

# HOUSE . . . . . No. 2142

---

---

## The Commonwealth of Massachusetts

PETITION OF:

Kay Khan  
James B. Eldridge  
Charles A. Murphy  
Christine E. Canavan

Anne M. Gobi  
Denise Provost

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO A BOARD OF REGISTRATION IN MIDWIFERY.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Chapter 13 of the General Laws as so appearing in the 2004 Official

Edition, is hereby amended by adding after Section 97, the following new section:

Section 98: There shall be a board of registration in midwifery, herein called the board, established within the Department of Public Health, to consist of eleven members appointed by the Governor. Members of the board shall be residents of the commonwealth, to be appointed by the governor. Three members shall be certified midwives or certified nurse midwives; three members of the Board shall be certified professional midwives; one member shall be a licensed physician with experience collaborating with midwives; one member shall be a nurse who is not a midwife; and three members of the board shall be persons who have never been a midwife and who have no financial interest in the practice of midwifery or in any health care facility, agency or insurer, two of whom must be either (A) a parent with at least one child born with the assistance of a licensed certified midwife, licensed certified nurse midwife or licensed certified professional midwife, or (B) a person who has engaged a licensed

certified midwife, licensed certified nurse midwife or licensed certified professional midwife for other services within the practice of midwifery.

Members shall be appointed for terms of three years. No member shall be appointed to more than two consecutive terms, provided, however, than a member appointed for less than a full term may serve two full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of one or more years. Any member of the board may be removed by the governor for neglect of duty, misconduct, malfeasance or misfeasance in office after being given a written statement of the charges against him and sufficient opportunity to be heard. Upon the death of removal for cause of any member of the board, the governor shall fill such vacancy for the remainder of that member's year.

The board shall, at its first meeting and annually thereafter, elect from among its members a chairperson, a vice-chairperson and secretary and shall meet at the call of such chairperson or upon the request of five or more members of the board. The board shall meet at least four times annually. A quorum shall consist of at least five members present. Board members shall serve without compensation but shall be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

SECTION 2. Chapter 112 of the General Laws as so appearing, is hereby amended by adding after Section 226, the following new sections:

Section 227. As used in this section and sections 228 to 234, inclusive, the following words shall, unless the context otherwise requires, have the following meanings:

"Board", the Board of Registration of Midwifery as established in section 98 of chapter 13.

"Certified Midwife", a person who is certified to practice midwifery by the ACNM Certification Council or the American Midwifery Certification Board.

"Certified Nurse Midwife", a person who is certified to practice midwifery by the ACNM Certification Council or the American College of Nurse-Midwives or the American Midwifery Certification Board.

"Certified Professional Midwife", a person who is certified to practice midwifery by the North American Registry of Midwives.

"Licensed Midwife", any person, other than a licensed physician, who is licensed to practice midwifery as a certified midwife, certified nurse midwife or a certified professional midwife.

"Licensure", authorization and license granted by the Board for a person to engage in the practice of midwifery.

"Midwifery", the provision on a continuing basis of the necessary care, and education to women during pregnancy, labor and the postpartum and interpartum periods; attending deliveries on one's own responsibility; and caring for the newborn infant. Furthermore, midwifery may also include the provision of primary health services to women and their families, which include, but are not limited to, gynecological services. Midwives shall practice within the standards for practice and code of ethics of the appropriate professional organization described in this Section. Midwifery practice occurs within a health care system that provides for consultation and referral as needed.

Section 228. (a) The board shall have the following powers and duties:

To promulgate regulations and adopt such rules as are necessary to regulate the field and practice of midwifery and midwives;

To receive, review, approve or disapprove applications for licensing and to issue licenses;

To establish administrative procedures for processing applications for licenses and license renewals and to hire or appoint such agents as are appropriate for processing applications for licenses and license renewals;

To establish specifications for licensing;

To retain records of its actions and proceedings in accordance with public records laws;

To define by regulation the appropriate standards for education, including, but not limited to, continuing professional education requirements for licensed midwives, which shall be no less stringent than those of the American College of Nurse-Midwives for certified nurse-midwives and certified midwives or the North American Registry of Midwives for certified professional midwives, or their respective successor organizations; and for the conduct and ethics which shall govern the practice of midwifery;

To perform such other functions and duties as may be required to carry out the provisions of this section and sections 228 to 234, inclusive.

Section 229. An application for original license, a license renewal or for the licensing examination shall be made on forms approved by the board and accompanied by the appropriate fee. The fee for original license and renewal shall be determined by the secretary of administration and finance. A fee is nonrefundable, unless otherwise provided by rule. A fee for inactive status, reactivation of an inactive license, or delinquency may not exceed the fee established by the Board for renewal of an active license. An application for original license shall be sworn and shall furnish satisfactory proof that an applicant is at least 18 years old, of good moral character and has met the educational and professional experience requirements prerequisite to sitting for the licensing examination. Requirements for licensing shall include:

(1) successful completion of a midwife education program approved by the board provided that the program has educational standards that are no less stringent than those established by the American College of Nurse Midwives for certified nurse-midwives and certified midwives or the Midwifery Education and Accreditation Council, or successful completion of an education process approved by the North American Registry of Midwives for certified professional midwives, or their respective successor organizations, and provided also that the board shall require continuing education as a condition for license renewals;

(2) passing a written competency examination approved by the board. The examination shall test the applicant's knowledge of basic and clinical sciences as they relate to midwifery and practice and other subjects as the board may deem useful to determine the applicant's fitness to act as a midwife. The board may utilize a national examination that meets the requirements of this section and the maximum number of times an applicant may take the examination is five times. If, after taking the exam for the fifth time, the applicant fails, said applicant may not be licensed as a midwife in the Commonwealth; and

Section 230. The board may, without examination and upon payment of a fee determined annually by the secretary of administration and finance under the provision of section three B of chapter seven, register, and issue a certificate to, a midwife who has been lawfully in practice for at least five years in another state in the preceding five years, if the midwife presents to the board a certificate of registration, and duration of practice, from the board of midwifery or other like board of said state; provided, that such other state shall require a degree of competency equal to that required of applicants in this commonwealth.

Section 231. The board shall keep a record of its proceedings and a roster of all persons licensed by it under sections 228 to 234, inclusive. The roster shall include the licensee name, last known business and residential address, date of licensing and license number.

Section 232. Nothing in sections 228 to 234 inclusive, shall be construed to authorize a midwife to practice medicine or any other form or method of healing not specified in said sections 228 to 234, inclusive.

(a) No person shall hold himself out as a midwife or as being able to practice midwifery in the commonwealth unless he is licensed in accordance with sections 228 to 234, inclusive. No person who is not so licensed may use any words or abbreviations indicating he is a licensed midwife.

(b) Nothing in this section shall be construed to prevent or restrict the practice, service or activities of:

(i) any person licensed in the commonwealth by any other statute from engaging in activities within the scope of practice of the profession or occupation for which he is licensed provided that he does not represent to the public, directly or indirectly, that he is licensed under sections 228 to 234, inclusive, and that he does not use any name, title or designation indicating that the person is licensed under said sections 228 to 234, inclusive;

(ii) any person employed as a midwife by the federal government or an agency thereof if such person provides midwifery services solely under the direction and control of the organization by which he is employed;

(iii) a student enrolled in an education program if midwifery services performed by the student are an integral part of the student's course of study and are performed under the direct supervision of a licensed midwife assigned to supervise the student and who is on duty and immediately available in the assigned patient care area and if the person is designated by a title which clearly indicates his status as a student or trainee.

(iv) It shall not be a violation however if a person attends births without being a licensed midwife, that person receives no compensation for her services, and such attendance is in accordance with such person's religious beliefs and is within a community of persons with similar religious beliefs.

Section 234. The board may deny or refuse to issue a license, renew a license or, after a hearing pursuant to chapter 30A, revoke, suspend or cancel the license or

place on probation, reprimand, censure or otherwise discipline a licensee upon proof satisfactory to a majority of the board that the person:

- Has obtained or attempted to obtain a license by fraud or deception;
- Has been convicted of a felony under state or federal law;
- Has been adjudged mentally ill or incompetent by a court of competent jurisdiction;
- Has used drugs or intoxicating liquors to the extent which adversely affects his practice;
- Has engaged in unethical or unprofessional conduct including, but not limited to, willful acts, negligence or incompetence in the course of professional practice;
- Has violated any lawful order, rule or regulation rendered or adopted by the board;
- Has been disciplined in connection with a license issued by any other state or country;
- Used or attempting to use a license that has been suspended or revoked; or
- Knowingly concealed information relating to the enforcement of this chapter or rules adopted pursuant thereto.

SECTION 3. For a period of five years following the effective date of this bill, the Board shall have the authority and discretion to license applicants who have practiced midwifery prior to the effective date of this bill, and have applied to the North American Registry of Midwives for certification. Such licensure shall terminate automatically two years following the date of licensure unless the applicant has, by such time, successfully passed the certification examination given by the North American Registry of Midwives, or its successor.

SECTION 4. The Department of Public Health, in consultation with the Board of Registration in Midwifery as established under this act, shall promulgate regulations relative to the prescriptive authority for certified nurse midwives and certified midwives, and the privilege of obtaining and administering medications and ordering tests and therapeutics necessary for the scope of practice for a certified nurse midwife, a certified midwife, and a certified professional midwife. Such regulations shall be promulgated no later than 60 days after the effective date of this act. Existing regulations with in the Board of Registration in Nursing relative to the prescriptive and dispensing authority of midwives shall remain in full force and effect until such time the new regulations are effective.

SECTION 5. The board shall promulgate rules and regulations pursuant to this act within 180 days of the effective date of this act. The Board shall issue licenses within 180 days of promulgation of rules and regulations by the board.

SECTION 6. Nothing in this act shall preclude anyone who was practicing midwifery prior to the passage of this act from practicing midwifery in the commonwealth until the board completes the licensure of midwives as required by this act.