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# HOUSE . . . . . No. 4785

House bill No. 4773, as changed by the committee on Bills in the Third Reading and as amended and passed to be engrossed by the House. June 20, 2024.

## The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court**
**(2023-2024)**

An Act promoting access to midwifery care and out-of-hospital birth options.

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

SECTION 1. Section 9 of chapter 13 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by inserting after the word "counselors", in line 7, the following words:- the board of registration in midwifery.

SECTION 2. Section 11A of said chapter 13, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be a board of allied health professions, hereinafter called the board, which shall consist of 15 members who are residents of the commonwealth to be appointed by the governor. Three of such members shall be qualified athletic trainers licensed in accordance with section 23B of chapter 112; 2 of such members shall be occupational therapists licensed in accordance with said section 23B; 1 such member shall be an occupational therapy assistant licensed in accordance with said section 23B; 2 of such members shall be physical therapists licensed in accordance with said section 23B; 1 such member shall be a physical therapist

assistant licensed in accordance with said section 23B; 3 of such members shall be lactation consultants licensed in accordance with said section 23B; 2 of such members shall be a physician licensed in accordance with section 2 of chapter 112; and 1 such member shall be selected from and shall represent the general public.

SECTION 3. Said section 11A of said chapter 13, as so appearing, is hereby further amended by striking out the words “or physical therapy”, in lines 51 and 52, and inserting in place thereof the following words:- physical therapy or lactation consulting.

SECTION 4. Said chapter 13 is hereby further amended by adding the following section:-

Section 110. (a) There shall be within the department of public health a board of registration in midwifery, hereinafter called the board. The board shall consist of 9 members who are residents of the commonwealth to be appointed by the governor: 5 of whom shall be midwives licensed under section 293 of chapter 112 with not less than 5 years of experience in the practice of midwifery; 1 of whom shall be an obstetrician-gynecologist licensed to practice medicine under section 2 of said chapter 112 with experience working with midwives; 1 of whom shall be a maternal-fetal medicine specialist licensed to practice medicine under said section 2 of said chapter 112 with experience working with midwives; 1 of whom shall be a certified nurse-midwife licensed under section 80B of said chapter 112 and authorized to practice nurse midwifery under section 80C of said chapter 112; and 1 of whom shall be a member of the public. When making the appointments, the governor shall consider members with experience working on the issue of racial disparities in maternal health. The appointed members shall serve for terms of 3 years. Upon the expiration of a term of office, a member shall continue to serve until a successor has been appointed and qualified. A member shall not serve for more than 2

consecutive full terms; provided, however, that a person who is chosen to fill a vacancy in an unexpired term of a prior board member may serve for 2 consecutive full terms in addition to the remainder of such unexpired term. A member may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in the office after a written notice of the charges against the member and sufficient opportunity to be heard thereon. Upon the death, resignation, or removal for cause of a member of the board, the governor shall fill the vacancy for the remainder of that member's term.

(b) Annually, the board shall elect from its membership a chair and a secretary who shall serve until their successors have been elected and qualified. The board shall meet not less than 4 times annually and may hold additional meetings at the call of the chair or upon the request of not less than 5 members. A quorum for the conduct of official business shall be a majority of those appointed. Board members shall serve without compensation but shall be reimbursed for actual and reasonable expenses incurred in the performance of their duties. The members shall be public employees for the purposes of chapter 258 for all acts or omissions within the scope of their duties as board members.

SECTION 5. Chapter 32A of the General Laws is hereby amended by inserting after section 17S the following 2 sections:-

Section 17T. The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for postpartum depression screenings conducted pursuant to section 247 of chapter 111.

Section 17U. (a) The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission coverage for the

provision of medically necessary pasteurized donor human milk and donor human milk-derived products, provided that:

(i) the milk is obtained from a human milk bank that meets quality guidelines established by the department of public health;

(ii) a licensed medical practitioner has issued a written order for the provision of such human breast milk or donor human milk-derived products for the covered infant; and

(iii) the covered infant meets the following conditions:-

(1) is under the age of 6 months;

(2) is undergoing treatment in an inpatient setting for a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis, or a congenital or acquired condition that may benefit from the use of such human breast milk as determined by the department of public health; and

(3) is medically or physically unable to receive maternal breast milk or participate in breastfeeding or whose mother is medically or physically unable, despite receiving lactation support, to produce maternal breast milk in sufficient quantities or caloric density.

(b) If an inpatient stay is reimbursed through a diagnosis related group or other bundled payment arrangement, the commission shall include the cost of reimbursement provided under subsection (a) of this section for donor human milk and donor human milk-derived products in the development of the reimbursement rate for such diagnosis related group or bundled payment.

SECTION 6. Section 1E of chapter 46 of the General Laws, as appearing in the 2022

Official Edition, is hereby amended by inserting after the definition of “Administrator” the following definition:-

“Certified nurse-midwife”, a nurse licensed under section 80B of said chapter 112 and authorized to practice nurse midwifery under section 80C of said chapter 112.

SECTION 7. Said section 1E of said chapter 46, as so appearing, is hereby further amended by inserting after the definition of “Hospital medical officer” the following definition:-

“Licensed midwife”, a midwife licensed to practice by the board of registration in midwifery pursuant to section 293 of chapter 112.

SECTION 8. Section 3B of said chapter 46, as so appearing, is hereby amended by inserting after the word “physician”, in line 1, the following words:- certified nurse-midwife or licensed midwife.

SECTION 9. Section 1 of chapter 94C of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Isomer” the following definition:-

“Licensed midwife”, a midwife licensed to practice by the board of registration in midwifery pursuant to section 293 of chapter 112.

SECTION 10. Section 7 of said chapter 94C, as so appearing, is hereby amended by adding the following subsection:-

(j) The commissioner shall promulgate regulations that provide for the automatic registration of licensed midwives, upon the receipt of the fee as herein provided, to issue written prescriptions in accordance with the provisions of section 295 of chapter 112 and the regulations

issued by the board of registration in midwifery under said section 295 of said chapter 112, unless the registration of such licensed midwife has been suspended or revoked pursuant to the provisions of section 13 or section 14 or unless such registration is denied for cause by the commissioner pursuant to chapter 30A. Prior to promulgating such regulations, the commissioner shall consult with the board of registration in midwifery and the department of public health.

SECTION 11. Section 9 of said chapter 94C, as so appearing, is hereby amended by inserting after the figure "112", in line 7, the following words:- , licensed midwife as limited by subsection (j) of said section 7 and section 295 of said chapter 112.

SECTION 12. Said section 9 of said chapter 94C, as so appearing, is hereby further amended by inserting after the word "midwife", in lines 24, 33, 38, 69, 75, 78 and 87, in each instance, the following words:- , licensed midwife.

SECTION 13. Said section 9 of said chapter 94C, as so appearing, is hereby further amended by inserting after the word "nurse-midwifery", in line 29, the following word:- , midwifery.

SECTION 13A. Section 24O of chapter 111 of the General Laws, inserted by section 43 of chapter 28 of the acts of 2023, is hereby amended by striking out subsection (d), the second time the subsection appears, and subsection (e), and inserting in place thereof the following 3 subsections:-

(e)(1) The committee shall consist of the following members: the commissioner, or their designee, who shall serve as chair; the assistant secretary for MassHealth, or their designee, a

representative of the department of public health; the executive director of the health policy commission, or their designee; a representative of the Perinatal-Neonatal Quality Improvement Network of Massachusetts; the chief medical examiner, or their designee; the chair of the Massachusetts chapter of the American College of Obstetrics and Gynecology, or their designee; the chair of the Massachusetts chapter of the American College of Nurse Midwives, or their designee; the chair of the Massachusetts chapter of the Association of Women's Health, Obstetric and Neonatal Nurses, or their designee; and the commissioner shall appoint the following members: a medical professional with obstetric and neonatal nursing training; a medical professional with training in cardiology; a medical professional with training in pathology; a medical professional with expertise in substance use prevention and treatment; a psychology, social work or other mental health professional; a representative from academia in a relevant field; a medical professional with formal anesthesiology training; a medical professional with maternal fetal medicine or perinatology training; a medical professional with psychiatric training; a medical professional with family medicine training; the director of a federally-funded Healthy Start program, or their designee; 2 individuals who practice as doulas; 2 community or family members who have been directly affected by a maternal death; a member of a community-based organization; a representative from the department of children and families; and a law enforcement officer.

(2) Each member, other than the commissioner, shall serve for a term of 3 years and until their successor is appointed. Nothing in this section shall prohibit the commissioner from appointing a committee member to serve additional terms. The committee shall convene as deemed necessary by the department. The commissioner shall, to the extent feasible, appoint members representing the racial, ethnic and geographic diversity of the commonwealth and shall

prioritize appointing members from communities and groups most impacted by maternal mortality and maternal morbidity.

(f) Not later than December 31 of each even-numbered year, the committee shall submit to the clerks of the house of representatives and the senate, the house and senate committees on ways and means and the joint committee on public health a report, including, but not limited to:

(i) a description of the incidents of maternal mortality and severe maternal morbidity reviewed during the immediately preceding 24 months, provided in a manner that shall not allow for the identification of any person;

(ii) a summary of the disparities identified and reviewed;

(iii) recommendations to reduce maternal mortality and severe maternal morbidity in the commonwealth; and

(iv) recommendations for any legislation or other changes to policy to reduce maternal mortality and severe maternal morbidity or otherwise improve the delivery of health care in the commonwealth.

(g) Notwithstanding any general or special law to the contrary, upon the determination of a majority of the committee, that the review of any information or record is necessary to carry out the purpose of this section, the committee shall request and the relevant offices and agencies shall provide requested records or information from any agency, department or office of the commonwealth including, but not limited to: (i) the executive office of health and human services and its constituent agencies; (ii) the executive office of public safety and security; (iii) the center for health information and analysis; (iv) the office of patient protection; (v) any health

care facility, state comprehensive health planning agency or acute-care hospital as defined in section 25B; and (vi) any health care provider or professional licensed pursuant to chapter 112. The committee may receive and solicit voluntary information, including oral or written statements relating to any case that may come before the committee from any public or private entity and any person including, but not limited to, a patient in a case of maternal morbidity.

SECTION 14. Said chapter 111 is hereby further amended by inserting after section 24O the following section:-

Section 24P. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Fetal death", as defined in section 202.

"Infant death", the death of an infant that occurs between the birth of the infant and 1 year of age.

(b) The department shall establish a program to conduct an in-depth fetal and infant mortality review of each individual fetal or infant death occurring within the commonwealth in order to identify social, economic and systems factors associated with fetal and infant deaths and inform public health policy programs. For each case of fetal or infant death to be reviewed, the department may collect relevant data from a variety of sources, which may include physician and hospital records in addition to relevant information from local boards of health and community organizations.

(c) The department may promulgate regulations, consistent with this section, regarding the process for conducting fetal infant mortality reviews, which may include guidance from the

federal Health Resources and Services Administration's national fetal, infant and child death review program.

SECTION 15. Said chapter 111 is hereby further amended by inserting after section 51L the following section:-

Section 51M. (a) The department shall promulgate regulations relative to the operation and maintenance of birth centers licensed as clinics pursuant to section 51, hereinafter referred to as "freestanding birth centers."

(b) The regulations shall include, but shall not be limited to, a licensed freestanding birth center having:

(i) a detailed and written plan on the premises for transfer of a client to a nearby hospital providing obstetrical and newborn services as needed for emergency treatment beyond that provided by the birth center;

(ii) policies and procedures to ensure coordination of ongoing care and transfer when complications occur that render the patient ineligible for birth center care during the antepartum, intrapartum or postpartum period;

(iii) an administrative director responsible for implementing and overseeing the operational policies of the birth center;

(iv) a director of clinical affairs on staff who shall be a certified nurse-midwife, licensed midwife or physician licensed to practice in the commonwealth whose professional scope of practice includes preconception, prenatal, labor, birth and postpartum care and early care of the newborn and who may be the primary attendants during the perinatal period; and

(v) birth attendants that are certified nurse midwives, licensed midwives, physicians or other providers licensed to practice in the commonwealth whose professional scope of practice includes preconception, prenatal, labor, birth and postpartum care and early care of the newborn and who may be the primary attendants in accordance with their professional scope of practice.

(c) No regulations shall require a licensed freestanding birth center or the directors and providers on staff to practice under the supervision of a hospital or another health care provider or to enter into an agreement, written or otherwise, with another hospital or health care provider, or maintain privileges at a hospital.

(d) In order to be licensed as freestanding birth centers pursuant to subsection (a) and under section 51 by the department, a freestanding birth center shall provide reimbursable services to individuals with public health insurance on a non-discriminatory basis.

SECTION 15A. Section 110A of said chapter 111, as appearing in the 2022 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The physician attending a newborn child shall cause said child to be subjected to tests for phenylketonuria, cretinism, Duchenne muscular dystrophy, and such other specifically treatable genetic or biochemical disorders or treatable infectious diseases which may be determined by testing as specified by the commissioner. The commissioner shall convene an advisory committee on newborn screening to assist the commissioner in determining which tests are necessary; provided, that said advisory committee shall convene not less than twice per year.

SECTION 16. Section 202 of said chapter 111, as appearing in the 2022 Official Edition, is hereby amended by inserting after the word “physician”, in line 17, the following words:- , certified nurse-midwife or licensed midwife.

SECTION 17. Said section 202 of said chapter 111, as so appearing, is hereby further amended by inserting after the word “attendance”, in line 17, the following words:- , or without the attendance of a certified nurse-midwife or licensed midwife,.

SECTION 18. Said chapter 111 is hereby further amended by adding the following 3 sections:-

Section 245. (a) The commissioner shall develop and disseminate to the public, information regarding pregnancy loss, including miscarriage and recurrent miscarriage, which shall include information on: (i) the awareness of pregnancy loss and the incidence and prevalence of pregnancy loss among pregnant people; and (ii) the accessibility of the range of evidence-based treatment options, as medically appropriate, for pregnancy loss, including, but not limited to, comprehensive mental health supports, necessary procedures and medications and culturally responsive supports including as pregnancy-loss doula care. The commissioner shall ensure that information disseminated pursuant to this section is available in multiple languages, including Spanish, Portuguese, Mandarin, Cantonese, Haitian Creole, and other commonly spoken languages in the commonwealth.

(b) The commissioner may disseminate information to the public directly through the department’s website or through arrangements with agencies carrying out intra-agency initiatives, nonprofit organizations, consumer groups, community organizations, institutions of higher education or state or local public-private partnerships.

(c) The commissioner shall develop and coordinate programs for conducting and supporting evidence-based research with respect to the causes of and current and novel treatment options and procedures for pregnancy loss.

(d) The commissioner shall, in consultation with and in accordance with guidelines from relevant professional boards of registration, develop and disseminate to perinatal health care workers information on pregnancy loss to ensure that such perinatal health care workers remain informed about current information regarding pregnancy loss and prioritizing both the physical and mental health care of patients experiencing pregnancy loss. For purposes of this subsection, the term "perinatal health care worker" shall include, but shall not be limited to, a licensed midwife, physician assistant, nurse practitioner, clinical nurse specialist, doula, community health worker, peer supporter, licensed lactation consultant, nutritionist or dietitian, childbirth educator, social worker, trained family support specialist or home visitor, and language interpreter or navigator.

(e) The commissioner shall, in a manner that protects personal privacy and complies with federal law, collect and assess data regarding pregnancy loss, including information disaggregated by race, ethnicity, health insurance status, disability, income level and geography on the prevalence of, the incidence of and knowledge about pregnancy loss.

Section 246. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Perinatal individual", an individual that is either pregnant or is within 12 months from the date of giving birth.

"Perinatal mood and anxiety disorders", any mental health disorder experienced by a perinatal individual during the period of time from the beginning of pregnancy up until 1 year following the birth of a child, including, but not limited to, postpartum depression.

(b) The department shall develop and maintain a comprehensive digital resource center on perinatal mood and anxiety disorders. The digital resource center shall be available to the public at no cost on the department's website, and shall include information and resources for: (i) health care providers and organizations serving perinatal individuals to aid them in diagnosing, treating or making appropriate referrals for individuals experiencing perinatal mood and anxiety disorders; (ii) perinatal individuals and their families to aid them in understanding and identifying perinatal mood and anxiety disorders and how to navigate available resources and obtain treatment.

(c) Prior to developing the comprehensive digital resource center, the department shall consult with: (i) health care professionals, including, but not limited to, obstetricians, gynecologists, pediatricians, primary care providers, certified nurse-midwives, licensed midwives, psychiatrists, and other mental health clinicians; (ii) organizations serving perinatal individuals; and (iii) health insurance carriers.

(d) The department shall develop and implement a public information campaign to promote awareness of perinatal mood and anxiety disorders, which shall promote the digital resource center developed pursuant to this section.

Section 247. (a) For the purposes of this section, "postnatal individual" shall refer to an individual who is within 12 months of giving birth.

(b) Every postnatal individual who receives health care services from a primary care provider, obstetrician, gynecologist, certified nurse-midwife, or licensed midwife shall be offered a screening for postpartum depression, and, if the postnatal individual does not object to such screening, such primary care provider, certified nurse-midwife, or licensed midwife shall ensure that the postnatal individual is appropriately screened for postpartum depression in line with evidence-based guidelines.

(c) Every postnatal individual whose infant receives health care services from a pediatrician shall be offered a screening for postpartum depression by the infant's pediatrician, and, if the postnatal individual does not object to such screening, such pediatrician shall ensure that the postnatal individual is appropriately screened for postpartum depression in line with evidence-based guidelines.

(d) If a health care professional, administering a screening in accordance with this section determines, based on the screening methodology administered, that the postnatal individual is likely to be suffering from postpartum depression, such health care professional shall discuss available treatments for postpartum depression, including pharmacological treatments, and provide an appropriate referral to a mental health clinician.

SECTION 19. Section 23A of chapter 112 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "twenty-three A to twenty-three P" and inserting in place thereof the following words:- 23A to 23P¾.

SECTION 20. Said section 23A of said chapter 112, as so appearing, is hereby further amended by inserting after the definition of "Board" the following 4 definitions:-

"International board certified lactation consultant", a person who holds current certification from the International Board of Lactation Consultant Examiners as a lactation consultant after demonstrating the appropriate education, knowledge and experience necessary for independent clinical practice.

"International Board of Lactation Consultant Examiners", the international certification body that confers the International Board Certified Lactation Consultant credential and which is independently accredited by the National Commission for Certifying Agencies.

"Lactation consulting", the clinical application of scientific principles and a multidisciplinary body of evidence for evaluation, problem identification, treatment, education and consultation to families regarding the course of lactation and infant feeding; including but not limited to: (i) clinical lactation assessment through the systematic collection of subjective and objective data; (ii) analysis of data and creation of a plan of care; (iii) development and implementation of a lactation care plan with demonstration and instruction to parents and communication to the primary health care provider; (iv) provision of lactation education to parents and health care providers; and (v) recommendation and use of assistive devices.

"Licensed lactation consultant", a person licensed to practice lactation consulting in accordance with section 23B.

SECTION 21. Section 23B of said chapter 112, as so appearing, is hereby amended by striking out, in line 8, the words "and physical therapist assistants" and inserting in place thereof the following words:- , physical therapist assistants and lactation consultants.

SECTION 22. The first paragraph of said section 23B of said chapter 112, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof

the following sentence:- An applicant who furnishes satisfactory proof that they are of good moral character and that they have met the educational and clinical practice requirements set forth in section 23F, 23G, 23H, 23I, 23J or 23J½, shall, upon payment of a fee determined by the secretary of administration and finance, be examined by the board, and if found qualified, and if the applicant passes the examination, shall be licensed to practice.

SECTION 23. Section 23C of said chapter 112, as so appearing, is hereby amended by inserting after the word “assistant”, in line 4, the following words:- or lactation consultant.

SECTION 24. Said section 23C of said chapter 112, as so appearing, is hereby further amended by inserting after the word “chapter”, in line 11, the following words:- ; as a licensed lactation consultant.

SECTION 25. Section 23D of said chapter 112, as so appearing, is hereby amended by inserting after the words “physical therapist assistant”, in line 3, the following words:- , or a licensed lactation consultant.

SECTION 26. Section 23E of said chapter 112, as so appearing, is hereby amended by inserting after the word “assistant”, in line 8, the following words:- or lactation consultant.

SECTION 27. Said section 23E of said chapter 112, as so appearing, is hereby further amended by inserting after the word “therapy”, in line 14, the following words:- or lactation consulting.

SECTION 28. Said section 23E of said chapter 112, as so appearing, is hereby further amended by inserting after the words “physical therapy services”, in line 21, the following words:- or lactation consulting services.

SECTION 29. Said section 23E of said chapter 112, as so appearing, is hereby further amended by inserting after the words “physical therapist”, in line 24, the following words:- or licensed lactation consultant.

SECTION 30. Said chapter 112 is hereby further amended by inserting after section 23J the following section:-

Section 23J½. An applicant for licensure as a lactation consultant shall:

(i) be at least 18 years of age;

(ii) have submitted a completed application upon a form and in such manner as the board prescribes, accompanied by applicable fees;

(iii) have met the education and clinical standards established for international board certified lactation consultants by the International Board of Lactation Consultant Examiners, or its successor organization;

(iv) have passed an examination adopted or administered by the board; provided, however, that the board may adopt a standardized national exam, including the examination required for certification by the International Board of Lactation Consultant Examiners or a successor or equivalent entity; and

(v) have completed such other requirements as may be prescribed by the board.

SECTION 31. Section 23K of said chapter 112, as so appearing, is hereby amended by inserting after the words “physical therapy”, in line 9, the following words:- , or lactation consulting.

SECTION 32. Section 23L of said chapter 112, as so appearing, is hereby amended by striking out, in line 3, the words “or physical therapist assistant” and inserting in place thereof the following words:- physical therapist assistant, or licensed lactation consultant.

SECTION 33. Said chapter 112 is hereby further amended by inserting after section 23P½ the following section:-

Section 23P¾. (a) Except as otherwise provided in this section and sections 23C and 23E, no person shall provide lactation consulting services unless they are licensed to practice as a lactation consultant pursuant to section 23B.

(b) Nothing in this section shall be construed to prevent the practice of lactation consulting by members of other licensed health care professions when such practice is consistent with the accepted standards and scope of practice for their respective professions; provided, however, that such persons shall not use the title “licensed lactation consultant” unless licensed pursuant to this chapter.

(c) Nothing in the chapter shall prevent perinatal health workers from performing breastfeeding education functions consistent with the accepted standards of their respective occupations; provided, however, such persons shall not use the title “licensed lactation consultant” unless licensed pursuant to this chapter. For the purposes of this subsection, “perinatal health worker” shall mean any perinatal educator, including, but not limited to, a doula, community health worker, peer counselor, peer counselor, peer supporter, breastfeeding and lactation educator or counselor within the Women Infants and Children Program, childbirth educator or social worker.

SECTION 34. Said chapter 112 is hereby further amended by adding the following 8 sections:-

Section 290. As used in sections 290 to 297, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Board", the board of registration in midwifery, established under section 110 of chapter 13.

"Certified nurse-midwife", a nurse licensed under section 80B and authorized to practice nurse midwifery under section 80C.

"Client", a person under the care of a licensed midwife.

"Licensed midwife", a person registered by the board to practice midwifery in the commonwealth under section 293.

"Low-risk pregnancy", a pregnancy with no maternal or fetal factors that place the pregnancy at significantly increased risk for complications, as determined through regulation by the board in consultation with the department of public health, including, but not limited to, factors related to maternal or fetal health conditions likely to affect the pregnancy and the gestational age and presentation of the fetus at the time of labor and delivery.

"MEAC", the Midwifery Education Accreditation Council or its successor organization.

"NARM", the North American Registry of Midwives or its successor organization.

Section 291. (a) The practice of midwifery by a licensed midwife shall include, but shall not be limited to:

(i) the practice of providing maternity care to a client during the preconception period and the antepartum, intrapartum and postpartum periods of a low-risk pregnancy;

(ii) the practice of providing newborn care; and

(iii) prescribing, dispensing or administering pharmaceutical agents consistent with section 295.

(b) A licensed midwife shall accept and provide care to clients only in accordance with the scope and standards of practice under this section and regulations promulgated by the board pursuant to section 292.

(c) The practice of midwifery shall not constitute the practice of medicine, certified nurse-midwifery or emergency medical care.

(d) Nothing in this section shall regulate, restrict or prohibit the practice, service or activities of:

(i) a person licensed in the commonwealth from engaging in activities within the scope of practice of the profession or occupation for which such person is licensed, including, but not limited to: the practice of a licensed physician, certified-nurse midwife or certified emergency medical technician; provided, however, that such person does not represent to the public, directly or indirectly, that such person is licensed under section 293 and that such person does not use any name, title or designation indicating that such person is licensed under said section 293;

(ii) a person employed as a midwife by the federal government or an agency thereof if that person provides midwifery services solely under the direction and control of the organization by which such person is employed;

(iii) a traditional birth attendant who provides midwifery services to a client that has cultural or religious birth traditions that have historically included the attendance of traditional birth attendants; provided, that no fee for the traditional birth attendant's services is contemplated, charged or received and the birth attendant serves only individuals and families in a distinct cultural or religious group;

(iv) persons who are members of Native American communities and provide traditional midwife services to their communities; or

(v) any person rendering aid in an emergency.

Section 292. (a) The board shall have the following powers and duties:

(i) to adopt rules and promulgate regulations governing licensed midwives and the practice of midwifery to promote the public health, welfare and safety consistent with the essential competencies identified by the NARM;

(ii) to administer the licensing process, including, but not limited to: (A) receiving, reviewing, approving and rejecting applications for licensure; (B) issuing, renewing, suspending, revoking and reinstating licenses; (C) investigating complaints against persons licensed under section 293; and (D) holding hearings and ordering disciplinary sanctions against a person who violates sections 290 to 297, inclusive, or any regulation promulgated by the board;

(iii) to establish administrative procedures for processing applications and renewals;

(iv) to adopt and provide a uniform, proctored examination for applicants to measure the qualifications necessary for licensure; provided, however, that the board may adopt a

standardized national exam, including the examination required for certification by the NARM or a successor or equivalent entity;

(v) to develop practice standards for licensed midwives that shall include, but not be limited to: (A) the adoption of ethical standards for licensed midwives; (B) the maintenance of records of care, including client charts; (C) the participation in peer review; (D) the development of standardized informed consent forms; and (E) the development of a standardized written emergency transport plan forms relative to the timely transfer of a newborn or client to a hospital;

(vi) to promulgate regulations requiring licensed midwives to have professional malpractice liability insurance or a suitable bond or other indemnity against liability for professional malpractice in such an amount as may be determined by the board; provided, however, that such amount shall be not less than that required for certified-nurse midwives pursuant to section 80B;

(vii) to establish and maintain records of its actions and proceedings in accordance with public records laws; and

(viii) adopt professional continuing education requirements for licensed midwives seeking renewal consistent with those maintained by the NARM.

(b) Nothing in this section shall be construed to authorize the board to promulgate regulations that require a licensed midwife to practice under the supervision of or in collaboration with another health care provider.

Section 293. (a) A person who desires to be licensed as a midwife under this section shall apply to the board in writing on an application form prescribed and furnished by the board. The application shall include a sworn statement and contain information satisfactory to the board to demonstrate that the applicant possesses the qualifications necessary for licensure under this section.

(b) The initial license and renewal fee shall be established pursuant to section 3B of chapter 7; provided, however, that such fees shall not exceed $200 biennially. The board, in consultation with the secretary of administration and finance, shall institute a process for applicants to apply for a financial hardship waiver, which may reduce or fully exempt an applicant from paying the fee pursuant to this section. Fees collected by the board shall be deposited into the Quality in Health Professions Trust Fund pursuant to section 35X of chapter 10 to support board operations and administration and to reimburse board members for reasonable expenses incurred in the performance of their official duties.

(c) An applicant for licensure under this section shall: (i) be of good moral character; (ii) be a graduate of a high school or its equivalent; (iii) have completed a formal midwifery education and training program consistent with subsection (d); (iv) possess a valid certified professional midwife credential from the NARM; and (v) have satisfactorily completed the examination required by the board.

(d) An applicant for a license to practice midwifery as a licensed midwife shall submit to the board proof of successful completion of a formal midwifery education and training program as follows:

(i) a certificate of completion or equivalent from an educational program or institution accredited by the MEAC; or

(ii) a midwifery bridge certificate issued by the NARM or a successor credential; provided that an applicant is: (A) certified as a certified professional midwife within 5 years after the effective date of this section and completed a midwifery education and training program from an educational program or institution that is not accredited by the MEAC; or (B) licensed as a professional midwife in a state that does not require completion of a midwifery education and training program from an educational program or institution that is accredited by the MEAC.

(e) The board may license in a like manner, without examination, any midwife who has been licensed in another state under laws which, in the opinion of the board, require qualifications and maintain standards substantially the same as those of this commonwealth for licensed midwives; provided, however, that such midwife applies and remits to the board the appropriate application fee under this section.

(f) The board may petition a court of competent jurisdiction for an injunction against any person practicing midwifery without a license granted pursuant to section 293. Proof of damage or harm sustained by any person shall not be required for issuance of such an injunction. Nothing in this section shall relieve a person from criminal prosecution for practicing midwifery without a license.

Section 294. (a) The board may, after a hearing pursuant to chapter 30A, suspend or revoke the license of a licensed midwife, or reprimand, censure or otherwise discipline a licensed midwife for any of the reasons set forth in section 61.

(b) No person filing a complaint or reporting information pursuant to this section or assisting the board at its request in any manner in discharging its duties and functions shall be liable in any cause of action arising out of providing such information or assistance; provided, however, that the person making the complaint or reporting such information or providing such assistance does so in good faith.

(c) A person subject to any disciplinary action taken by the board pursuant to this section may file a petition for judicial review pursuant to section 64.

Section 295. (a) A licensed midwife duly registered to issue written prescriptions in accordance with the provisions of subsection (j) of section 7 of chapter 94C may order, possess, purchase and administer pharmaceutical agents consistent with the scope of midwifery practice, including: (i) antihemorrhagic agents, including, but not limited to, oxytocin, misoprostol and methergine; (ii) intravenous fluids for stabilization; (iii) vitamin K; (iv) eye prophylaxes; (v) oxygen; (vi) antibiotics for Group B Streptococcal; (vii) antibiotic prophylaxes; (viii) Rho(D) immune globulin; (ix) local anesthetic; (x) epinephrine; and (xi) other pharmaceutical agents identified by the board through rules or regulations in consultation with the department of public health.

(b) Nothing in this section shall be construed to permit a licensed midwife's use of pharmaceutical agents which are: (i) controlled substances as defined in chapter 94C, except for those listed in schedule VI; or (ii) not identified by the board of registration in midwifery as consistent with the scope of midwifery practice pursuant to subsection (a).

Section 296. When accepting a client for care, a licensed midwife shall obtain the client's informed consent, which shall be evidenced by a written statement in a form prescribed by the

board and signed by both the licensed midwife and the client. The signed form shall be included in the client's record of care. The form shall include, but not be limited to, the following: (i) an acknowledgement that the licensed midwife is not authorized to practice medicine; (ii) a description of written practice guidelines, services provided and the risks and benefits of birth in the client's chosen environment; and (iii) disclosure that the client may be referred for a consultation with or have their care transferred to a physician if the client requires care that is outside the midwife's scope of practice.

Section 297. (a) A licensed midwife shall only provide care to a client in the case of a low-risk pregnancy. If at any point during pregnancy, childbirth or postpartum care a client or the newborn's condition deviates from normal, it shall be the duty of the licensed midwife to immediately refer or transfer the client or newborn to a physician. If a physician determines that the client's condition has been resolved such that the risk factors presented by a client's disease or condition are not likely to significantly affect the course of pregnancy or childbirth, the licensed midwife may resume care of the client and resume assisting the client during their pregnancy, childbirth or postpartum care. A licensed midwife shall not provide or continue to provide midwifery care to a client whose pregnancy is no longer low-risk; provided, however, in such circumstances nothing in this section shall prohibit a licensed midwife from remaining present in a supportive capacity throughout pregnancy and childbirth, in accordance with the client's wishes. If at any point after delivery, the newborn's condition deviates from normal, the licensed midwife shall immediately refer or transfer the client to a physician.

(b) A licensed midwife shall prepare, in a form prescribed by the board, a written plan for the appropriate delivery of emergency care. The plan shall include, but not be limited to: (i)

consultation with other health care providers; (ii) emergency transfer to a hospital; and (iii) access to neonatal intensive care units and obstetrical units or other patient care areas.

(c) A health care provider that consults with or accepts a transport, transfer or referral from a licensed midwife, or that provides care to a client of a licensed midwife or such client's newborn, shall not be liable in a civil action for personal injury or death resulting solely from an act or omission by the licensed midwife.

SECTION 35. Section 10A of chapter 118E of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by striking out, in lines 17 and 21, the words "or certified nurse midwife", each time they appear, and inserting in place thereof, in each instance, the following words:- certified nurse midwife or licensed midwife.

SECTION 36. Said section 10A of said chapter 118E, as so appearing, is hereby further amended by inserting after the first paragraph the following 2 paragraphs:-

The division shall provide coverage for services rendered by a certified nurse-midwife designated to engage in the practice of nurse-midwifery by the board of registration in nursing pursuant to section 80C of chapter 112, and the payment rate for a service provided by a certified nurse-midwife that is within the scope of the certified nurse midwife's authorization to practice shall be equal to the payment rate for the same service if performed by a physician.

The division shall provide coverage for midwifery services, including prenatal care, childbirth and postpartum care, provided by a licensed midwife regardless of the site of services.

SECTION 37. Said chapter 118E is hereby further amended by inserting after section 10Q the following 3 sections:-

Section 10R. (a) For the purposes of this section, “noninvasive prenatal screening” shall mean a cell-free DNA prenatal screening to ascertain if a pregnancy has a risk of fetal chromosomal aneuploidy; provided, that such screening shall include, but not be limited to, an analysis of chromosomes 13, 18 and 21.

(b) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician shall provide coverage under all benefit plans for noninvasive prenatal screening and shall not limit availability and coverage for such screening based on the age of the pregnant patient or any other risk factor, unless the limitation is part of the generally accepted standards of professional practice as recommended by the American College of Obstetricians and Gynecologists.

Section 10S. The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall provide coverage for postpartum depression screenings conducted pursuant to section 247 of chapter 111.

Section 10T. (a) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall provide coverage for the provision of medically necessary pasteurized donor human milk and donor human milk-derived products, provided that:

(i) the milk is obtained from a human milk bank that meets quality guidelines established by the department of public health;

(ii) a licensed medical practitioner has issued a written order for the provision of such human breast milk or donor human milk-derived products for the covered infant; and

(iii) the covered infant meets the following conditions:-

(1) is under the age of 6 months;

(2) is undergoing treatment in an inpatient setting for a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis, or a congenital or acquired condition that may benefit from the use of such human breast milk as determined by the department of public health; and

(3) is medically or physically unable to receive maternal breast milk or participate in breastfeeding or whose mother is medically or physically unable, despite receiving lactation support, to produce maternal breast milk in sufficient quantities or caloric density.

(b) If an inpatient stay is reimbursed through a diagnosis related group or other bundled payment arrangement, the commission shall include the cost of reimbursement provided under subsection (a) of this section for donor human milk and donor human milk-derived products in the development of the reimbursement rate for such diagnosis related group or bundled payment.

SECTION 37A. Subsection (c) of section 148C of chapter 149 of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by striking out, in line 61, the word “section.”, and inserting in place thereof the following words:- section; or.

SECTION 37B. Said subsection (c) of said section 148C of said chapter 149, as so appearing, is hereby further amended by adding the following clause:-

(5) address the employee's own physical and mental health needs, and those of their spouse, if the employee or the employee's spouse experiences pregnancy loss or a failed assisted reproduction, adoption or surrogacy.

SECTION 38. Chapter 175 of the General Laws is hereby amended by inserting after section 47UU the following 2 sections:-

Section 47VV. Any policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for postpartum depression screenings conducted pursuant to section 247 of chapter 111.

Section 47WW. (a) Any policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for the provision of medically necessary pasteurized donor human milk and donor human milk-derived products, provided that:

(i) the milk is obtained from a human milk bank that meets quality guidelines established by the department of public health;

(ii) a licensed medical practitioner has issued a written order for the provision of such human breast milk or donor human milk-derived products for the covered infant; and

(iii) the covered infant meets the following conditions:-

(1) is under the age of 6 months;

(2) is undergoing treatment in an inpatient setting for a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis, or a congenital or acquired condition that may benefit from the use of such human breast milk as determined by the department of public health; and

(3) is medically or physically unable to receive maternal breast milk or participate in breastfeeding or whose mother is medically or physically unable, despite receiving lactation support, to produce maternal breast milk in sufficient quantities or caloric density.

(b) If an inpatient stay is reimbursed through a diagnosis related group or other bundled payment arrangement, the commission shall include the cost of reimbursement provided under subsection (a) of this section for donor human milk and donor human milk-derived products in the development of the reimbursement rate for such diagnosis related group or bundled payment.

SECTION 39. Chapter 176A of the General Laws is hereby amended by inserting after section 8VV the following 2 sections:-

Section 8WW. Any contract between a subscriber and the corporation under an individual or group hospital service plan that is delivered, issued or renewed within the commonwealth shall provide coverage for postpartum depression screenings conducted pursuant to section 247 of chapter 111.

Section 8XX. (a) Any contract between a subscriber and the corporation under an individual or group hospital service plan that is delivered, issued or renewed within the

commonwealth shall provide coverage for the provision of medically necessary pasteurized donor human milk and donor human milk-derived products, provided that:

(i) the milk is obtained from a human milk bank that meets quality guidelines established by the department of public health;

(ii) a licensed medical practitioner has issued a written order for the provision of such human breast milk or donor human milk-derived products for the covered infant; and

(iii) the covered infant meets the following conditions:-

(1) is under the age of 6 months;

(2) is undergoing treatment in an inpatient setting for a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis, or a congenital or acquired condition that may benefit from the use of such human breast milk as determined by the department of public health; and

(3) is medically or physically unable to receive maternal breast milk or participate in breastfeeding or whose mother is medically or physically unable, despite receiving lactation support, to produce maternal breast milk in sufficient quantities or caloric density.

(b) If an inpatient stay is reimbursed through a diagnosis related group or other bundled payment arrangement, the commission shall include the cost of reimbursement provided under subsection (a) of this section for donor human milk and donor human milk-derived products in the development of the reimbursement rate for such diagnosis related group or bundled payment.

SECTION 40. Chapter 176B of the General Laws is hereby amended by inserting after section 4VV the following 2 sections:-

Section 4WW. Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth, which is considered creditable coverage under section 1 of chapter 111M, shall provide coverage for postpartum depression screenings conducted pursuant to section 247 of chapter 111.

Section 4XX. (a) Any subscription certificate under an individual or group medical service agreement delivered, issued or renewed within the commonwealth, which is considered credible coverage under section 1 of chapter 111M, shall provide coverage for the provision of medically necessary pasteurized donor human milk and donor human milk-derived products, provided that:

(i) the milk is obtained from a human milk bank that meets quality guidelines established by the department of public health;

(ii) a licensed medical practitioner has issued a written order for the provision of such human breast milk or donor human milk-derived products for the covered infant; and

(iii) the covered infant meets the following conditions:-

(1) is under the age of 6 months;

(2) is undergoing treatment in an inpatient setting for a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis, or a congenital or acquired condition that may benefit from the use of such human breast milk as determined by the department of public health; and

(3) is medically or physically unable to receive maternal breast milk or participate in breastfeeding or whose mother is medically or physically unable, despite receiving lactation support, to produce maternal breast milk in sufficient quantities or caloric density.

(b) If an inpatient stay is reimbursed through a diagnosis related group or other bundled payment arrangement, the commission shall include the cost of reimbursement provided under subsection (a) of this section for donor human milk and donor human milk-derived products in the development of the reimbursement rate for such diagnosis related group or bundled payment.

SECTION 41. Chapter 176G of the General Laws is hereby amended by inserting after section 4NN the following 2 sections:-

Section 4OO. An individual or group health maintenance contract that is issued or renewed within or without the commonwealth shall provide coverage for postpartum depression screenings conducted pursuant to section 247 of chapter 111.

Section 4PP. (a) An individual or group health maintenance contract that is issued or renewed within or without the commonwealth shall provide coverage for the provision of medically necessary pasteurized donor human milk and donor human milk-derived products, provided that:

(i) the milk is obtained from a human milk bank that meets quality guidelines established by the department of public health;

(ii) a licensed medical practitioner has issued a written order for the provision of such human breast milk or donor human milk-derived products for the covered infant; and

(iii) the covered infant meets the following conditions:-

(1) is under the age of 6 months;

(2) is undergoing treatment in an inpatient setting for a congenital or acquired condition that places the infant at a high risk for development of necrotizing enterocolitis, or a congenital or acquired condition that may benefit from the use of such human breast milk as determined by the department of public health; and

(3) is medically or physically unable to receive maternal breast milk or participate in breastfeeding or whose mother is medically or physically unable, despite receiving lactation support, to produce maternal breast milk in sufficient quantities or caloric density.

(b) If an inpatient stay is reimbursed through a diagnosis related group or other bundled payment arrangement, the commission shall include the cost of reimbursement provided under subsection (a) of this section for donor human milk and donor human milk-derived products in the development of the reimbursement rate for such diagnosis related group or bundled payment.

SECTION 42. (a) There shall be a task force on maternal health access and birthing patient safety. The task force shall consist of: the commissioner of public health or a designee, who shall serve as co-chair; the executive director of the health policy commission or a designee, who shall serve as co-chair; the executive director of the center for health information and analysis or a designee; the executive director of the Betsy Lehman center for patient safety and medical error reduction or a designee; and 5 members appointed by the secretary of health and human services, 1 of whom shall be a representative of the Massachusetts Health and Hospital Association, Inc., 1 of whom shall be a representative of the Massachusetts Nurses Association, 1 of whom shall be a representative of the Massachusetts Medical Society, 1 of whom shall be

representative of the Perinatal-Neonatal Quality Improvement Network of Massachusetts, and 1 of whom shall be a representative of the Neighborhood Birth Center, Inc.

(b) The task force shall study and report maternal health access and birthing patient safety. The task force shall: (i) study the current availability of and access to maternal health services and maternal health care across regions of the commonwealth and among birthing patient populations, including the essential service closure process, the adequacy of the maternal health care workforce and other topics identified in subsection (c); (ii) identify methods to increase the financial investment in and patient access to maternal health care across the commonwealth and ensure equitable access for the most vulnerable birthing patient populations; and (iii) issue a report on the task force's findings and policy recommendations.

(c) The task force shall study: (i) past essential services closures for inpatient maternity units and acute-level birthing centers, and closures of community-based, office-based and preventative maternal health care, including family planning services, obstetrics and gynecology services and midwifery services; (ii) patient quality and safety considerations of essential service closures of maternal care units, including quality, safety and staffing regulatory requirements promulgated by the department of public health that inform acute level maternal care essential service closures; and (iii) demographic information on patient populations whose access has been most affected by past closures of or current limitations on the availability of maternal care services, including, but not limited to, geography, type of insurance coverage, age, race, ethnicity, income status, LGBTQA+ status and immigration status.

(d) Not later than September 1, 2025, the task force shall submit its report to the clerks of the senate and house of representatives, the joint committee on health care financing and the joint committee on public health.

SECTION 43. Notwithstanding any general or special law to the contrary, for the initial appointments by the governor to the board of registration in midwifery pursuant to section 110 of chapter 13 of the General Laws, inserted by section 4, the 5 members required to be licensed midwives shall be persons with at least 5 years of experience in the practice of midwifery who hold a certificate of completion or equivalent from an educational program or institution accredited by the Midwifery Education Accreditation Council.

SECTION 44. The board of registration in midwifery established pursuant to section 110 of chapter 13 of the General Laws, inserted by section 4, shall issue temporary licensure for individuals practicing midwifery and shall promulgate regulations for the temporary licensure of individuals practicing midwifery within 180 days of the effective date of this act. Such temporary licenses shall be valid until December 31, 2025.

SECTION 45. The board of registration in midwifery established pursuant to section 110 of chapter 13 of the General Laws, inserted by section 4, shall adopt rules and promulgate regulations pursuant to this act within 1 year from the effective date of this act.

SECTION 46. (a) The department of public health shall promulgate regulations pursuant to section 51M of chapter 111 of the General Laws, inserted by section 15, not later than 180 days after the effective date of this act.

(b) Prior to promulgating initial regulations pursuant to said section 51M of said chapter 111, the department shall consider, when developing regulations, the standards adopted by the

American Association of Birth Centers, and consult with Seven Sisters Birth Center LLC, Neighborhood Birth Center, Inc., the Massachusetts Affiliate of ACNM, Inc. and other entities operating or planning to open birth centers in the commonwealth.

SECTION 46A. The department of public health shall implement newborn screening protocols for Duchenne muscular dystrophy pursuant to section 110A of chapter 111 of the General Laws, as amended by section 15A, not later than 18 months after the effective date of this act.

SECTION 47. All individuals practicing lactation consulting required to be licensed pursuant to section 23B of chapter 112 of the General Laws, as amended by section 21, shall be licensed not later than January 1, 2026.

SECTION 48. All individuals practicing midwifery consistent with section 291 of chapter 112 of the General Laws, inserted by section 34, shall be licensed not later than January 1, 2026.