

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 3rd Meeting of the 2022 Interim

August 24, 2022

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Wednesday, August 24, 2022, at 10:00 AM, in Room 154 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Donald Douglas, Jimmy Higdon, Jason Howell, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Tom Burch, Patrick Flannery, Al Gentry, Keturah Herron, Thomas Huff, Matthew Koch, Chad McCoy, Michael Meredith, Jerry T. Miller, Kimberly Poore Moser, Phillip Pratt, Sal Santoro, and Susan Westrom.

Guests: Senate Majority Whip Mike Wilson; Derrick Huff, Vice President, Don Davis, Secretary, John Brian Young, Treasurer, Kentucky Wineries Association; Senate Minority Leader Morgan McGarvey; Representative Lisa Willner; Kenny and Nick Clark, Training Advocates; John-Mark Hack, Chief Strategy Officer, Jerry Kissick, Director of Surveying, Thoroughbred Engineering; Jennifer Hawkins, Kentucky Birth Coalition; Christy Peterson, APRN, Certified Nurse Midwife (CNM), Renee Basham, Executive Director, Hope's Embrace; and Kazia Bryant, Executive Director, Mama to Mama.

LRC Staff: Bryce Amburgey, Jasmine Williams, Wendy Craig, Carabell Preece, and Lisa W. Moore.

Approval of Minutes from July 21, 2022, meeting

Chairman Koenig motioned to approve the minutes and Senator Douglas seconded the motion. Motion was approved by voice vote and minutes were adopted.

Small Farm Wineries

Senator Wilson discussed the significance and value of small farm wineries in his district. The popularity of the establishments is evidenced by the high attendance numbers.

Derrick Huff, Vice President, Kentucky Wineries Association (KWA), said the KWA represents 75 small farm wineries across 42 counties in Kentucky. The largest challenge to the industry, and all small farm license holders, is being represented in local restaurants and retail stores. Most owners are farmers first, and therefore the majority of the wineries are located in rural areas. As a result, it is very difficult to find a wholesaler willing to travel to rural farms in order to purchase the products. Self-distribution would allow small farm wineries to sell a portion of their products directly to retailers and restaurants in their home towns.

Mr. Huff said the legislature recognized the wholesale issue within the small farm and craft section of the beverage industry in 2021, with the enactment of Senate Bill 15, which granted microbrewers the ability to self-distribute a percentage of their total production. The legislation allowed microbrewers to sell their products directly to retailers and lifted an undue hardship in their industry. The proposed legislation in members' folders will provide small farm wineries the same opportunity to sell its products directly to retailers.

Charles George, Executive Director, Wine and Spirits Wholesalers in Kentucky, deferred his comments on this measure until the committee's November 2022 meeting.

In response to a question from Representative McCoy, Mr. Huff said if a small farm winery already has an existing relationship with a wholesaler or distributor, it would be expected to continue. If there is no established relationship between the small farm winery and wholesaler, they would report directly to the Alcoholic Beverage Control Board. Representative McCoy does not see a need to involve distributors in the process and would like to specify what information would be reported and when. Senator Wilson said that his concerns and comments are noted and is amicable to amending the proposed bill language.

Birthing Centers

Representative Nemes said the new bill draft in members' folders will make it easier to establish freestanding birthing centers in the Commonwealth of Kentucky. He noted birthing centers are established in most states and provide mothers a safe middle option to have their babies.

Christy Peterson, APRN, Certified Nurse Midwife (CNM), Chair of the standards committee of the American Association of Birth Centers, which develops national safety standards for free birthing centers, explained that birth centers are healthcare facilities for child birth. They offer a more at-home birthing experience for families and provide options for families who do not want to give birth at home or in a hospital. Birthing centers provide maternity, prenatal, postpartum, and newborn care with appropriate levels of intervention. The facilities are not hospitals and do not provide cesarean sections (C-sections) or anesthesia.

Ms. Peterson said the philosophy of birthing centers is providing family-centered care, in which mothers and other family members can interact during the labor process. Birthing centers are safe, cost effective, and some studies have shown better outcomes including lower C-section rates, and less preterm birth and low birthweight newborns when comparing low-risk patients cared for in hospitals. A higher rate of breastfeeding occurs in mothers who give birth in birthing centers than those in a hospital, and there are more opportunities for skin-to-skin bonding between mother and infant. Additionally, with approximately 50 percent of the births in Kentucky from mothers who are covered by Medicaid, the availability of freestanding birth centers could have financial benefits to the state, while affording more choices for safe, high-quality births. It is estimated that birthing centers save Medicaid \$19 million dollars per 10,000 births, just from the facility payment for C-sections prevented.

Jennifer Hawkins, Kentucky Birth Coalition, testified that she will be delivering in Jeffersonville, Indiana, at the nearest birthing center to her residence in Meade County, Kentucky. She chose this center because it is a natural and comfortable environment and she is more at ease there than in a hospital. However, she is fortunate that she has the transportation and family support to travel across state lines. Her health insurance is accepted at the center and her hope is that one day more Kentucky women will have more birthing options.

Kazia Bryant, Executive Director, Mama to Mama, said black women need to be included in initiatives to make birthing equity more accessible. She said rising infant mortality rates have black women searching for alternative birthing options. She said black women face many barriers to home birth, and the birthing center in Indiana does not accept Kentucky Medicaid, making it unaffordable for many. Home settings may not be ideal for fostering new life, but choosing where to give birth should be a fundamental human right.

Renee Basham, Executive Director, Hope's Embrace, discussed barriers to opening birthing centers in Kentucky. Hope's Embrace is a non-profit community doula program that provides comprehensive maternal healthcare mentoring for under-served families during pregnancy and the critical first year after birth. There was a map provided in members' folders showing counties that have low or no access to birth centers.

Chairman Schickel asked if representatives from the Kentucky Medical or Kentucky Hospital Association wanted to testify before the committee. Cory Meadows, Deputy Executive Vice President, Director of Advocacy, Kentucky Medical Association (KMA), said obstetrician-gynecologists support women having birthing options, while maintaining appropriate accreditation standards. He would like to discuss eligibility requirements for the medical directors of the birthing centers with the sponsor of the bill. The KMA's preference is that it would be a person who is a certified obstetrician-gynecologist.

Responding to a question from Representative Miller, Ms. Peterson said that the Center for Medicaid and Medicare conducted a four-year study showing that birth centers did reduce costs. The initial cost evaluation was around the reduction in facility fees, specifically in reduction to the C-section rate. She also noted additional reduction in costs in low-risk birthing centers because of early discharges as opposed to a several day stay in a hospital.

Responding to a question from Senator Adams, Ms. Peterson said that a person with a substance abuse disorder that is in recovery would be a good candidate to use a birthing center, however an actively using person would not. There is an extensive entry screening to be accepted as a new patient, and birthing centers do not offer any narcotics during the birthing process. Senator Adams said she hopes the birthing centers may be an option to address Kentucky's critical shortage of obstetrician-gynecologists.

Responding to a question from Representative Flannery regarding midwives, Ms. Peterson stated that nurses, midwives, and obstetrician-gynecologists all may provide care at the birthing centers. She said the model of care at the centers does not exclude options if hospital staff want to be involved, but it can also be exclusively staffed by midwives. Representative Flannery wants to ensure that there is adequate medical specialists within the center to protect patient needs. Representative Nemes said many states offer a variety of staffing models at the birthing centers and have very safe birth outcomes. In regards to the liability language in the bill draft, Representative Nemes said they could discuss the details at a later time.

In response to a question from Representative Moser regarding transfer agreements, Ms. Peterson said safety is part of the standards for birthing centers. This includes national transfer agreement requirements that are established in the accreditation standards, as well as procedures for emergency services and transferring patients to hospitals. Representative Moser said safety and unforeseen problems can arise during child birth and she is an advocate for the birthing centers to have a strong connection to the hospitals. She said it is harder for women in rural areas than in urban areas to get to the hospital but this can be discussed further in the future.

Senator Schickel suggested the group schedule an interim meeting hearing with the Interim Joint Committee on Health, Welfare, and Family Services moving forward. Representative Nemes said the birthing centers adhere to the national accreditation standards regarding safety, and are statistically safer than home births.

Responding to a question from Representative Burch regarding data on morbidity rates, Ms. Peterson said Kentucky has recently licensed certified professional midwives and is gathering birth statistics for licensure. Kentucky has had issues in the past tracking morbidity rates through Kentucky birth certificate data, which is less helpful if people give

birth at home. Also, because the tracking of data is so new for midwife licensure, a data record is just now being established.

Responding to a question from Representative McCoy, Representative Nemes said the proposed legislation makes it easier for a facility to become a birthing center. There has only been one application in the past, and the laws were unclear and cumbersome for opening new establishments. He said current law deters new applicants because of confusion and red tape.

Representative Westrom said she supports the bill and is encouraged by the alliance the group has formed with the KMA. The KMA has had much success with growing many positions in the health care field such as nurse practitioners and midwives.

Land Surveyors

Representative Koch said Kentucky faces a critical shortage of professional land surveyors. Many counties have no surveyors, resulting in surveys being more expensive and taking much longer to complete. His proposed legislation allows an option for the State Board of Licensure for Professional Engineers and Land Surveyors to develop a program that would be two years of formal post-secondary education combined with six years' experience in on-the-job training.

John Mark Hack, Chief Strategy Officer, Thoroughbred Engineering, said the land surveyor pipeline has become empty during the last five years. He said land surveyors are needed and critical to any land development purpose, such as a homeowner wanting to fence in a yard, or a residential real estate developer who wants to increase affordable housing opportunities. He also said it is needed for industrial development, and economic developers across the state who are seeking to take advantage of the project development initiative passed in the General Assembly 2022 Regular Session. The shortage of surveyors is causing extreme delays, higher costs, and hardships on all parties, and this proposed legislation allows the State Board to create a viable two-year program, in combination with six years of apprenticeship, to enable more young Kentuckians to have a land surveying career.

In response to Senator Schickel, Representative Koch said the bill did not pass the House of Representatives last session.

In response to a question from Representative Huff, Jerry Kissick, Director of Surveying, Thoroughbred Engineering, said the land surveyor workers are bonded and insured. Representative Huff supports the legislation and would like to see the workers stay bonded or insured after completing the two-year program. Mr. Kissick said they will be required to have an errors and omissions insurance policy.

Representative Meredith said the land surveyor shortage is a real problem within the banking business. It is common for a 60 to 90 day wait to get a piece of land surveyed, which delays important banking decisions.

Christopher's Law

Senate Minority Leader McGarvey explained the proposed legislation, House Bill 207 and Senate Bill 367 from the 2022 Regular Session, were filed based on a tragic murder of a bouncer, Christopher McKinney, in Louisville, Kentucky, in January 2020. He said the bill is a bipartisan supported effort and much needed for the safety of citizens and bouncers across the nation.

Nick Clark, Training Advocate, said Christopher's Law would require bouncers who work security at nightclubs or bars to be trained in de-escalation tactics, interpersonal communication, threat mitigation, etc. Unlike the military, police force, or firefighters, no training requirements currently exist for this professional field. Bouncers and security officers are usually hired by word of mouth and physical stature to keep the public safe in an alcohol-driven environment. He said the proposed legislation has vast support from members of the Kentucky General Assembly and said many other states have implemented similar legislation. The legislation is supported by the Kentucky Association of Chiefs of Police.

Minority Leader McGarvey urged the committee to review the proposed legislation and help to make responsible changes. He said the profession needs oversight in the future to prevent more innocent lives being lost.

Responding to a question from Chairman Koenig, Mr. Clark said the Kentucky Restaurant Association, the Kentucky Retail Federation, Craft Brewers Association, ACLU of Kentucky, and Kentucky Trial Lawyers Association, all support the changes in the proposed legislation.

With no further business before the committee, the committee adjourned at 11:00 a.m.