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Office of the Secretary of State**

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**Sarah Copeland Hanzas, Secretary of State  
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**January 30, 2024**

**To: Sen. Virginia Lyons, Chair  
Senate Committee on Health and Welfare**

**From: Lauren Layman, General Counsel, Office of Professional Regulation**

**Re: Senate Bill 109 - An act relating to Medicaid coverage for doula services**

Dear Committee,

Thank you for the opportunity to testify about S. 109, an act relating to Medicaid coverage for doula services.

The Office of Professional Regulation (OPR) fully supports the goal of improving access to doula care and we appreciate the value of providing this service to all Vermonters who give birth, particularly those Vermonters who experience inequity in receiving maternal health care.

OPR has been asked whether it can serve as the regulatory agency determining eligibility of doulas for Medicaid reimbursement. Yes, we could serve in this role; however, first OPR would need to conduct a sunrise review process and offer recommendations for establishing a doula credentialing program. Before the Legislature chooses this approach, however, we want to share Vermont's policies and processes for licensing new professions, as these policies and processes do take time and resources. We hope that this information will help inform your deliberations regarding whether OPR should be charged with credentialing doulas for purposes of Medicaid reimbursement.

Vermont Licensing Policy

Vermont's occupational licensure policy and purpose are very clearly articulated in the Vermont statutes. Title 26, Chapter 57 begins by stating, "It is the policy of the State of Vermont that regulation be imposed upon a profession or occupation solely for the purpose of protecting the public." The statute further provides that, if it is found that professional regulation is needed to protect the public, "the form of regulation adopted by the State shall be the least restrictive form of regulation necessary to protect the public interest." Also laid out in Chapter 57 are criteria for assessing whether the unlicensed practice of a profession poses a public risk and for determining the "least restrictive form of regulation." (See Table 1.) When regulation of a new profession is being considered, OPR is required to conduct a preliminary assessment, often referred to as a "sunrise review," of whether these criteria for regulation of a profession are met. (See 26 V.S.A. § 3105(d): <https://legislature.vermont.gov/statutes/section/26/057/03105>.)

Table 1: Forms of Regulation

<b>Form of Regulation: “Tool”</b>	<b>Mandatory/Voluntary</b>	<b>Qualifications</b>	<b>When Appropriate</b>
<b>Certification</b>	Voluntary	Yes	Public harm is from lack of knowledge about the qualifications of a provider.
<b>License</b>	Mandatory	Yes	Public harm is from the unqualified practice of the profession.
<b>Registration</b>	Mandatory	No	Public harm is not related to poor performance of the profession.

A sunrise review is essential to ensure state laws balance the need for people to enter the workforce and practice their professions with the obligation to protect the public from unqualified or unscrupulous practitioners. Through evaluation of these criteria, OPR can identify what, if any, harm is posed by the unlicensed protection of the public. We can then make recommendations for regulations that address this harm without posing unnecessary barriers to entering the field. Hasty regulation of a profession without this sunrise process can result in ill-fitting regulatory schemes that prevent trained people from entering a profession and negatively impact public access to professional services.

OPR’s Recommendation

OPR can regulate doulas in Vermont. It will take time to determine the best form of regulation, however. OPR strongly recommends that, if the legislature wishes for OPR to assume regulation of doulas, that we conduct this sunrise review. This will allow us to tailor any regulatory program to the doula profession and to the public safety needs. It is clear that the intention of S. 109 is to improve access to doula services. We are concerned that the imposition of licensing regulations on doulas without a well-thought-out approach may result in barriers to people entering the field, thereby decreasing access to doula services.

This sunrise process takes time and engagement with all stakeholders. If asked to conduct the review, OPR would be able to submit recommendations to the legislature by December 31, 2024. If the Legislature then approved laws for OPR’s regulation of doulas, OPR could begin offering credentials by July 1, 2025.

Alternatively, there is no requirement that OPR be the agency that assesses doulas’ eligibility for Medicaid reimbursement. If the OPR timeline and process are untenable, another agency with different regulatory policy goals may be better suited to establishing a doula registry. OPR is happy to support the doula program and effort however we can and however the Legislature deems appropriate.

Thank you for your time and consideration of OPR’s perspective on S. 109. We look forward to continuing the discussion of the legislation with the Committee.