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Referred: Finance

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1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 747 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to midwifery."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. FINDINGS AND INTENT. The legislature recognizes the unique
9 physical and emotional aspects of childbirth, and the need to protect and
10 enhance the religious, cultural, and individual freedoms in the manner,
11 setting, and cost of childbirth. The legislature finds that the traditional
12 and cultural use of midwives continues and that the demand for midwifery
13 service is increasing in Alaska without adequate regulation and licensure.
14 Therefore, the legislature intends that midwifery be regulated in the public
15 interest to assure that users of midwifery services are aware of the com-
16 petency levels of their health care providers, and that licensing of midwives
17 does not remove from the parents the responsibility for choosing where, when,
18 how, and with whom to deliver their babies.

19 * Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:
20 (24) Board of Midwifery.

21 * Sec. 3. AS 08.03.010(c) is amended by adding a new paragraph to read:
22 (21) Board of Midwifery (AS 08.69.030) -- June 30, 1987.

23 * Sec. 4. AS 08 is amended by adding a new chapter to read:

24 CHAPTER 69. MIDWIFERY.

25 Sec. 08.69.010. MIDWIFE PRACTICE. A person who practices as a
26 licensed midwife shall obtain a license as provided in this chapter and
27 shall practice midwifery in accordance with this chapter.

28 Sec. 08.69.020. UNLAWFUL REPRESENTATION. It is unlawful for a
29 person to represent oneself as a licensed midwife or use any designation

1 that implies that the person is licensed or certified by the state to
2 act as a midwife unless the person is currently licensed under this
3 chapter.

4 Sec. 08.69.030. MEMBERSHIP AND TERM OF OFFICE OF THE BOARD OF
5 MIDWIFERY. (a) There is established the Board of Midwifery consisting
6 of five members. One member shall be a physician licensed to practice
7 medicine in the state. One member shall be a nurse midwife certified
8 under AS 08.68.410(1). At least two members shall be licensed under
9 this chapter or eligible to receive licenses under AS 08.69.050(1) -
10 (3). One member shall be a person with no financial interest in a
11 health care facility. There may not be more than one nurse midwife
12 certified under AS 08.68.410(1) on the board.

13 (b) Members of the board are appointed by the governor after
14 consideration of recommendations submitted by childbirth consumer educa-
15 tion groups, persons who provide health care, or persons who have re-
16 ceived or paid for the services of a midwife. Each board member serves
17 for a term of five years and until a successor is appointed and quali-
18 fied. An appointment to a vacancy is for the unexpired term.

19 Sec. 08.69.040. DUTIES OF THE BOARD. The Board of Midwifery shall

20 (1) approve the licensure of persons to practice midwifery;

21 (2) prepare and administer a comprehensive examination that
22 tests competence in all aspects of the practice of midwifery;

23 (3) prescribe a biennial license fee for licensed midwives
24 not to exceed \$25;

25 (4) develop a bibliography and guide to the examination
26 administered to applicants and make it available at a reasonable cost;

27 (5) require the compliance of licensed midwives with vital
28 statistic recording requirements;

29 (6) require licensed midwives to maintain statistics relating

1 to births they attend;

2 (7) hold hearings and order disciplinary sanctions under
3 AS 08.69.100;

4 (8) adopt regulations necessary to carry out the purposes of
5 this chapter.

6 Sec. 08.69.050. LICENSURE AS A MIDWIFE. A person is eligible for
7 licensure as a midwife if that person

8 (1) furnishes proof of having received a high school degree
9 or its equivalent and of having completed two years of nursing training
10 or its equivalent;

11 (2) furnishes proof of having attended at least 20 births as
12 a midwife in the two-year period immediately preceding the date of
13 application or has completed a midwife apprenticeship under AS 08.69.-
14 170; proof is by affidavit of the applicant for births that occurred
15 before January 1, 1982;

16 (3) passes a comprehensive examination administered by the
17 board that tests competence in all aspects of midwifery;

18 (4) pays the license fee prescribed in this chapter.

19 Sec. 08.69.060. LICENSURE BY ENDORSEMENT. A person who is li-
20 censed as a midwife by another state or country may be licensed as a
21 midwife in this state without taking an examination if the requirements
22 for the out-of-state license are determined by the board to be at least
23 equivalent to the requirements for licensure under AS 08.69.050.

24 Sec. 08.69.070. REEXAMINATION. A person who fails an examination
25 offered under AS 08.69.050(4) may take the examination again if

26 (1) the applicant presents proof satisfactory to the board of
27 having served as a midwife for at least 10 births while under the super-
28 vision of a sponsor during the year preceding application; and

29 (2) at least one year has passed following the date the

1 person last failed the examination.

2 Sec. 08.69.080. RENEWAL OF LICENSES. (a) A midwife's license is
3 renewable biennially on June 30. Notice of renewal shall be mailed to
4 every licensed midwife on or before May 1 of each even-numbered year.

5 (b) A license not renewed by June 30 lapses on July 1 unless the
6 licensee is granted inactive status under AS 08.69.090.

7 (c) A lapsed license shall be reinstated if the licensee complies
8 with renewal requirements within 90 days after the license lapses.

9 (d) The board shall establish requirements that must be met before
10 a license may be renewed, including a requirement that an applicant for
11 renewal has attended as sponsor or midwife during 10 births in the
12 previous two years and has completed 20 hours of continuing education.
13 Continuing education may include childbirth-related postsecondary course-
14 work, workshops, practice in association with another midwife, a combi-
15 nation of training and experience, or a combination of experience and
16 continuing education.

17 Sec. 08.69.090. INACTIVE STATUS. A midwife licensed under this
18 chapter may apply to the board for inactive status for a period not to
19 exceed two years. A midwife licensed under this chapter who is granted
20 inactive status is not required to comply with AS 08.69.080 until the
21 inactive status is terminated.

22 Sec. 08.69.100. DISCIPLINE, DENIAL, SUSPENSION, OR REVOCATION OF A
23 LICENSE. (a) The board may revoke or suspend the license of a midwife,
24 or the licensee may be reprimanded, censured, or disciplined if the
25 board finds after a hearing that the licensee has

26 (1) obtained or attempted to obtain a license under this
27 chapter by fraud or deceit;

28 (2) wilfully violated a provision of this chapter;

29 (3) engaged in unprofessional conduct; or

1 (4) engaged in intentional or negligent conduct that results
2 in injury to a client or significant risk to the health or safety of a
3 client.

4 (b) The board shall afford a midwife whose license has been denied
5 or revoked the opportunity to have the license reinstated by demonstrat-
6 ing ability to resume the competent practice of midwifery with reasonable
7 skill and safety.

8 Sec. 08.69.110. SCOPE OF PRACTICE. (a) A midwife licensed under
9 this chapter may perform functions within the scope of practice. The
10 scope of practice for licensed midwives includes

- 11 (1) recognition of pregnancy and management of prenatal care;
- 12 (2) preparation and management of the delivery site and
13 lying-in area;
- 14 (3) management of the birth process and delivery of the
15 infant;
- 16 (4) clamping and severing the umbilical cord;
- 17 (5) delivery of the placenta, with anti-hemorrhage tech-
18 niques;
- 19 (6) recognition of an emergency labor or delivery situation
20 involving the mother or infant;
- 21 (7) emergency procedures for asphyxiation, convulsions,
22 malformation, and infectious diseases of the newborn;
- 23 (8) administration of preventive prophylaxis for ophthalmia
24 neonatorum;
- 25 (9) postnatal care of mother and infant;
- 26 (10) suturing;
- 27 (11) routine laboratory investigation for normal prenatal
28 care.

29 (b) In a medical emergency the scope of practice, to the extent

1 needed for the emergency includes

- 2 (1) intramuscular injections for maternal hemorrhage;
- 3 (2) penetration of human tissue for emergency episiotomy;
- 4 (3) oxygen use.

5 (c) The board shall by regulation designate the medications,
6 therapeutic agents, and techniques that a licensed midwife is authorized
7 to administer and the circumstances under which those medications,
8 therapeutic agents, and techniques may be administered.

9 Sec. 08.69.120. INFORMED CONSENT FORM. (a) The board shall
10 develop an informed consent form that a licensed midwife shall provide
11 for clients at the initial meeting. The form shall recommend a physical
12 examination of the pregnant woman by a physician and inform clients of
13 vital statistic reporting requirements. The form shall also describe
14 the licensed midwife's

- 15 (1) philosophy of practice;
- 16 (2) education and training;
- 17 (3) experience;
- 18 (4) services and fees;
- 19 (5) procedures for meeting medical emergencies.

20 (b) The licensed midwife shall inform the client that the statis-
21 tical information required by AS 08.69.130 is maintained by the licensed
22 midwife and is available for public inspection.

23 Sec. 08.69.130. STATISTICS. (a) The board shall determine the
24 information concerning the practice of midwifery that must be collected
25 by a licensed midwife. The information is required to be retained in
26 statistical form and shall include information on

- 27 (1) infections;
- 28 (2) hemorrhage;
- 29 (3) hospital transfers;

- 1 (4) malpresentations;
- 2 (5) normal deliveries;
- 3 (6) absence of physical examinations performed by a physician
- 4 and the reason examinations were not performed.

5 (b) The statistical information required under (a) of this section
6 shall be filed with the Department of Commerce and Economic Development
7 every six months on a form prescribed by the department and made avail-
8 able for public inspection.

9 Sec. 08.69.140. MEDICAL HISTORIES. (a) The board shall require
10 licensed midwives to maintain a comprehensive medical and obstetrical
11 history of each client. The history shall include the following infor-
12 mation:

- 13 (1) the mother's name and address;
- 14 (2) the mother's date of birth;
- 15 (3) the mother's gravidity and parity;
- 16 (4) a description of the mother's progress in pregnancy,
- 17 including routine laboratory investigation;
- 18 (5) a description of the progress of mother and infant in
- 19 labor and delivery;
- 20 (6) a report of the characteristics of placental delivery and
- 21 cessation of bleeding of mother;
- 22 (7) a report of the immediate postpartum progress of mother
- 23 and infant;
- 24 (8) a statement of the general health of mother and infant at
- 25 the time the midwife services terminate;
- 26 (9) other information required by the board.

27 Sec. 08.69.150. PRACTICE OF A LICENSED MIDWIFE. (a) A person
28 licensed as a midwife under this chapter must

- 29 (1) ensure that if reasonably possible before the onset of

1 labor the mother has received a general physical examination by a physi-
2 cian;

3 (2) recommend that the mother be transferred to the care of a
4 physician if a medical emergency is indicated;

5 (3) ensure that a physician licensed in the state agrees to
6 be available for consultation regarding the practice of midwifery and
7 agrees to be available to render medical treatment during emergencies on
8 a standby basis unless, due to extraordinary conditions, the board
9 exempts the midwife from the requirements of this paragraph;

10 (4) comply with the provisions of AS 18.15.200(a) relating to
11 testing newborn children for phenylketonuria.

12 (b) Nothing in (a)(3) of this section may be construed to create
13 liability on the part of a physician who consults with a midwife for
14 services provided by the midwife.

15 Sec. 08.69.160. USE OF DRUGS. A licensed midwife may, in accor-
16 dance with regulations of the board, possess and administer oxygen,
17 antibiotic eye drops, and drugs used to stop maternal hemorrhage. The
18 board shall designate by regulation drugs that may be administered under
19 this section. The administration of oxygen or drugs by a licensed
20 midwife under this section is not the practice of medicine under
21 AS 08.64.

22 Sec. 08.69.170. MIDWIFE APPRENTICESHIP. (a) A person may com-
23 plete a midwifery apprenticeship by observing and assisting in the
24 management and care of the mother and infant in at least 20 births under
25 the supervision of a sponsor. In the course of 10 of those births the
26 apprentice must assume responsibility for the prenatal, intrapartal, and
27 postpartal management and care of the mother and child. A person under-
28 taking a midwifery apprenticeship shall register with the board at the
29 beginning of the apprenticeship.

1 (b) A sponsor may not supervise more than three apprentice mid-
2 wives simultaneously.

3 Sec. 08.69.180. DEFINITIONS. In this chapter

4 (1) "board" means the Board of Midwifery;

5 (2) "medical emergency" means a situation of a serious nature
6 which develops suddenly and unexpectedly and demands immediate action
7 during pregnancy, labor or delivery;

8 (3) "sponsor" means a physician licensed to practice in the
9 state or exempted from licensure under AS 08.64.370(1) or a midwife
10 licensed to practice in the state and authorized to act as a sponsor by
11 the board;

12 (4) "unprofessional conduct" includes the habitual overuse of
13 alcoholic beverages or depressant, hallucinogenic or stimulant drugs, as
14 defined in AS 17.12.150(3), or addiction to the use of narcotic drugs as
15 defined in AS 17.12.230(13).

16 * Sec. 5. AS 17.15.030 is amended by adding a new subsection to read:

17 (b) AS 17.15.010 and 17.15.020 do not apply to the sale at retail
18 by pharmacies to midwives licensed in the state to possess and admin-
19 ister drugs designated by the Board of Midwifery under AS 08.69.160.

20 * Sec. 6. AS 18.15.200(a) is amended to read:

21 (a) A physician who attends a newborn child shall cause this child
22 to be tested for phenylketonuria (PKU). If the mother is delivered in
23 the absence of a physician, the nurse or midwife licensed under AS 08.69
24 who attends the delivery or who first visits the child shall cause this
25 test to be performed.

26 * Sec. 7. AS 18.15.200(f) is amended to read:

27 (f) A licensed physician, licensed midwife, or licensed nurse
28 attending a newborn or infant who violates this section is guilty of a
29 misdemeanor, and upon conviction is punishable by a fine of not more

1 than \$500. However, a person attending a newborn or infant whose
2 request for appropriate specimens from the newborn or infant is denied
3 by the parent or guardian is not guilty of a misdemeanor. The fact that
4 a child has not been subjected to the test because a request for ap-
5 propriate specimens has been denied by the parents or guardian shall be
6 reported to the department. The department shall administer and provide
7 services for testing for other heritable diseases that [WHICH] lead to
8 mental retardation and physical handicaps as screening programs accepted
9 by current medical practice and as developed.

10 * Sec. 8. AS 44.62.330(a) is amended by adding a new paragraph to read:

11 (52) Board of Midwifery (AS 08.69.030)