Board of Certified Direct-Entry Midwives has 62 licensees.

6. Are other boards proposing fee increases or have already implemented them this year?

Since January 2016, the Division has increased fees or is recommending fee increases for the following programs:

- Acupuncturists
- Audiologists and Speech Language Pathologists
- Chiropractors
- Social Workers
- Guides and Transporters
- Marital and Family Therapists
- Certified Direct-Entry Midwives
- Naturopaths
- Physical and Occupational Therapists
- Veterinarians

7. What could potentially happen to the program if the licensing fee is not increased? Could we lose our board?

A variety of consequences can happen if the Legislature determines that the board is not operating in the public's best interest. Such consequences could be to dissolve the board, leaving the Division to regulate the program, or it could restructure the program under a different board.

8. How do I find out more about program finances and the fee-setting process?

The division director and CBPL staff walk through the program's latest fiscal reports regularly with board members and are available to provide additional information or answer questions. The latest reports and historical data are available online at <https://www.commerce.alaska.gov/web/cbpl/AnnualPerformanceReports.aspx>.

Do you have a question that is not answered here? Please email jun.maiquis@alaska.gov so it can be added.