

ENROLLED ACT NO. 43, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING  
2010 BUDGET SESSION

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

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

**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;

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(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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The period of licensure shall be two (2) years and the board shall renew the license upon application, payment of fees and completion of any required continuing education, absent cause to take action pursuant to subsection (e) of this section.

(e) The board may revoke, suspend or condition the license of a midwife or require the midwife to practice for a time under the supervision of a person licensed under the Medical Practice Act, a certified nurse midwife or another

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midwife as appropriate if the board finds the midwife has committed any one (1) or more of the following:

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

(ii) Violated this act;

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

(iv) Failed to refer women or newborn children in need of care or at risk of needing care beyond the abilities of the midwife to an appropriate health care professional in accord with standards of the national association of certified professional midwives or other national midwife certifying agency established for such purpose which has been reviewed and approved by the board;

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

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

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

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

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

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

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

(j) The board shall make, adopt, amend, repeal and enforce reasonable rules and regulations necessary for the proper administration and enforcement of this act. The rules adopted by the board shall:

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

(A) Prohibit a licensed midwife from providing care for a client with any one (1) or more of the

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following pregnancy disorders, diagnoses, conditions or symptoms:

(I) Placental abnormality;

(II) Multiple gestation;

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

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

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

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

(VII) Preeclampsia;

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

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

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(I) Diabetes;

(II) Thyroid disease;

(III) Epilepsy;

(IV) Hypertension;

(V) Cardiac disease;

(VI) Pulmonary disease;

(VII) Renal disease;

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

(IX) Hepatitis.

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

(I) Previous complicated pregnancy;

(II) Previous cesarean section;

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

(IV) Previous spontaneous premature labor;



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(V) Previous preterm rupture of  
membranes;

(VI) Previous preeclampsia;

(VII) Previous hypertensive disease of  
pregnancy;

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

(IX) Previous newborn group B  
streptococcus infection;

(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, a client with 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;

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

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

(V) Current spontaneous premature labor;

(VI) Current preterm premature rupture of membranes;

(VII) Current preeclampsia;

(VIII) Current hypertensive disease of pregnancy;

(IX) Continuous uncontrolled bleeding;

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

(XI) Delivery injuries to the bladder or bowel;

(XII) Seizures;

(XIII) Uncontrolled vomiting;

(XIV) Coughing or vomiting of blood;

(XV) Severe chest pain;

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(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;

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

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

(D) Instructions for filing complaints with the board;

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

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

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(I) Transport to a hospital in an emergency;

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

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

(IV) Transmission of the client's record to the hospital, including the client's name, address, list of known medical conditions, list of prescription or over the counter medications regularly taken, history of previous allergic reactions to medications, the client's current medical condition and description of the care provided by the midwife;

(V) Next of kin contact information.

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

(H) Any other information required by board rule.

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

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

(v) Define a protocol for medical waste disposal;

(vi) Require midwives to report outcomes of all clients for which the midwife provided services at any point during labor or delivery to the board after each birth.

(k) Rules adopted by the board shall not:

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

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

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

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

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

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

(vii) Allow a licensed midwife to perform abortions.

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

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

(a) The board shall consist of seven (7) members appointed by the governor including four (4) certified professional midwives, one (1) certified nurse midwife, one (1) physician licensed under the Medical Practice Act who is board certified in either obstetrics and gynecology or family medicine and who has experience in primary maternity care and one (1) consumer of midwifery care. The governor shall have the authority to appoint to the board qualified midwives licensed or certified in another state provided any person appointed becomes licensed in Wyoming within one (1) year of appointment.

(b) The initial appointments shall be for staggered terms with three (3) members being appointed for two (2) year terms, three (3) members being appointed for three (3) year terms and one (1) member being appointed for a four (4) year term. Thereafter, members shall be appointed for

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four (4) year terms. Vacancies shall be filled in the same manner as original appointments.

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

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

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

(a) Unless licensed pursuant to this act, no person shall practice midwifery or hold himself out to be a midwife, a licensed midwife or a certified professional midwife except that a certified nurse midwife may hold himself out to be a midwife.

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

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

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

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

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

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

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

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

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

(b) No hospital, person licensed under the Medical Practice Act, person licensed under the Nurse Practice Act, prehospital emergency medical personnel or any of their agents shall be liable for care provided to a woman or newborn child subsequent to care provided by a midwife, except that any hospital, person licensed under the Medical Practice Act, person licensed under the Nurse Practice Act, prehospital emergency medical personnel or any of their agents shall remain liable as otherwise provided by law for his or its own actions which are independent of the actions and omissions of the midwife.

(c) No person licensed under the Medical Practice Act, person licensed under the Nurse Practice Act or hospital in which they practice shall be liable for any failures of a midwife to meet any standard of care for patients on which they provide consultation to a midwife or



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accept a referral from the midwife but shall remain liable as otherwise provided by law for his or its own actions.

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

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

The board shall establish fees in accordance with W.S. 33-1-201 as necessary to provide for the administration of this act, including establishment of a reasonable working capital contingency fund. The board may establish fees for licensure, renewal of licenses, late applications, provisional licensure and per delivery fees for midwives conducting deliveries. Any per delivery fee established by the board shall not exceed fifty dollars (\$50.00) and shall be forwarded to the board at the interval specified by board rules and regulations. The fees shall be deposited and managed in the same manner as other fees collected pursuant to this act.

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

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

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

(xxiv) The board of midwifery for purposes of obtaining background information on applicants for

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licensure by the board whose application or other information received by the board indicates the applicant has or may have been convicted of a crime, and for purposes of investigation of complaints and disciplinary action against licensees of the board.

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

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

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

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

This act does not apply to physicians, dentists, veterinarians, podiatrists, optometrists, ~~or~~ osteopaths or midwives licensed by law to practice their professions within this state or to other persons authorized by federal law and state law to treat sick and injured persons in Wyoming and to use controlled substances in the course of treatment.

**Section 3.** There is appropriated twenty thousand dollars (\$20,000.00) from the general fund to the department of administration and information. This appropriation shall be for the period beginning with the

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effective date of this section and ending June 30, 2011. This appropriation shall only be expended for the purpose of providing necessary support and executive secretary services for the board of midwifery as created under section 1 of this act. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2011. The board shall submit a supplemental budget request for the fiscal year beginning July 1, 2011 and standard budget requests for subsequent biennia through the normal budget process.

**Section 4.**

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

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk