

# SENATE NO. 1251

## **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:*

1 SECTION 1. Chapter 13 of the General Laws as so appearing in the 2004 Official Edition, is hereby  
2 amended by adding after Section 97, the following new section:  
3 Section 98: There shall be a board of registration in midwifery, herein called the board, established  
4 within the Department of Public Health, to consist of eleven members appointed by the Governor.  
5 Members of the board shall be residents of the commonwealth, to be appointed by the governor.  
6 Three members shall be certified midwives or certified nurse midwives; three members of the  
7 Board shall be certified professional midwives; one member shall be a licensed physician with  
8 experience collaborating with midwives; one member shall be a nurse who is not a midwife; and  
9 three members of the board shall be persons who have never been a midwife and who have no  
10 financial interest in the practice of midwifery or in any health care facility, agency or insurer, two of  
11 whom must be either (A) a parent with at least one child born with the assistance of a licensed  
12 certified midwife, licensed certified nurse midwife or licensed certified professional midwife, or (B)  
13 a person who has engaged a licensed certified midwife, licensed certified nurse midwife or licensed  
14 certified professional midwife for other services within the practice of midwifery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

59 To establish specifications for licensing;  
60 To retain records of its actions and proceedings in accordance with public records laws;  
61 To define by regulation the appropriate standards for education, including, but not limited to,  
62 continuing professional education requirements for licensed midwives, which shall be no less  
63 stringent than those of the American College of Nurse-Midwives for certified nurse-midwives and  
64 certified midwives or the North American Registry of Midwives for certified professional  
65 midwives, or their respective successor organizations; and for the conduct and ethics which shall  
66 govern the practice of midwifery;  
67 To perform such other functions and duties as may be required to carry out the provisions of this  
68 section and sections 228 to 234, inclusive.

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

77 Requirements for licensing shall include:

78 (1) successful completion of a midwife education program approved by the board provided that the  
79 program has educational standards that are no less stringent than those established by the American  
80 College of Nurse Midwives for certified nurse-midwives and certified midwives or the Midwifery  
81 Education and Accreditation Council, or successful completion of an education process approved

82 by the North American Registry of Midwives for certified professional midwives, or their  
83 respective successor organizations, and provided also that the board shall require continuing  
84 education as a condition for license renewals;

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

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

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

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

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

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

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

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

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

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

127 Section 234. The board may deny or refuse to issue a license, renew a license or, after a hearing  
128 pursuant to chapter 30A, revoke, suspend or cancel the license or place on probation, reprimand,  
129 censure or otherwise discipline a licensee upon proof satisfactory to a majority of the board that the  
130 person:

131 Has obtained or attempted to obtain a license by fraud or deception;

132 Has been convicted of a felony under state or federal law;

133 Has been adjudged mentally ill or incompetent by a court of competent jurisdiction;

134 Has used drugs or intoxicating liquors to the extent which adversely affects his practice;

135 Has engaged in unethical or unprofessional conduct including, but not limited to, willful acts,  
136 negligence or incompetence in the course of professional practice;

137 Has violated any lawful order, rule or regulation rendered or adopted by the board;

138 Has been disciplined in connection with a license issued by any other state or country;

139 Used or attempting to use a license that has been suspended or revoked; or

140 Knowingly concealed information relating to the enforcement of this chapter or rules adopted  
141 pursuant thereto.

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

148 SECTION 4. The Department of Public Health, in consultation with the Board of Registration in  
149 Midwifery as established under this act, shall promulgate regulations relative to the prescriptive

150 authority for certified nurse midwives and certified midwives, and the privilege of obtaining and  
151 administrating medications and ordering tests and therapeutics necessary for the scope of practice  
152 for a certified nurse midwife, a certified midwife, and a certified professional midwife. Such  
153 regulations shall be promulgated no later than 60 days after the effective date of this act. Existing  
154 regulations with in the Board of Registration in Nursing relative to the prescriptive and dispensing  
155 authority of midwives shall remain in full force and effect until such time the new regulations are  
156 effective.

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

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