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Original sponsors: Koponen, Adams,
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1 IN THE HOUSE

BY THE FINANCE COMMITTEE

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SENATE CS FOR HOUSE BILL NO. 335 (Finance)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to practice of midwifery; and pro-

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viding for an effective date."

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

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* Section 1. AS 08.64.370 is amended to read:

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Sec. 08.64.370. PERSONS NOT AFFECTED. This chapter does not

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apply to

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(1) officers in the regular medical service of the armed

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services of the United States or the United States Public Health

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Service while in the discharge of their official duties;

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(2) a physician or osteopath, who is not a resident of this

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state, who is asked by a physician or osteopath licensed in this state

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to help in the diagnosis or treatment of a case;

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(3) the practice of the religious tenets of a church;

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(4) [REPEALED

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(5)] a person while serving as a student, intern, resident

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physician, or fellow at a hospital, clinic, or medical facility in the

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state;

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(5) [(6)] a physician in the regular medical service of

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the United States Public Health Service or the armed services of the

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United States volunteering services without pay or other remuneration

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to a hospital, clinic, medical office, or other medical facility in

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the state;

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(6) a person who is registered as a lay midwife by the

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Department of Health and Social Services under AS 18.05.040 or who is

1 excluded from registration under AS 18.05.057 while engaged in the
2 practice of lay midwifery whether or not the person accepts compen-
3 sation for those services.

4 * Sec. 2. AS 08.64.380 is amended by adding a new paragraph to read:

5 (10) "practice of lay midwifery" has the meaning given in
6 AS 18.05.070.

7 * Sec. 3. AS 18.05.040(a) is amended to read:

8 (a) The commissioner shall adopt [, REPEAL AND AMEND RULES AND]
9 regulations consistent with existing law for

10 (1) the definition, reporting and control of diseases of
11 public health significance;

12 (2) [REPEALED

13 (3) REPEALED

14 (4)] cooperation with local boards of health and health
15 officers;

16 (3) [(5)] protection and promotion of the public health
17 and prevention of disability and mortality;

18 [(6) REPEALED]

19 (4) [(7)] the transportation of dead bodies;

20 [(8) REPEALED

21 (9) REPEALED

22 (10) REPEALED

23 (11) REPEALED

24 (12) REPEALED]

25 (5) [(13)] carrying out the purposes of this chapter;

26 (6) [(14)] the conduct of its business and for carrying
27 out the provisions of laws of the United States and the state relating
28 to public health;

29 (7) [(15)] establishing the divisions and local offices

1 and advisory groups necessary or considered expedient to carry out or
2 assist in carrying out a duty or power assigned to it;

3 [(16) REPEALED]

4 (8) [(17)] the voluntary certification of laboratories to
5 perform diagnostic, quality control, or enforcement analyses or exami-
6 nations based on recognized or tentative standards of performance
7 relating to analysis and examination of food to include seafood, milk,
8 water, and specimens from human beings submitted by licensed physi-
9 cians and nurses for analysis;

10 (9) [(18)] the regulation of quality and purity of commer-
11 cially compressed oxygen sold for human respiration;

12 (10) [(19)] the notification of engagement or release of a
13 physician assistant by persons under AS 08.64.170(b);

14 (11) the registration of lay midwives who meet the require-
15 ments adopted by the department for education, training, and disci-
16 pline of persons engaged in the practice of lay midwifery.

17 * Sec. 4. AS 18.05 is amended by adding new sections to read:

18 Sec. 18.05.056. PRACTICE OF LAY MIDWIFERY. (a) Except as
19 provided in (d) of this section, a lay midwife may not attend the
20 delivery of a woman unless the woman's pregnancy is determined to be
21 low risk.

22 (b) A lay midwife shall

23 (1) inform an expectant mother and the father, if the
24 father is participating in prenatal care or delivery, of the risks of
25 home birth;

26 (2) comply with the requirements of AS 18.15.150 concerning
27 taking of blood samples, AS 18.15.200 concerning screening for phenyl-
28 ketonuria (PKU), AS 18.50.160 concerning birth registration, AS 18.-
29 50.230 concerning registration of deaths, AS 18.50.240 concerning

1 fatal death registration, and regulations adopted by the Department of
2 Health and Social Services concerning prophylactic treatment of the
3 eyes of newborn infants; and

4 (3) accept full legal responsibility for the midwife's acts
5 and omissions.

6 (c) If a lay midwife seeks to consult with or refer a patient to
7 a licensed physician, the responsibility of the physician for the
8 patient does not begin until the patient is physically within the
9 physician's care.

10 (d) Unless a physician is not available to attend a delivery, a
11 lay midwife may not knowingly deliver a woman who

12 (1) has had a previous caesarean delivery or other uterine
13 surgery;

14 (2) has a history of thrombophlebitis or pulmonary em-
15 bolism;

16 (3) has diabetes, hypertension, Rh disease with positive
17 titer, active tuberculosis, active syphilis, active gonorrhoea, epilep-
18 sy, heart disease, or kidney disease;

19 (4) contracts genital herpes simplex in the first trimester
20 or has active genital herpes in the last two weeks of pregnancy;

21 (5) has severe psychiatric illness;

22 (6) is addicted to narcotics or other drugs;

23 (7) has multiple gestation;

24 (8) has a fetus of less than 37 weeks gestation at the
25 onset of labor;

26 (9) has a gestation of more than 42-1/2 weeks by dates and
27 examination;

28 (10) has a fetus in any presentation other than vertex at
29 the onset of labor;

1 (11) is a primigravida with an unengaged fetal head in
2 active labor, or any woman who has rupture of membranes with unengaged
3 fetal head, with or without labor;

4 (12) has a fetus with suspected or diagnosed congenital
5 anomalies that may require immediate medical intervention;

6 (13) has pre-eclampsia or eclampsia;

7 (14) has bleeding with evidence of placenta previa.

8 Sec. 18.05.057. EXCLUSION FROM REGULATION. (a) A person may
9 practice lay midwifery without registration if the person does not
10 accept compensation for those services.

11 (b) Notwithstanding other provisions of this chapter, a person
12 who is practicing lay midwifery on the effective date of this Act may
13 continue to practice and to receive compensation for services without
14 registration if the person's cultural traditions have included, for at
15 least two generations, the attendance of lay midwives at births, and
16 if the person has attended at least 10 births.

17 (c) A person whose cultural traditions have included, for at
18 least two generations, the attendance of lay midwives at births, may
19 accept compensation for the practice of lay midwifery without regis-
20 tration if the person has assisted another who is excluded from
21 registration under this section or a registered lay midwife,
22 physician, nurse midwife, or public health nurse in at least 10
23 births.

24 * Sec. 5. AS 18.05.070 is amended by adding a new paragraph to read:

25 (3) "practice of lay midwifery" means, in accordance with
26 AS 18.05.056 and regulations adopted by the Department of Health and
27 Social Services, the performance of the following for compensation:
28 giving education and advice concerning pregnancy; supervising, caring
29 for, and advising women during pregnancy, labor, and the postpartum

1 period; conducting deliveries without supervision; and caring for
2 neonates; in this paragraph "caring for" means performing preventive
3 measures, detecting abnormal conditions in mother and child, procuring
4 medical help, and executing emergency measures in the absence of
5 medical help.

6 * Sec. 6. LAY MIDWIVES WORKING GROUP. (a) There is established in the
7 Department of Health and Social Services a lay midwives working group
8 composed of three lay midwives holding certificates from the Midwives
9 Association of Alaska, one representative of the department, and one physi-
10 cian or nurse midwife licensed in this state. The commissioner shall
11 appoint the members of the working group. The working group shall develop
12 regulations for the commissioner to propose under AS 18.05.040 for the
13 registration, training and education requirements, and disciplinary mea-
14 sures for lay midwives.

15 (b) The department shall report to the legislature by the 10th day of
16 the Second Session of the Fourteenth Legislature concerning the regulations
17 proposed by the working group. The department may not adopt the regula-
18 tions until after they are presented to the legislature.

19 (c) Members of the working group are not entitled to receive compen-
20 sation for their services or travel and per diem under AS 39.20.180.

21 * Sec. 7. Notwithstanding AS 08.64, a lay midwife practicing in this
22 state on the effective date of this Act who is not registered by the De-
23 partment of Health and Social Services may continue to practice until the
24 department adopts regulations under AS 18.05.040 for the practice of lay
25 midwifery and completes any review of the midwife's credentials required by
26 the regulations. The midwife shall cooperate with the department in the
27 review.

28 * Sec. 8. Section 6 of this Act is repealed on the day after the de-
29 partment completes the adoption of regulations for

1 (1) training, education, and experience requirements for lay
2 midwives;

3 (2) standards for the practice of lay midwifery; and

4 (3) discipline of persons practicing lay midwifery.

5 * Sec. 9. This Act takes effect immediately in accordance with AS 01.-
6 10.070(c).