

SENATE FILE NO. SF0048

Licensure of midwives.

Sponsored by: Senator(s) Johnson and Scott and  
Representative(s) Davison, Edmonds, Harvey  
and Shepperson

A BILL

for

1 AN ACT relating to professions and occupations; creating a  
2 board of midwifery; specifying membership; specifying  
3 duties and powers; providing for licensure of midwives;  
4 specifying requirements for licensure; providing  
5 exceptions; granting rulemaking authority; providing  
6 definitions; specifying grounds for denial, suspension or  
7 revocation of license; providing for appeals; providing  
8 penalties; providing for criminal background checks of  
9 applicants for licensure; authorizing limited  
10 administration of prescription drugs by midwives; providing  
11 an appropriation; specifying immunity of others for actions  
12 of a midwife; requiring reports from midwives; requiring  
13 periodic program assessment; and providing for effective  
14 dates.

15

16 *Be It Enacted by the Legislature of the State of Wyoming:*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**Section 1.** W.S. 33-46-101 through 33-46-108 are created to read:

CHAPTER 46  
MIDWIVES LICENSURE ACT

**33-46-101. Short title.**

This act shall be known and may be cited as the "Midwives Licensure Act".

**33-46-102. Definitions.**

(a) As used in this act:

(i) "Board" means the board of midwifery;

(ii) "Midwife" means any person who provides primary prenatal, intrapartum and postpartum care by affirmative act or conduct to women and newborns during the childbearing cycle;

1           (iii) "Midwifery" or "practice of midwifery"  
2 means providing primary maternity care that is consistent  
3 with a midwife's training, education and experience to  
4 women and their newborn children throughout the  
5 childbearing cycle, and includes identifying and referring  
6 women or their newborn children who require medical care to  
7 an appropriate health professional;

8

9           (iv) "This act" means W.S. 33-46-101 through  
10 33-46-108.

11

12           **33-46-103. Board of midwifery.**

13

14           (a) The board of midwifery is established. The board  
15 shall regulate the practice of midwifery in the state to  
16 ensure the safety of women and newborn children receiving  
17 care from midwives.

18

19           (b) The board shall license as a midwife any person  
20 who applies in the manner prescribed by the board in rules  
21 and regulations and who:

22

23           (i) Pays the fees established by the board  
24 pursuant to this act;

1

2           (ii) Has graduated from a midwifery education  
3 program accredited by the midwifery education accreditation  
4 council, or a similar successor organization, or has five  
5 (5) years experience practicing as a licensed or certified  
6 midwife in another state;

7

8           (iii) Provides proof of current certification as  
9 a certified professional midwife by the North American  
10 registry of midwives or its successor organization;

11

12           (iv) Has completed a practicum or course of  
13 practical experience meeting the requirements established  
14 by rule and regulation of the board;

15

16           (v) Has provided the board with evidence of  
17 successful completion of board approved courses in the  
18 treatment of respiratory distress in newborns,  
19 pharmacology, the treatment of shock, intravenous therapy  
20 and suturing specific to midwives. The board may accept  
21 graduation from an accredited program as provided by  
22 paragraph (ii) of this subsection as satisfying this  
23 requirement if those programs adequately cover these  
24 subjects;

1

2 (vi) Has provided the board fingerprints and  
3 other information necessary for a criminal history record  
4 background check as provided under W.S. 7-19-201;

5

6 (vii) Has successfully completed a personal  
7 interview with the board, if the board deems an interview  
8 appropriate in general or in a specific case;

9

10 (viii) Has not provided materially false or  
11 misleading information to the board;

12

13 (ix) Has not been convicted of a crime which in  
14 the judgment of the board renders the person unfit to  
15 practice midwifery.

16

17 (c) The board may by endorsement license any person  
18 as a midwife who applies in the manner prescribed by the  
19 board and who:

20

21 (i) Pays the fees established by the board  
22 pursuant to this act;

23

1           (ii) Is currently licensed or certified by any  
2 state with requirements at least as stringent as this state  
3 and is in good standing in that state;

4  
5           (iii) Has successfully completed a personal  
6 interview with the board if the board deems an interview  
7 appropriate in general or in a specific case;

8  
9           (iv) Has provided the board fingerprints and  
10 other information necessary for a criminal history record  
11 background check as provided under W.S. 7-19-201;

12  
13           (v) Has not provided materially false or  
14 misleading information to the board;

15  
16           (vi) Has not been convicted of a crime which in  
17 the judgment of the board renders the person unfit to  
18 practice midwifery;

19  
20           (vii) Has not been sanctioned in another state  
21 without resolution satisfactory to the board.

22  
23           (d) The period of licensure shall be two (2) years  
24 and the board shall renew the license upon application,

1 payment of fees and completion of any required continuing  
2 education, absent cause to take action pursuant to  
3 subsection (e) of this section.

4

5 (e) The board may revoke, suspend or condition the  
6 license of a midwife or require the midwife to practice for  
7 a time under the supervision of a person licensed under the  
8 Medical Practice Act, a certified nurse midwife or another  
9 midwife as appropriate if the board finds the midwife has  
10 committed any one (1) or more of the following:

11

12 (i) Been convicted of a crime which renders the  
13 person unfit to practice midwifery;

14

15 (ii) Violated this act;

16

17 (iii) Abused or neglected women or newborns  
18 under the midwife's care;

19

20 (iv) Failed to refer women or newborn children  
21 in need of care or at risk of needing care beyond the  
22 abilities of the midwife to an appropriate health care  
23 professional in accord with standards of the national  
24 association of certified professional midwives or other

1 national midwife certifying agency established for such  
2 purpose which has been reviewed and approved by the board;

3

4 (v) Provided a level or degree of care  
5 indicating a need for additional training of the midwife or  
6 additional professional supervision of the midwife.

7

8 (f) The board may authorize its chairman or executive  
9 secretary, if any, to issue a provisional license allowing  
10 any of the following:

11

12 (i) Any person eligible for licensure to  
13 practice under the supervision of another midwife, a person  
14 licensed under the Medical Practice Act or a certified  
15 nurse midwife until the board has the opportunity to act on  
16 the person's application for licensure, however this  
17 paragraph shall not apply to any person whose license or  
18 certificate is under revocation, suspension or disciplinary  
19 restriction in another state;

20

21 (ii) Any person undertaking the practicum  
22 required under this act to practice under the supervision  
23 of another midwife, a certified nurse midwife or a person  
24 licensed under the Medical Practice Act;



1

2 (iii) Any person licensed or certified in  
3 another state with requirements at least as stringent as  
4 this state to practice for not more than thirty (30) days  
5 to provide education and instruction in midwifery or to act  
6 as a locum tenens for a midwife licensed under this act.  
7 The board may define by rule and regulation the number of  
8 times during a year a provisional license pursuant to this  
9 paragraph may be issued.

10

11 (g) Unless otherwise provided in this act, hearing  
12 procedures shall be promulgated in accordance with, and a  
13 person aggrieved by a decision of the board may take an  
14 appeal pursuant to, the Wyoming Administrative Procedure  
15 Act.

16

17 (h) The practice of midwifery in Wyoming prior to the  
18 effective date of this act shall not constitute grounds for  
19 the board to deny licensure to or to discipline any person  
20 who otherwise qualifies for licensure under this act.

21

22 (j) The board shall make, adopt, amend, repeal and  
23 enforce reasonable rules and regulations necessary for the

1 proper administration and enforcement of this act. The  
2 rules adopted by the board shall:

3

4 (i) Develop uniform and reasonable scope of  
5 practice standards for midwifery consistent with W.S.  
6 33-46-102(a)(ii) and (iii), which shall, at a minimum:

7

8 (A) Prohibit a licensed midwife from  
9 providing care for a client with any one (1) or more of the  
10 following pregnancy disorders, diagnoses, conditions or  
11 symptoms:

12

13 (I) Placental abnormality;

14

15 (II) Multiple gestation;

16

17 (III) Noncephalic presentation at the  
18 onset of labor or rupture of membranes, whichever occurs  
19 first;

20

21 (IV) Birth under thirty-seven (37)  
22 weeks or after forty-two (42) weeks gestational age;

23

1 (V) A history of more than one (1)  
2 prior cesarean section with no prior vaginal delivery, a  
3 cesarean section with eighteen (18) months of the current  
4 delivery or any cesarean section that was surgically closed  
5 with a classical or vertical incision;

6

7 (VI) Rhesus factor or other blood  
8 group or platelet sensitization, hematological disorders or  
9 coagulation disorders;

10

11 (VII) Preeclampsia;

12

13 (VIII) Cervical insufficiency or a  
14 history of cervical insufficiency.

15

16 (B) Prohibit a licensed midwife from  
17 providing care for a client with a history of any one (1)  
18 or more of the following disorders, diagnoses, conditions  
19 or symptoms unless the disorder, diagnosis, condition or  
20 symptom is being treated, monitored or managed by a  
21 physician licensed under the Medical Practice Act:

22

23 (I) Diabetes;

24

1 (II) Thyroid disease;

2

3 (III) Epilepsy;

4

5 (IV) Hypertension;

6

7 (V) Cardiac disease;

8

9 (VI) Pulmonary disease;

10

11 (VII) Renal disease;

12

13 (VIII) Previous major surgery of the  
14 pulmonary system, cardiovascular system, urinary tract or  
15 gastrointestinal tract;

16

17 (IX) Hepatitis.

18

19 (C) Require a licensed midwife to recommend  
20 that a client see a physician licensed under the Medical  
21 Practice Act and to document and maintain a record if the  
22 client has a history of any one (1) or more of the  
23 following disorders, diagnoses, conditions or symptoms:

24

1 (I) Previous complicated pregnancy;

2

3 (II) Previous cesarean section;

4

5 (III) Previous pregnancy loss in  
6 second or third trimester;

7

8 (IV) Previous spontaneous premature  
9 labor;

10

11 (V) Previous preterm rupture of  
12 membranes;

13

14 (VI) Previous preeclampsia;

15

16 (VII) Previous hypertensive disease of  
17 pregnancy;

18

19 (VIII) Prior infection with parvo  
20 virus, toxoplasmosis, cytomegalovirus or herpes simplex  
21 virus;

22

23 (IX) Previous newborn group B  
24 streptococcus infection;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

(X) A body mass index of thirty-five (35) or higher at the time of conception;

(XI) Underlying family genetic disorders with potential for transmission;

(XII) Psychiatric illness.

(D) Require a licensed midwife to facilitate the immediate transfer to a hospital for emergency care any one (1) or more of the following disorders, diagnoses, conditions or symptoms:

(I) Maternal fever in labor;

(II) Suggestion of fetal jeopardy such as significant bleeding, thick meconium or abnormal fetal heart tones without delivery imminent;

(III) Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first;

1 (IV) Second stage of labor longer than  
2 two (2) hours without adequate progress;

3

4 (V) Current spontaneous premature  
5 labor;

6

7 (VI) Current preterm premature rupture  
8 of membranes;

9

10 (VII) Current preeclampsia;

11

12 (VIII) Current hypertensive disease of  
13 pregnancy;

14

15 (IX) Continuous uncontrolled bleeding;

16

17 (X) Bleeding which necessitates the  
18 administration of more than two (2) doses of oxytocin or  
19 other antihemorrhagic agent;

20

21 (XI) Delivery injuries to the bladder  
22 or bowel;

23

24 (XII) Seizures;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

(XIII) Uncontrolled vomiting;

(XIV) Coughing or vomiting of blood;

(XV) Severe chest pain;

(XVI) Sudden onset of shortness of breath and associate labored breathing.

(E) Require that a licensed midwife recommend to the client that two (2) providers trained in neonatal resuscitation program be present at delivery;

(F) Require a licensed midwife to maintain records of all care provided to clients.

(ii) Develop a protocol for written informed consent to treatment, which shall include all of the following:

(A) The licensed midwife's experience and training;



1 (B) Instructions for obtaining a copy of  
2 rules adopted by the board pursuant to this act;

3

4 (C) Instructions for obtaining a copy of  
5 documents adopted by the national association of certified  
6 professional midwives that identify the nature of and  
7 standards of practice for responsible midwifery practice;

8

9 (D) Instructions for filing complaints with  
10 the board;

11

12 (E) Notice of the type and liability limits  
13 of professional or personal liability insurance maintained  
14 by the midwife or notice that the midwife does not carry  
15 liability insurance;

16

17 (F) A written protocol for emergencies that  
18 is specific for each individual client, including the  
19 following provisions:

20

21 (I) Transport to a hospital in an  
22 emergency;

23

1                   (II) Notification of the hospital to  
2 which a client will be transferred upon initiation of the  
3 transfer;

4  
5                   (III) Accompaniment of the client to  
6 the hospital by the midwife, if feasible, or telephone  
7 notice to the hospital if the midwife is unable to be  
8 present personally;

9  
10                  (IV) Transmission of the client's  
11 record to the hospital, including the client's name,  
12 address, list of known medical conditions, list of  
13 prescription or over the counter medications regularly  
14 taken, history of previous allergic reactions to  
15 medications, the client's current medical condition, if  
16 feasible, and description of the care provided by the  
17 midwife;

18  
19                  (V) Next of kin contact information.

20  
21                  (G) A description of the procedures,  
22 benefits and risks of home birth, primarily those  
23 conditions that may arise during delivery;

24

1                   (H) Any other information required by board  
2 rule.

3

4                   (iii) Define a protocol for the use of those  
5 drugs approved by the board for administration to mothers  
6 and babies. The protocol shall include amounts and methods  
7 of obtaining, storing and disposing of approved drugs,  
8 indications for usage, dosage, route of administration and  
9 duration of treatment;

10

11                   (iv) Define a protocol for management of  
12 newborns which shall at a minimum include immediate  
13 management of respiratory distress or other serious or  
14 potentially serious illness in the newborn, ensuring  
15 compliance with the newborn screening requirements of W.S.  
16 35-4-801 and ensuring compliance with the relevant portions  
17 of vital records reporting pursuant to W.S. 35-1-401  
18 through 35-1-431;

19

20                   (v) Define a protocol for medical waste  
21 disposal;

22

23                   (vi) Require midwives to report outcomes to the  
24 board after each birth.

1

2 (k) Rules adopted by the board shall not:

3

4 (i) Require a licensed midwife to have a nursing  
5 degree or diploma;

6

7 (ii) Except as authorized by subsection (f) of  
8 this section or as a condition imposed as a disciplinary  
9 measure pursuant to W.S. 33-46-103(e), require a licensed  
10 midwife to practice midwifery under the supervision of  
11 another health care provider;

12

13 (iii) Except as a condition imposed as a  
14 disciplinary measure pursuant to W.S. 33-46-103(e), require  
15 a licensed midwife to enter into an agreement, written or  
16 otherwise, with another health care provider;

17

18 (iv) Limit the location where a licensed midwife  
19 may practice midwifery;

20

21 (v) Allow a licensed midwife to use vacuum  
22 extraction or forceps as an aid in the delivery of a  
23 newborn;

24

1           (vi) Grant a licensed midwife prescriptive  
2 privilege, except as provided in the protocol established  
3 pursuant to W.S. 33-46-103(j)(iii);

4

5           (vii) Allow a licensed midwife to perform  
6 abortions.

7

8           (m) At no less than five (5) year intervals, the  
9 board shall examine the reports provided under paragraph  
10 (j)(v) of this section to assess the efficacy of the  
11 program.

12

13           **33-46-104. Board membership and organization.**

14

15           (a) The board shall consist of seven (7) members  
16 appointed by the governor including four (4) certified  
17 professional midwives, one (1) certified nurse midwife, one  
18 (1) physician licensed under the Medical Practice Act who  
19 is board certified in either obstetrics and gynecology or  
20 family medicine and who has experience in primary maternity  
21 care and one (1) consumer of midwifery care. The governor  
22 shall have the authority to appoint to the board qualified  
23 midwives licensed or certified in another state.

24

1           (b) The initial appointments shall be for staggered  
2 terms with three (3) members being appointed for two (2)  
3 year terms, three (3) members being appointed for three (3)  
4 year terms and one (1) member being appointed for a four  
5 (4) year term. Thereafter, members shall be appointed for  
6 four (4) year terms. Vacancies shall be filled in the same  
7 manner as original appointments.

8

9           (c) The board shall elect a chairman and a vice  
10 chairman from among its membership. A majority of the  
11 board shall constitute a quorum. The meetings of the board  
12 shall be held at the call of the chairman or whenever a  
13 majority of the board members request and shall be held at  
14 least three (3) times per year.

15

16           (d) The attorney general shall provide legal counsel  
17 as necessary for the board and shall do so without charge  
18 until July 1, 2010 to assist the board in its organization  
19 and promulgation of initial rules.

20

21           **33-46-105. Prohibited acts and exceptions.**

22

23           (a) Unless licensed pursuant to this act, no person  
24 shall practice midwifery or hold himself out to be a

1 midwife, a licensed midwife or a certified professional  
2 midwife except that a certified nurse midwife may hold  
3 himself out to be a midwife.

4

5 (b) The following shall not be considered to be  
6 practicing midwifery under this act:

7

8 (i) Any person rendering aid to a woman  
9 delivering a baby in the case of an emergency;

10

11 (ii) Any family member assisting a woman  
12 delivering a baby;

13

14 (iii) Any person recommending or referring a  
15 woman to medical care or a specific health care  
16 practitioner;

17

18 (iv) Any person licensed under another chapter  
19 of this title while practicing within the scope of the  
20 license.

21

22 **33-46-106. Penalties.**

23

1 Any person violating any provision of this act is guilty of  
2 a misdemeanor punishable by a fine of not more than one  
3 thousand dollars (\$1,000.00), imprisonment for not more  
4 than one (1) year, or both.

5

6 **33-46-107. Immunity.**

7

8 (a) No person other than the licensed midwife who  
9 provided care to the patient shall be liable for the  
10 midwife's negligent, grossly negligent or willful and  
11 wanton acts or omissions.

12

13 (b) No hospital, person licensed under the Medical  
14 Practice Act, nurse, prehospital emergency medical  
15 personnel or any of their agents shall be liable for care  
16 provided to a woman or newborn child subsequent to care  
17 provided by a midwife whose care was negligent, grossly  
18 negligent or willful and wanton in acts or omissions,  
19 except that any hospital, person licensed under the Medical  
20 Practice Act, nurse, prehospital emergency medical  
21 personnel or any of their agents shall remain liable as  
22 otherwise provided by law for his or its own actions which  
23 are independent of the actions and omissions of the  
24 midwife.



1

2 (c) No person licensed under the Medical Practice  
3 Act, nurse or hospital in which they practice shall be  
4 liable for any failures of a midwife to meet any standard  
5 of care for patients on which they provide consultation to  
6 a midwife or accept a referral from the midwife but shall  
7 remain liable as otherwise provided by law for his or its  
8 own actions.

9

10 (d) For purposes of this section, "midwife" means the  
11 licensed midwife who provided care to the patient and any  
12 employer under whose authority the midwife provided that  
13 care.

14

15 **33-46-108. Fees.**

16

17 The board shall establish fees as necessary to provide for  
18 the administration of this act, including establishment of  
19 a reasonable working capital contingency fund. The board  
20 may establish fees for licensure, renewal of licenses, late  
21 applications, provisional licensure and per delivery fees  
22 for midwives conducting deliveries. Any per delivery fee  
23 established by the board shall not exceed fifty dollars  
24 (\$50.00) and shall be forwarded to the board at the

1 interval specified by board rules and regulations. The  
2 fees shall be deposited and managed in the same manner as  
3 other fees collected pursuant to this act.

4

5 **Section 2.** W.S. 7-19-106(a) by creating a new  
6 paragraph (xxiv), 7-19-201(a) by creating a new paragraph  
7 (xix) and 33-24-129 are amended to read:

8

9 **7-19-106. Access to, and dissemination of,**  
10 **information.**

11

12 (a) Criminal history record information shall be  
13 disseminated by criminal justice agencies in this state,  
14 whether directly or through any intermediary, only to:

15

16 (xxiv) The board of midwifery for purposes of  
17 obtaining background information on applicants for  
18 licensure by the board whose application or other  
19 information received by the board indicates the applicant  
20 has or may have been convicted of a crime, and for purposes  
21 of investigation of complaints and disciplinary action  
22 against licensees of the board.

23

1           **7-19-201. State or national criminal history record**  
2 **information.**

3

4           (a) The following persons shall be required to submit  
5 to fingerprinting in order to obtain state and national  
6 criminal history record information:

7

8                   (xix) All persons applying for licensure to the  
9 Wyoming board of midwifery whose application or other  
10 information received by the board indicates that the  
11 applicant has or may have been convicted of a crime, and  
12 any licensee of the board of midwifery upon written request  
13 from the board of midwifery as part of an ongoing  
14 investigation of or disciplinary action against the  
15 licensee.

16

17           **33-24-129. Exempted professions.**

18

19 This act does not apply to physicians, dentists,  
20 veterinarians, podiatrists, optometrists, ~~or~~ osteopaths or  
21 midwives licensed by law to practice their professions  
22 within this state or to other persons authorized by federal  
23 law and state law to treat sick and injured persons in

1 Wyoming and to use controlled substances in the course of  
2 treatment.

3

4       **Section 3.** There is appropriated twenty thousand  
5 dollars (\$20,000.00) from the general fund to the  
6 department of administration and information. This  
7 appropriation shall be for the period beginning with the  
8 effective date of this section and ending June 30, 2011.  
9 This appropriation shall only be expended for the purpose  
10 of providing necessary support and executive secretary  
11 services for the board of midwifery as created under  
12 section 1 of this act. Notwithstanding any other provision  
13 of law, this appropriation shall not be transferred or  
14 expended for any other purpose and any unexpended,  
15 unobligated funds remaining from this appropriation shall  
16 revert as provided by law on June 30, 2011. The board  
17 shall submit a supplemental budget request for the fiscal  
18 year beginning July 1, 2011 and standard budget requests  
19 for subsequent biennia through the normal budget process.

20

21       **Section 4.**

22

23       (a) Except as provided in subsection (b) of this  
24 section, this act is effective July 1, 2010.

1

2 (b) W.S. 33-46-103(a) and 33-46-104 created by this  
3 act and sections 2 and 3 of this act are effective  
4 immediately upon completion of all acts necessary for a  
5 bill to become law as provided by Article 4, Section 8 of  
6 the Wyoming Constitution. The board of midwifery may  
7 immediately commence drafting and adoption of rules and  
8 regulations for the implementation of this act and may  
9 immediately accept applications for midwife licenses to be  
10 issued on or after July 1, 2010.

11

12

(END)