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State of Minnesota

HOUSE OF REPRESENTATIVES

THIRD SPECIAL SESSION

H. F. No. 18

08/12/2020 Authored by Schultz
The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act
1.2 relating to health; establishing certified midwife licensure by the Board of Nursing;
1.3 providing criminal penalties; amending Minnesota Statutes 2018, sections 147D.03,
1.4 subdivision 1; 148.241; Minnesota Statutes 2019 Supplement, section 151.01,
1.5 subdivision 23, as amended; proposing coding for new law as Minnesota Statutes,
1.6 chapter 148G.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 147D.03, subdivision 1, is amended to read:

1.9 Subdivision 1. General. Within the meaning of sections 147D.01 to 147D.27, a person
1.10 who shall publicly profess to be a traditional midwife and who, for a fee, shall assist or
1.11 attend to a woman in pregnancy, childbirth outside a hospital, and postpartum, shall be
1.12 regarded as practicing traditional midwifery. A certified midwife licensed by the Board of
1.13 Nursing under chapter 148G is not subject to the provisions of this chapter.

1.14 Sec. 2. Minnesota Statutes 2018, section 148.241, is amended to read:

1.15 148.241 EXPENSES.

1.16 Subdivision 1. Appropriation. The expenses of administering sections 148.171 to
1.17 148.285 and chapter 148G shall be paid from the appropriation made to the Minnesota
1.18 Board of Nursing.

1.19 Subd. 2. Expenditure. All amounts appropriated to the board shall be held subject to
1.20 the order of the board to be used only for the purpose of meeting necessary expenses incurred
1.21 in the performance of the purposes of sections 148.171 to 148.285 and chapter 148G, and
1.22 the duties imposed thereby as well as the promotion of nursing education and standards of
1.23 nursing care in this state.

2.1 Sec. 3. [148G.01] TITLE.

2.2 This chapter shall be referred to as the Minnesota Certified Midwife Practice Act.

2.3 Sec. 4. [148G.02] SCOPE.

2.4 This chapter applies to all applicants and licensees, all persons who use the title certified
2.5 midwife, and all persons in or out of this state who provide certified midwifery services to
2.6 patients who reside in this state, unless there are specific applicable exemptions provided
2.7 by law.

2.8 Sec. 5. [148G.03] DEFINITIONS.

2.9 Subdivision 1. **Scope.** For purposes of this chapter, the definitions in this section have
2.10 the meanings given them.

2.11 Subd. 2. **Board.** "Board" means the Minnesota Board of Nursing.

2.12 Subd. 3. **Certification.** "Certification" means the formal recognition by the American
2.13 Midwifery Certification Board of the knowledge, skills, and experience demonstrated by
2.14 the achievement of standards identified by the American College of Nurse Midwives.

2.15 Subd. 4. **Certified midwife.** "Certified midwife" means an individual who holds a current
2.16 and valid national certification as a certified midwife from the American Midwifery
2.17 Certification Board, or any successor organization, and who is licensed by the board under
2.18 this chapter.

2.19 Subd. 5. **Certified midwifery practice.** "Certified midwifery practice" means:

2.20 (1) the management, diagnosis, and treatment of women's primary health care, including
2.21 pregnancy, childbirth, postpartum period, care of the newborn, family planning, partner
2.22 care management relating to sexual health, and gynecological care of women across the life
2.23 span;

2.24 (2) health counseling, including providing information and referrals to community
2.25 resources on childbirth preparation, breastfeeding, exercise, nutrition, parenting, care of the
2.26 newborn, health promotion, and disease prevention;

2.27 (3) ordering, performing, supervising, and interpreting diagnostic studies, excluding
2.28 interpreting computed tomography scans, magnetic resonance imaging scans, positron
2.29 emission tomography scans, nuclear scans, and mammography, within the scope of certified
2.30 midwifery practice;

3.1 (4) prescribing pharmacological and nonpharmacological therapies appropriate to
3.2 midwifery care;

3.3 (5) consulting with, collaborating with, or referring to other health care professionals as
3.4 warranted by the needs of the patient; and

3.5 (6) performing the role of educator in the theory and practice of midwifery.

3.6 Subd. 6. **Collaboration.** "Collaboration" means the process in which two or more health
3.7 care professionals work together to meet the health care needs of a patient, as warranted by
3.8 the needs of the patient.

3.9 Subd. 7. **Consultation.** "Consultation" means the process in which a certified midwife
3.10 who maintains primary management responsibility for a patient's care seeks advice or opinion
3.11 of a physician, an advanced practice registered nurse, or another member of the health care
3.12 team.

3.13 Subd. 8. **Encumbered.** "Encumbered" means: (1) a license or other credential that is
3.14 revoked, suspended, or contains limitations on the full and unrestricted practice of certified
3.15 midwifery when the revocation, suspension, or limitation is imposed by a state licensing
3.16 board or other state regulatory entity; or (2) a license or other credential that is voluntarily
3.17 surrendered.

3.18 Subd. 9. **Monitoring.** "Monitoring" means periodic inspection by a certified midwife
3.19 and includes:

3.20 (1) watching during the performance of a task or activity;

3.21 (2) periodic checking and tracking of the progress of a task or activity being performed;

3.22 (3) updating a supervisor on the progress or completion of a task or activity performed;
3.23 and

3.24 (4) contacting a supervisor as needed for direction and consultation.

3.25 Subd. 10. **Patient.** "Patient" means a recipient of care provided by a certified midwife,
3.26 including an individual, family, group, or community.

3.27 Subd. 11. **Prescribing.** "Prescribing" means the act of generating a prescription for the
3.28 preparation of, use of, or manner of using a drug or therapeutic device in accordance with
3.29 the provisions of section 148G.08. Prescribing does not include recommending the use of
3.30 a drug or therapeutic device that is not required by the federal Food and Drug Administration
3.31 to meet the labeling requirements for prescription drugs and devices.

4.1 Subd. 12. **Prescription.** "Prescription" means a written direction or an oral direction
4.2 reduced to writing provided to or for an individual patient for the preparation or use of a
4.3 drug or therapeutic device. In the case of a prescription for a drug, the requirements of
4.4 section 151.01, subdivisions 16, 16a, and 16b, shall apply.

4.5 Subd. 13. **Referral.** "Referral" means the process in which a certified midwife directs
4.6 a patient to a physician or another health care professional for management of a particular
4.7 problem or aspect of the patient's care.

4.8 Subd. 14. **Supervision.** "Supervision" means the guidance by a certified midwife in the
4.9 accomplishment of a midwifery task or activity. Supervision consists of monitoring and
4.10 establishing the initial direction, setting expectations, directing activities and courses of
4.11 action, evaluating, and changing a course of action.

4.12 **Sec. 6. [148G.04] CERTIFIED MIDWIFE LICENSING.**

4.13 Subdivision 1. **Licensure.** (a) No person shall practice as a certified midwife or serve
4.14 as the faculty of record for clinical instruction in a midwifery distance learning program
4.15 unless the certified midwife is licensed by the board under this section.

4.16 (b) An applicant for a license to practice as a certified midwife shall apply to the board
4.17 in a format prescribed by the board and pay a fee in an amount determined under section
4.18 148G.10.

4.19 (c) To be eligible for licensure, an applicant must:

4.20 (1) not hold an encumbered license or other credential as a certified midwife or equivalent
4.21 professional designation in any state or territory;

4.22 (2) hold a current and valid certification as a certified midwife from the American
4.23 Midwifery Certification Board or any successor organization acceptable to the board and
4.24 provide primary source verification of certification to the board in a format prescribed by
4.25 the board;

4.26 (3) have completed a graduate level midwifery program that includes clinical experience,
4.27 is accredited by the Accreditation Commission for Midwifery Education, and leads to a
4.28 master's degree or higher. The applicant must submit primary source verification of program
4.29 completion to the board in a format prescribed by the board. The primary source verification
4.30 must verify the applicant completed three separate graduate-level courses in physiology
4.31 and pathophysiology; advanced health assessment; and advanced pharmacology, including
4.32 pharmacodynamics, pharmacokinetics, and pharmacotherapeutics of all broad categories
4.33 of agents;

5.1 (4) report any criminal conviction, nolo contendere plea, Alford plea, or other plea
5.2 arrangement in lieu of conviction; and

5.3 (5) not have committed any acts or omissions which are grounds for disciplinary action
5.4 in another jurisdiction or, if these acts have been committed and would be grounds for
5.5 disciplinary action as set forth in section 148G.11, the board has found, after investigation,
5.6 that sufficient restitution has been made.

5.7 Subd. 2. **Denial of license.** Refusal of an applicant to supply information necessary to
5.8 determine the applicant's qualifications, failure to demonstrate qualifications, or failure to
5.9 satisfy the requirements for a license contained in this section or rules of the board may
5.10 result in denial of a license. The burden of proof is upon the applicant to demonstrate the
5.11 qualifications and satisfaction of the requirements.

5.12 **Sec. 7. [148G.05] LICENSURE RENEWAL AND RELICENSURE.**

5.13 Subdivision 1. **Renewal requirements.** To be eligible for licensure renewal, a licensed
5.14 certified midwife must submit:

5.15 (1) a completed and signed application for licensure renewal on a form provided by the
5.16 board;

5.17 (2) the renewal fee required under section 148G.10;

5.18 (3) proof of completion of continuing education requirements in effect; and

5.19 (4) additional information as requested by the board to clarify information presented in
5.20 the renewal application.

5.21 Subd. 2. **Renewal deadline.** (a) Each license must state an expiration date. An application
5.22 for licensure renewal must be received by the board or postmarked at least 30 calendar days
5.23 before the expiration date. If the postmark is illegible, the application shall be considered
5.24 timely if received at least 21 calendar days before the expiration date.

5.25 (b) An application for licensure renewal not received within the time required under
5.26 paragraph (a), but received on or before the expiration date, must be accompanied by a late
5.27 fee in addition to the renewal fee specified by section 148G.10.

5.28 (c) Any certified midwife who fails to submit the licensure renewal application within
5.29 the required period shall not be entitled to practice midwifery as a certified midwife in this
5.30 state.

5.31 (d) A person whose license has lapsed desiring to resume practice as a certified midwife
5.32 shall make application for relicensure, submit satisfactory evidence of compliance with the

6.1 procedures and requirements established by the board, and pay the board the relicensure
6.2 fee under section 148G.10, subdivision 4, for the current period. A penalty fee under section
6.3 148G.10, subdivision 3, shall be required from a person who practiced nursing without
6.4 current licensure. Thereupon, licensure shall be issued to the applicant for relicensure.

6.5 Subd. 3. **License renewal notice.** At least 60 days before a certified midwife's license
6.6 expiration date, the board shall send out a renewal notice to the certified midwife's last
6.7 known address. The notice must include a renewal application and a notice of fees required
6.8 for renewal. It must also inform the certified midwife that licensure will expire without
6.9 further action by the board if an application for license renewal is not received before the
6.10 expiration date. The certified midwife's failure to receive this notice shall not relieve the
6.11 certified midwife of the obligation to meet the deadline and other requirements for license
6.12 renewal. Failure to receive this notice is not grounds for challenging expiration of licensure
6.13 status.

6.14 **Sec. 8. [148G.06] NAME CHANGE AND CHANGE OF ADDRESS.**

6.15 A certified midwife shall maintain a current name and address with the board and shall
6.16 notify the board in writing within 30 days of any change in name or address. If only a name
6.17 change is requested, the certified midwife must request revised credentials and return the
6.18 current credentials to the board. The board may require the certified midwife to substantiate
6.19 the name change by submitting official documentation from a court of law or agency
6.20 authorized under law to receive and officially record a name change. If only an address
6.21 change is requested, no request for revised credentials is required. All notices or other
6.22 correspondence mailed to or served upon a certified midwife by the board at the licensee's
6.23 address on file with the board shall be considered as having been received by the licensee.

6.24 **Sec. 9. [148G.07] IDENTIFICATION OF CERTIFIED MIDWIVES.**

6.25 Only those persons who hold a current license to practice certified midwifery in this
6.26 state may use the title certified midwife or licensed certified midwife. A certified midwife
6.27 licensed by the board shall use the designation of CM for professional identification and in
6.28 documentation of services provided.

6.29 **Sec. 10. [148G.08] PRESCRIBING DRUGS AND THERAPEUTIC DEVICES.**

6.30 Subdivision 1. **Diagnosing, prescribing, and ordering.** Certified midwives, within the
6.31 scope of certified midwifery practice, are authorized to:

7.1 (1) diagnose, prescribe, and institute therapy or referrals of patients to health care agencies
7.2 and providers;

7.3 (2) prescribe, procure, sign for, record, administer, and dispense over-the-counter, legend,
7.4 and controlled substances, including sample drugs; and

7.5 (3) plan and initiate a therapeutic regimen that includes ordering and prescribing durable
7.6 medical devices and equipment, nutrition, diagnostic services, and supportive services,
7.7 including but not limited to home health care, physical therapy, and occupational therapy.

7.8 Subd. 2. Drug Enforcement Administration requirements. (a) Certified midwives
7.9 must:

7.10 (1) comply with federal Drug Enforcement Administration (DEA) requirements related
7.11 to controlled substances; and

7.12 (2) file any and all of the certified midwife's DEA registrations and numbers with the
7.13 board.

7.14 (b) The board shall maintain current records of all certified midwives with DEA
7.15 registration and numbers.

7.16 Sec. 11. [148G.09] FEES.

7.17 The fees specified in section 148G.10 are nonrefundable and must be deposited in the
7.18 state government special revenue fund.

7.19 Sec. 12. [148G.10] FEE AMOUNTS.

7.20 Subdivision 1. Licensure. The fee for licensure is \$.....

7.21 Subd. 2. Renewal. The fee for licensure renewal is \$.....

7.22 Subd. 3. Penalty fee. The penalty fee for a person who practices certified midwifery
7.23 without a current license and certification or recertification, or current certification or
7.24 recertification on file with the board, shall pay a penalty fee of \$200 for the first month or
7.25 part of a month and an additional \$100 for each subsequent month or parts of months of
7.26 practice. The amount of the penalty fee shall be calculated from the first day the certified
7.27 midwife practiced without a current certified midwife license and certification to the last
7.28 day of practice without a current license and certification, or from the first day the certified
7.29 midwife practiced without a current license and certification on file with the board until the
7.30 day the current license and certification is filed with the board.

7.31 Subd. 4. Relicensure. The fee for relicensure is \$.....

8.1 Subd. 5. **Dishonored check fee.** The service fee for a dishonored check is as provided
8.2 in section 604.113.

8.3 Sec. 13. **[148G.11] GROUNDS FOR DISCIPLINARY ACTION.**

8.4 Subdivision 1. **Grounds listed.** The board may deny, revoke, suspend, limit, or condition
8.5 the license of any person to practice certified midwifery under this chapter or to otherwise
8.6 discipline a licensee or applicant as described in section 148G.12. The following are grounds
8.7 for disciplinary action:

8.8 (1) failure to demonstrate the qualifications or satisfy the requirements for a license
8.9 contained in this chapter or rules of the board. In the case of a person applying for a license,
8.10 the burden of proof is upon the applicant to demonstrate the qualifications or satisfaction
8.11 of the requirements;

8.12 (2) employing fraud or deceit in procuring or attempting to procure a license to practice
8.13 certified midwifery;

8.14 (3) conviction of a felony or gross misdemeanor reasonably related to the practice of
8.15 certified midwifery. Conviction as used in this subdivision includes a conviction of an
8.16 offense that if committed in this state would be considered a felony or gross misdemeanor
8.17 without regard to its designation elsewhere, or a criminal proceeding where a finding or
8.18 verdict of guilt is made or returned, but the adjudication of guilt is either withheld or not
8.19 entered;

8.20 (4) revocation, suspension, limitation, conditioning, or other disciplinary action against
8.21 the person's certified midwife credential in another state, territory, or country; failure to
8.22 report to the board that charges regarding the person's certified midwifery license,
8.23 certification, or other credential are pending in another state, territory, or country; or having
8.24 been refused a license or other credential by another state, territory, or country;

8.25 (5) failure or inability to practice as a certified midwife with reasonable skill and safety,
8.26 or departure from or failure to conform to standards of acceptable and prevailing certified
8.27 midwifery, including failure of a certified midwife to adequately supervise or monitor the
8.28 performance of acts by any person working at the certified midwife's direction;

8.29 (6) engaging in unprofessional conduct, including but not limited to a departure from
8.30 or failure to conform to board rules of certified midwifery practice that interpret the statutory
8.31 definition of certified midwifery as well as provide criteria for violations of the statutes or,
8.32 if no rule exists, to the minimal standards of acceptable and prevailing certified midwifery

9.1 practice, or any certified midwifery practice that may create unnecessary danger to a patient's
9.2 life, health, or safety. Actual injury to a patient need not be established under this clause;

9.3 (7) supervision or accepting the supervision of a midwifery function or a prescribed
9.4 health care function when the acceptance could reasonably be expected to result in unsafe
9.5 or ineffective patient care;

9.6 (8) actual or potential inability to practice certified midwifery with reasonable skill and
9.7 safety to patients by reason of illness, use of alcohol, drugs, chemicals, or any other material,
9.8 or as a result of any mental or physical condition;

9.9 (9) adjudication as mentally incompetent, mentally ill, a chemically dependent person,
9.10 or a person dangerous to the public by a court of competent jurisdiction, within or outside
9.11 of this state;

9.12 (10) engaging in any unethical conduct, including but not limited to conduct likely to
9.13 deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for
9.14 the health, welfare, or safety of a patient. Actual injury need not be established under this
9.15 clause;

9.16 (11) engaging in conduct with a patient that is sexual or may reasonably be interpreted
9.17 by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning
9.18 to a patient, or engaging in sexual exploitation of a patient or former patient;

9.19 (12) obtaining money, property, or services from a patient, other than reasonable fees
9.20 for services provided to the patient, through the use of undue influence, harassment, duress,
9.21 deception, or fraud;

9.22 (13) revealing a privileged communication from or relating to a patient except when
9.23 otherwise required or permitted by law;

9.24 (14) engaging in abusive or fraudulent billing practices, including violations of federal
9.25 Medicare and Medicaid laws or state medical assistance laws;

9.26 (15) improper management of patient records, including failure to maintain adequate
9.27 patient records, to comply with a patient's request made pursuant to sections 144.291 to
9.28 144.298, or to furnish a patient record or report required by law;

9.29 (16) knowingly aiding, assisting, advising, or allowing an unlicensed person to engage
9.30 in the unlawful practice of certified midwifery;

10.1 (17) violating a rule adopted by the board, an order of the board, or a state or federal
10.2 law relating to the practice of certified midwifery, or a state or federal narcotics or controlled
10.3 substance law;

10.4 (18) knowingly providing false or misleading information that is directly related to the
10.5 care of that patient unless done for an accepted therapeutic purpose such as the administration
10.6 of a placebo;

10.7 (19) aiding suicide or aiding attempted suicide in violation of section 609.215 as
10.8 established by any of the following:

10.9 (i) a copy of the record of criminal conviction or plea of guilty for a felony in violation
10.10 of section 609.215, subdivision 1 or 2;

10.11 (ii) a copy of the record of a judgment of contempt of court for violating an injunction
10.12 issued under section 609.215, subdivision 4;

10.13 (iii) a copy of the record of a judgment assessing damages under section 609.215,
10.14 subdivision 5; or

10.15 (iv) a finding by the board that the person violated section 609.215, subdivision 1 or 2.
10.16 The board shall investigate any complaint of a violation of section 609.215, subdivision 1
10.17 or 2;

10.18 (20) practicing outside the scope of certified midwifery practice as defined under section
10.19 148G.03, subdivision 5;

10.20 (21) making a false statement or knowingly providing false information to the board,
10.21 failing to make reports as required by section 148G.13, or failing to cooperate with an
10.22 investigation of the board as required by section 148G.15;

10.23 (22) engaging in false, fraudulent, deceptive, or misleading advertising;

10.24 (23) failure to inform the board of the person's certification or recertification status as
10.25 a certified midwife;

10.26 (24) engaging in certified midwifery practice without a license and current certification
10.27 or recertification by the American Midwifery Certification Board or any successor
10.28 organization;

10.29 (25) engaging in conduct that is prohibited under section 145.412; and

10.30 (26) failure to maintain appropriate professional boundaries with a patient. A certified
10.31 midwife must not engage in practices that create an unacceptable risk of patient harm or of
10.32 the impairment of a certified midwife's objectivity or professional judgment. A certified

11.1 midwife must not act or fail to act in a way that, as judged by a reasonable and prudent
11.2 certified midwife, inappropriately encourages the patient to relate to the certified midwife
11.3 outside of the boundaries of the professional relationship, or in a way that interferes with
11.4 the patient's ability to benefit from certified midwife services. A certified midwife must not
11.5 use the professional relationship with a patient, student, supervisee, or intern to further the
11.6 certified midwife's personal, emotional, financial, sexual, religious, political, or business
11.7 benefit or interests.

11.8 Subd. 2. **Conviction of a felony-level criminal sexual offense.** (a) Except as provided
11.9 in paragraph (e), the board must not grant or renew a license to practice certified midwifery
11.10 to any person who has been convicted on or after August 1, 2014, of any of the provisions
11.11 of section 609.342, subdivision 1; 609.343, subdivision 1; 609.344, subdivision 1, paragraphs
11.12 (c) to (o); or 609.345, subdivision 1, paragraphs (c) to (o); or a similar statute in another
11.13 jurisdiction.

11.14 (b) A license to practice certified midwifery is automatically revoked if the licensee is
11.15 convicted of an offense listed in paragraph (a).

11.16 (c) A license to practice certified midwifery that has been denied or revoked under this
11.17 subdivision is not subject to chapter 364.

11.18 (d) For purposes of this subdivision, "conviction" means a plea of guilty, a verdict of
11.19 guilty by a jury, or a finding of guilty by the court, unless the court stays imposition or
11.20 execution of the sentence and final disposition of the case is accomplished at a nonfelony
11.21 level.

11.22 (e) The board may establish criteria whereby an individual convicted of an offense listed
11.23 in paragraph (a) may become licensed provided that the criteria:

11.24 (1) utilize a rebuttable presumption that the applicant is not suitable for licensing;

11.25 (2) provide a standard for overcoming the presumption; and

11.26 (3) require that a minimum of ten years has elapsed since the applicant's sentence was
11.27 discharged.

11.28 (f) The board shall not consider an application under paragraph (e) if the board determines
11.29 that the victim involved in the offense was a patient or a client of the applicant at the time
11.30 of the offense.

11.31 Subd. 3. **Evidence.** In disciplinary actions alleging a violation of subdivision 1, clause
11.32 (3) or (4), or subdivision 2, a copy of the judgment or proceeding under the seal of the court
11.33 administrator or of the administrative agency that entered the same shall be admissible into

12.1 evidence without further authentication and shall constitute prima facie evidence of the
12.2 violation concerned.

12.3 Subd. 4. Examination; access to medical data. (a) If the board has probable cause to
12.4 believe that grounds for disciplinary action exist under subdivision 1, clause (8) or (9), it
12.5 may direct the applicant or certified midwife to submit to a mental or physical examination
12.6 or chemical dependency evaluation. For the purpose of this subdivision, when a certified
12.7 midwife licensed under this chapter is directed in writing by the board to submit to a mental
12.8 or physical examination or chemical dependency evaluation, that person is considered to
12.9 have consented and to have waived all objections to admissibility on the grounds of privilege.
12.10 Failure of the applicant or certified midwife to submit to an examination when directed
12.11 constitutes an admission of the allegations against the applicant or certified midwife, unless
12.12 the failure was due to circumstances beyond the person's control, and the board may enter
12.13 a default and final order without taking testimony or allowing evidence to be presented. A
12.14 certified midwife affected under this paragraph shall, at reasonable intervals, be given an
12.15 opportunity to demonstrate that the competent practice of certified midwifery can be resumed
12.16 with reasonable skill and safety to patients. Neither the record of proceedings nor the orders
12.17 entered by the board in a proceeding under this paragraph may be used against a certified
12.18 midwife in any other proceeding.

12.19 (b) Notwithstanding section 13.384, 144.651, and 595.02, or any other law limiting
12.20 access to medical or other health data, the board may obtain medical data and health records
12.21 relating to a certified midwife or applicant for a license without that person's consent if the
12.22 board has probable cause to believe that grounds for disciplinary action exist under
12.23 subdivision 1, clause (8) or (9). The medical data may be requested from a provider, as
12.24 defined in section 144.291, subdivision 2, paragraph (h); an insurance company; or a
12.25 government agency, including the Department of Human Services. A provider, insurance
12.26 company, or government agency shall comply with any written request of the board under
12.27 this subdivision and is not liable in any action for damages for releasing the data requested
12.28 by the board if the data are released pursuant to a written request under this subdivision
12.29 unless the information is false and the provider giving the information knew, or had reason
12.30 to believe, the information was false. Information obtained under this subdivision is classified
12.31 as private data on individuals as defined in section 13.02.

13.1 Sec. 14. [148G.12] FORMS OF DISCIPLINARY ACTION; AUTOMATIC
13.2 SUSPENSION; TEMPORARY SUSPENSION; REISSUANCE.

13.3 Subdivision 1. Forms of disciplinary action. When the board finds that grounds for
13.4 disciplinary action exist under section 148G.11, it may take one or more of the following
13.5 actions:

13.6 (1) deny the license application or licensure renewal;

13.7 (2) revoke the license;

13.8 (3) suspend the license;

13.9 (4) impose limitations on the certified midwife's practice of certified midwifery including
13.10 but not limited to limitation of scope of practice or the requirement of practice under
13.11 supervision;

13.12 (5) impose conditions on the retention of the license including but not limited to the
13.13 imposition of retraining or rehabilitation requirements or the conditioning of continued
13.14 practice on demonstration of knowledge or skills by appropriate examination, monitoring,
13.15 or other review;

13.16 (6) impose a civil penalty not exceeding \$10,000 for each separate violation. The amount
13.17 of the civil penalty must be fixed so as to deprive the certified midwife of any economic
13.18 advantage gained by reason of the violation charged; to reimburse the board for the cost of
13.19 counsel, investigation, and proceeding; and to discourage repeated violations;

13.20 (7) order the certified midwife to provide unremunerated service;

13.21 (8) censure or reprimand the certified midwife; or

13.22 (9) any other action justified by the facts in the case.

13.23 Subd. 2. Automatic suspension of license. (a) Unless the board orders otherwise, a
13.24 license to practice certified midwifery is automatically suspended if:

13.25 (1) a guardian of a certified midwife is appointed by order of a court under sections
13.26 524.5-101 to 524.5-502;

13.27 (2) the certified midwife is committed by order of a court under chapter 253B; or

13.28 (3) the certified midwife is determined to be mentally incompetent, mentally ill,
13.29 chemically dependent, or a person dangerous to the public by a court of competent
13.30 jurisdiction within or outside of this state.

14.1 (b) The license remains suspended until the certified midwife is restored to capacity by
14.2 a court and, upon petition by the certified midwife, the suspension is terminated by the
14.3 board after a hearing or upon agreement between the board and the certified midwife.

14.4 Subd. 3. **Temporary suspension of license.** In addition to any other remedy provided
14.5 by law, the board may, through its designated board member under section 214.10,
14.6 subdivision 2, temporarily suspend the license of a certified midwife without a hearing if
14.7 the board finds that there is probable cause to believe the certified midwife has violated a
14.8 statute or rule the board is empowered to enforce and continued practice by the certified
14.9 midwife would create a serious risk of harm to others. The suspension shall take effect upon
14.10 written notice to the certified midwife, served by first-class mail, specifying the statute or
14.11 rule violated. The suspension shall remain in effect until the board issues a temporary stay
14.12 of suspension or a final order in the matter after a hearing or upon agreement between the
14.13 board and the certified midwife. At the time it issues the suspension notice, the board shall
14.14 schedule a disciplinary hearing to be held under the Administrative Procedure Act. The
14.15 certified midwife shall be provided with at least 20 days' notice of any hearing held under
14.16 this subdivision. The hearing shall be scheduled to begin no later than 30 days after the
14.17 issuance of the suspension order.

14.18 Subd. 4. **Reissuance.** The board may reinstate and reissue a license certificate to practice
14.19 certified midwifery, but as a condition may impose any disciplinary or corrective measure
14.20 that it might originally have imposed. Any person whose license has been revoked,
14.21 suspended, or limited may have the license reinstated and a new license issued when, at the
14.22 discretion of the board, the action is warranted, provided that the person shall be required
14.23 by the board to pay the costs of the proceedings resulting in the revocation, suspension, or
14.24 limitation of the license; reinstatement of the license; and the fee for the current licensure
14.25 period. The cost of proceedings shall include but not be limited to the cost paid by the board
14.26 to the Office of Administrative Hearings and the Office of the Attorney General for legal
14.27 and investigative services, the costs of a court reporter and witnesses, reproduction of
14.28 records, board staff time, travel, and expenses, and board members' per diem reimbursements,
14.29 travel costs, and expenses.

14.30 Sec. 15. **[148G.13] REPORTING OBLIGATIONS.**

14.31 Subdivision 1. **Permission to report.** A person who has knowledge of any conduct
14.32 constituting grounds for discipline under section 148G.11 may report the alleged violation
14.33 to the board.

15.1 Subd. 2. **Institutions.** The chief nursing executive or chief administrative officer of any
15.2 hospital, clinic, prepaid medical plan, or other health care institution or organization located
15.3 in this state shall report to the board any action taken by the institution or organization or
15.4 any of its administrators or committees to revoke, suspend, limit, or condition a certified
15.5 midwife's privilege to practice in the institution, or as part of the organization, any denial
15.6 of privileges, any dismissal from employment, or any other disciplinary action. The institution
15.7 or organization shall also report the resignation of any certified midwife before the conclusion
15.8 of any disciplinary proceeding, or before commencement of formal charges, but after the
15.9 certified midwife had knowledge that formal charges were contemplated or in preparation.
15.10 The reporting described by this subdivision is required only if the action pertains to grounds
15.11 for disciplinary action under section 148G.11.

15.12 Subd. 3. **Licensed professionals.** A person licensed by a health-related licensing board
15.13 as defined in section 214.01, subdivision 2, shall report to the board personal knowledge
15.14 of any conduct the person reasonably believes constitutes grounds for disciplinary action
15.15 under section 148G.11 by any certified midwife, including conduct indicating that the
15.16 certified midwife may be incompetent, may have engaged in unprofessional or unethical
15.17 conduct, or may be mentally or physically unable to engage safely in the practice of certified
15.18 midwifery.

15.19 Subd. 4. **Insurers.** (a) By the first day of February, May, August, and November, each
15.20 insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13),
15.21 and providing professional liability insurance to certified midwives shall submit to the board
15.22 a report concerning any certified midwife against whom a malpractice award has been made
15.23 or who has been a party to a settlement. The report must contain at least the following
15.24 information:

15.25 (1) the total number of settlements or awards;

15.26 (2) the date a settlement or award was made;

15.27 (3) the allegations contained in the claim or complaint leading to the settlement or award;

15.28 (4) the dollar amount of each malpractice settlement or award and whether that amount
15.29 was paid as a result of a settlement or of an award; and

15.30 (5) the name and address of the practice of the certified midwife against whom an award
15.31 was made or with whom a settlement was made.

16.1 (b) An insurer shall also report to the board any information it possesses that tends to
16.2 substantiate a charge that a certified midwife may have engaged in conduct in violation of
16.3 this chapter.

16.4 Subd. 5. **Courts.** The court administrator of district court or another court of competent
16.5 jurisdiction shall report to the board any judgment or other determination of the court that
16.6 adjudges or includes a finding that a certified midwife is a person who is mentally ill,
16.7 mentally incompetent, chemically dependent, dangerous to the public, guilty of a felony or
16.8 gross misdemeanor, guilty of a violation of federal or state narcotics laws or controlled
16.9 substances act, guilty of operating a motor vehicle while under the influence of alcohol or
16.10 a controlled substance, or guilty of an abuse or fraud under Medicare or Medicaid, appoints
16.11 a guardian of the certified midwife under sections 524.5-101 to 524.5-502, or commits a
16.12 certified midwife under chapter 253B.

16.13 Subd. 6. **Deadlines; forms.** Reports required by subdivisions 1 to 5 must be submitted
16.14 no later than 30 days after the occurrence of the reportable event or transaction. The board
16.15 may provide forms for the submission of reports required by this section, may require that
16.16 the reports be submitted on the forms provided, and may adopt rules necessary to ensure
16.17 prompt and accurate reporting. The board shall review all reports, including those submitted
16.18 after the deadline.

16.19 Subd. 7. **Failure to report.** Any person, institution, insurer, or organization that fails to
16.20 report as required under subdivisions 1 to 6 shall be subject to civil penalties for failing to
16.21 report as required by law.

16.22 Sec. 16. **[148G.14] IMMUNITY.**

16.23 Subdivision 1. **Reporting.** Any person, health care facility, business, or organization is
16.24 immune from civil liability or criminal prosecution for submitting in good faith a report to
16.25 the board under section 148G.13 or for otherwise reporting in good faith to the board
16.26 violations or alleged violations of this chapter. All such reports are investigative data as
16.27 defined in chapter 13.

16.28 Subd. 2. **Investigation.** (a) Members of the board and persons employed by the board
16.29 or engaged in the investigation of violations and in the preparation and management of
16.30 charges of violations of this chapter on behalf of the board, or persons participating in the
16.31 investigation or testifying regarding charges of violations, are immune from civil liability
16.32 and criminal prosecution for any actions, transactions, or publications in the execution of,
16.33 or relating to, their duties under this chapter.

17.1 (b) Members of the board and persons employed by the board or engaged in maintaining
 17.2 records and making reports regarding adverse health care events are immune from civil
 17.3 liability and criminal prosecution for any actions, transactions, or publications in the
 17.4 execution of, or relating to, their duties under this chapter.

17.5 **Sec. 17. [148G.15] CERTIFIED MIDWIFE COOPERATION.**

17.6 A certified midwife who is the subject of an investigation by or on behalf of the board
 17.7 shall cooperate fully with the investigation. Cooperation includes responding fully and
 17.8 promptly to any question raised by or on behalf of the board relating to the subject of the
 17.9 investigation and providing copies of patient or other records in the certified midwife's
 17.10 possession, as reasonably requested by the board, to assist the board in its investigation and
 17.11 to appear at conferences and hearings scheduled by the board. The board shall pay for copies
 17.12 requested. If the board does not have written consent from a patient permitting access to
 17.13 the patient's records, the certified midwife shall delete any data in the record that identify
 17.14 the patient before providing it to the board. The board shall maintain any records obtained
 17.15 pursuant to this section as investigative data under chapter 13. The certified midwife shall
 17.16 not be excused from giving testimony or producing any documents, books, records, or
 17.17 correspondence on the grounds of self-incrimination, but the testimony or evidence may
 17.18 not be used against the certified midwife in any criminal case.

17.19 **Sec. 18. [148G.16] DISCIPLINARY RECORD ON JUDICIAL REVIEW.**

17.20 Upon judicial review of any board disciplinary action taken under this chapter, the
 17.21 reviewing court shall seal the administrative record, except for the board's final decision,
 17.22 and shall not make the administrative record available to the public.

17.23 **Sec. 19. [148G.17] EXEMPTIONS.**

17.24 The provisions of this chapter shall not prohibit:

17.25 (1) the furnishing of certified midwifery assistance in an emergency;

17.26 (2) the practice of certified midwifery by any legally qualified certified midwife of
 17.27 another state who is employed by the United States government or any bureau, division, or
 17.28 agency thereof while in the discharge of official duties;

17.29 (3) the practice of any profession or occupation licensed by the state, other than certified
 17.30 midwifery, by any person duly licensed to practice the profession or occupation, or the
 17.31 performance by a person of any acts properly coming within the scope of the profession,
 17.32 occupation, or license;

18.1 (4) certified midwifery practice by a student practicing under the supervision of an
18.2 instructor while the student is enrolled in a certified midwifery program approved by the
18.3 American Commission on Midwifery Education; or

18.4 (5) certified midwifery practice by a certified midwife licensed in another state, territory,
18.5 or jurisdiction who is in Minnesota temporarily:

18.6 (i) providing continuing or in-service education;

18.7 (ii) serving as a guest lecturer;

18.8 (iii) presenting at a conference; or

18.9 (iv) teaching didactic content via distance education to a student located in Minnesota
18.10 who is enrolled in a formal, structured course of study, such as a course leading to a higher
18.11 degree in midwifery.

18.12 **Sec. 20. [148G.18] VIOLATIONS; PENALTY.**

18.13 Subdivision 1. **Violations described.** It is unlawful for any person, corporation, firm,
18.14 or association to:

18.15 (1) sell or fraudulently obtain or furnish any certified midwifery diploma, license, or
18.16 record, or aid or abet therein;

18.17 (2) practice certified midwifery under cover of any diploma, permit, license certified
18.18 midwife credential, or record illegally or fraudulently obtained or signed or issued unlawfully
18.19 or under fraudulent representation;

18.20 (3) practice certified midwifery unless the person is duly licensed to do so under this
18.21 chapter;

18.22 (4) use the professional title certified midwife or licensed certified midwife unless duly
18.23 licensed to certified midwifery under this chapter;

18.24 (5) use any abbreviation or other designation tending to imply licensure as a certified
18.25 midwife unless duly licensed to practice certified midwifery under this chapter;

18.26 (6) practice certified midwifery in a manner prohibited by the board in any limitation
18.27 of a license issued under the provisions of this chapter;

18.28 (7) practice certified midwifery during the time a license issued under this section is
18.29 suspended or revoked; or

18.30 (8) knowingly employ persons in the practice of certified midwifery who have not been
18.31 issued a current license to practice as a certified midwife in this state.

19.1 Subd. 2. **Penalty.** Any person, corporation, or association violating any provision of
19.2 subdivision 1 shall be guilty of a gross misdemeanor and shall be punished according to
19.3 law.

19.4 Sec. 21. **[148G.19] UNAUTHORIZED PRACTICE OF MIDWIFERY.**

19.5 The practice of certified midwifery by any person who has not been licensed to practice
19.6 certified midwifery under this chapter, or whose license has been suspended or revoked, or
19.7 whose national certification credential has expired, is hereby declared to be inimical to the
19.8 public health and welfare and to constitute a public nuisance. Upon a complaint being made
19.9 by the board or any prosecuting officer, and upon a proper showing of the facts, the district
19.10 court of the county where such practice occurred may enjoin such acts and practice. Such
19.11 injunction proceeding shall be in addition to, and not in lieu of, all other penalties and
19.12 remedies provided by law.

19.13 Sec. 22. Minnesota Statutes 2019 Supplement, section 151.01, subdivision 23, as amended
19.14 by Laws 2020, chapter 115, article 2, section 19, is amended to read:

19.15 Subd. 23. **Practitioner.** "Practitioner" means a licensed doctor of medicine, licensed
19.16 doctor of osteopathic medicine duly licensed to practice medicine, licensed doctor of
19.17 dentistry, licensed doctor of optometry, licensed podiatrist, licensed veterinarian, licensed
19.18 advanced practice registered nurse, licensed certified midwife, or licensed physician assistant.
19.19 For purposes of sections 151.15, subdivision 4; 151.211, subdivision 3; 151.252, subdivision
19.20 3; 151.37, subdivision 2, paragraph (b); and 151.461, "practitioner" also means a dental
19.21 therapist authorized to dispense and administer under chapter 150A. For purposes of sections
19.22 151.252, subdivision 3, and 151.461, "practitioner" also means a pharmacist authorized to
19.23 prescribe self-administered hormonal contraceptives, nicotine replacement medications, or
19.24 opiate antagonists under section 151.37, subdivision 14, 15, or 16.