

**SENATE . . . . . No. 2341**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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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 Section 80C of chapter 112 of the General Laws is hereby repealed.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 18 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 271. (a) The committee may, after a hearing pursuant to chapter 30A, revoke,  
179 suspend, or cancel the license of a midwife, or reprimand or censure a midwife if it finds upon  
180 proof satisfactory to the committee that such midwife:

181           fraudulently procured licensure as a midwife;

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

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

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

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

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

194           has been convicted of a criminal offense which reasonably calls into question the ability  
195 to practice midwifery;

196           violated any rule or regulation of the committee;

197           acted in a manner which is professionally unethical according to ethical standards of the  
198 profession of midwifery; or  
199           violated any provision of sections 260 to 278.

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

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

211           the name, address, telephone number, and license number of the licensed midwife;

212           a description of the midwife's education, training, and experience in midwifery;

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

216 a copy of the medical emergency or transfer plan particular to each client; the right of the  
217 client to file a complaint with the committee and instructions on how to file a complaint with the  
218 committee;

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

221 a disclosure of whether the licensed midwife carries malpractice or liability insurance;  
222 and

223 any further information as required by the committee.

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

226 consultation with other health care providers;

227 emergency transfer; and

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

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

231 (b) A midwife shall provide an initial and ongoing screening to ensure that each client  
232 receives safe and appropriate care. As part of the initial screening to determine whether any  
233 contraindications are present, the midwife shall take a detailed health history as defined by the  
234 committee.

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

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

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

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

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

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

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

271           Section 278. (a) Any person who practices midwifery in the commonwealth without a  
272 license granted pursuant to sections 260 to 277, inclusive, shall be punished by a fine of not less  
273 than \$100 nor more than \$1,000, or by imprisonment for not more than 3 months, or by both.  
274 The committee may petition in any court of competent jurisdiction for an injunction against any  
275 person practicing midwifery or any branch thereof without a license. Such injunction may be  
276 issued without proof of damage sustained by any person. Such injunction shall not relieve such  
277 person from criminal prosecution for practicing without a license.

278           (b) Nothing in this section shall be construed to prevent or restrict the practice, service or  
279 activities of (1) any person licensed in the commonwealth from engaging in activities within the

280 scope of practice of the profession or occupation for which such person is licensed, provided that  
281 such person does not represent to the public, directly or indirectly, that such person is licensed  
282 under sections 260 to 277, inclusive, and that such person does not use any name, title or  
283 designation indicating that such person is licensed under said sections 260 to 277, inclusive; (2)  
284 any person employed as a midwife by the federal government or an agency thereof if that person  
285 provides midwifery services solely under the direction and control of the organization by which  
286 such person is employed.

287 SECTION 6. The board shall adopt rules and regulations pursuant to section 260 of  
288 chapter 112 within 180 days after the effective date of this act. Within 180 days after the board  
289 adopts the rules and regulations pursuant to said section 260 of said chapter 112, the board may  
290 commence the issuing of licenses.

291 SECTION 7. Nothing in this act shall preclude any person who was practicing midwifery  
292 before the effective date of this act from practicing midwifery in the commonwealth until the  
293 board establishes procedures for the licensure of midwives pursuant to sections 259 to 278,  
294 inclusive, of chapter 112.

295 SECTION 8. The committee of midwifery, established pursuant to section 260 of chapter  
296 112, shall establish regulations for the licensure of individuals practicing midwifery prior to the  
297 date on which the board commences issuing licenses, provided that the individuals shall have 2  
298 years from the date on which the board commences issuing licenses to provide proof of passage  
299 of a licensing examination recognized by the board and proof of completion of any continuing  
300 education requirements necessary for re-licensure.