

# SENATE, No. 2636

## The Commonwealth of Massachusetts



IN THE YEAR OF TWO THOUSAND AND SEVEN

### AN ACT ESTABLISHING 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 is hereby amended by adding the following  
2    section:-

3           Section 101: (a) There shall be, within the department of public health, a board of  
4    registration in midwifery, which shall consist of 11 members each of whom shall be a resident  
5    of the commonwealth, to be appointed by the governor, 3 of whom shall be licensed midwives  
6    or licensed nurse midwives, 3 of whom shall be licensed professional midwives, 1 of whom  
7    shall be a licensed physician in the commonwealth with experience collaborating with  
8    midwives, 1 of whom shall be a nurse who is not a midwife and 3 of whom shall be parents  
9    with at least 1 child born with the assistance of a midwife licensed by the board but who have

10 never been midwives and who have no financial interest in the practice of midwifery or in any  
11 health care facility, agency or insurer.

12 (b) Members shall be appointed for terms of 3 years. No member shall be appointed for  
13 more than 2 consecutive terms, provided, however, that a member appointed for less than a full  
14 term may serve 2 full terms in addition to that part of a full term, and a former member shall  
15 again be eligible for appointment after a lapse of at least 1 year.

16 (c) A member of the board may be removed by the governor for neglect of duty,  
17 misconduct, malfeasance or misfeasance in office after being given a written statement of the  
18 charges against him and sufficient opportunity to be heard. Upon the death or removal for cause  
19 of a member of the board, the governor shall fill the vacancy for the remainder of that member's  
20 term.

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

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

31 (i) The commissioner shall adopt regulations which provide for the registration of  
32 licensed midwives and licensed nurse-midwives, as provided in section 237 of chapter 112, to  
33 issue written prescriptions for patients in accordance with regulations approved by the board of  
34 registration in midwifery and the department of public health. Prior to adopting such  
35 regulations, the commissioner shall consult with the board of registration in midwifery with  
36 regard to those schedules of controlled substances for which licensed midwives and licensed  
37 nurse-midwives may be registered.

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

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

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

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

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

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

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

51 Section 237. The board shall:

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

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

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

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

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

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

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

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

70 (10) perform such other functions and duties as may be required to carry sections 236 to  
71 250, inclusive.

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

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

85 An application for a license, which shall be furnished by the board, shall be signed and  
86 sworn to by the applicants. An applicant who furnishes satisfactory proof that he is at least 18  
87 years old, of good moral character and has met the requirements for examination, and the  
88 educational and clinical practice requirements set forth in section 241 to 243, inclusive, shall,  
89 upon payment of a fee determined by the secretary of administration and finance under section  
90 3B of chapter 7 of the General Laws, be licensed to practice as a midwife, nurse-midwife or  
91 professional midwife.

92 Licenses shall be valid for 2 years and shall expire on the birth of the licensee. Licensees  
93 shall pay to the board a renewal fee which shall be determined by the secretary of  
94 administration and finance pursuant to section 3B of said chapter 7. A person seeking a license  
95 or a renewal thereof shall provide evidence of the completing such continuing education as the  
96 board shall require. The board may provide for the late renewal of a license that has lapsed.

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

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

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

112 Section 240. (a) The board shall develop a process by which it approves programs for  
113 the education and training of individuals to practice as professional midwives; provided,  
114 however, that those programs shall develop standards which shall be no less stringent than those  
115 set by a nationally-recognized professional midwifery education accrediting organization; and,  
116 provided further, that said standards shall allow for education and training as an individual to  
117 practice as a professional midwife through an apprenticeship program.

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

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

122 (1) completion of the program required in section 239;

123 (2) completion of a post-baccalaureate education program in midwifery approved by the  
124 board under section 240;

125 (3) passage of an examination approved by the board for licensure as a midwife;

126 (4) completion of appropriate pharmacology education as determined by the board; and

127 (5) any additional information as requested by the board, including information  
128 necessary to ensure that the applicant is able to practice with reasonable skill and safety to the  
129 public.

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

131 (1) eligibility for registration as a nurse under section 74 of chapter 112;

132 (2) completion of a post-baccalaureate educational program in nurse-midwifery

133 approved by the board under section 239;

134 (3) passage of an examination approved by the board for licensure as a nurse-midwife;

135 (4) completion of appropriate pharmacology education as determined by the board; and

136 (5) any additional information as requested by the board, including information

137 necessary to ensure that the applicant is able to practice with reasonable skill and safety to the

138 public.

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

140 (1) completion of an educational program or apprenticeship program in professional

141 midwifery approved by the board under section 240;

142 (2) passage of an examination approved by the board for licensure as a professional

143 midwife;

144 (3) completion of appropriate pharmacology education as determined by the board; and

145 (4) any additional information as requested by the board, including information

146 necessary to ensure that the applicant is able to practice with reasonable skill and safety to the

147 public.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

198 Section 247. The board may, without examination and upon payment of a fee  
199 determined annually by the secretary of administration and finance under section 3B of chapter  
200 7, register and issue a license to, a midwife who has been lawfully in practice in another state  
201 for the preceding 5 years, if the midwife presents to the board a certificate of registration and  
202 duration of practice from the board of midwifery or other like board of that state, provided,  
203 however, that the other state shall require a degree of competency equal to that required of  
204 applicants in the commonwealth.

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

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

211 A person shall not hold himself out as a midwife or as being licensed to practice  
212 midwifery in the commonwealth unless he is licensed in accordance with sections 236 to 250,  
213 inclusive. A person who is not so licensed shall not use any words or abbreviations indicating he  
214 is a licensed midwife, licensed nurse-midwife or licensed professional midwife.

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

217 (1) any person licensed in the commonwealth from engaging in activities within the  
218 scope of practice of the profession or occupation for which he is licensed, provided that he does  
219 not represent to the public, directly or indirectly, that he is licensed under sections 236 to 250,  
220 inclusive, and that he does not use any name, title or designation indicating he is licensed under  
221 said sections 236 to 250, inclusive;

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

225 (3) the performance of midwifery services of any student engaged in an education  
226 program approved in accordance with sections 240 or 241 if midwifery services performed by  
227 the student are an integral part of the student's course of study and are performed under the  
228 direct supervision of a licensed midwife assigned to supervise the student; and

229 (4) any person who attends births without being a licensed midwife, licensed nurse-  
230 midwife or licensed professional midwife, if that person receives no compensation for his  
231 services and does not assume any of the responsibilities of a midwife licensed under sections  
232 236 to 250, inclusive.

233 Section 250. The board may deny a issue a license, refuse to renew a license or, after a  
234 hearing pursuant to chapter 30A, revoke, suspend or cancel the license or place on probation,  
235 reprimand, censure or otherwise discipline a licensee upon proof satisfactory to a majority of the  
236 board that the person:

237 (1) has obtained or attempted to obtain a license by fraud or deception;

238 (2) has been convicted of a felony under state or federal law;

239 (3) has been adjudged mentally ill or incompetent by a court of competent jurisdiction;

240 (4) has used drugs or intoxicating liquors to the extent which adversely affects his  
241 practice;

242 (5) has engaged in unethical or unprofessional conduct including, but not limited to,  
243 willful acts, negligence or incompetence in the course of professional practice;

244 (6) has violated any lawful order, rule or regulation rendered or adopted by the board;

245 (7) has been disciplined in connection with a midwifery license issued by any other state  
246 or country;

247 (8) used or attempted to use a license that has been suspended or revoked; or

248 (9) knowingly concealed information relating to the enforcement of this chapter or rules  
249 adopted pursuant thereto.

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

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

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

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

264 **SECTION 8.** The board of registry of midwifery, established pursuant to section 101 of chapter  
265 13 of the General Laws, shall establish regulations for the licensure of individuals practicing  
266 midwifery prior to the date on which the board commences issuing licenses, provided that the  
267 individuals shall have 2 years from the date on which the board commences issuing licenses to

- 268 provide proof of passage of a licensing examination recognized by the board and proof of
- 269 completion of any continuing education requirements necessary for re-licensure.