

1 **NURSE MIDWIFE PRACTICE ACT AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Derek E. Brown**

5 Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

7 **General Description:**

8 This bill amends provisions of the Nurse Midwife Practice Act.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ amends provisions related to a practice plan with a consulting physician;
- 12 ▶ amends the definition of practice as a certified nurse midwife; and
- 13 ▶ amends the unprofessional conduct provisions.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **58-44a-102**, as last amended by Laws of Utah 2008, Chapter 382

21 **58-44a-502**, as enacted by Laws of Utah 1998, Chapter 288

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*Be it enacted by the Legislature of the state of Utah:*

23 Section 1. Section **58-44a-102** is amended to read:

24 **58-44a-102. Definitions.**

25 In addition to the definitions in Section 58-1-102, as used in this chapter:



28 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or  
29 omissions determined to constitute unprofessional or unlawful conduct in accordance with a  
30 fine schedule established by rule and as a result of an adjudicative proceeding conducted in  
31 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

32 (2) "Board" means the Certified Nurse Midwife Board created in Section 58-44a-201.

33 (3) "Consultation and Referral Plan" means a written plan jointly developed by a  
34 certified nurse midwife, as defined in Subsection (6), and a consulting physician that permits  
35 the certified nurse midwife to prescribe schedule II-III controlled substances in consultation  
36 with the consulting physician.

37 (4) "Consulting physician" means a physician and surgeon or osteopathic physician:

38 (a) ~~[licensed]~~ with an unrestricted license as a physician;

39 (b) qualified by education, training, and current practice in obstetrics, gynecology, or  
40 both to act as a consulting physician to a nurse midwife practicing under this chapter and  
41 providing intrapartum care or prescribing Schedule II-III controlled substances; and

42 (c) who has agreed ~~[under a practice plan]~~ to be available to consult with a nurse  
43 midwife, which ~~[plan]~~;

44 (i) does not include the consulting ~~[physician's]~~ physician being present at the time or  
45 place the nurse midwife is engaged in practice~~[-]~~; and

46 (ii) does not require the nurse midwife to obtain the consulting physician's signature.

47 (5) "Individual" means a natural person.

48 (6) "Intrapartum referral plan":

49 (a) means a written plan prepared by a nurse midwife describing the guidelines under  
50 which the nurse midwife will consult with a consulting physician, collaborate with a consulting  
51 physician, and refer patients to a consulting physician; and

52 (b) does not require the nurse midwife to obtain the signature of a physician on the  
53 intrapartum referral plan.

54 ~~[(6)]~~ (7) "Nurse midwife" means a person licensed under this chapter to engage in  
55 practice as a certified nurse midwife.

56 ~~[(7)]~~ (8) "Physician" means a physician and surgeon or osteopathic surgeon licensed  
57 under ~~[Title 58;]~~ Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic  
58 Medical Practice Act.

59            [(8)] (9) "Practice as a certified nurse midwife" means:

60            (a) practice as a registered nurse as defined in Section 58-31b-102, and as consistent  
61 with the education, training, experience, and current competency of the licensee; ~~[and]~~

62            (b) practice of nursing within the generally recognized scope and standards of nurse  
63 midwifery as defined by rule and consistent with professionally recognized preparations and  
64 educational standards of a certified nurse midwife by a person licensed under this chapter,  
65 which practice includes ~~[the authority to]~~:

66            (i) having a written safe mechanism for obtaining medical consultation, collaboration,  
67 and referral with one or more consulting physicians who have agreed to consult, collaborate  
68 and receive referrals, but who are not required to sign a written document regarding the  
69 agreement;

70            (ii) providing a patient with information regarding referral to other health care  
71 providers and health care services when requested or when care is not within the scope of  
72 practice of a certified nurse midwife; and

73            (iii) maintaining written documentation of the parameters of service for independent  
74 and collaborative midwifery management and transfer of care when needed; and

75            (c) the authority to:

76            (i) elicit and record a patient's complete health information, including physical  
77 examination, history, and laboratory findings commonly used in providing obstetrical,  
78 gynecological, and well infant services to a patient;

79            (ii) assess findings and upon abnormal findings from the history, physical examination,  
80 or laboratory findings, manage the treatment of the patient, collaborate with the consulting  
81 physician or another qualified physician, or refer the patient to the consulting physician or to  
82 another qualified physician as appropriate;

83            (iii) diagnose, plan, and implement appropriate patient care, including the  
84 administration and prescribing of:

85            (A) prescription drugs;

86            (B) schedule IV-V controlled substances; and

87            (C) schedule II-III controlled substances in accordance with a consultation and referral  
88 plan;

89            (iv) evaluate the results of patient care;

- 90 (v) consult as is appropriate regarding patient care and the results of patient care;
- 91 (vi) manage the intrapartum period according to accepted standards of nurse midwifery
- 92 practice and a written [~~practice and referral plan~~] intrapartum referral plan, including
- 93 performance of routine episiotomy and repairs, and administration of anesthesia, including
- 94 local, pudendal, or paracervical block anesthesia, but not including general anesthesia and
- 95 major conduction anesthesia;
- 96 (vii) manage the postpartum period;
- 97 (viii) provide gynecological services;
- 98 (ix) provide noncomplicated newborn and infant care to the age of one year; and
- 99 (x) represent or hold oneself out as a certified nurse midwife, or nurse midwife, or use
- 100 the title certified nurse midwife, nurse midwife, or the initials C.N.M., N.M., or R.N.

101 [~~(9) "Practice and referral plan" means a written plan entered into with a consulting~~  
102 ~~physician and detailing guidelines by which a certified nurse midwife consults, collaborates,~~  
103 ~~and refers patients.]~~

- 104 (10) "Unlawful conduct" is defined in Sections 58-1-501 and 58-44a-501.
- 105 (11) "Unlicensed assistive personnel" means any unlicensed person, regardless of title,
- 106 to whom tasks are delegated by a licensed certified nurse midwife in accordance with the
- 107 standards of the profession as defined by rule.
- 108 (12) "Unprofessional conduct" is defined in Sections 58-1-501 and 58-44a-502 and as
- 109 may be further defined by rule.

110 Section 2. Section **58-44a-502** is amended to read:

111 **58-44a-502. Unprofessional conduct.**

112 "Unprofessional conduct" includes:

- 113 (1) disregard for a patient's dignity or right to privacy as to his person, condition,
- 114 possessions, or medical record;
- 115 (2) engaging in an act, practice, or omission which when considered with the duties
- 116 and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or
- 117 welfare of a patient or the public;
- 118 (3) failure to confine one's practice as a certified nurse midwife to those acts or
- 119 practices permitted by law;
- 120 (4) failure to file or record any medical report as required by law, impeding or

121 obstructing the filing or recording of such a report, or inducing another to fail to file or record  
122 such a report;

123 (5) breach of a statutory, common law, regulatory, or ethical requirement of  
124 confidentiality with respect to a person who is a patient, unless ordered by the court;

125 (6) failure to pay a penalty imposed by the division; [~~and~~]

126 (7) prescribing a schedule II-III controlled substance without a consulting physician[-];

127 and

128 (8) (a) failure to have and maintain a safe mechanism for obtaining medical

129 consultation, collaboration and referral with a consulting physician; or

130 (b) representing to another that the certified nurse midwife is in compliance with

131 Subsection (8)(a) when the certified nurse midwife is not in compliance with Subsection (8)(a).

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**Legislative Review Note**

as of 2-3-12 9:33 AM

**Office of Legislative Research and General Counsel**