

SENATE No. 847

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to a Board of Midwifery.

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. Chapter 13 of the General Laws is hereby amended by adding the
2 following section:-

3 Section 101: (a) There shall be, within the department of public health, a board of
4 registration in midwifery, which shall consist of 11 members each of whom shall be a resident of
5 the commonwealth, to be appointed by the governor, 3 of whom shall be licensed midwives or
6 licensed nurse midwives, 3 of whom shall be licensed professional midwives, 1 of whom shall be
7 a licensed physician in the commonwealth with experience collaborating with midwives, 1 of
8 whom shall be a nurse who is not a midwife and 3 of whom shall be parents with at least 1 child
9 born with the assistance of a midwife licensed by the board but who have never been midwives
10 and who have no financial interest in the practice of midwifery or in any health care facility,
11 agency or insurer.

12 (b)Members shall be appointed for terms of 3 years. No member shall be appointed for
13 more than 2 consecutive terms, provided, however, that a member appointed for less than a full

14 term may serve 2 full terms in addition to that part of a full term, and a former member shall
15 again be eligible for appointment after a lapse of at least 1 year.

16 (c) A member of the board may be removed by the governor for neglect of duty,
17 misconduct, malfeasance or misfeasance in office after being given a written statement of the
18 charges against him and sufficient opportunity to be heard. Upon the death or removal for cause
19 of a member of the board, the governor shall fill the vacancy for the remainder of that member's
20 term.

21 (d) The board shall, at its first meeting and annually thereafter, elect from among its
22 members a chairperson, a vice-chairperson and a secretary who shall each serve for 1 year and
23 until a successor is appointed and qualified. The board shall meet at the call of the chairperson or
24 upon the request of at least 5 members. The board shall meet at least 4 times annually. The
25 board shall adopt such rules and regulations as it deems necessary to carry out this section. Five
26 members of the board shall constitute a quorum for the transaction of business. Board members
27 shall serve without compensation but shall be reimbursed for actual and reasonable expenses
28 incurred in the performance of their duties.

29 SECTION 2. Section 7 of chapter 94C of the General Laws is hereby amended by adding
30 the following subsection:-

31 (i) The commissioner shall adopt regulations which provide for the registration of
32 licensed midwives and licensed nurse-midwives, as provided in section 237 of chapter 112, to
33 issue written prescriptions for patients in accordance with regulations approved by the board of
34 registration in midwifery and the department of public health. Prior to adopting such regulations,
35 the commissioner shall consult with the board of registration in midwifery with regard to those

36 schedules of controlled substances for which licensed midwives and licensed nurse-midwives
37 may be registered.

38 SECTION 3. Chapter 112 of the General Laws is hereby amended by adding the
39 following 15 sections:-

40 Section 236. The following words as used in this section and sections 237 to 250,
41 inclusive, shall have the following meanings, unless the context requires otherwise:-

42 "Board", the board of registration of midwifery established in section 101 of chapter 13.

43 "Licensed midwife", a person who has been licensed by the board to practice midwifery.

44 "Licensed nurse-midwife", a person who has been licensed by the board to practice
45 midwifery.

46 "Licensed professional midwife", a person who has been licensed by the board to practice
47 midwifery.

48 "Midwifery", the provision of necessary care and education to women during pregnancy,
49 labor and the interconceptional and postpartum periods; provided, however, that midwifery shall
50 include conducting deliveries on one's own responsibility and caring for the newborn infant.

51 Section 237. The board shall:

52 (1) adopt rules and regulations providing for the licensing of midwives for the practice of
53 midwifery in accordance with sections 236 to 250, inclusive;

54 (2) grant licenses for midwives, nurse-midwives or professional midwives;

55 (3) establish administrative procedures for processing applications for licenses and
56 renewal thereof and to hire or appoint agents for processing applications for licenses and license
57 renewals;

58 (4) establish license criteria for midwives, nurse-midwives and professional midwives;

59 (5) retain records of its actions and proceedings in accordance with chapter 66;

60 (6) by regulation, define the appropriate standards for education, including, but not
61 limited to, continuing professional education requirements for licensed midwives, licensed nurse-
62 midwife and licensed professional midwives and for the conduct and ethics which shall govern
63 the practice of midwifery; and

64 (8) adopt regulations, in consultation with the department of public health regarding the
65 authority of a licensed midwife and licensed-nurse midwife to issue written prescriptions under
66 of paragraph (i) of section 7 of chapter 94C.

67 (9) adopt regulations in consultation with the department of public health regarding the
68 authority of a licensed professional midwife to obtain and administer medications and
69 therapeutics and to order and interpret tests relevant to the practice of midwifery.

70 (10) perform such other functions and duties as may be required to carry sections 236 to
71 250, inclusive.

72 Section 238. The board shall examine applicants for licensure in each of the fields it
73 supervises at least twice in each calendar year at such times and places it deems necessary. The
74 board shall establish examination and testing requirements to ascertain the competency of a
75 person applying for a license to practice as a midwife, nurse-midwife or professional midwife.

76 The testing requirements shall include proof that the applicant has passed either: (a) an
77 examination administered by the board; or (b) a national midwifery examination approved by the
78 board. The board may require an applicant to pass any supplemental examinations as it deems
79 necessary to test the applicant's knowledge of basic and clinical sciences as they relate to the
80 practice of midwifery and other subjects as the board may deem useful to determine the
81 applicant's fitness for licensure.

82 The board shall establish standards for reexamination for those applicants who fail the
83 board-approved exam; provided, however, that the standards shall clearly establish a limit on the
84 number of times an applicant may retake the exam.

85 An application for a license, which shall be furnished by the board, shall be signed and
86 sworn to by the applicants. An applicant who furnishes satisfactory proof that he is at least 18
87 years old, of good moral character and has met the requirements for examination, and the
88 educational and clinical practice requirements set forth in section 241 to 243, inclusive, shall,
89 upon payment of a fee determined by the secretary of administration and finance under section
90 3B of chapter 7 of the General Laws, be licensed to practice as a midwife, nurse-midwife or
91 professional midwife.

92 Licenses shall be valid for 2 years and shall expire on the birth of the licensee. Licensees
93 shall pay to the board a renewal fee which shall be determined by the secretary of administration
94 and finance pursuant to section 3B of said chapter 7. A person seeking a license or a renewal
95 thereof shall provide evidence of the completing such continuing education as the board shall
96 require. The board may provide for the late renewal of a license that has lapsed.

97 Upon the issuance of a license or a renewal thereof, the board shall issue to each
98 individual a certificate that clearly designates that the holder is licensed to practice as a midwife,
99 nurse-midwife or professional midwife. The board may also indicate on the certificate other
100 professional certifications held by the holder if it deems those certifications appropriate to the
101 practice of midwifery; and provided, however, that the licensee shall furnish the board with
102 satisfactory proof of those certifications.

103 Section 239. (a) The board shall develop a process by which it approves programs for the
104 education and training of individuals to practice as midwives and nurse-midwives; provided,
105 however, that those programs shall develop standards which shall be no less stringent than those
106 set by a nationally-recognized nurse-midwifery education program accrediting organization.

107 (b) The board shall adopt rules and regulations for continuing education requirements for
108 licensed midwives and licensed nurse-midwives including the scope and number of hours for
109 such continuing education required for re-licensure. Such requirements shall be at least as
110 stringent as the continuing education requirements for re-certification by a nationally-recognized
111 nurse-midwifery certifying organization.

112 Section 240. (a) The board shall develop a process by which it approves programs for the
113 education and training of individuals to practice as professional midwives; provided, however,
114 that those programs shall develop standards which shall be no less stringent than those set by a
115 nationally-recognized professional midwifery education accrediting organization; and, provided
116 further, that said standards shall allow for education and training as an individual to practice as a
117 professional midwife through an apprenticeship program.

118 (b)The board shall adopt rules and regulations for continuing education requirements for
119 licensed professional midwives including the scope and number of hours for such continuing
120 education required for re-licensure.

121 Section 241. Requirements for licensure as a midwife shall include:

122 (1) completion of the program required in section 239;

123 (2) completion of a post-baccalaureate education program in midwifery approved by the
124 board under section 240;

125 (3) passage of an examination approved by the board for licensure as a midwife;

126 (4) completion of appropriate pharmacology education as determined by the board; and

127 (5) any additional information as requested by the board, including information necessary
128 to ensure that the applicant is able to practice with reasonable skill and safety to the public.

129 Section 242. Requirements for licensure as a nurse-midwife shall include:

130 (1) eligibility for registration as a nurse under section 74 of chapter 112;

131 (2) completion of a post-baccalaureate educational program in nurse-midwifery approved
132 by the board under section 239;

133 (3) passage of an examination approved by the board for licensure as a nurse-midwife;

134 (4) completion of appropriate pharmacology education as determined by the board; and

135 (5) any additional information as requested by the board, including information necessary
136 to ensure that the applicant is able to practice with reasonable skill and safety to the public.

137 Section 243. Requirements for licensure as a professional midwife shall include:

138 (1) completion of an educational program or apprenticeship program in professional
139 midwifery approved by the board under section 240;

140 (2) passage of an examination approved by the board for licensure as a professional
141 midwife;

142 (3) completion of appropriate pharmacology education as determined by the board; and

143 (4) any additional information as requested by the board, including information necessary
144 to ensure that the applicant is able to practice with reasonable skill and safety to the public.

145 Section 244. The board shall adopt regulations relative to the scope of practice of
146 licensed midwives. The scope of practice shall include, but not be limited to, the following:

147 (1) providing the necessary supervision, care and advice to women during pregnancy,
148 labor, the postpartum and interconceptional periods;

149 (2) conducting vaginal deliveries on the midwife's own responsibility and caring for the
150 newborn and the infant; provided, however, that the care to mother and child include preventive
151 measures, the detection of abnormal conditions, the procurement of medical assistance and the
152 execution of emergency measures in the absence of medical help; and

153 (3) additional related health care services, including gynecological services, as defined by
154 the board.

155 A licensed midwife may order and administer medications and therapeutics and order and
156 interpret tests relevant to the practice of midwifery in accordance with regulations promulgated

157 by the board, in consultation with the department of public health, and issue written prescriptions
158 subject to subsection (i) of section 7 of chapter 94C.

159 The board shall also adopt regulations relative to the requirements and standards for
160 clinical practice, including informed consent for midwifery care and consultation and referral
161 within the system of health care.

162 Section 245. The board shall adopt regulations relative to the scope of practice of
163 licensed nurse-midwives. The scope of practice shall include, but not be

164 limited to, the following:

165 (1) providing the necessary supervision, care and advice to women during pregnancy,
166 labor and the interconceptional and postpartum periods;

167 (2) conducting vaginal deliveries on the midwife's own responsibility and caring for the
168 newborn and the infant; provide, however, that the care to mother and child may include
169 preventive measures, the detection of abnormal conditions, the procurement of medical
170 assistance and the execution of emergency measures in the absence of medical help; and

171 (3) additional related health care services including, gynecological services, as defined by
172 the board.

173 A licensed nurse-midwife may order and administer medications and therapeutics and
174 order and interpret tests relevant to the practice of midwifery in accordance with regulations
175 promulgated by the board in consultation with the department of public health and issue written
176 prescriptions subject to subsection

177 (i) of section 7 of chapter 94C.

178 The board shall also adopt regulations relative to the requirements and standards for
179 clinical practice, including informed consent for midwifery care and consultation and referral
180 within the system of health care.

181 Section 246. The board shall adopt regulations relative to the scope of practice of
182 licensed professional midwives. The scope of practice shall include, but not be limited to, the
183 following:

184 (1) providing the necessary supervision, care and advice to women during pregnancy,
185 labor and the interconceptional and postpartum periods; and

186 (2) conducting vaginal deliveries on the midwife's own responsibility, and caring for the
187 newborn and the infant; provide, however, that the care to the mother and child may include
188 preventive measures, the detection of abnormal conditions, the procurement of medical
189 assistance and the execution of emergency measures in the absence of medical help.

190 A licensed professional midwife may obtain and administer medications and therapeutics
191 and order and interpret tests relevant to the practice of midwifery in accordance with regulations
192 adopted by the board, in consultation with the department of public health.

193 The board shall also adopt regulations relative to the requirements and standards for
194 clinical practice, including informed consent for midwifery care and consultation and referral
195 within the system of health care.

196 Section 247. The board may, without examination and upon payment of a fee determined
197 annually by the secretary of administration and finance under section 3B of chapter 7, register
198 and issue a license to, a midwife who has been lawfully in practice in another state for the

199 preceding 5 years, if the midwife presents to the board a certificate of registration and duration of
200 practice from the board of midwifery or other like board of that state, provided, however, that the
201 other state shall require a degree of competency equal to that required of applicants in the
202 commonwealth.

203 Section 248. The board shall keep a record of its proceedings and a roster of all persons
204 licensed by it under sections 236 to 250, inclusive. The roster shall include the licensee's name,
205 last known business and residential addresses, date of licensure and license number.

206 Section 249. Nothing in sections 236 to 250, inclusive, shall be construed to authorize a
207 midwife to practice medicine or any other form or method of healing not specified in said
208 sections 236 to 250, inclusive.

209 A person shall not hold himself out as a midwife or as being licensed to practice
210 midwifery in the commonwealth unless he is licensed in accordance with sections 236 to 250,
211 inclusive. A person who is not so licensed shall not use any words or abbreviations indicating he
212 is a licensed midwife, licensed nurse-midwife or licensed professional midwife.

213 Nothing in this section shall be construed to prevent or restrict the practice, service or
214 activities of:

215 (1) any person licensed in the commonwealth from engaging in activities within the
216 scope of practice of the profession or occupation for which he is licensed, provided that he does
217 not represent to the public, directly or indirectly, that he is licensed under sections 236 to 250,
218 inclusive, and that he does not use any name, title or designation indicating he is licensed under
219 said sections 236 to 250, inclusive;

220 (2) any person employed as a midwife by the federal government or an agency thereof if
221 that person provides midwifery services solely under the direction and control of the
222 organization by which he is employed;

223 (3) the performance of midwifery services of any student engaged in an education
224 program approved in accordance with sections 240 or 241 if midwifery services performed by
225 the student are an integral part of the student's course of study and are performed under the direct
226 supervision of a licensed midwife assigned to supervise the student; and

227 (4) any person who attends births without being a licensed midwife, licensed nurse-
228 midwife or licensed professional midwife, if that person receives no compensation for his
229 services and does not assume any of the responsibilities of a midwife licensed under sections 236
230 to 250, inclusive.

231 Section 250. The board may deny a issue a license, refuse to renew a license or, after a
232 hearing pursuant to chapter 30A, revoke, suspend or cancel the license or place on probation,
233 reprimand, censure or otherwise discipline a licensee upon proof satisfactory to a majority of the
234 board that the person:

235 (1) has obtained or attempted to obtain a license by fraud or deception;

236 (2) has been convicted of a felony under state or federal law;

237 (3) has been adjudged mentally ill or incompetent by a court of competent jurisdiction;

238 (4) has used drugs or intoxicating liquors to the extent which adversely affects his
239 practice;

- 240 (5) has engaged in unethical or unprofessional conduct including, but not limited to,
241 willful acts, negligence or incompetence in the course of professional practice;
- 242 (6) has violated any lawful order, rule or regulation rendered or adopted by the board;
- 243 (7) has been disciplined in connection with a midwifery license issued by any other state
244 or country;
- 245 (8) used or attempted to use a license that has been suspended or revoked; or
- 246 (9) knowingly concealed information relating to the enforcement of this chapter or rules
247 adopted pursuant thereto.

248 SECTION 4. Section 80C of chapter 112 is hereby repealed.

249 SECTION 5. The board shall adopt rules and regulations pursuant to section 237 of
250 chapter 112 of the General Laws within 180 days after the effective date of this act. Within 180
251 days after the board adopts the rules and regulations pursuant to said section 237 of said chapter
252 112, the board may commence the issuing of licenses.

253 SECTION 6. Nothing in this act shall preclude any person who was practicing midwifery
254 before the effective date of this act from practicing midwifery in the commonwealth until the
255 board establishes procedures for the licensure of midwives pursuant to sections 237 to 250,
256 inclusive, of chapter 112 of the General Laws.

257 SECTION 7. Notwithstanding section 101 of chapter 13 of the General Laws, 6
258 midwives to be appointed to the midwifery board shall be initially appointed as follows: 3 shall
259 be midwives or nurse midwives certified by a nationally-recognized midwife certification board

260 and 3 shall be professional midwives certified by a nationally-recognized midwife certification
261 board who shall serve for terms of 3 years pursuant to said section 101 of said chapter 13.

262 SECTION 8. The board of registry of midwifery, established pursuant to section 101 of
263 chapter 13 of the General Laws, shall establish regulations for the licensure of individuals
264 practicing midwifery prior to the date on which the board commences issuing licenses, provided
265 that the individuals shall have 2 years from the date on which the board commences issuing
266 licenses to provide proof of passage of a licensing examination recognized by the board and
267 proof of completion of any continuing education requirements necessary for re-licensure.