

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 2049

By: Anderson

AS INTRODUCED

An Act relating to professions and occupations; creating the Oklahoma Midwifery Practice Act; providing short title; defining terms; providing exceptions to act; authorizing State Board of Health to adopt and promulgate certain rules; empowering Board to perform certain investigations, require production of certain records and seek injunctive relief; creating the Advisory Committee on Midwifery; providing for membership, terms, vacancies, officers, reimbursement, meetings, and quorum; requiring Committee to meet under the Oklahoma Open Meeting Act; authorizing Committee to advise Board on certain matters pertaining to midwifery; authorizing Committee to review and make certain recommendations to the Board; authorizing the Committee to assist and advise Board in certain hearings; authorizing Board to establish qualifications for certain licensure; prohibiting the practice of midwifery without certain licensure; providing for application for licensure and certain fee; requiring documentary evidence of certain requirements; providing for issuance and term of initial license; establishing certain prohibited acts or practices; prohibiting certain representations and advertisements relating to the practice of midwifery; prohibiting certain use of title; providing for certain violation and administrative fine; requiring licensed midwives to provide certain oral and written informed choice and disclosure statements; providing for form and information to be included in such statements; providing for length and language requirements of certain parts of such statements; requiring disclosure for reporting certain complaints; requiring midwives to encourage certain medical care; providing certain immunity; providing for certain roster, information to be contained in roster and distribution of roster; providing for codification; and providing an 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 Advisory Committee on Midwifery rule, 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 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. Three (3) members shall be midwives, each of whom has at least three (3) years' experience in the practice of midwifery and not more than one of whom is a licensed health care professional;

2. One certified nurse-midwife member;

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

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

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

B. Members of the Advisory Committee on Midwifery 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 Advisory Committee on Midwifery shall annually elect one of the public members of the Committee as chair and one of the other members of the Committee as vice chair.

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

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

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

G. 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 or registration, 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 and registration.

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 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 must provide the Committee with documentary evidence that the person has:

- 1. Satisfied each requirement for basic midwifery education;
- 2. Passed the comprehensive midwifery examination; and
- 3. 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 rule, 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 rule.
3. Use forceps or a surgical instrument for a procedure other than cutting the umbilical cord or providing emergency first aid during delivery;
4. Remove a placenta by invasive techniques;
5. Use a mechanical device or medicine to advance or retard labor or delivery; or
6. Make on a birth certificate a false statement or false 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 10 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 Board of Nurse Examiners, 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 who uses "certified" as part of the midwife's title in an identification statement or advertisement must include in the statement or advertisement a statement that the midwife is certified by the North American Registry of Midwives.

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

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 as a midwife or uses the title midwife without holding an appropriate license issued by the State Board of Health, or who, without being licensed by the Board, represents himself or herself

to be a midwife, 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 must include:

1. Statistics of the midwife's experience as a midwife;
2. The date the midwife's license expires;
3. The date the midwife's cardiopulmonary resuscitation certification expires;
4. The midwife's compliance with continuing education requirements;
5. A description of medical backup arrangements; and
6. The legal responsibilities of a midwife, including statements concerning newborn blood screening, ophthalmia neonatorum prevention, and prohibited acts under Section 8 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. The midwife shall disclose to a client whether the midwife is approved to collect blood specimens to be used to perform the tests. If the midwife is not approved to collect the blood specimens, the disclosure must inform

the client of the midwife's duty to refer the client to an appropriate health care facility or physician for the collection of the specimens.

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

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 midwife shall encourage a client to seek:

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

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, a 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 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 with evidence satisfactory to the Board 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 under this act and other information the State Department of Health determines necessary to accurately identify each licensed midwife. The roster shall be a public document available pursuant to the Oklahoma Public Records Act.

C. The State Department of Health 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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