

Received in the Senate: 1/15/24; Introduced: 1/16/24
Referred: Labor & Commerce

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EXECUTIVE ORDER NO. 130

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.08.210, I order the following:

*** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

FINDINGS. As governor, I find that it is in the best interests of efficient administration to transfer the functions relating to the certification and regulation of the practice of midwifery from the Board of Certified Direct-Entry Midwives to the Department of Commerce, Community, and Economic Development. Additionally, with the transfer of these functions, I find that there is no longer a need for the Board of Certified Direct-Entry Midwives and its elimination is in the best interests of efficient administration. These actions will encourage the development of expertise in the profession, eliminate duplication of function, and provide a single point of responsibility for state policy relating to the practice of midwifery.

*** Sec. 2.** AS 08.01.010(17) is amended to read:

(17) **regulation of direct-entry midwives under AS 08.65** [BOARD OF CERTIFIED DIRECT-ENTRY MIDWIVES (AS 08.65.010)];

*** Sec. 3.** AS 08.65.030 is amended to read:

Sec. 08.65.030. Duties and powers of the department [BOARD]. (a) The **department** [BOARD] shall

(1) examine applicants and issue certificates to those applicants it finds qualified;

(2) adopt regulations establishing certification and certificate renewal requirements;

(3) issue permits to apprentice direct-entry midwives;

(4) hold hearings and order the disciplinary sanction of a person who violates this chapter or a regulation of the **department** [BOARD];

(5) supply forms for applications, licenses, permits, certificates, and other papers and records;

(6) enforce the provisions of this chapter and adopt regulations necessary to make the provisions of this chapter effective;

(7) approve curricula and adopt standards for basic education, training, and apprentice programs;

(8) provide for surveys of the basic direct-entry midwife education programs in the state at the times it considers necessary;

(9) approve education, training, and apprentice programs that meet the requirements of this chapter and of the **department** [BOARD], and deny, revoke, or suspend approval of those programs for failure to meet the requirements;

(10) adopt regulations establishing practice requirements for certified direct-entry midwives under AS 08.65.140.

(b) The **department** [BOARD] may by regulation require that a certified direct-entry midwife undergo a uniform or random period of peer review to ensure the quality of care provided by the certified direct-entry midwife.

* **Sec. 4.** AS 08.65.050 is amended to read:

Sec. 08.65.050. Qualifications for license. The **department** [BOARD] shall issue a certificate to practice direct-entry midwifery to a person who

(1) applies on a form provided by the **department** [BOARD];

(2) pays the fees required under AS 08.65.100;

(3) furnishes evidence satisfactory to the **department** [BOARD] that the person has not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.65.110;

(4) furnishes evidence satisfactory to the **department** [BOARD] that the person has completed a course of study and supervised clinical experience; the study and experience must be of at least one year's duration;

(5) successfully completes the examination required by the **department** [BOARD].

* **Sec. 5.** AS 08.65.060 is amended to read:

Sec. 08.65.060. Examinations. The **department** [BOARD] shall conduct

examinations at least once each year. Examinations may be written, oral, or practical or a combination of these. The department [BOARD] shall utilize the examination provided by a nationally certified midwives organization recognized by the department [BOARD]. An applicant who has failed the examination may not retake the examination for a period of six months. An applicant who has failed the examination more than one time may not retake the examination unless the applicant has participated in or successfully completed further education and training programs as prescribed by the department [BOARD]. The department [BOARD] may require an applicant to pass an examination about Alaska laws that are applicable to the profession of direct-entry midwives.

* **Sec. 6.** AS 08.65.070 is amended to read:

Sec. 08.65.070. Licensure by credentials. The department [BOARD] may by regulation provide for the certification without examination of a person who meets the requirements of AS 08.65.050(1) - (4), who is currently licensed in another state with licensing requirements at least equivalent in scope, quality, and difficulty to those of this state, and who has passed the national examination required of certified direct-entry midwives in this state. At a minimum, an applicant for certification by credentials

(1) may not be the subject of an unresolved complaint or disciplinary action before a regulatory authority in this state or another jurisdiction;

(2) may not have failed the examination for a certificate or license to practice midwifery in this state;

(3) may not have had a certificate or license to practice midwifery revoked in this state or another jurisdiction;

(4) shall submit proof of continued competency satisfactory to the department [BOARD]; and

(5) shall pay the required fees.

* **Sec. 7.** AS 08.65.080 is amended to read:

Sec. 08.65.080. Renewal. A certificate issued under AS 08.65.050 or 08.65.070 expires on a date determined by the department [BOARD] and may be renewed every two years upon payment of the required fee and the submission of

evidence satisfactory to the department [BOARD] that the certified direct-entry midwife has met the continuing education requirements of the department [BOARD], has demonstrated continued practical professional competence under regulations adopted by the department [BOARD], and has not committed an act that is a ground for discipline under AS 08.65.110.

* **Sec. 8.** AS 08.65.090 is amended to read:

Sec. 08.65.090. Apprentice direct-entry midwives. (a) The department [BOARD] shall issue a permit to practice as an apprentice direct-entry midwife to a person who satisfies the requirements of AS 08.65.050(1) - (3) and who has been accepted into a program of education, training, and apprenticeship approved by the department [BOARD] under AS 08.65.030. A permit application under this section must include information the department [BOARD] may require. The permit is valid for a term of two years and may be renewed in accordance with regulations adopted by the department [BOARD].

(b) An apprentice direct-entry midwife may perform all the activities of a certified direct-entry midwife if supervised in a manner prescribed by the department [BOARD] by

(1) a certified direct-entry midwife who has been licensed and practicing in this state for at least two years and has acted as a primary or assistant midwife at 50 or more births since the date the certified direct-entry midwife was first licensed;

(2) a certified direct-entry midwife who has been licensed for at least two years in a state with licensing requirements at least equivalent in scope, quality, and difficulty to those of this state at the time of licensing, has practiced midwifery for the last two years, and has acted as a primary or assistant midwife at 50 or more births since the date the certified direct-entry midwife was first licensed;

(3) a physician licensed in this state with an obstetrical practice at the time of undertaking the apprenticeship; or

(4) a certified nurse midwife licensed by the Board of Nursing in this state with an obstetrical practice at the time of undertaking the apprenticeship.

* **Sec. 9.** AS 08.65.110 is amended to read:

1 **Sec. 08.65.110. Grounds for discipline, suspension, or revocation of**
 2 **certification.** The department [BOARD] may impose a disciplinary sanction on a
 3 person holding a certificate or permit under this chapter if the department [BOARD]
 4 finds that the person

5 (1) secured a certificate or permit through deceit, fraud, or intentional
 6 misrepresentation;

7 (2) engaged in deceit, fraud, or intentional misrepresentation in the
 8 course of providing professional services or engaging in professional activities;

9 (3) advertised professional services in a false or misleading manner;

10 (4) has been convicted of a felony or other crime that affects the
 11 licensee's ability to continue to practice competently and safely;

12 (5) intentionally or negligently engaged in or permitted the
 13 performance of client care by persons under the certified direct-entry midwife's
 14 supervision that does not conform to minimum professional standards regardless of
 15 whether actual injury to the client occurred;

16 (6) failed to comply with this chapter, with a regulation adopted under
 17 this chapter, or with an order of the department [BOARD];

18 (7) continued to practice after becoming unfit due to

19 (A) professional incompetence;

20 (B) failure to keep informed of current professional practices;

21 (C) addiction or severe dependency on alcohol or other drugs
 22 that impairs the ability to practice safely;

23 (D) physical or mental disability;

24 (8) engaged in lewd or immoral conduct in connection with the
 25 delivery of professional service to clients.

26 * **Sec. 10.** AS 08.65.120 is amended to read:

27 **Sec. 08.65.120. Disciplinary sanctions.** (a) When it finds that a person
 28 holding a certificate or permit is guilty of an offense under AS 08.65.110, the
 29 department [BOARD], in addition to the powers provided in AS 08.01.075, may
 30 impose the following sanctions singly or in combination:

31 (1) permanently revoke a certificate or permit to practice;

1 (2) suspend a certificate or permit for a determinate period of time;
 2 (3) censure a person holding a certificate or permit;
 3 (4) issue a letter of reprimand;
 4 (5) place a person holding a certificate or permit on probationary status
 5 and require the person to

6 (A) report regularly to the department [BOARD] upon matters
 7 involving the basis of probation;

8 (B) limit practice to those areas prescribed;

9 (C) continue professional education until a satisfactory degree
 10 of skill has been attained in those areas determined by the department
 11 [BOARD] to need improvement;

12 (6) impose limitations or conditions on the practice of a person holding
 13 a certificate or permit.

14 (b) The department [BOARD] may withdraw probationary status if it finds
 15 that the deficiencies that required the sanction have been remedied.

16 (c) The department [BOARD] may summarily suspend a license before final
 17 hearing or during the appeals process if the department [BOARD] finds that the
 18 licensee poses a clear and immediate danger to the public health and safety if the
 19 licensee continues to practice. A person whose license is suspended under this section
 20 is entitled to a hearing conducted by the office of administrative hearings
 21 (AS 44.64.010) not later than seven days after the effective date of the order, and the
 22 person may appeal the suspension after a hearing to a court of competent jurisdiction.

23 (d) The department [BOARD] may reinstate a certificate or permit that has
 24 been suspended or revoked if the department [BOARD] finds after a hearing that the
 25 applicant is able to practice with reasonable skill and safety.

26 (e) The department [BOARD] shall seek consistency in the application of
 27 disciplinary sanctions, and significant departure from prior decisions involving similar
 28 situations shall be explained in findings of fact or orders.

29 * **Sec. 11.** AS 08.65.140 is amended to read:

30 **Sec. 08.65.140. Required practices.** The department [BOARD] shall adopt
 31 regulations regarding the practice of direct-entry midwifery. At a minimum, the

1 regulations must require that a certified direct-entry midwife

2 (1) recommend, before care or delivery of a client, that the client
3 undergo a physical examination performed by a physician, physician assistant, or
4 advanced practice registered nurse who is licensed in this state;

5 (2) obtain informed consent from a client before onset of labor;

6 (3) comply with AS 18.15.150 regarding taking of blood samples,
7 AS 18.15.200 regarding screening of phenylketonuria (PKU), AS 18.50.160 regarding
8 birth registration, AS 18.50.230 regarding registration of deaths, AS 18.50.240
9 regarding fetal death registration, and regulations adopted by the Department of
10 Health concerning prophylactic treatment of the eyes of newborn infants;

11 (4) not knowingly deliver a woman with certain types of health
12 conditions, prior history, or complications as specified by the **department** [BOARD].

13 * **Sec. 12.** AS 08.65.190(3) is amended to read:

14 (3) "practice of midwifery" means providing necessary supervision,
15 health care, preventative measures, and education to women during pregnancy, labor,
16 and the postpartum period; conducting deliveries on the midwife's own responsibility;
17 providing immediate postpartum care of the newborn infant, well-baby care for the
18 infant through the age of four weeks, and preventative measures for the infant;
19 identifying physical, social, and emotional needs of the newborn and the woman;
20 arranging for consultation, referral, and continued involvement of the midwife on a
21 collaborative basis when the care required extends beyond the scope of practice of the
22 midwife; providing direct supervision of student and apprentice midwives; and
23 executing emergency measures in the absence of medical assistance, as specified in
24 regulations adopted by the **department** [BOARD].

25 * **Sec. 13.** AS 44.62.330(a)(36) is amended to read:

26 (36) **Department of Commerce, Community, and Economic**
27 **Development concerning the licensing and regulation of direct-entry midwives**
28 **under AS 08.65** [BOARD OF CERTIFIED DIRECT-ENTRY MIDWIVES];

29 * **Sec. 14.** AS 08.03.010(c)(8); AS 08.65.010, 08.65.020, and 08.65.190(1) are repealed.

30 * **Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 TRANSITION. (a) The terms of the members of the Board of Certified Direct-Entry
2 Midwives established under AS 08.65.010 terminate on the effective date of this Order.

3 (b) Litigation, hearings, investigations, and other proceedings pending under a law
4 repealed or amended by this Order, or in connection with a function transferred by this Order,
5 continue in effect and may be completed notwithstanding a transfer, repeal, or amendment
6 provided for in this Order.

7 (c) Contracts, rights, liabilities, and obligations created by or under a law repealed or
8 affected by this Order, and in effect on the effective date of this Order, remain in effect
9 notwithstanding this Order's taking effect.

10 (d) Certificates, licenses, orders, and regulations in effect on the effective date of this
11 Order that were issued or adopted under the authority of a law amended or repealed by this
12 Order, or in connection with a function transferred by this Order, remain in effect for the term
13 issued and shall be enforced by the agency to which the function is transferred under this
14 Order until revoked, vacated, or amended by the agency to which the function is transferred.

15 (e) Records, equipment, appropriations, and other property of an agency of the state
16 whose functions are transferred under this Order shall be transferred to implement the
17 provisions of this Order.

18 * **Sec. 16.** This Order takes effect July 1, 2024.

DATED: _____

Mike Dunleavy
Governor