

HOUSE No. 2080

The Commonwealth of Massachusetts

PRESENTED BY:
Kay Khan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:
An Act relative to a board of registration in midwifery.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kay Khan	11th Middlesex
Jennifer Benson	37th Middlesex
Lida E. Harkins	13th Norfolk
Alice K. Wolf	25th Middlesex
Ellen Story	3rd Hampshire
Ruth B. Balser	12th Middlesex
Michael F. Rush	10th Suffolk
Stephen L. DiNatale	3rd Worcester
Martha M. Walz	8th Suffolk
Matthew C. Patrick	3rd Barnstable
Stephen Kulik	1st Franklin
Robert P. Spellane	13th Worcester
William N. Brownsberger	24th Middlesex
Carl M. Sciortino, Jr.	34th Middlesex
Jeffrey Sánchez	15th Suffolk
Stephen R. Canessa	12th Bristol
James E. Vallee	10th Norfolk
Charles A. Murphy	21st Middlesex
John W. Scibak	2nd Hampshire
William Smitty Pignatelli	4th Berkshire
Frank I. Smizik	15th Norfolk
Denise Provost	27th Middlesex
Michael J. Moran	18th Suffolk
David P. Linsky	5th Middlesex
Christine E. Canavan	10th Plymouth
John D. Keenan	7th Essex
Robert M. Koczera	11th Bristol
Peter v. Kocot	1st Hampshire
Katherine Clark	32nd Middlesex
Willie Mae Allen	6th Suffolk

Sean Garballey	23rd Middlesex
Cory Atkins	14th Middlesex
Sarah K. Peake	4th Barnstable
Anne M. Gobi	5th Worcester
Todd M. Smola	1st Hampden
Timothy J. Toomey, Jr.	26th Middlesex
Joseph R. Driscoll, Jr.	5th Norfolk
Timothy Madden	Barnstable, Dukes and Nantucket
James B. Eldridge	Middlesex and Worcester
Jennifer L. Flanagan	Worcester and Middlesex
Steven A. Baddour	First Essex
Cynthia Stone Creem	First Middlesex and Norfolk
Richard J. Ross	9th Norfolk
Kevin G. Honan	17th Suffolk
Jennifer M. Callahan	18th Worcester
Gloria L. Fox	7th Suffolk
Benjamin Swan	11th Hampden
Susan C. Tucker	Second Essex and Middlesex
Jeffrey Davis Perry	5th Barnstable
Bruce E. Tarr	First Essex and Middlesex
Robert L. Rice, Jr.	2nd Worcester
Garrett J. Bradley	3rd Plymouth
Paul McMurtry	11th Norfolk
Viriato Manuel deMacedo	1st Plymouth
Timothy Madden	Barnstable, Dukes and Nantucket
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Richard R. Tisei	Middlesex and Essex
Sonia Chang-Díaz	Second Suffolk
Susan C. Fargo	Third Middlesex
Brian P. Wallace	4th Suffolk
Carolyn Dykema	8th Middlesex
Kathi-Anne Reinstein	16th Suffolk
Robert S. Hargraves	1st Middlesex
Mark C. Montigny	Second Bristol and Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2142 OF 2007-2008.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
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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 is hereby amended by adding the following section:-

Section 101: (a) There shall be, within the department of public health, a board of registration in midwifery, which shall consist of 11 members each of whom shall be a resident of the commonwealth, to be appointed by the governor, 3 of whom shall be licensed midwives or licensed nurse midwives, 3 of whom shall be licensed professional midwives, 1 of whom shall be a licensed physician in the commonwealth with experience collaborating with midwives, 1 of whom shall be a nurse who is not a midwife and 3 of whom shall be parents with at least 1 child born with the assistance of a midwife licensed by the board but who have never been midwives and who have no financial interest in the practice of midwifery or in any health care facility, agency or insurer.

(b) Members shall be appointed for terms of 3 years. No member shall be appointed for more than 2 consecutive terms, provided, however, that a member appointed for less than a full

term may serve 2 full terms in addition to that part of a full term, and a former member shall again be eligible for appointment after a lapse of at least 1 year.

(c) A 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 or removal for cause of a member of the board, the governor shall fill the vacancy for the remainder of that member's term.

(d) The board shall, at its first meeting and annually thereafter, elect from among its members a chairperson, a vice-chairperson and a secretary who shall each serve for 1 year and until a successor is appointed and qualified. The board shall meet at the call of the chairperson or upon the request of at least 5 members. The board shall meet at least 4 times annually. The board shall adopt such rules and regulations as it deems necessary to carry out this section. Five members of the board shall constitute a quorum for the transaction of business. Board members shall serve without compensation but shall be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

SECTION 2. Section 7 of chapter 94C of the General Laws is hereby amended by adding the following subsection:-

(i) The commissioner shall adopt regulations which provide for the registration of licensed midwives and licensed nurse-midwives, as provided in section 237 of chapter 112, to issue written prescriptions for patients in accordance with regulations approved by the board of registration in midwifery and the department of public health. Prior to adopting such regulations,

the commissioner shall consult with the board of registration in midwifery with regard to those schedules of controlled substances for which licensed midwives and licensed nurse-midwives may be registered.

SECTION 3. Chapter 112 of the General Laws is hereby amended by adding the following 15 sections:-

Section 236. The following words as used in this section and sections 237 to 250, inclusive, shall have the following meanings, unless the context requires otherwise:-

"Board", the board of registration of midwifery established in section 101 of chapter 13.

"Licensed midwife", a person who has been licensed by the board to practice midwifery.

"Licensed nurse-midwife", a person who has been licensed by the board to practice midwifery.

"Licensed professional midwife", a person who has been licensed by the board to practice midwifery.

"Midwifery", the provision of necessary care and education to women during pregnancy, labor and the interconceptional and postpartum periods; provided, however, that midwifery shall include conducting deliveries on one's own responsibility and caring for the newborn infant.

Section 237. The board shall:

(1) adopt rules and regulations providing for the licensing of midwives for the practice of midwifery in accordance with sections 236 to 250, inclusive;

(2) grant licenses for midwives, nurse-midwives or professional midwives;

(3) establish administrative procedures for processing applications for licenses and renewal thereof and to hire or appoint agents for processing applications for licenses and license renewals;

(4) establish license criteria for midwives, nurse-midwives and professional midwives;

(5) retain records of its actions and proceedings in accordance with chapter 66;

(6) by regulation, define the appropriate standards for education, including, but not limited to, continuing professional education requirements for licensed midwives, licensed nurse-midwife and licensed professional midwives and for the conduct and ethics which shall govern the practice of midwifery; and

(8) adopt regulations, in consultation with the department of public health regarding the authority of a licensed midwife and licensed-nurse midwife to issue written prescriptions under of paragraph (i) of section 7 of chapter 94C.

(9) adopt regulations in consultation with the department of public health regarding the authority of a licensed professional midwife to obtain and administer medications and therapeutics and to order and interpret tests relevant to the practice of midwifery.

(10) perform such other functions and duties as may be required to carry sections 236 to 250, inclusive.

Section 238. The board shall examine applicants for licensure in each of the fields it supervises at least twice in each calendar year at such times and places it deems necessary. The board shall establish examination and testing requirements to ascertain the competency of a person applying for a license to practice as a midwife, nurse-midwife or professional midwife. The testing requirements shall include proof that the applicant has passed either: (a) an examination administered by the board; or (b) a national midwifery examination approved by the board. The board may require an applicant to pass any supplemental examinations as it deems necessary to test the applicant's knowledge of basic and clinical sciences as they relate to the practice of midwifery and other subjects as the board may deem useful to determine the applicant's fitness for licensure.

The board shall establish standards for reexamination for those applicants who fail the board-approved exam; provided, however, that the standards shall clearly establish a limit on the number of times an applicant may retake the exam.

An application for a license, which shall be furnished by the board, shall be signed and sworn to by the applicants. An applicant who furnishes satisfactory proof that he is at least 18 years old, of good moral character and has met the requirements for examination, and the educational and clinical practice requirements set forth in section 241 to 243, inclusive, shall, upon payment of a fee determined by the secretary of administration and finance under section 3B of chapter 7 of the General Laws, be licensed to practice as a midwife, nurse-midwife or professional midwife.

Licenses shall be valid for 2 years and shall expire on the birth of the licensee. Licensees shall pay to the board a renewal fee which shall be determined by the secretary of administration

and finance pursuant to section 3B of said chapter 7. A person seeking a license or a renewal thereof shall provide evidence of the completing such continuing education as the board shall require. The board may provide for the late renewal of a license that has lapsed.

Upon the issuance of a license or a renewal thereof, the board shall issue to each individual a certificate that clearly designates that the holder is licensed to practice as a midwife, nurse-midwife or professional midwife. The board may also indicate on the certificate other professional certifications held by the holder if it deems those certifications appropriate to the practice of midwifery; and provided, however, that the licensee shall furnish the board with satisfactory proof of those certifications.

Section 239. (a) The board shall develop a process by which it approves programs for the education and training of individuals to practice as midwives and nurse-midwives; provided, however, that those programs shall develop standards which shall be no less stringent than those set by a nationally-recognized nurse-midwifery education program accrediting organization.

(b) The board shall adopt rules and regulations for continuing education requirements for licensed midwives and licensed nurse-midwives including the scope and number of hours for such continuing education required for re-licensure. Such requirements shall be at least as stringent as the continuing education requirements for re-certification by a nationally-recognized nurse-midwifery certifying organization.

Section 240. (a) The board shall develop a process by which it approves programs for the education and training of individuals to practice as professional midwives; provided, however, that those programs shall develop standards which shall be no less stringent than those set by a

nationally-recognized professional midwifery education accrediting organization; and, provided further, that said standards shall allow for education and training as an individual to practice as a professional midwife through an apprenticeship program.

(b)The board shall adopt rules and regulations for continuing education requirements for licensed professional midwives including the scope and number of hours for such continuing education required for re-licensure.

Section 241. Requirements for licensure as a midwife shall include:

- (1) completion of the program required in section 239;
- (2) completion of a post-baccalaureate education program in midwifery approved by the board under section 240;
- (3) passage of an examination approved by the board for licensure as a midwife;
- (4) completion of appropriate pharmacology education as determined by the board; and
- (5) any additional information as requested by the board, including information necessary to ensure that the applicant is able to practice with reasonable skill and safety to the public.

Section 242. Requirements for licensure as a nurse-midwife shall include:

- (1) eligibility for registration as a nurse under section 74 of chapter 112;
- (2) completion of a post-baccalaureate educational program in nurse-midwifery approved by the board under section 239;

- (3) passage of an examination approved by the board for licensure as a nurse-midwife;
- (4) completion of appropriate pharmacology education as determined by the board; and
- (5) any additional information as requested by the board, including information necessary to ensure that the applicant is able to practice with reasonable skill and safety to the public.

Section 243. Requirements for licensure as a professional midwife shall include:

- (1) completion of an educational program or apprenticeship program in professional midwifery approved by the board under section 240;
- (2) passage of an examination approved by the board for licensure as a professional midwife;
- (3) completion of appropriate pharmacology education as determined by the board; and
- (4) any additional information as requested by the board, including information necessary to ensure that the applicant is able to practice with reasonable skill and safety to the public.

Section 244. The board shall adopt regulations relative to the scope of practice of licensed midwives. The scope of practice shall include, but not be limited to, the following:

- (1) providing the necessary supervision, care and advice to women during pregnancy, labor, the postpartum and interconceptional periods;
- (2) conducting vaginal deliveries on the midwife's own responsibility and caring for the newborn and the infant; provided, however, that the care to mother and child include preventive

measures, the detection of abnormal conditions, the procurement of medical assistance and the execution of emergency measures in the absence of medical help; and

(3) additional related health care services, including gynecological services, as defined by the board.

A licensed midwife may order and administer medications and therapeutics and order and interpret tests relevant to the practice of midwifery in accordance with regulations promulgated by the board, in consultation with the department of public health, and issue written prescriptions subject to subsection (i) of section 7 of chapter 94C.

The board shall also adopt regulations relative to the requirements and standards for clinical practice, including informed consent for midwifery care and consultation and referral within the system of health care.

Section 245. The board shall adopt regulations relative to the scope of practice of licensed nurse-midwives. The scope of practice shall include, but not be limited to, the following:

(1) providing the necessary supervision, care and advice to women during pregnancy, labor and the interconceptional and postpartum periods;

(2) conducting vaginal deliveries on the midwife's own responsibility and caring for the newborn and the infant; provide, however, that the care to mother and child may include preventive measures, the detection of abnormal conditions, the procurement of medical assistance and the execution of emergency measures in the absence of medical help; and

(3) additional related health care services including, gynecological services, as defined by the board.

A licensed nurse-midwife may order and administer medications and therapeutics and order and interpret tests relevant to the practice of midwifery in accordance with regulations promulgated by the board in consultation with the department of public health and issue written prescriptions subject to subsection (i) of section 7 of chapter 94C.

The board shall also adopt regulations relative to the requirements and standards for clinical practice, including informed consent for midwifery care and consultation and referral within the system of health care.

Section 246. The board shall adopt regulations relative to the scope of practice of licensed professional midwives. The scope of practice shall include, but not be limited to, the following:

(1) providing the necessary supervision, care and advice to women during pregnancy, labor and the interconceptional and postpartum periods; and

(2) conducting vaginal deliveries on the midwife's own responsibility, and caring for the newborn and the infant; provide, however, that the care to the mother and child may include preventive measures, the detection of abnormal conditions, the procurement of medical assistance and the execution of emergency measures in the absence of medical help.

A licensed professional midwife may obtain and administer medications and therapeutics and order and interpret tests relevant to the practice of midwifery in accordance with regulations adopted by the board, in consultation with the department of public health.

The board shall also adopt regulations relative to the requirements and standards for clinical practice, including informed consent for midwifery care and consultation and referral within the system of health care.

Section 247. The board may, without examination and upon payment of a fee determined annually by the secretary of administration and finance under section 3B of chapter 7, register and issue a license to, a midwife who has been lawfully in practice in another state for the preceding 5 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 that state, provided, however, that the other state shall require a degree of competency equal to that required of applicants in the commonwealth.

Section 248. The board shall keep a record of its proceedings and a roster of all persons licensed by it under sections 236 to 250, inclusive. The roster shall include the licensee's name, last known business and residential addresses, date of licensure and license number.

Section 249. Nothing in sections 236 to 250, inclusive, shall be construed to authorize a midwife to practice medicine or any other form or method of healing not specified in said sections 236 to 250, inclusive.

A person shall not hold himself out as a midwife or as being licensed to practice midwifery in the commonwealth unless he is licensed in accordance with sections 236 to 250,

inclusive. A person who is not so licensed shall not use any words or abbreviations indicating he is a licensed midwife, licensed nurse-midwife or licensed professional midwife.

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

(1) any person licensed in the commonwealth 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 236 to 250, inclusive, and that he does not use any name, title or designation indicating he is licensed under said sections 236 to 250, inclusive;

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

(3) the performance of midwifery services of any student engaged in an education program approved in accordance with sections 240 or 241 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

(4) any person who attends births without being a licensed midwife, licensed nurse-midwife or licensed professional midwife, if that person receives no compensation for his services and does not assume any of the responsibilities of a midwife licensed under sections 236 to 250, inclusive.

Section 250. The board may deny a issue a license, refuse to 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:

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

SECTION 4. Section 80C of chapter 112 is hereby repealed.

SECTION 5. The board shall adopt rules and regulations pursuant to section 237 of chapter 112 of the General Laws within 180 days after the effective date of this act. Within 180 days after the board adopts the rules and regulations pursuant to said section 237 of said chapter 112, the board may commence the issuing of licenses.

SECTION 6. Nothing in this act shall preclude any person who was practicing midwifery before the effective date of this act from practicing midwifery in the commonwealth until the board establishes procedures for the licensure of midwives pursuant to sections 237 to 250, inclusive, of chapter 112 of the General Laws.

SECTION 7. Notwithstanding section 101 of chapter 13 of the General Laws, 6 midwives to be appointed to the midwifery board shall be initially appointed as follows: 3 shall be midwives or nurse midwives certified by a nationally-recognized midwife certification board and 3 shall be professional midwives certified by a nationally-recognized midwife certification board who shall serve for terms of 3 years pursuant to said section 101 of said chapter 13.

SECTION 8. The board of registry of midwifery, established pursuant to section 101 of chapter 13 of the General Laws, shall establish regulations for the licensure of individuals practicing midwifery prior to the date on which the board commences issuing licenses, provided that the individuals shall have 2 years from the date on which the board commences issuing licenses to provide proof of passage of a licensing examination recognized by the board and proof of completion of any continuing education requirements necessary for re-licensure.