

SENATE FILE NO. SF0141

Midwives licensure.

Sponsored by: Senator(s) Johnson, Scott and Vasey and  
Representative(s) Brechtel and Mercer

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 an appropriation; and providing for  
9 effective dates.

10

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

12

13 **Section 1.** W.S. 33-45-101 through 33-45-108 are  
14 created to read:

15

16

CHAPTER 45

1 MIDWIVES LICENSURE ACT

2

3 **33-45-101. Short title.**

4

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

7

8 **33-45-102. Definitions.**

9

10 (a) As used in this act:

11

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

13

14 (ii) "Midwife" means any person who provides  
15 primary maternity care by affirmative act or conduct prior  
16 to, during and subsequent to childbirth;

17

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

1

2 (iv) "This act" means W.S. 33-45-101 through  
3 33-45-108.

4

5 **33-45-103. Board of midwifery.**

6

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

11

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

15

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

18

19 (ii) Has graduated from a midwifery education  
20 program accredited by the midwifery education accreditation  
21 council or other recognized and accepted accrediting  
22 agency;

23

1           (iii) Has passed the written examination of the  
2 North American registry of midwives, provided that the  
3 board may by rule and regulation provide for a different  
4 examination if necessary and may define the passing score  
5 necessary for licensure under this act;

6

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

10

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

14

15           (vi) Has not provided materially false or  
16 misleading information to the board;

17

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

21

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

1

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

4

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

8

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

12

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

15

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

1

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

8

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

11

12           (ii) Violated this act;

13

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

16

17           (iv) Failed to refer women or newborn children  
18 in need of care or at risk of needing care beyond the  
19 abilities of the midwife to an appropriate health care  
20 professional;

21

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

1

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

5

6           (i) Any person eligible for licensure to  
7 practice under the supervision of another midwife, a person  
8 licensed under the Medical Practice Act or a certified  
9 nurse midwife until the board has the opportunity to act on  
10 the person's application for licensure;

11

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

16

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

1

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

7

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

12

13 **33-45-104. Board membership and organization.**

14

15 (a) The board shall consist of five (5) members  
16 appointed by the governor including two (2) midwives, one  
17 (1) certified nurse midwife, one (1) registered nurse or  
18 person licensed under the Medical Practice Act and one (1)  
19 member of the public. For the first six (6) years of the  
20 board's existence, the two (2) midwife positions may be  
21 filled by women who have experienced the care of a midwife  
22 rather than by midwives. After six (6) years, the  
23 registered nurse or person licensed under the Medical



1 Practice Act position may be filled by a midwife or a woman  
2 who has experienced the care of a midwife.

3

4 (b) The initial appointments shall be for staggered  
5 terms with two (2) members being appointed for two (2) year  
6 terms, two (2) members being appointed for three (3) year  
7 terms and one (1) member being appointed for a four (4)  
8 year term. Thereafter, members shall be appointed for four  
9 (4) year terms. The remainder of any term to which a  
10 member is appointed to fill a vacancy shall not constitute  
11 a term in determining a member's eligibility for  
12 reappointment. Vacancies shall be filled in the same manner  
13 as original appointments.

14

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

21

22 (d) The attorney general shall provide legal counsel  
23 as necessary for the board and shall do so without charge

1 until July 1, 2010 to assist the board in its organization  
2 and promulgation of initial rules.

3

4 (e) The board shall submit a budget for the 2010-2012  
5 biennium and subsequent biennia through the normal budget  
6 process.

7

8 **33-45-105. Prohibited acts and exceptions.**

9

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

15

16 (b) The following are exempt from this act:

17

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

20

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

23

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

4  
5           (iv) Any person licensed under another chapter  
6 of this title while practicing within the scope of the  
7 license.

8

9           **33-45-106. Penalties.**

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

15

16           **33-45-107. Immunity.**

17

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

21 No hospital, person licensed under the Medical Practice  
22 Act, nurse, prehospital emergency medical personnel or any  
23 of their agents shall be liable for care provided to a  
24 woman or newborn child subsequent to care provided by a

1 midwife whose care was negligent, grossly negligent or  
2 willful and wanton in acts or omissions, except that any  
3 hospital, person licensed under the Medical Practice Act,  
4 nurse, prehospital emergency medical personnel or any of  
5 their agents shall remain liable as otherwise provided by  
6 law for his or its own actions which are independent of the  
7 actions and omissions of the midwife. No person licensed  
8 under the Medical Practice Act, nurse or hospital in which  
9 they practice shall be liable for any failures of a midwife  
10 to meet any standard of care for patients on which they  
11 provide consultation to a midwife or accept a referral from  
12 the midwife but shall remain liable as otherwise provided  
13 by law for his or its own actions.

14

15 **33-45-108. 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 for having a baby  
22 delivered by a midwife. The fee for having a baby  
23 delivered by a midwife shall not exceed fifty dollars  
24 (\$50.00) and shall be collected by the midwife and

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

5  
6 **Section 2.** There is appropriated twenty thousand  
7 dollars (\$20,000.00) from the general fund to the  
8 department of administration and information. This  
9 appropriation shall be for the period beginning with the  
10 effective date of this act and ending June 30, 2010. This  
11 appropriation shall only be expended for the purpose of  
12 providing necessary support and executive secretary  
13 services for the board of midwifery as created under  
14 section 1 of this act. Notwithstanding any other provision  
15 of law, this appropriation shall not be transferred or  
16 expended for any other purpose and any unexpended,  
17 unobligated funds remaining from this appropriation shall  
18 revert as provided by law on June 30, 2010. This  
19 appropriation shall not be included in the department's  
20 2011-2012 standard biennial budget request.

21  
22 **Section 3.**  
23

1           (a) Except as provided in subsection (b) of this  
2 section, this act is effective July 1, 2009.

3

(b) W.S. 33-45-103(a) and 33-45-104 created by this act and section 2 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, 2009.

13

14 (END)