the law

Jessica DeFilippo

PHOTO/ROBERT DREA

Labor Lockout

Why won't the state let midwives in the delivery room?

BY DEIRDRE GUTHRIE

Jessica DeFilippo sits on her living-room floor in Ingleside and opens a bulky cloth bag. "This," she sighs, "could get me hung."

One by one she pulls out the tools of her trade: thermometer, sterile gloves, gauze, iodine soap, bulb syringe, scissors, hemostat, clamping cord, stethoscope, blood-pressure cuff, reference book, tourniquet, oxygen tank and mask, medicinal herbs, a scale.

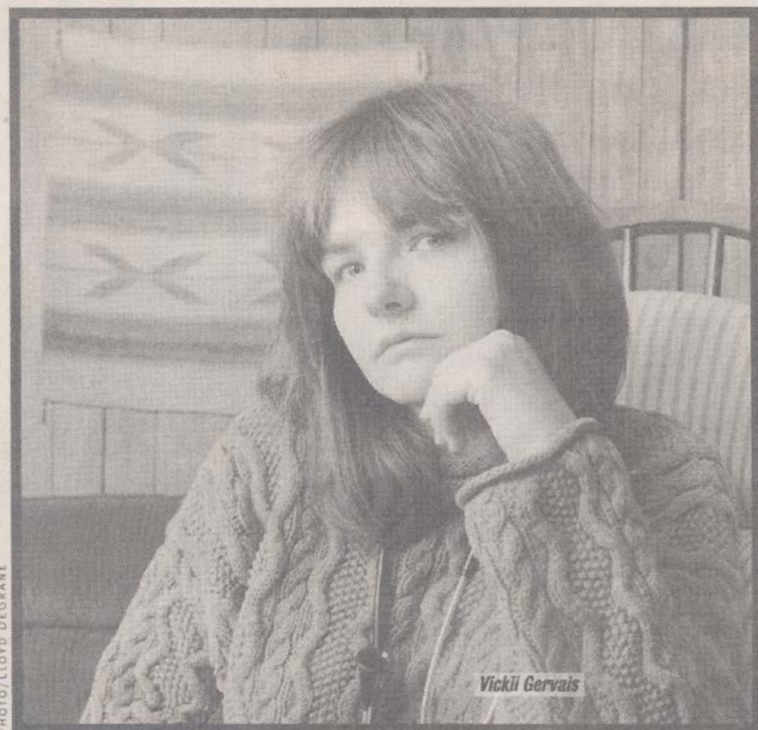
DeFilippo, a lay midwife, has been licensed by the state as an emergency medical technician and is therefore trained in first aid and resuscitation. She's also been licensed by the North American Registry of Midwives, and she has the women she assists during labor sign informed-consent agreements. But because she's not a registered nurse, Illinois doesn't consider her competent to attend births. In the summer of 1997 state officials told her to stop practicing.

Illinois first licensed midwives in 1899, when the field of obstetrics was just beginning to emerge as a science. Then in 1963 the General Assembly abolished the license. Twelve midwives challenged that ruling, but in 1982 a federal judge found that a midwife had "no constitutional right to a separate license." Most of the midwives now working in the state have received special training as midwives and are known as certified nurse-midwives, but they're also registered nurses.

Studies show that certified nurse-midwives cost less, call for fewer C-sections and inductions than physicians, and are less likely to use epidural anesthesia or do episiotomies—some of the reasons they can now practice legally in all 50 states. Yet only 3 percent of certified nurse-midwives attend home births, and when they're working in hospitals or obstetric facilities they're subordinate to a physician, who may choose to intervene in ways midwives think are unnecessary.

For those reasons, lay midwives believe they fill a real need. But in Illinois midwives who are not registered nurses are subject to arrest for practicing medicine without a license, a violation of the state's Medical Practice Act and a felony.

One such midwife, Betty Peckmann, challenged the constitutionality of the act, and in 1989 the Illinois Supreme



Vickii Gervais

Court ruled that it was unconstitutionally vague where it touched on midwifery. In response the General Assembly revamped the act in 1991, defining practicing medicine as "the treatment of human conditions and ailments."

DeFilippo and Vickii Gervais, another lay midwife who'd been told to stop practicing, went on attending births. Last July the two of them were served temporary restraining orders. They hired a lawyer and challenged the constitutionality of the Medical Practice Act again, asserting that normal childbirth was not an "ailment" and the word "condition" was "unjustly vague." A hearing date was set, and a judge should rule on the issue this month. Meanwhile, under threat of arrest, the two women agreed not to practice until the ruling is in.

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Certification by the North American Registry of Midwives, which also certified Gervais, is recognized as part of the licensing process for lay midwives in 22 states, including Texas, New Mexico, California, Florida, and South Carolina. In Illinois it is not. Terry McLennand, legislative liaison for the state's Department of Professional Regulation, explains that lay midwives want "the privilege of practicing as health professionals when they're not trained or educated enough."

To be certified by NARM, a person must assist at a minimum of 40 births, 75 prenatal exams, 20 newborn exams, and 40 postpartum exams, as well as pass a written test. Debbie Pully, a spokesperson for NARM, says, "Our process is outcome based. We don't mandate how women become midwives—whether it be self-study, a university program, or apprenticeship—just that they have the knowledge." Last July NARM's certification process was evaluated by two experts in education and testing from Ohio State University. "The overall quality of the processes used to develop the certification tests and testing procedures," they concluded, "is very high."

DeFilippo and Gervais were served the restraining orders after attending the birth of a boy whose parents were both in medical school. Gervais, who has delivered 550 babies, was the primary midwife during the labor, and DeFilippo assisted. Gervais says that the mother, encouraged by her husband, was pushing excitedly, which led to the baby "flying out." The mother wound up with several lacerations, and Gervais stopped the bleeding with gauze. But she wasn't comfortable suturing the wounds given her precarious legal situation. The husband told her he knew a doctor who could come to the house and do it. "Doctors consider suturing minor surgery," says Gervais. "So when her husband said he could have someone over here in five minutes to do the stitching I thought, Great!"

The husband called Anita Blanchard, who works at the University of Chicago's Lying-In Hospital. She advised him to take his wife to the hospital immediately and said she would meet them there. (Blanchard would not comment for this article.)

The baby had been delivered at 1:30 AM, but Gervais and the parents didn't arrive at the hospital until 3:30 AM. They explained that they'd been delayed because the mother was dizzy. "We were moving slowly because that's the pace she felt comfortable with," Gervais says.

Blanchard repaired the lacerations in an hour and a half. In an affidavit she would state that the mother had suffered an "acute loss of blood." The patient was discharged that evening.

"An eight-pound-ten-ounce watermelon wasn't meant to shoot through that opening in one fell swoop," says Gervais, who describes the outcome of the birth as normal. But Blanchard was distressed by the experience and wrote a letter to the Department of Professional Regulation suggesting ways it could prevent future problems with midwives. She stated that every midwife should have physician backup, access to standard delivery equipment, and ready transport to a hospital. "Childbirth is a very natural event," she concluded, "but unfortunately any health care provider can encounter complications."

Gervais and DeFilippo wholeheartedly agree with those suggestions, and Gervais points out, "She probably doesn't realize we *are* trained to do all the other things she recommended: suture, provide IVs, resuscitate, and transport." DeFilippo adds, "Basically, Dr. Blanchard was suggesting the very things we want to be able to do openly—but cannot until we're recognized by the state."

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"Home birth isn't for everybody," says Gervais. "But for women who are willing to take responsibility for their lives and their families, who believe birth is beautiful and safest at home with minimal intervention, shouldn't it be their choice?"

Gervais didn't always think birth was beautiful. Her view was "just knock me out and drag 'em out." She was 17 and living on her own when a friend invited her to attend a home birth. "I didn't actually see the birth," she recalls, "but what I found so earth-shattering was how calm every-

one was. The mother walked around, took showers when she needed to, and afterwards everyone shared a celebratory meal and gave thanks. I couldn't get over the simplicity of it all."

When she got pregnant at 22, Gervais had trouble finding a midwife in Illinois, so she went to a physician who did home births. "I wish now I had looked harder," she says. The prenatal visits were too short, and there was little if any emotional support offered during the birth. "So much goes on during labor that most physicians don't acknowledge. Past births, your own birth, any traumas like sexual abuse—sometimes yòu work out all that crap in one birth."

When her own labor didn't seem to be progressing, her physician asked what she wanted to do. She screamed that she needed to get the baby out. She was taken to the hospital, and her baby was delivered by cesarean section, a decision she now regrets.

Gervais concedes that C-sections are sometimes necessary, but she believes that the majority of healthy women can give birth naturally, without intervention. "That belief comes from seeing so many women just get up and have babies—especially non-American women, who are less conditioned into thinking birth is an illness-oriented experience."

After her son turned three, Gervais apprenticed for two years with a nurse and senior midwife in Downers Grove, then did a three-month internship at Casa de Nacimiento, a birthing center in El Paso, Texas, that served mostly Mexican women. She attended 115 births, and after she got her state license she continued at the center as a birth educator and supervisor for 14 months. In January 1992 she returned to Illinois to start her own practice.

After she was served with the temporary restraining order, Gervais went to work full-time at a community health center as a postpartum home visitor and lactation specialist. She's now trying to decide whether to move to a state where her NARM certificate is recognized or stay here and earn her degree as a nurse-midwife.

The second choice is daunting, for it would mean at least seven years of classroom education—Gervais has only a high school diploma. "If I consider going the route of the nurse-midwife," she says, "unfortunately it won't be for reasons that have to do with quality of care, but rather to avoid persecution. I chose to become nationally certified because it honored my path of study. Though I never

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really expected I'd lose my practice, I suppose I knew there was the risk."

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DeFilippo met her first midwife 15 years ago in Florida, where her first husband, who was in the air force, was stationed. She was then pregnant with her second child and "bumped bellies" at the post office with a woman who was also expecting. The woman asked if she was aware that the hospital where she planned to give birth had a 30 percent cesarean rate.

That conversation prompted DeFilippo to give birth at home, though neither her husband nor her mother-in-law supported the idea. At the time Florida did not allow lay midwives to practice, and DeFilippo saw the obstacles they faced. "The process of transport was very covert," she says. "It was understood that if complications arose, clients were on their own. Midwives would wait outside the hospital or else they'd get barbecued."

DeFilippo decided to become a lay midwife, doing an internship at the same Texas center where Gervais had worked and another at a county hospital in Kingston, Jamaica. She also apprenticed with senior midwives in Florida and later in Illinois.

She remembers the contrast between the way two midwives dealt with hospital personnel when complications forced them to take a mother in. "The first one would transport the mother and go in with her, but lie and say she was the sister or cousin or something," says DeFilippo. "She just wanted to be there to give the doctor information, but it felt shady. The second midwife went in with all her records and credentials and openly embraced the etiquette of transport. Obviously we'd all prefer to work that way, providing continuity of care, acting as the advocates of our client that we are."

Since 1995 DeFilippo has practiced openly, donning purple scrubs and sterling fetus jewelry when she had to go to the hospital. She says nurses would sometimes wink at her in the hospital corridors.

But DeFilippo also wanted job security, so she started nursing school. She'd just begun her third semester when she was told to stop practicing. But by then, she says, she'd realized "becoming a nurse-midwife wasn't going to give me the sense of security I wanted, and school was teaching me mainly how to do paperwork and absorb years of pathology just to be a physician's assistant." She dropped out, deciding to work on getting state recognition for lay midwives.

Times were hard for her family then. Her second husband, who'd been diagnosed with cancer, had been told his arm might have to be amputated. That put his job—he worked as a bricklayer—in jeopardy, so both of their livelihoods were now at stake. They had five kids and a mortgage to pay, and DeFilippo found herself also having to scurry around trying to raise funds to pay her legal fees. But she isn't giving up midwifery, saying, "I've always found midwifery to be a stabilizing force in my life."

One strategy she's pursuing in her bid to legitimize lay midwives is unionization, which she says helped chiropractors and acupuncturists gain recognition from state agencies. She and a representative from the Office and Professional Employees International Union, an AFL-CIO affiliate, have been pitching the idea at midwife conferences. "I've signed

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up our first 25 members and am writing bylaws," she says. "My hope is that a union could arbitrate between us and DPR and get them to nullify their cease-and-desist order. I know some of us have become so accustomed to working underground as if we're criminals, but this could really be a positive affirmation to legitimize our work."

So far the reaction of other midwives around the country has been one of cautious interest. "I think they are waiting to see how it works out in the state of Illinois first," DeFilippo says. "If they see us get unionized here, in one of the founding states of the AMA, then I think it'll really take off."

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Neither DeFilippo nor Gervais denies that complications can occur during childbirth or that physician backup is critical. "We all wish we had it," says DeFilippo.

Gervais has had to resuscitate babies who weren't breathing and stop postpartum hemorrhaging, and she's seen babies born with serious abnormalities, including one born with a cleft palate that made breathing so difficult the baby had to be taken to the hospital.

DeFilippo recalls assisting a practicing physician who gave birth to twins that weren't breathing. A hospital later confirmed that one had died prior to birth; DeFilippo worked on the other for a half hour until it finally breathed on its own.

Marsden Wagner, director of women's and children's welfare for the World Health Organization, who believes midwives should be the primary caregivers for expecting mothers, says, "The evidence does show that as long as there is a system in place to transport women in labor to a facility within 30 minutes—where there are antibiotics, blood transfusion, and cesarean-section capacity—there should be very little maternal mortality."

The informed-consent agreement Gervais has mothers sign states, "We will assist with information on nutrition, exercise, and childbirth education, but you must assume the responsibility for maintaining your own excellent health. Homebirth families must take extra responsibility in this area, since technological assistance is not immediately available as it may be for those birthing in the hospital."

Gervais says, "I think when we feel we have no control over our bodies, and doctors assure us they can take care of everything, it A, makes them more open to getting sued, and B, makes us disempowered. There's a saying I've always liked—doctors will get off their pedestal when we get off our knees."

DeFilippo adds, "My job is to suggest ways to keep my clients as healthy as possible. Women's bodies were made to do this. But I can't promise there won't be complications. We can prepare as much as possible, but I won't play God and take credit for all the positive outcomes—only then to get blamed for the earthquakes." ■