

3 Senate Bill No. 2049
4 As Amended

5 SENATE BILL NO. 2049 - By: ANDERSON and JOHNSON (Constance) of the
6 Senate and DENNEY of the House.

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

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

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

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

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

18 As used in the Oklahoma Midwifery Practice Act:

- 19 1. "Board" means the State Board of Health;
20 2. "Certified nurse-midwife" or "nurse-midwife" means a person
21 as defined in Section 567.3a of Title 59 of the Oklahoma Statutes;
22 3. "Commissioner" means the Commissioner of Health;
23 4. "Committee" means the Advisory Committee on Midwifery;

1 5. "Local health department" means any of the local health
2 services as created and defined in Section 1-201 et seq. of Title 63
3 of the Oklahoma Statutes;

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

8 7. "Midwifery" means the practice of:

9 a. providing the necessary supervision, care, and advice
10 to a woman during normal pregnancy, labor, and the
11 postpartum period,

12 b. conducting a normal delivery of a child, and

13 c. providing normal newborn care;

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

16 9. "Normal" means, as applied to pregnancy, labor, delivery,
17 the postpartum period, and the newborn period, and as defined by
18 Advisory Committee on Midwifery rule, circumstances under which a
19 midwife has determined that a client is at a low risk of developing
20 complications;

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

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

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

4 The Oklahoma Midwifery Practice act does not apply to:

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

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

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

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

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

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

13 1. Three (3) members shall be midwives, each of whom has at
14 least three (3) years' experience in the practice of midwifery and
15 not more than one of whom is a licensed health care professional;

16 2. One certified nurse-midwife member;

17 3. One physician member who is certified by a national
18 professional organization of physicians that certifies obstetricians
19 and gynecologists;

20 4. One physician member who is certified by a national
21 professional organization of physicians that certifies family
22 practitioners or pediatricians; and

1 5. Three members who represent the public and who are not
2 practicing or trained in a health care profession, one of whom is a
3 parent with at least one child born with the assistance of a
4 midwife.

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

12 C. The Advisory Committee on Midwifery shall annually elect one
13 of the public members of the Committee as chair and one of the other
14 members of the Committee as vice chair.

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

18 E. The Advisory Committee on Midwifery shall meet at least
19 semiannually and shall meet at other times at the call of the chair
20 or the State Board of Health. A majority of the members of the
21 Committee shall constitute a quorum for the conduct of Committee
22 business.

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

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

5 a. scope and standards of practice, including standards
6 for:

7 (1) the delineation of findings that preclude a woman
8 or newborn from being classified as having a
9 normal pregnancy, labor, delivery, postpartum
10 period, or newborn period,

11 (2) administration of oxygen by a midwife to a mother
12 or newborn,

13 (3) newborn screenings,

14 (4) prevention of ophthalmia neonatorium, and

15 (5) the role of local health departments in
16 midwifery,

17 b. licensure requirements, examination requirements,
18 exceptions thereto, renewal requirements, temporary
19 licensure or registration, and endorsement or
20 reciprocity requirements,

21 c. methods and requirements for ensuring the continued
22 competence of licensed and registered persons,
23 including the type of courses and number of hours

1 required to meet the basic midwifery education course
2 and continuing midwifery education course
3 requirements, and instructors or facilities used in
4 the basic and continuing education requirements,
5 d. grounds for reporting and processing complaints,
6 violations, probation, revocation or suspension of
7 license or reinstatement provisions,
8 e. fees, and
9 f. all other matters which may pertain to the practice of
10 midwifery.

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

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

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

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

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

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

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

- 9 1. Satisfied each requirement for basic midwifery education;
- 10 2. Passed the comprehensive midwifery examination; and
- 11 3. Provided the Committee with satisfactory evidence that the
12 person:

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

16 b. holds:

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

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

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

4 A midwife may not:

- 5 1. Provide midwifery care in violation of State Board of Health
6 rule, except in an emergency that poses an immediate threat to the
7 life of a woman or newborn;
- 8 2. Administer a prescription drug to a client other than:
 - 9 a. a drug administered under the supervision of a
10 licensed physician in accordance with state law,
 - 11 b. prophylaxis approved by the Board to prevent
12 ophthalmia neonatorum, or
 - 13 c. oxygen administered in accordance with Board rule.
- 14 3. Use forceps or a surgical instrument for a procedure other
15 than cutting the umbilical cord or providing emergency first aid
16 during delivery;
- 17 4. Remove a placenta by invasive techniques;
- 18 5. Use a mechanical device or medicine to advance or retard
19 labor or delivery; or
- 20 6. Make on a birth certificate a false statement or false
21 record.

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

4 A midwife may not:

- 5 1. Except as provided by Section 10 of this act, use in
6 connection with the midwife's name a title, abbreviation, or
7 designation tending to imply that the midwife is a registered or
8 certified midwife as opposed to one who is licensed under this act;
- 9 2. Advertise or represent that the midwife is a physician or a
10 graduate of a medical school unless the midwife is licensed to
11 practice medicine by the State Board of Medical Examiners;
- 12 3. Use advertising or an identification statement that is
13 false, misleading, or deceptive; or
- 14 4. Except as authorized by rules adopted by the Board of Nurse
15 Examiners, use in combination with the term "midwife" the term
16 "nurse" or another title, initial, or designation that implies that
17 the midwife is licensed as a registered nurse or vocational nurse.

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

21 A. A midwife certified by the North American Registry of
22 Midwives who uses "certified" as part of the midwife's title in an
23 identification statement or advertisement must include in the

1 statement or advertisement a statement that the midwife is certified
2 by the North American Registry of Midwives.

3 B. A midwife may not use an identification statement or
4 advertisement that would lead a reasonable person to believe that
5 the midwife is certified by a governmental entity.

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

9 Effective July 1, 2007, any person who holds himself or herself
10 out as a midwife or uses the title midwife without holding an
11 appropriate license issued by the State Board of Health, or who,
12 without being licensed by the Board, represents himself or herself
13 to be a midwife, or who is in violation of any provision of the
14 Oklahoma Midwifery Practice Act shall be subject to an
15 administrative fine for each day found to be in violation. The
16 amount of any fine shall be determined by the Board within limits
17 set by the Board pursuant to rules adopted and promulgated by the
18 Board and may be in addition to any other penalty provided by the
19 Board or otherwise provided by law.

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

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

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

7 1. Statistics of the midwife's experience as a midwife;

8 2. The date the midwife's license expires;

9 3. The date the midwife's cardiopulmonary resuscitation
10 certification expires;

11 4. The midwife's compliance with continuing education
12 requirements;

13 5. A description of medical backup arrangements; and

14 6. The legal responsibilities of a midwife, including
15 statements concerning newborn blood screening, ophthalmia neonatorum
16 prevention, and prohibited acts under Section 8 of this act.

17 C. The informed choice statement must include a statement that
18 state law requires a newborn child to be tested for certain
19 heritable diseases and hypothyroidism. The midwife shall disclose
20 to a client whether the midwife is approved to collect blood
21 specimens to be used to perform the tests. If the midwife is not
22 approved to collect the blood specimens, the disclosure must inform
23 the client of the midwife's duty to refer the client to an

1 appropriate health care facility or physician for the collection of
2 the specimens.

3 D. The disclosure of legal requirements required by this
4 section may not exceed five hundred (500) words and must be in
5 English and Spanish.

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

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

12 A midwife shall encourage a client to seek:

- 13 1. Prenatal care; and
- 14 2. Medical care through consultation or referral, as specified
15 by Advisory Committee on Midwifery rules, if the midwife determines
16 that the pregnancy, labor, delivery, postpartum period, or newborn
17 period of a woman or newborn may not be classified as normal for
18 purposes of this act.

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

22 A. A physician, a registered nurse, or other person who, on the
23 order of a physician, instructs a midwife in the approved techniques

1 for collecting blood specimens to be used for newborn screening
2 tests is immune from liability arising out of the failure or refusal
3 of the midwife to:

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

7 B. A physician who issues an order directing or instructing a
8 midwife is immune from liability arising out of the failure or
9 refusal of the midwife to comply with the order if, before the
10 issuance of the order, the midwife provided the physician with
11 evidence satisfactory to the Board of compliance with this act.

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

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

17 B. The roster shall contain for each person the information
18 required on the license form under this act and other information
19 the State Department of Health determines necessary to accurately
20 identify each licensed midwife. The roster shall be a public
21 document available pursuant to the Oklahoma Public Records Act.

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

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

5 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated
6 2-23-06 - DO PASS, As Amended and Coauthored.