

SENATE No. 847

The Commonwealth of Massachusetts

PRESENTED BY:

Moore, Richard (SEN)

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 Midwifery

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Moore, Richard (SEN)	Worcester and Norfolk
Susan C. Tucker	Second Essex and Middlesex
Richard R. Tisei	Middlesex and Essex
Jennifer L. Flanagan	Worcester and Middlesex
John W. Scibak	2nd Hampshire
Sonia Chang-Díaz	Second Suffolk
Steven A. Baddour	First Essex
Cynthia Stone Creem	First Middlesex and Norfolk
James B. Eldridge	Middlesex and Worcester
Timothy J. Toomey, Jr.	26th Middlesex
Jennifer M. Callahan	18th Worcester
Bruce E. Tarr	First Essex and Middlesex
Susan C. Fargo	Third Middlesex
Stephen M. Brewer	Worcester, Hampden, Hampshire and Franklin
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Karen E. Spilka	Second Middlesex and Norfolk
Mark C. Montigny	Second Bristol and Plymouth
Gale D. Candaras	First Hampden and Hampshire
Kay Khan	11th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02636 OF .]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO A BOARD OF 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
2 following section:-

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

12 (b)Members shall be appointed for terms of 3 years. No member shall be appointed for more
13 than 2 consecutive terms, provided, however, that a member appointed for less than a full term
14 may serve 2 full terms in addition to that part of a full term, and a former member shall again be
15 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, misconduct,
17 malfeasance or misfeasance in office after being given a written statement of the charges against
18 him and sufficient opportunity to be heard. Upon the death or removal for cause of a member of
19 the board, the governor shall fill the vacancy for the remainder of that member's term.

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

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

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

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

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

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

41

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 midwifery.

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

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

50 Section 237. The board shall:

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

- 53 (2) grant licenses for midwives, nurse-midwives or professional midwives;
- 54 (3) establish administrative procedures for processing applications for licenses and renewal
55 thereof and to hire or appoint agents for processing applications for licenses and license
56 renewals;
- 57 (4) establish license criteria for midwives, nurse-midwives and professional midwives;
- 58 (5) retain records of its actions and proceedings in accordance with chapter 66;
- 59 (6) by regulation, define the appropriate standards for education, including, but not limited to,
60 continuing professional education requirements for licensed midwives, licensed nurse-midwife
61 and licensed professional midwives and for the conduct and ethics which shall govern the
62 practice of midwifery; and
- 63 (8) adopt regulations, in consultation with the department of public health regarding the authority
64 of a licensed midwife and licensed-nurse midwife to issue written prescriptions under of
65 paragraph (i) of section 7 of chapter 94C.
- 66 (9) adopt regulations in consultation with the department of public health regarding the authority
67 of a licensed professional midwife to obtain and administer medications and therapeutics and to
68 order and interpret tests relevant to the practice of midwifery.
- 69 (10) perform such other functions and duties as may be required to carry sections 236 to 250,
70 inclusive.
- 71 Section 238. The board shall examine applicants for licensure in each of the fields it supervises
72 at least twice in each calendar year at such times and places it deems necessary. The board shall
73 establish examination and testing requirements to ascertain the competency of a person applying

74 for a license to practice as a midwife, nurse-midwife or professional midwife. The testing
75 requirements shall include proof that the applicant has passed either: (a) an examination
76 administered by the board; or (b) a national midwifery examination approved by the board. The
77 board may require an applicant to pass any supplemental examinations as it deems necessary to
78 test the applicant's knowledge of basic and clinical sciences as they relate to the practice of
79 midwifery and other subjects as the board may deem useful to determine the applicant's fitness
80 for licensure.

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

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

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

94 The board may provide for the late renewal of a license that has lapsed.

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

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

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

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

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

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

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

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

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

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

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

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

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

129 (2) completion of a post-baccalaureate educational program in nurse-midwifery approved by the
130 board under section 239;

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

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

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

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

136 (1) completion of an educational program or apprenticeship program in professional midwifery
137 approved by the board under section 240;

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

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

140 (4) any additional information as requested by the board, including information necessary to
141 ensure that the applicant is able to practice with reasonable skill and safety to the public.

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

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

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

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

152 A licensed midwife may order and administer medications and therapeutics and order and
153 interpret tests relevant to the practice of midwifery in accordance with regulations promulgated

154 by the board, in consultation with the department of public health, and issue written prescriptions
155 subject to subsection (i) of section 7 of chapter 94C.

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

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

161 limited to, the following:

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

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

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

170 A licensed nurse-midwife may order and administer medications and therapeutics and order and
171 interpret tests relevant to the practice of midwifery in accordance with regulations promulgated
172 by the board in consultation with the department of public health and issue written prescriptions
173 subject to subsection

174 (i) of section 7 of chapter 94C.

175

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

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

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

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

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

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

193 Section 247. The board may, without examination and upon payment of a fee determined
194 annually by the secretary of administration and finance under section 3B of chapter 7, register
195 and issue a license to, a midwife who has been lawfully in practice in another state for the

196 preceding 5 years, if the midwife presents to the board a certificate of registration and duration of
197 practice from the board of midwifery or other like board of that state, provided, however, that the
198 other state shall require a degree of competency equal to that required of applicants in the
199 commonwealth.

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

203 Section 249. Nothing in sections 236 to 250, inclusive, shall be construed to authorize a midwife
204 to practice medicine or any other form or method of healing not specified in said sections 236 to
205 250, inclusive.

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

210

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

213 (1) any person licensed in the commonwealth from engaging in activities within the scope of
214 practice of the profession or occupation for which he is licensed, provided that he does not
215 represent to the public, directly or indirectly, that he is licensed under sections 236 to 250,

216 inclusive, and that he does not use any name, title or designation indicating he is licensed under
217 said sections 236 to 250, inclusive;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

253 SECTION 7. Notwithstanding section 101 of chapter 13 of the General Laws, 6 midwives to be
254 appointed to the midwifery board shall be initially appointed as follows: 3 shall be midwives or
255 nurse midwives certified by a nationally-recognized midwife certification board and 3 shall be

256 professional midwives certified by a nationally-recognized midwife certification board who shall
257 serve for terms of 3 years pursuant to said section 101 of said chapter 13.

258 SECTION 8. The board of registry of midwifery, established pursuant to section 101 of chapter
259 13 of the General Laws, shall establish regulations for the licensure of individuals practicing
260 midwifery prior to the date on which the board commences issuing licenses, provided that the
261 individuals shall have 2 years from the date on which the board commences issuing licenses to
262 provide proof of passage of a licensing examination recognized by the board and proof of
263 completion of any continuing education requirements necessary for re-licensure.