

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

FLOOR SUBSTITUTE
FOR
SENATE BILL NO. 2049

By: Anderson and Johnson
(Constance) of the Senate

and

Denney of the House

FLOOR SUBSTITUTE

[professions and occupations - Oklahoma Midwifery
Practice Act - codification - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3021 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Midwifery Practice Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3022 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Midwifery Practice Act:

1. "Board" means the State Board of Health;
2. "Certified nurse-midwife" or "nurse-midwife" means a person as defined in Section 567.3a of Title 59 of the Oklahoma Statutes;
3. "Commissioner" means the Commissioner of Health;
4. "Committee" means the Advisory Committee on Midwifery;
5. "Local health department" means any of the local health services as created and defined in Section 1-201 et seq. of Title 63 of the Oklahoma Statutes;

6. "Midwife" means a person who practices midwifery and has met the license requirements established by this act, and who is entitled to represent himself or herself to the public by a title or description of services that includes the term midwife;

7. "Midwifery" means the practice of:

- a. providing the necessary supervision, care, and advice to a woman during normal pregnancy, labor, and the postpartum period,
- b. conducting a normal delivery of a child, and
- c. providing normal newborn care;

8. "Newborn" means an infant from birth through the first six weeks of life;

9. "Normal" means, as applied to pregnancy, labor, delivery, the postpartum period, and the newborn period, and as defined by the State Board of Health, circumstances under which a midwife has determined that a client is at a low risk of developing complications;

10. "Postpartum period" means the first six weeks after a woman has given birth; and

11. "Department" means the State Department of Health.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3023 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Midwifery Practice act does not apply to:

1. A certified nurse-midwife, a nurse-midwife, a physician, or another health care professional licensed by the state and operating within the scope of the person's license;
2. A natural childbirth trainer; or
3. A person other than a midwife who assists childbirth in an emergency.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3024 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Health is hereby authorized to adopt and promulgate rules, pursuant to the Administrative Procedures Act, that it deems necessary for the implementation and enforcement of the Oklahoma Midwifery Practice Act, including, but not limited to, scope of practice, qualifications for licensure, renewals, fees, reinstatements, continuing education requirements, complaints, violations and penalties. In so doing, the Board shall give utmost consideration to the recommendations of the Advisory Committee on Midwifery as created in Section 5 of this act.

B. The Board shall have the power to:

1. Deny, revoke or suspend any license to practice midwifery;
2. Assess administrative penalties; and
3. Otherwise discipline a licensee.

C. The Board is hereby empowered to perform investigations, require the production of records and other documents relating to practices regulated by the Oklahoma Midwifery Practice Act, and seek injunctive relief.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3025 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, to continue until July 1, 2012, in accordance with the provisions of the Oklahoma Sunset Law, an Advisory Committee on Midwifery, which shall consist of nine (9) voting members to be appointed by the State Board of Health as follows:

1. Four midwives, each of whom has at least three (3) years' experience in the practice of midwifery;
2. One certified nurse-midwife;

3. One physician who is certified by a national professional organization of physicians that certifies obstetricians and gynecologists and supports the practice of midwifery;

4. One physician who is certified by a national professional organization of physicians that certifies family practitioners or pediatricians and supports the practice of midwifery; and

5. Two members of the general public who are not practicing or trained in a health care profession, and one of whom is a parent with at least one child born with the assistance of a midwife or a certified nurse-midwife.

B. Members of the Committee shall serve for staggered terms of six (6) years. The terms of three members shall expire on January 31 of each odd-numbered year. Members shall serve until a qualified successor has been duly appointed. The Governor shall fill a vacancy no later than sixty (60) days from the date the vacancy occurs. No person shall be appointed to serve more than two (2) consecutive terms.

C. The Committee shall annually elect a chair and vice-chair from among its members.

D. Members of the Committee shall be reimbursed from funds available to the State Board of Health pursuant to the State Travel Reimbursement Act.

E. The Committee shall meet at least semiannually and at any other time at the call of the chair or the Board.

F. The Committee shall meet in accordance with the Oklahoma Open Meeting Act.

G. A majority of the members of the Committee shall constitute a quorum for the conduct of Committee business.

H. 1. The Committee shall advise the Board on all matters pertaining to midwifery, including but not limited to:

- a. scope and standards of practice, including standards for:

- (1) the delineation of findings that preclude a woman or newborn from being classified as having a normal pregnancy, labor, delivery, postpartum period, or newborn period,
 - (2) administration of oxygen by a midwife to a mother or newborn,
 - (3) newborn screenings,
 - (4) prevention of ophthalmia neonatorium, and
 - (5) the role of local health departments in midwifery,
- b. licensure requirements, examination requirements, exceptions thereto, renewal requirements, temporary licensure, and endorsement or reciprocity requirements,
 - c. methods and requirements for ensuring the continued competence of licensed and registered persons, including the type of courses and number of hours required to meet the basic midwifery education course and continuing midwifery education course requirements, and instructors or facilities used in the basic and continuing education requirements,
 - d. grounds for reporting and processing complaints, violations, probation, revocation or suspension of license or reinstatement provisions,
 - e. fees, and
 - f. all other matters which may pertain to the practice of midwifery.

2. The Committee shall review and make recommendations to the Board on all applications for licensure.

3. The Committee shall assist and advise the Board in all hearings related to the enforcement of the Oklahoma Midwifery Practice Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3026 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Health, with the assistance of the Advisory Committee on Midwifery, shall establish qualifications for licensure under the Oklahoma Midwifery Practice Act.

B. No person subject to this act shall practice midwifery in this state without first applying for and obtaining a license from the State Board of Health.

C. Application shall be made to the Board in writing and shall be accompanied by a nonrefundable application fee and such other information required by the Committee as established by rule.

D. An applicant for an initial license shall provide the Committee with documentary evidence that the person has:

1. Satisfied each requirement for basic midwifery education as established by the North American Registry of Midwives or the American College of Nurse-Midwives;

2. Passed a comprehensive midwifery examination administered by the North American Registry of Midwives or the American College of Nurse-Midwives;

3. Been certified by the North American Registry of Midwives or the American Midwifery Certification Board; and

4. Provided the Committee with satisfactory evidence that the person:

a. is trained to perform the newborn screening tests or has made arrangements for the performance of those tests, and

b. holds:

(1) a current certificate issued by the American Heart Association in basic life support cardiopulmonary resuscitation, or

- (2) another form of certification acceptable to the State Department of Health that demonstrates proficiency in basic life support cardiopulmonary resuscitation for adults and children.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3027 of Title 59, unless there is created a duplication in numbering, reads as follows:

A midwife may not:

1. Provide midwifery care in violation of State Board of Health rules, except in an emergency that poses an immediate threat to the life of a woman or newborn;
2. Administer a prescription drug to a client other than:
 - a. a drug administered under the supervision of a licensed physician in accordance with state law,
 - b. prophylaxis approved by the Board to prevent ophthalmia neonatorum, or
 - c. oxygen administered in accordance with Board rules;
3. Use forceps or a surgical instrument for a procedure other than cutting the umbilical cord or providing emergency first aid during delivery;
4. Use forceps, vacuum extractor or any other mechanical device or drug to advance or retard labor or delivery; or
5. Make on a birth certificate a false or misleading statement or record.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3028 of Title 59, unless there is created a duplication in numbering, reads as follows:

A midwife may not:

1. Except as provided by Section 9 of this act, use in connection with the midwife's name a title, abbreviation, or designation tending to imply that the midwife is a registered or certified midwife as opposed to one who is licensed under this act;

2. Advertise or represent that the midwife is a physician or a graduate of a medical school unless the midwife is licensed to practice medicine by the State Board of Medical Examiners;

3. Use advertising or an identification statement that is false, misleading, or deceptive; or

4. Except as authorized by rules adopted by the State Board of Nursing, use in combination with the term "midwife" the term "nurse" or another title, initial, or designation that implies that the midwife is licensed as a registered nurse or vocational nurse.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3029 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A midwife certified by the North American Registry of Midwives or the American Midwifery Certification Board who uses the term "certified" as part of the midwife's title in an identification statement or advertisement shall include in the identification statement or advertisement that the midwife is certified by the North American Registry of Midwives or the American Midwifery Certification Board.

B. A midwife may not use a title in an identification statement or advertisement that would lead a reasonable person to believe that the midwife is certified by a governmental entity, unless otherwise provided by this act.

C. All midwives licensed pursuant to the Oklahoma Midwifery Practice Act shall include in any title, identification statement or advertisement that the midwife is licensed in this state.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3030 of Title 59, unless there is created a duplication in numbering, reads as follows:

Effective July 1, 2007, any person who holds himself or herself out to be a midwife, represents himself or herself to be a midwife, or uses the title midwife without holding a license issued by the

State Board of Health, or who is in violation of any provision of the Oklahoma Midwifery Practice Act shall be subject to an administrative fine for each day found to be in violation. The amount of any fine shall be determined by the Board within limits set by the Board pursuant to rules adopted and promulgated by the Board and may be in addition to any other penalty provided by the Board or otherwise provided by law.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3031 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A licensed midwife shall disclose in oral and written form to a prospective client the limitations of the skills and practices of a midwife.

B. The Advisory Committee on Midwifery shall prescribe the form of the informed choice and disclosure statement required to be used by a midwife under this act. The form shall include:

1. Disclosure of experience as a midwife;
2. The date the license expires;
3. The date the cardiopulmonary resuscitation certification expires;
4. Documentation of compliance with continuing education requirements;
5. A description of medical backup arrangements; and
6. A summary of the basic scope of practice standards of a midwife, including statements concerning newborn blood screening, ophthalmia neonatorum prevention, and prohibited acts under Section 7 of this act.

C. The informed choice statement must include a statement that state law requires a newborn child to be tested for certain heritable diseases and hypothyroidism.

D. All written disclosures required by this section shall not exceed five hundred (500) words and must be in the language primarily used by the client.

E. A midwife shall disclose to a prospective or actual client the procedure for reporting complaints to the State Department of Health.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3032 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A midwife shall advise a client in writing to seek:

1. Prenatal care; and
2. Medical care through consultation or referral, as specified by State Board of Health rules, if the midwife determines that the pregnancy, labor, delivery, postpartum period, or newborn period of a woman or newborn may not be within the scope of practice of the midwife.

B. A midwife shall call for emergency assistance in an emergency situation which is outside of the midwife's scope of practice.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3033 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. A physician, certified nurse-midwife, registered nurse, or other person who, on the order of a physician, instructs a midwife in the approved techniques for collecting blood specimens to be used for newborn screening tests is immune from liability arising out of the failure or refusal of the midwife to:

1. Collect the specimens in the approved manner; or
2. Submit the specimens to the State Department of Health in a timely manner.

B. A physician or certified nurse-midwife who issues an order directing or instructing a midwife is immune from liability arising

out of the failure or refusal of the midwife to comply with the order if, before the issuance of the order, the midwife provided the physician or certified nurse-midwife with evidence satisfactory to the State Board of Health of compliance with this act.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3034 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Health shall maintain a roster of each person licensed as a midwife in this state.

B. The roster shall contain for each person the information required on the license form pursuant to Section 11 of this act and other information the Department determines necessary to accurately identify each licensed midwife. The roster shall be a public document available pursuant to the Oklahoma Open Records Act.

C. The Department shall provide each county clerk and each local registrar of births in a county with the name of each midwife practicing in the county.

SECTION 15. This act shall become effective November 1, 2006.

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