

HOUSE No. 4810

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act RELATIVE TO CERTIFIED PROFESSIONAL MIDWIVES AND ENHANCING THE PRACTICE OF NURSE-MIDWIVES..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (d) of section 7 of chapter 94C of the general laws, as appearing
2 in the 2008 Official Edition, is hereby amended by adding the following clause:-

3 (11) A midwife who utilizes controlled substances pursuant to section 275 of chapter
4 112; provided, however, that a wholesale distributor or pharmacist may dispense such substances
5 to a licensed midwife for subsequent administration to clients only if such midwife provides the
6 wholesale distributor or pharmacist with the midwife’s certification of qualification to administer
7 such controlled substances.

8 SECTION 2. Subsection (g) of said section 7 of chapter 94C of the general laws, as so
9 appearing, is hereby amended by striking out the third paragraph and inserting in place thereof
10 the following paragraph:-

11 The commissioner shall promulgate regulations which provide for the registration of
12 certified nurse-midwives, as provided in section 80G of chapter 112, to issue written
13 prescriptions in accordance with regulations as provided for in section 80B of chapter 112. Prior

14 to promulgating such regulations, the commissioner shall consult with the board of registration in
15 nursing and the board of registration in medicine with regard to those schedules of controlled
16 substances for which certified nurse-midwives may be registered.

17 SECTION 3. Section 80C of chapter 112 of the General Laws is hereby repealed.

18 SECTION 4. Said chapter 112, as appearing in the 2008 Official Edition is hereby
19 amended by striking out section 80G and inserting in place thereof the following section:-

20 Section 80G. A nurse authorized to practice as a certified nurse-midwife may order and
21 interpret tests, therapeutics and prescribe medications in accordance with regulations
22 promulgated by the board and subject to the provisions of subsection (g) of section 7 of chapter
23 94C.

24 SECTION 5. Chapter 112 of the General Laws is hereby amended by adding the
25 following 20 sections:-

26 Section 259. As used in sections 260 to 277, inclusive of this chapter, the following
27 words shall, unless the context requires otherwise, have the following meanings:-

28 “Board”, the board of registration in medicine, established under section 10 of chapter 13.

29 “Certified nurse-midwife”, a nurse with advanced training who is authorized to practice
30 by the board of registration in nursing as a nurse midwife and who is certified by the American
31 Midwifery Certification Board.

32 “Client”, a woman under the care of a midwife and her fetus or newborn.

33 “Committee”, the committee on midwifery, established under section 261.

34 “Licensed midwife”, a person licensed under sections 260 to 277 to practice midwifery
35 and who holds a valid Certified Professional Midwife credential from the North American
36 Registry of Midwives.

37 “Midwifery” the practice of providing the necessary supervision, care and advice to a
38 client during normal pregnancy, labor, and the postpartum periods and conducting deliveries on
39 the midwife’s own responsibility consistent with the provisions of sections 260 to 277; including
40 preventative measures, the identification of physical, social and emotional needs of the client.

41 Section 260. Nothing in sections 259 through 277 inclusive, shall limit or regulate the
42 practice of a licensed physician, certified nurse-midwife, or licensed basic or advanced
43 emergency medical technician. The practice of midwifery shall not constitute the practice of
44 medicine, certified nurse-midwifery, or emergency medical care to the extent that a midwife
45 advises, attends, or assists a woman during pregnancy, labor, natural childbirth, or the
46 postpartum period.

47 Section 261. (a) The board of registration in medicine shall form a committee on
48 midwifery. Committee members shall be appointed as follows: 8 members shall be appointed by
49 the governor, 5 of whom shall be midwives who possess a valid Certified Professional Midwife
50 credential from the North American Registry of Midwives; 1 of whom shall be a licensed
51 physician who is an obstetrician certified by the American Congress of Obstetrics and
52 Gynecology and who has been actively involved with the practice of midwifery for at least 2
53 years, 1 of whom shall be a certified nurse-midwife chosen from a list of nominees provided by
54 the Massachusetts Chapter of the American College of Nurse-Midwives, and 1 of whom shall be

55 from the general public who shall not be engaged in or have a financial interest in the delivery of
56 health services; 1 member shall be appointed by the board.

57 (b) Members of the committee shall be appointed for a term of 3 years, except that of the
58 members of the first committee, 4 members shall be appointed for terms of 3 years, and 3
59 members shall be appointed for terms of 2 years. No member may be appointed to more than 2
60 consecutive full terms, provided, however, that a member appointed for less than a full term may
61 serve 2 full terms in addition to such of a part of a full term, and a former member shall again be
62 eligible for appointment after a lapse of 1 or more years.

63 (c) Any member of the committee may be removed by the governor for neglect of duty,
64 misconduct or malfeasance or misfeasance in office after being given a written statement of the
65 charges against him and sufficient opportunity to be heard thereon. Upon the death or removal
66 for cause of a member of the committee, the governor shall fill the vacancy for the remainder of
67 that member's term.

68 (d) The committee shall meet not less than 4 times per calendar year. At its first meeting
69 and annually thereafter, the committee shall elect from among its members a chairperson, a vice-
70 chairperson and a secretary who shall each serve for 1 year and until a successor is appointed and
71 qualified. Committee members shall serve without compensation but shall be reimbursed for
72 actual and reasonable expenses incurred in the performance of their duties.

73 Section 262. The committee shall make and publish such rules and regulations as it may
74 deem necessary for the proper conduct of its duties. The commissioner may review and approve
75 rules and regulations proposed by the committee. Such rules and regulations shall be deemed
76 approved unless disapproved within 15 days of submission to the commissioner; provided,

77 however, that any such disapproval shall be in writing setting forth the reasons for such
78 disapproval.

79 Section 263. The committee shall keep a full record of its proceedings and keep a register
80 of all persons registered and licensed by it, which shall be available for public inspection. The
81 register shall contain the name of every living registrant, the registrant's last known place of
82 business and last known place of residence, and the date and number of the registrant's
83 registration and certificate as a licensed midwife. The committee shall make an annual report
84 containing a full and complete account of all its official acts during the preceding year, including
85 a statement of the condition of midwifery in the commonwealth.

86 Section 264. The committee shall:

87 examine applicants and issue licenses to those applicants it finds qualified;

88 adopt regulations establishing licensing and licensing renewal requirements;

89 issue permits to apprentice midwives;

90 investigate complaints against persons licensed under this chapter;

91 hold hearings and order the disciplinary sanction of a person who violates this chapter or
92 a regulation of the committee;

93 approve education, training, and apprentice programs that meet the requirements of this
94 chapter and of the committee and deny, revoke, or suspend approval of such programs for failure
95 to meet the requirements;

96 adopt standards for approved midwifery education and training;

97 adopt professional continuing education requirements for licensed midwives;
98 develop practice standards for licensed midwives that shall include, but not be limited to:
99 adoption of ethical standards for licensed midwives and apprentice midwives;
100 maintenance of records of care, including client charts;
101 participation in peer review; and
102 development of standardized informed consent, reporting and written emergency
103 transport plan forms.

104 Section 265. A person who desires to be licensed and registered as a midwife shall apply
105 to the committee in writing on an application form prescribed and furnished by the committee.
106 The applicant shall include in the application statements under oath satisfactory to the committee
107 showing that the applicant possesses the qualifications required by section 267 preliminary to the
108 examination required by section 266. At the time of filing the application, an applicant shall pay
109 to the board a fee which shall be set by the secretary of administration and finance.

110 Section 266. (a) The committee shall examine applicants for licensure and shall conduct
111 at least 2 examinations in each calendar year. The committee shall establish examination and
112 testing procedures to enable it to determine the competency of persons applying for licensure as
113 a midwife.

114 (b) The examination shall consist of 2 parts:

115 a written examination designed to test knowledge of theory regarding pregnancy and
116 childbirth and to test clinical judgment in midwifery management; and

117 a practical examination designed to demonstrate the mastery of skills necessary for the
118 practice of midwifery.

119 (c) An applicant who has failed the examination shall not retake the examination for a
120 period of 6 months. An applicant who has failed the examination more than 1 time may not
121 retake the examination unless the applicant has participated in or successfully completed further
122 education and training programs as prescribed by the committee.

123 Section 267. (a) To be eligible for examination, registration and licensure by the
124 committee as a midwife, an applicant shall:

125 be at least 21 years of age;

126 be of good moral character;

127 be a graduate of a high school or its equivalent;

128 possess a valid Certified Professional Midwife credential from the North American
129 Registry of Midwives.

130 Notwithstanding the provisions of section 172 of chapter 6, the committee shall obtain all
131 available criminal offender record information from the criminal history systems board on an
132 applicant by means of fingerprint checks, and from the Federal Bureau of Investigation for a
133 national criminal history records check. The information obtained thereby may be used by the
134 committee to determine the applicant's eligibility for licensing under this chapter. Receipt of
135 criminal history record information by a private entity is prohibited. If the committee determines
136 that such information has a direct bearing on the applicant's ability to serve as a midwife, such
137 information may serve as a basis for the denial of the application;

138 meet minimum educational requirements which shall include studying obstetrics;
139 neonatal pediatrics; basic sciences; female reproductive anatomy and physiology; behavioral
140 sciences; childbirth education; community care; obstetrical pharmacology; epidemiology;
141 gynecology; family planning; genetics; embryology; neonatology; the medical and legal aspects
142 of midwifery; nutrition during pregnancy and lactation; breast feeding; and such other
143 requirements prescribed by the committee;

144 meet practical experience requirements prescribed by the committee, including specific
145 numbers of prenatal visits, post-partum follow-up exams, attendance at live births as an observer
146 and primary birth attendant under supervision, performance of newborn examinations,
147 performance of laceration repairs, performance of postpartum visits, and observation of in-
148 hospital births.

149 The training required under this section shall include training in either hospitals,
150 alternative birth settings or both. The Department of Public Health shall assist the committee in
151 facilitating access to hospital training for approved midwifery programs.

152 Section 268. The committee shall annually administer an examination designed to
153 measure the qualifications necessary in order to safely utilize the pharmaceutical agents provided
154 for in section 275. Such examination shall be open upon application to any midwife licensed
155 under the provisions of this chapter and to any person who meets the qualifications for
156 examination under section 267; provided, however, that each applicant shall furnish to the
157 committee satisfactory evidence of the completion of a qualifying course of study relating to the
158 safe and proper administration of approved pharmaceutical agents as determined by the
159 committee.

160 Section 269. (a) The committee shall issue a permit to practice as an apprentice midwife
161 to a person who:

162 is at least 18 years of age;

163 is a graduate of a high school or its equivalent; and

164 has been accepted into a program of education, training, and apprenticeship approved by
165 the committee under section 264.

166 (b) A permit application under this section shall include information the committee may
167 require. The permit shall be valid for a term of 2 years and may be renewed in accordance with
168 regulations adopted by the board.

169 (c) An apprentice midwife may perform all the activities of a licensed midwife if
170 supervised in a manner prescribed by the committee by:

171 a licensed midwife who has practiced in this state for at least 2 years and who meets the
172 standards for qualification as a midwifery instructor approved by the committee under section
173 264;

174 a physician licensed in this state with an obstetrical practice at the time of undertaking the
175 apprenticeship; or

176 a certified nurse-midwife licensed by the board of registration in nursing in this state with
177 an obstetrical practice at the time of undertaking the apprenticeship.

178 Section 270. The committee may enter into agreements with medical or midwifery
179 examination boards of other states and territories of the United States, the District of Columbia,

180 and Puerto Rico, having qualifications and standards at least as high as those of the
181 commonwealth, providing for reciprocal licensing in this state, without further examination, of
182 persons who hold a valid license granted by written examination in the other state or territory,
183 who have been licensed to practice for at least 5 years, and who apply and remit fees as provided
184 for in section 265.

185 Section 271. (a) The committee may, after a hearing pursuant to chapter 30A, revoke,
186 suspend, or cancel the license of a midwife, or reprimand or censure a midwife if it finds upon
187 proof satisfactory to the committee that such midwife:

188 fraudulently procured licensure as a midwife;

189 violated any provision of law relating to the practice of medicine or midwifery, or any
190 rule or regulation adopted thereunder;

191 acted with gross misconduct in the practice of midwifery or of practicing midwifery
192 fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross
193 negligence on a particular occasion or negligence on repeated occasions;

194 practiced midwifery while the ability to practice is impaired by alcohol, drugs, physical
195 disability or mental instability;

196 was habitually drunk or being or having been addicted to, dependent on, or a habitual
197 user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar
198 effects;

199 knowingly permitted, aided or abetted an unlicensed person to perform activities
200 requiring a license for purposes of fraud, deception or personal gain;

201 has been convicted of a criminal offense which reasonably calls into question the ability
202 to practice midwifery;
203 violated any rule or regulation of the committee;
204 acted in a manner which is professionally unethical according to ethical standards of the
205 profession of midwifery; or
206 violated any provision of sections 260 to 278.

207 (b) No person filing a complaint or reporting information pursuant to this section or
208 assisting the committee or board at its request in any manner in discharging its duties and
209 functions shall be liable in any cause of action arising out of receiving such information or
210 assistance, providing the person making the complaint or reporting or providing such
211 information or assistance does so in good faith and without malice.

212 Section 272. When accepting a client for care, a midwife shall obtain the client's
213 informed consent, which shall be evidenced by a written statement in a form prescribed by the
214 committee and signed by both the midwife and the client. The form shall certify that full
215 disclosure has been made and acknowledged by the client as to each of the following items, with
216 the client's acknowledgement evidenced by a separate signature adjacent to each item in addition
217 to the client's signature and the date at the end of the form:

218 the name, address, telephone number, and license number of the licensed midwife;
219 a description of the midwife's education, training, and experience in midwifery;

220 the nature and scope of the care to be given, including a description of the ante partum,
221 intrapartum, and postpartum conditions requiring consultation, transfer of care, or transport to a
222 hospital;

223 a copy of the medical emergency or transfer plan particular to each client; the right of the
224 client to file a complaint with the committee and instructions on how to file a complaint with the
225 committee;

226 a statement indicating that the client's records and any transaction with the license
227 midwife are confidential;

228 a disclosure of whether the licensed midwife carries malpractice or liability insurance;
229 and

230 any further information as required by the committee.

231 Section 273. A midwife shall prepare, in a form prescribed by the committee, a written
232 plan for the appropriate delivery of emergency care. The plan shall address the following:

233 consultation with other health care providers;

234 emergency transfer; and

235 access to neonatal intensive care units and obstetrical units or other patient care areas.

236 Section 274. (a) The midwife shall only accept and provide care to those women who are
237 expected to have a normal pregnancy, labor, and delivery, as defined by the committee.

238 (b) A midwife shall provide an initial and ongoing screening to ensure that each client
239 receives safe and appropriate care. As part of the initial screening to determine whether any

240 contraindications are present, the midwife shall take a detailed health history as defined by the
241 committee.

242 (c) The midwife must be able at all times to recognize the warning signs of abnormal or
243 potentially abnormal conditions necessitating referral to a physician. If a midwife determines at
244 any time during the course of the pregnancy that a woman's condition may preclude attendance
245 by the midwife, the client shall be referred to an appropriate licensed health care provider.

246 (d) As part of the initial screening and ongoing screening, a midwife shall recommend
247 that the client undergo clinical tests as required by the committee from an appropriate health care
248 provider. The midwife shall include these results in the client's record.

249 (f) If the client is delivering at home, the midwife shall ensure that the home is safe and
250 hygienic and meets standards set forth by the committee.

251 (g) A midwife shall not perform any operative or surgical procedures except for
252 episiotomy or suture repair of episiotomy or first or second degree perineal lacerations.

253 Section 275. A midwife qualified by examination under the provisions of section 268
254 may obtain and administer prophylactic ophthalmic medication, anti-hemorrhagic medications,
255 vitamin K, Rho immune globulin, intravenous fluids, oxygen for fetal distress and infant
256 resuscitation, and local anesthetic and may administer such other drugs or medications as
257 prescribed by a physician or certified nurse-midwife. A pharmacist who dispenses such drugs to
258 a licensed midwife shall not be liable for any adverse reactions caused by any method of use by
259 the midwife.

260 Section 276. When a birth occurs with a licensed midwife in attendance, the midwife
261 shall prepare and file a birth certificate as required by chapter 46. Failure of a midwife to
262 prepare and file the birth certificate constitutes grounds for the suspension or revocation of a
263 license granted under this chapter.

264 Section 277. No physician duly registered under the provisions of sections 2, 2A, 9, 9A
265 or 9B, no physician assistant duly registered under the provisions of section 9I or the physician
266 assistant's employing or supervising physician, and no nurse duly registered or licensed under
267 the provisions of section 74, 74A or 76, providing medical treatment to a woman or infant due to
268 an emergency arising during the delivery or birth as a consequence of the care received by a
269 midwife licensed under chapter 112 shall be held liable for any civil damages as a result of such
270 medical care or treatment, other than gross negligence or willful or wanton misconduct, resulting
271 from the attempt to render such emergency care, nor shall he be liable to a hospital for its
272 expenses if, under such emergency conditions, he orders a person hospitalized or causes his
273 admission. No health care facility licensed under chapter 111, providing medical treatment to a
274 woman or infant due to an emergency arising during the delivery or birth as a consequence of the
275 care received by a midwife licensed under chapter 112, shall be held liable for any civil damages
276 as a result of such medical care or treatment resulting from the attempt to render such emergency
277 care.