

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1827

H.P. 1275

House of Representatives, April 4, 2007

### **An Act To License Certified Professional Midwives To Promote Greater Public Safety and Access**

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Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SMITH of Monmouth.  
Cosponsored by Senator SCHNEIDER of Penobscot and  
Representatives: BEAUDETTE of Biddeford, BEAULIEU of Auburn, CLEARY of Houlton,  
PIOTTI of Unity, PRATT of Eddington, SAMSON of Auburn, SILSBY of Augusta, Senator:  
WESTON of Waldo.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §12004-A, sub-§48** is enacted to read:

3 **48.**

4 Board of Licensed Midwives                      Expenses Only                      32 MRSA §16902

5 **Sec. 2. 32 MRSA c. 137** is enacted to read:

6 **CHAPTER 137**

7 **MIDWIVES**

8 **§16901. Definitions**

9 As used in this chapter, unless the context otherwise indicates, the following terms  
10 have the following meanings.

11 **1. Board.** "Board" means the Board of Licensed Midwives under section 16902.

12 **2. Certified professional midwife.** "Certified professional midwife" means a  
13 person who has knowledge of and experience providing midwifery in out-of-hospital  
14 settings and has met the standards for certification set by the North American Registry of  
15 Midwives.

16 **3. Informed choice.** "Informed choice" means a written disclosure of specific  
17 information to any person to whom midwifery is provided. This disclosure includes, but  
18 is not limited to, the certified professional midwife's education, experience and  
19 credentials, the midwifery model of care, a notice of the certified professional midwife's  
20 professional liability insurance coverage status and the board's contact information.

21 **4. Licensed midwife.** "Licensed midwife" means a person who meets the certified  
22 professional midwife requirements of the North American Registry of Midwives and who  
23 meets the eligibility criteria and standard of care for a certified professional midwife  
24 established by the board.

25 **5. Midwife.** "Midwife" means a person who is trained to give care and advice to  
26 women during pregnancy, labor, birth and the post-birth period on the midwife's own  
27 responsibility and to care for the newly born infant.

28 **6. Midwifery.** "Midwifery" means providing care, support and education consistent  
29 with a midwife's training, education and experience to women and their newborns  
30 throughout the childbearing cycle. Care provided by a midwife may occur in any setting,  
31 including in a home, freestanding birthing center, office or medical facility. Such care,  
32 support and education may relate to:

33 A. Measures that promote and maintain the health of the mother and baby;

- 1        B. The detection of abnormal conditions;
- 2        C. The procurement of appropriate medical assistance;
- 3        D. The execution of emergency measures;
- 4        E. The provision of newborn care;
- 5        F. The provision of well-woman health care; and
- 6        G. The principles of informed choice.

7        7. North American Registry of Midwives. "North American Registry of  
8        Midwives" means the international certification agency whose mission is to establish and  
9        administer certification for the credential of certified professional midwife or its  
10       successor organization.

11       8. National Association of Certified Professional Midwives. "National  
12       Association of Certified Professional Midwives" means a national professional  
13       organization of certified professional midwives or its successor organization.

14       **§16902. Board of Licensed Midwives**

15       1. Establishment and membership. There is established within the Department of  
16       Professional and Financial Regulation, in accordance with Title 5, section 12004-A,  
17       subsection 48, the Board of Licensed Midwives. The board consists of 7 members  
18       appointed by the Governor as follows:

- 19        A. Four certified professional midwives;
- 20        B. One consumer;
- 21        C. One certified nurse midwife; and
- 22        D. One physician who works with midwives.

23       2. Terms of appointment. Members are appointed for 3-year terms. A member of  
24       the board may be removed from office for cause by the Governor.

25       3. Meetings. The board shall meet each January to select a chair and for other  
26       purposes. At least one additional meeting must be held before the end of each calendar  
27       year. Other meetings may be convened at the call of the chair or the written request of  
28       any 2 board members. A majority of the members of the board constitutes a quorum for  
29       all purposes.

30       4. Vacancy. Any vacancy in the board must be filled by appointment by the  
31       Governor of a person of the same category as the board member being replaced to hold  
32       office for the unexpired term.

33       **§16903. Powers and duties of the board**

34       The board has the following powers and duties in addition to all other powers and  
35       duties set forth in this chapter.

36       1. Duties. The board shall:

- 1       A. Make and adopt rules necessary to administer this chapter;
- 2       B. Define a protocol and formulary for drug use by licensed midwives, including but
- 3       not limited to antihemorrhagic medications and oxygen;
- 4       C. Adopt the National Association of Certified Professional Midwives standards of
- 5       care and specific rules defining scope and practice standards;
- 6       D. Determine fees for application for licensure, for initial licensure and for renewal
- 7       within fee caps established by section 16909;
- 8       E. Ensure that licensed midwives serving the public meet minimum standards of
- 9       proficiency and competency to protect the health, safety and welfare of the public;
- 10       F. Administer and enforce the provisions of this chapter and any rules adopted by the
- 11       board under that authority granted in this chapter;
- 12       G. Maintain a record of its acts and proceedings, including the issuance, refusal,
- 13       renewal, suspension and revocation of licenses;
- 14       H. Maintain a roster of all licensed midwives licensed under this chapter that
- 15       indicates:
  - 16           (1) The name of the licensee;
  - 17           (2) The licensee's current professional office address;
  - 18           (3) The date of issuance and the number of the licensee's license; and
  - 19           (4) Whether the licensee is in good standing with the board, including:
    - 20               (a) Any restrictions or limitations on an individual's license;
    - 21               (b) A record of any revocations or suspensions; and
    - 22               (c) Any information that the board directs must be included in a member's
    - 23               record;
  - 24           I. Keep all applications for licensure as a permanent record; and
  - 25           J. Keep the records of the board open to public inspection at all reasonable times.

26       **2. Complaints.** The board shall investigate, or cause to be investigated, all

27 complaints made to it and all cases of noncompliance with this chapter.

28       **3. Hearings.** The board may conduct hearings to assist with investigations, to

29 determine whether grounds exist for suspension, revocation or denial of a license or to

30 fulfill its responsibilities under this chapter as the board otherwise determines necessary.

31 The board may not refuse to renew a license for any reason other than failure to pay the

32 required fee, unless it has afforded the licensee an opportunity for an adjudicatory

33 hearing. The board shall hold an adjudicatory hearing upon the written request of any

34 person who is denied a license without hearing for any reason other than failure to pay a

35 required fee. The written request for a hearing must be received by the board within 30

36 days of the applicant's receipt of written notice of the denial of the application. The

37 written notice of denial must set forth the reasons for the denial and the applicant's right

1 to request a hearing. The board shall conduct hearings in conformity with the Maine  
2 Administrative Procedure Act to the extent applicable.

3 **4. Subpoena power; administration of oaths; power to compel production of**  
4 **documents.** The board may subpoena witnesses, administer oaths in any hearing or  
5 disciplinary proceedings and compel, by subpoena duces tecum, the production of papers  
6 and records.

7 **5. Witness fees.** A witness summoned before the board must be paid the same fee as  
8 a witness summoned to appear before the Superior Court and that summons has the same  
9 effect as though issued for appearance before the Superior Court.

10 **6. Suspension and revocation.** The board may suspend or revoke a license pursuant  
11 to Title 5, section 10004. The following are grounds for an action to refuse to issue,  
12 modify, suspend, revoke or refuse to renew the license of an individual licensed under  
13 this chapter:

14 A. The practice of fraud or deceit in obtaining a license under this chapter or in  
15 connection with services rendered as a licensed midwife;

16 B. A legal finding of mental incompetence;

17 C. Any gross negligence, incompetence or misconduct in the performance of  
18 midwifery;

19 D. Failing to obtain informed consent;

20 E. Disregarding a client's dignity or right to privacy as to person, condition,  
21 possessions or medical record;

22 F. Failing to file or record any medical report as required by law, impeding or  
23 obstructing the filing or recording of the report or inducing another to fail to file or  
24 record the report;

25 G. Breaching a statutory, common law, regulatory or ethical requirement of  
26 confidentiality with respect to a person who is a client, unless ordered by the court;

27 H. Inappropriately delegating midwifery duties;

28 I. Using advertising or an identification statement that is false, misleading or  
29 deceptive;

30 J. Using any letters, words or insignia indicating or implying that the person is a  
31 licensed midwife, unless the person is licensed in accordance with this chapter,  
32 except that a person may use any designation issued by a state or nationally  
33 recognized organization, as long as the name of that organization is clearly used with  
34 the designation; or

35 K. Submitting a birth certificate known by the person to be false or fraudulent.

36 **§16904. Civil violations; penalties**

37 A person who violates any provision of this chapter for which a penalty is not  
38 prescribed commits a civil violation for which a fine of not more than \$1,000 may be  
39 adjudged.

1 **§16905. Criminal violations; penalties**

2 It is a crime for any person, including a corporation, association or individual, to:

3 1. **Fraudulent license.** Use in connection with the person's name a designation  
4 tending to imply that the person is a licensed midwife unless so licensed under this  
5 chapter.

6 2. **Prescription medications.** Use prescriptive medications, except oxygen, while  
7 engaged in the practice of midwifery when not licensed under this chapter.

8 3. **Violation of chapter.** A person who violates this section commits a Class E  
9 crime.

10 The State may bring an action in Superior Court to enjoin a person from violating this  
11 chapter regardless of whether proceedings have been or may be instituted in District  
12 Court or whether criminal proceedings have been or may be instituted.

13 **§16906. Immunity**

14 A health care provider, as defined in Title 24, section 2502, subsection 2, is immune  
15 from civil liability for any injuries resulting from the acts or omissions of a licensed  
16 midwife. Licensed physicians are immune from civil liability when consulting or  
17 collaborating with a licensed midwife or accepting transfer of care of clients who are  
18 outside of the scope of practice of a licensed midwife.

19 **§16907. Rulemaking**

20 Rules adopted by the board pursuant to this chapter are routine technical rules as  
21 defined in Title 5, chapter 375, subchapter 2-A.

22 **§16908. Licensure**

23 1. **Licensure required.** A person may not practice or profess to practice as a  
24 licensed midwife unless that person holds a current and valid license from the board.

25 2. **Eligibility.** To be eligible to apply for a license to practice as a licensed midwife,  
26 an applicant must meet requirements regarding education and experience as established  
27 by the board. These requirements must include the following:

28 A. Certification as a certified professional midwife; and

29 B. An agreement to practice according to the scope and standards of practice as  
30 required by rules.

31 3. **Exceptions.** This chapter does not apply to the following:

32 A. Certified nurse midwives licensed as advanced practice registered nurses under  
33 Title 32, chapter 31;

34 B. Certified midwives authorized under the State Board of Nursing to practice in the  
35 State, unless they are licensed midwives;

1 C. Licensed physicians or other licensed health care providers authorized to provide  
2 midwifery; and

3 D. Student midwives working under supervision of a licensed midwife.

4 Notwithstanding this subsection, certified nurse midwives who become licensed  
5 midwives remain subject to the jurisdiction of the State Board of Nursing as well as to the  
6 provisions of this chapter.

7 **§16909. Fees**

8 The Director of the Office of Licensing and Registration within the Department of  
9 Professional and Financial Regulation may establish by rule fees for purposes authorized  
10 under this chapter in amounts that are reasonable and necessary for their respective  
11 purposes, except that the fee for any application may not exceed \$200 and the fee for  
12 initial and renewal licensure may not exceed \$675 annually. Rules adopted pursuant to  
13 this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

14 **§16910. Application for renewal**

15 1. Requirements. Every 3 years the Director of the Office of Licensing and  
16 Registration within the Department of Professional and Financial Regulation or board  
17 shall forward a renewal form to each licensed midwife. The completed form must  
18 include verification that, during the preceding 3 years, the licensed midwife has  
19 maintained current certification with the North American Registry of Midwives. Upon  
20 receipt of the completed form and of the renewal fee, the board shall issue renewal  
21 licenses to applicants who qualify under this section.

22 2. Late renewal. The board shall renew a license that has lapsed for a period of 3  
23 years or less upon receipt of the late renewal penalty, a reinstatement fee and an  
24 application for renewal that shows that the person meets the eligibility requirements of  
25 this chapter and that all requirements for renewal, including continuing education, have  
26 been satisfied. A person may not be required to pay renewal fees for lapsed years. The  
27 board may adopt rules to ensure that an applicant whose license has lapsed for a period  
28 greater than 3 years may be eligible for licensing, but such rules may not establish  
29 requirements greater than the eligibility requirements of this chapter.

30 **§16911. Title and abbreviation**

31 An individual who holds a current license to practice midwifery in this State has the  
32 right to use the title "licensed midwife" and the abbreviation "L.M." No other individual  
33 may assume the title or use the abbreviation or other words, letters, signs or devices to  
34 indicate that the individual using the same is a licensed midwife.

35 **§16912. Administration of medication**

36 A licensed midwife who, in the exercise of care, is authorized by the board to  
37 perform selected activities in the administration of medications may administer certain  
38 medications as defined by protocols established by the board, including, but not limited  
39 to, antihemorrhagic medications and oxygen.



