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Referred: Health, Education &
Social Services, Labor & Commerce
and Finance

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE HOUSE

2

HOUSE BILL NO. 362

3

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 regulating the practice of mid-
7 wifery; and providing for an effective date."

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

9 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

10 (26) Board of Lay Midwives (AS 08.61.010).

11 * Sec. 2. AS 08.01.050(a) is amended to read:

12 (a) The department shall provide the following administrative
13 and budgetary services when appropriate:

14 (1) collect fees and issue receipts;

15 (2) maintain records and files;

16 (3) issue and receive application forms;

17 (4) notify applicants of acceptance or rejection of appli-
18 cants as determined by the board;

19 (5) designate dates examinations are to be held and notify
20 applicants;

21 (6) publish notice of examination;

22 (7) arrange space for holding examinations;

23 (8) notify applicants of results of examinations;

24 (9) issue licenses and certificates or temporary licenses
25 or certificates as authorized by the board;

26 (10) issue duplicate licenses or certificates upon proof by
27 the licensee of loss of the original and payment by the licensee of a
28 fee of \$2 except as otherwise provided in this title;

29 (11) notify licensees of renewal dates at least 30 days

1 before the expiration date of their licenses;
2 (12) compile and maintain current a register of licenses;
3 (13) answer routine inquiries;
4 (14) maintain files relating to individual licensees;
5 (15) arrange for printing and advertising;
6 (16) purchase supplies;
7 (17) employ secretarial help when needed;
8 (18) perform other services which may be requested by the
9 board;

10 (19) provide investigative services to the boards estab-
11 lished under AS 08.04, AS 08.20, AS 08.36, AS 08.61, AS 08.64, AS 08.-
12 68, AS 08.70, AS 08.71, AS 08.72, AS 08.80, AS 08.84, and AS 08.86,
13 for the purpose of assisting those boards in matters of professional
14 discipline and in responding to consumer complaints.

15 * Sec. 3. AS 08.03.010(c) is amended by adding a new paragraph to read:

16 (21) Board of Lay Midwives (AS 08.61.010) -- June 30, 1989.

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

18 CHAPTER 61. MIDWIVES.

19 ARTICLE 1. BOARD OF LAY MIDWIVES.

20 Sec. 08.61.010. BOARD ESTABLISHED. (a) There is established
21 the Board of Lay Midwives.

22 (b) The board consists of five members appointed by the governor
23 subject to confirmation by the legislature in joint session. Members
24 serve for staggered terms of four years and until a successor is
25 appointed and qualified. The board consists of two members who are
26 licensed in this state as lay midwives, one physician licensed in this
27 state, one nurse midwife licensed in this state, and one member who
28 has received or paid for the services of a midwife licensed under this
29 chapter.

1 (c) The board shall elect a chairperson and a secretary from
2 among its members to terms of one year.

3 (d) A member may serve no more than one complete term on the
4 board.

5 Sec. 08.61.020. MEETINGS. The board shall meet twice annually
6 and may hold special meetings at the call of the chairperson or on the
7 written notice of two board members.

8 Sec. 08.61.030. POWERS AND DUTIES OF BOARD. The board shall

9 (1) examine applicants and issue licenses to those appli-
10 cants it finds qualified;

11 (2) adopt regulations establishing licensing and license
12 renewal requirements;

13 (3) issue permits to apprentice lay midwives;

14 (4) hold hearings, and order the disciplinary sanction of a
15 person who violates this chapter or a regulation of the board;

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

18 (6) report annually to the governor and the department on
19 the board's proceedings during the year;

20 (7) enforce the provisions of this chapter and adopt regu-
21 lations necessary to make the provisions of this chapter effective.

22 Sec. 08.61.040. PROCEDURES. The Administrative Procedure Act
23 (AS 44.62) applies to regulations and proceedings under this chapter.

24 Sec. 08.61.050. QUALIFICATIONS FOR LICENSE. (a) The board
25 shall issue a license to practice midwifery to a person who

26 (1) applies on a form provided by the board;

27 (2) pays the fees required under AS 08.61.100;

28 (3) furnishes evidence satisfactory to the board that the
29 person has not engaged in conduct that is a ground for imposing

1 disciplinary sanctions under AS 08.61.110;

2 (4) furnishes evidence satisfactory to the board that the
3 person has completed a course of study and supervised clinical experi-
4 ence; the study and experience must be of at least one year's dura-
5 tion;

6 (5) successfully completes the examination required by the
7 board.

8 (b) The board may issue a license to a person who meets the
9 requirements of (a)(1) - (3) and (5) of this section if the board
10 determines that the person substantially satisfies the requirements of
11 (a)(4) of this section. The board may defer consideration of an
12 application under this subsection and require completion of additional
13 study or supervised clinical experience before making its decision.

14 Sec. 08.61.060. EXAMINATIONS. The board shall conduct examina-
15 tions at least once each year. Examinations may be written, oral, or
16 practical or a combination of any of these.

17 Sec. 08.61.070. LICENSURE BY CREDENTIALS. The board may by
18 regulation provide for the licensing without examination of a person
19 who meets the requirements of AS 08.61.050(1) - (4) and who is cur-
20 rently licensed in another state with licensing requirements at least
21 equivalent in scope, quality and difficulty to those of this state at
22 the time of licensure.

23 Sec. 08.61.080. RENEWAL. A license issued under AS 08.61.050 or
24 08.61.070 expires two years from the date of issue and may be renewed
25 upon payment of the required fee and the submission of evidence satis-
26 factory to the board that the lay midwife has met the continuing
27 education requirements of the board and has not committed an act that
28 is a ground for discipline under AS 08.61.110.

29 Sec. 08.61.090. APPRENTICE LAY MIDWIVES. (a) The board shall

1 issue a permit to practice as an apprentice lay midwife to a person
2 who satisfies the requirements of AS 08.61.050(1) - (3). The permit
3 application shall include information about the supervisor's licensing
4 and experience and must be signed by the supervisor. The permit is
5 valid for a term of two years and may be renewed in accordance with
6 regulations adopted by the board.

7 (b) An apprentice lay midwife may perform all the activities of
8 a lay midwife if supervised by

9 (1) a lay midwife who has been licensed and practicing in
10 this state for at least two years;

11 (2) a lay midwife who has been licensed for at least two
12 years in a state with licensing requirements at least equivalent in
13 scope, quality, and difficulty to those of this state at the time of
14 licensing, who is licensed in this state, and who has practiced mid-
15 wifery for the last two years;

16 (3) a physician licensed in this state; or

17 (4) a nurse midwife licensed in this state.

18 Sec. 08.61.100. FEES. The board shall by regulation establish
19 fees for application, examination, reexamination, permits, licensing
20 and renewal of licenses.

21 Sec. 08.61.110. GROUNDS FOR DISCIPLINE, SUSPENSION, OR REVOCA-
22 TION OF LICENSE. After a hearing, the board may impose a disciplinary
23 sanction on a person licensed under this chapter if the board finds
24 that the licensee

25 (1) secured a license through deceit, fraud, or intentional
26 misrepresentation;

27 (2) engaged in deceit, fraud, or intentional misrepresenta-
28 tion in the course of providing professional services or engaging in
29 professional activities;

- 1 (3) advertised professional services in a false or mislead-
2 ing manner;
- 3 (4) has been convicted of a felony or other crime that
4 affects the licensee's ability to continue to practice competently and
5 safely;
- 6 (5) intentionally or negligently engaged in or permitted
7 the performance of client care by persons under the licensee's super-
8 vision that does not conform to minimum professional standards regard-
9 less of whether actual injury to the client occurred;
- 10 (6) failed to comply with this chapter, with a regulation
11 adopted under this chapter, or with an order of the board;
- 12 (7) continued to practice after becoming unfit due to
13 (A) professional incompetence;
14 (B) failure to keep informed of current professional
15 practices;
16 (C) addiction or severe dependency on alcohol or other
17 drugs that impairs the ability to practice safely;
18 (D) physical or mental disability;
- 19 (8) engaged in lewd or immoral conduct in connection with
20 the delivery of professional service to clients.
- 21 Sec. 08.61.120. DISCIPLINARY SANCTIONS. (a) When it finds that
22 a licensee is guilty of an offense under AS 08.61.110, the board may
23 impose the following sanctions singly or in combination:
- 24 (1) permanently revoke a license to practice;
25 (2) suspend a license for a determinate period of time;
26 (3) censure a licensee;
27 (4) issue a letter of reprimand;
28 (5) place a licensee on probationary status and require the
29 licensee to

1 (A) report regularly to the board upon matters involv-
2 ing the basis of probation;

3 (B) limit practice to those areas prescribed;

4 (C) continue professional education until a satisfac-
5 tory degree of skill has been attained in those areas determined
6 by the board to need improvement;

7 (6) impose limitations or conditions on the practice of a
8 licensee.

9 (b) The board may withdraw probationary status if it finds that
10 the deficiencies that required the sanction have been remedied.

11 (c) The board may summarily suspend a license before final
12 hearing or during the appeals process if the board finds that the
13 licensee poses a clear and immediate danger to the public health and
14 safety if the licensee continues to practice. A person whose license
15 is suspended under this section shall be entitled to a hearing by the
16 board no later than seven days after the effective date of the order.
17 The person may appeal the suspension after a hearing to a court of
18 competent jurisdiction.

19 (d) The board may reinstate a license that has been suspended or
20 revoked if the board finds after a hearing that the applicant is able
21 to practice with reasonable skill and safety.

22 (e) The board shall seek consistency in the application of
23 disciplinary sanctions, and significant departure from prior decisions
24 involving similar situations shall be explained in findings of fact or
25 orders.

26 Sec. 08.61.130. PENALTY. A person who violates this chapter is
27 guilty of a class B misdemeanor.

28 Sec. 08.61.140. REQUIRED PRACTICES. (a) A lay midwife may not
29 assume the care of a client unless the client undergoes a physical

1 examination performed by a physician, public health nurse, or nurse
2 midwife, who is licensed in this state, and the examining person finds
3 that at the time of examination the client is in normal physical
4 condition and is expected to have a low risk pregnancy.

5 (b) A lay midwife shall inform a woman seeking home birth of the
6 possible risks of home birth and shall obtain a signed informed con-
7 sent from the woman before the onset of labor.

8 Sec. 08.61.150. PROHIBITED PRACTICES. A person who is not
9 licensed under this chapter as a lay midwife may not practice mid-
10 wifery for compensation.

11 Sec. 08.61.160. EXCLUSIONS. This chapter does not apply to a
12 person who is

- 13 (1) licensed as a physician in this state; or
14 (2) licensed as a nurse midwife in this state.

15 Sec. 08.61.170. DEFINITIONS. In this chapter

- 16 (1) "board" means the Board of Lay Midwives;
17 (2) "caring for" means detecting abnormal conditions in
18 mother and child, procuring medical help, executing emergency measures
19 in the absence of medical help, and performing standard preventive
20 measures against infant blindness;

21 (3) "department" means the Department of Commerce and
22 Economic Development;

23 (4) "practice of midwifery" means giving education and
24 advice concerning pregnancy; supervising, caring for, and advising
25 women during pregnancy, labor, and the postpartum period; conducting
26 deliveries without supervision; and caring for newborns and infants
27 who are less than four weeks old.

28 * Sec. 5. AS 08.64 is amended by adding a new section to read:

29 Sec. 08.64.385. PRACTICE OF MIDWIFERY. The practice of

1 midwifery is not the practice of medicine or osteopathy. In this sec-
2 tion, "practice of midwifery" has the meaning given in AS 08.61.170.

3 * Sec. 6. Notwithstanding AS 08.61.050, enacted by sec. 4 of this Act,
4 the board may issue a license without examination to a person who is prac-
5 ticing lay midwifery in this state on the effective date of this Act or who
6 has practiced midwifery in this state within the two years immediately
7 before the effective date of this Act if the person fulfills the require-
8 ments of AS 08.61.050(1) - (3) and substantially fulfills the requirements
9 of AS 08.61.050(4).

10 * Sec. 7. Notwithstanding AS 08.61.150, enacted by sec. 4 of this Act,
11 a person who is practicing lay midwifery on the effective date of this Act
12 or who has practiced midwifery within the two years immediately before the
13 effective date of this Act may accept fees for practicing midwifery until
14 the date 180 days after the effective date of this Act even if the person
15 is not licensed under AS 08.61.

16 * Sec. 8. TEMPORARY SUPERVISORS. A lay midwife who has been licensed
17 in this state for less than two years may supervise an apprentice until two
18 and one-half years after the effective date of this Act if the lay midwife
19 has practiced midwifery in this state for at least two years immediately
20 before the effective date of this Act.

21 * Sec. 9. INITIAL APPOINTMENTS TO THE BOARD. (a) Notwithstanding
22 AS 08.61.010, one initial member of the Board of Lay Midwives shall be
23 appointed for a term of one year, one initial member shall be appointed for
24 a term of two years, one initial member shall be appointed for a term of
25 three years, and two initial members shall be appointed for terms of four
26 years.

27 (b) In making initial appointments of lay midwives and a person who
28 has received or paid for the services of a midwife to the Board of Lay
29 Midwives, the governor shall consider a midwife licensed for the purpose of

1 AS 08.61.010 if the midwife has practiced lay midwifery in this state for a
2 period of two years.

3 * Sec. 10. This Act takes effect immediately in accordance with AS 01.-
4 10.070(c).