

MAINE STATE LEGISLATURE

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L.D. 2253

Date: 4/4/8

(Filing No. H-935)

Majority

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1616, L.D. 2253, Bill, "An Act To License Certified Professional Midwives"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 32 MRSA §12501, sub-§6-A is enacted to read:

6-A. Licensed midwife. "Licensed midwife" means a person who is licensed by the board to practice midwifery under this chapter.

Sec. 2. 32 MRSA §12501, sub-§6-B is enacted to read:

6-B. Midwifery. "Midwifery" means a system of health care for the provision of care, support and education consistent with a midwife's training, education and experience to women and their newborns throughout the prenatal and postpartum period.

Sec. 3. 32 MRSA §12502, sub-§1, as amended by PL 2007, c. 402, Pt. AA, §1, is further amended to read:

1. Membership. The Board of Complementary Health Care Providers, as established in Title 5, section 12004-A, subsection 8-A, shall regulate the professions of midwifery, acupuncture and naturopathic medicine according to the provisions of this chapter. The board consists of 7 9 members appointed by the Governor. The Governor shall make the initial appointments to the board no later than 60 days after the effective date of this section and shall inform the Commissioner of Professional and Financial Regulation of these appointments. The commissioner shall call the first meeting of the board on a date no later than 30 days following notification of appointments by the Governor. All members of the board must be residents of this State. Two members of the board must be acupuncturists licensed in this State. Two members of the board must be practitioners of naturopathic medicine who are eligible for licensure under, or are licensed pursuant to, the requirements of subchapter 3. Two members of the board must be licensed midwives. One member must be a public member as defined in Title 5,

COMMITTEE AMENDMENT

1 section 12004-A. One member must be an allopathic or osteopathic physician who is
2 licensed in this State. One member must be a pharmacist who is licensed in this State.

3 **Sec. 4. 32 MRSA §12502, sub-§6**, as amended by PL 2007, c. 402, Pt. AA, §1, is
4 further amended to read:

5 **6. Meetings; chair; quorum.** The board shall meet at least once a year to conduct
6 its business and elect a chair. Additional meetings must be held as necessary to conduct
7 the business of the board and may be convened at the call of the chair or a majority of the
8 board members. ~~Four~~ Six members of the board constitute a quorum.

9 **Sec. 5. 32 MRSA §12503, sub-§1**, as amended by PL 2007, c. 402, Pt. AA, §2, is
10 further amended to read:

11 **1. Duties.** The board shall:

12 A. Adopt rules necessary to administer this chapter;

13 B. Set standards of practice for acupuncturists ~~and~~, naturopathic doctors and licensed
14 midwives;

15 D. Ensure that acupuncturists and naturopathic doctors serving the public meet
16 minimum standards of proficiency and competency to protect the health, safety and
17 welfare of the public; ~~and~~

18 E. Administer and enforce the provisions of this chapter and any rules adopted by the
19 board under that authority granted in this chapter; and

20 L. Adopt the standards of care and scope of practice standards published by an
21 international certification agency for certified professional midwives or other
22 credentialing authority acceptable to the board.

23 **Sec. 6. 32 MRSA c. 113-B, sub-c. 4** is enacted to read:

24 **SUBCHAPTER 4**

25 **LICENSED MIDWIVES**

26 **§12531. Licensing; licensee title**

27 **1. License required.** A person may not profess to be a licensed midwife in this
28 State unless that person holds a current, valid license to practice midwifery from the
29 board.

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

34 **3. Exception.** This subchapter does not apply to student midwives working under
35 the supervision of a licensed midwife, under protocols defined by the board.

1 Nothing in this subchapter may be construed to require any person who practices the
2 same techniques as or techniques similar to those of licensed midwives to obtain a license
3 as a licensed midwife under this subchapter.

4 Certified nurse midwives who become licensed midwives remain subject to the
5 jurisdiction of the State Board of Nursing and are subject to this subchapter.

6 **§12532. Qualifications for licensed midwives**

7 **1. Eligibility.** To be eligible to apply for a license under this subchapter, an
8 applicant must meet requirements regarding education and experience as established by
9 the board. The requirements must include certification as a certified professional
10 midwife from a national certification agency whose mission is to establish and administer
11 certification for the credential of certified professional midwife or other credentialing
12 authority acceptable to the board.

13 **§12533. Scope of practice**

14 **1. Scope of practice.** The scope of practice for licensed midwives includes the
15 provision of care, support and education consistent with a midwife's training, education
16 and experience to women and their newborns throughout the prenatal and postpartum
17 period. Care provided by a licensed midwife may occur in any setting, including in a
18 home, freestanding birthing center, office or medical facility, and may include care,
19 support and education that is related to:

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

21 B. The detection of abnormal conditions;

22 C. The procurement of appropriate medical assistance;

23 D. The execution of emergency measures;

24 E. The provision of newborn care;

25 F. The provision of well-woman health care; and

26 G. The principles of informed choice, including written disclosure of specific
27 information to any person to whom midwifery is provided.

28 The written disclosure described in paragraph G must include such information
29 determined necessary by the board, including, but not limited to, the licensed midwife's
30 education, experience and credentials, the midwifery model of care, a notice of the
31 licensed midwife's professional liability insurance coverage status and the board's contact
32 information.

33 **2. Authority to possess and administer medication.** Licensed midwives have
34 limited authority to possess and administer noncontrolled prescription medication, as set
35 out in this subsection.

36 A. A licensed midwife may possess and administer, in the course of the practice of
37 midwifery, only the following noncontrolled prescription drugs and substances:

38 (1) Oxygen;

COMMITTEE AMENDMENT "A" to H.P. 1616, L.D. 2253

- 1 (2) Oxytocin, excluding the oxytocic drug methergine, for the sole purpose of
2 postpartum control of maternal hemorrhage;
- 3 (3) Vitamin K;
- 4 (4) Eye prophylaxis; and
- 5 (5) Local anesthetics or numbing agents for repair of lacerations.
- 6 B. When administering oxytocin under paragraph A, a licensed midwife may not
7 administer more than 20 units of oxytocin to a single patient. Oxytocin may be
8 administered only for postpartum purposes in order to treat hemorrhaging and
9 specifically may not be used to induce labor.

10 **§12534. Fees**

11 The Director of the Office of Licensing and Registration within the Department of
12 Professional and Financial Regulation may establish by rule fees for purposes authorized
13 under this subchapter in amounts that are reasonable and necessary for their respective
14 purposes, except that the fee for any application may not exceed \$200 and the fee for
15 initial and renewal licensure of licensed midwives may not exceed \$750 annually. Rules
16 adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter
17 375, subchapter 2-A.

18 **§12535. Application for renewal**

19 1. Requirements. Prior to the expiration of a license, a licensed midwife may make
20 an application for renewal upon payment of the renewal fee as set under section 12534
21 and upon satisfactory demonstration of completion of any requirements adopted by the
22 board as a condition of renewal.

23 2. Late renewal. An application under subsection 1 made no more than 90 days past
24 the date of expiration of a license must include a late fee in addition to the renewal fee as
25 set under section 12534. An application received more than 90 days past the expiration
26 date is subject to all requirements covering new applicants under this subchapter.

27 Sec. 7. 32 MRSA §13811 is enacted to read:

28 **§13811. Drug administration by licensed midwives**

29 A licensed midwife who is licensed under section 12531 may:

30 1. Possession. Possess, in the course of the practice of midwifery, only the
31 noncontrolled prescription drugs and substances set out in this subsection:

32 A. Oxygen;

33 B. Oxytocin, excluding the oxytocic drug methergine, for the sole purpose of
34 postpartum control of maternal hemorrhage;

35 C. Vitamin K;

36 D. Eye prophylaxis; and

37 E. Local anesthetics or numbing agents for repair of lacerations; and

1 2. Administration. Administer, in the course of the practice of midwifery, those
2 drugs and substances that are listed in subsection 1. When administering oxytocin under
3 this section, a licensed midwife may not administer more than 20 units of oxytocin to a
4 single patient. Oxytocin may be administered only for postpartum purposes in order to
5 treat hemorrhaging and specifically may not be used to induce labor. When a licensed
6 midwife administers oxytocin in accordance with this section, the licensed midwife shall
7 report that use to the maternal and child health division of the Department of Health and
8 Human Services, Maine Center for Disease Control and Prevention within 7 days of the
9 use of oxytocin.

10 **Sec. 8.** 32 MRSA §13812 is enacted to read:

11 **§13812. Dispensing of medication by pharmacist**

12 1. Dispensing of medication. A pharmacist may sell and dispense to a licensed
13 midwife licensed under section 12531 the noncontrolled prescription drugs and
14 substances identified in section 13811.

- 15 2. Good faith. A pharmacist, or person acting at the direction of a pharmacist, who:
 - 16 A. In good faith sells and dispenses noncontrolled prescription drugs and substances
 - 17 to a licensed midwife pursuant to this section is not liable for any adverse reactions
 - 18 caused by any method of use by the licensed midwife; and
 - 19 B. Makes a report relating to the dispensing of noncontrolled prescription drugs and
 - 20 substances to a licensed midwife pursuant to section 13811 to an enforcement agency
 - 21 is immune from any civil liability that may result from that action, including, but not
 - 22 limited to, any civil liability that might otherwise arise under state or local laws or
 - 23 rules regarding confidentiality of information.

24 In a proceeding in which a pharmacist, or person acting at the direction of a pharmacist,
25 invokes the immunity provided pursuant to this subsection, there is a rebuttable
26 presumption of good faith.

27 **Sec. 9. Appointments to the Board of Complementary Health Care**
28 **Providers.** The Governor, within 60 days following the effective date of this Act, shall
29 appoint 2 licensed midwives to serve as board members on the Board of Complementary
30 Health Care Providers pursuant to the Maine Revised Statutes, Title 32, section 12502.

31 **Sec. 10. Maine Revised Statutes headnote amended; revision clause.** In
32 the Maine Revised Statutes, Title 32, chapter 117, subchapter 11, in the subchapter
33 headnote, the words "noncontrolled prescription drug administration" are amended to
34 read "noncontrolled prescription drug dispensing and administration" and the Revisor of
35 Statutes shall implement this revision when updating, publishing or republishing the
36 statutes.

37 **Sec. 11. Appropriations and allocations.** The following appropriations and
38 allocations are made.

39 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**
40 **Licensing and Enforcement 0352**

COMMITTEE AMENDMENT "A" to H.P. 1616, L.D. 2253

1 Initiative: Allocates funds for a portion of the All Other costs associated with establishing
 2 a license for certified professional midwives under the Board of Complementary Health
 3 Care Providers.

4	OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
5	All Other	\$0	\$10,450
6			
7	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$10,450

8 **Licensing and Enforcement 0352**

9 Initiative: Appropriates funds for one half-time investigator position, per diem for 2
 10 additional board members to the Board of Complementary Health Care Providers and
 11 related All Other costs associated with establishing a license for certified professional
 12 midwives.

13	GENERAL FUND	2007-08	2008-09
14	POSITIONS - LEGISLATIVE COUNT	0.000	0.500
15	Personal Services	\$0	\$32,251
16	All Other	\$0	\$23,613
17			
18	GENERAL FUND TOTAL	\$0	\$55,864

19	PROFESSIONAL AND FINANCIAL		
20	REGULATION, DEPARTMENT OF		
21	DEPARTMENT TOTALS	2007-08	2008-09
22			
23	GENERAL FUND	\$0	\$55,864
24	OTHER SPECIAL REVENUE FUNDS	\$0	\$10,450
25			
26	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$66,314
27			

28 **SUMMARY**

29 This amendment is the majority report of the committee. The amendment replaces
 30 the bill and establishes a license for certified professional midwives under the Board of
 31 Complementary Health Care Providers. It adds 2 licensed midwives to the board. The
 32 amendment restricts the use of the title "licensed midwife" and the abbreviation "L.M." to
 33 licensed midwives who hold a current license to practice midwifery in this State. It
 34 authorizes licensed midwives to possess and administer a limited number of
 35 noncontrolled prescription drugs and substances in the course of the practice of

COMMITTEE AMENDMENT "A" to H.P. 1616, L.D. 2253

1 midwifery, including oxygen; oxytocin, excluding the oxytocic drug methergine, for the
2 sole purpose of postpartum control of maternal hemorrhaging; vitamin K; eye
3 prophylaxis; and local anesthetics or numbing agents for repair of lacerations. It requires
4 midwives to report the use of the antihemorrhagic medication to the maternal and child
5 health division of the Department of Health and Human Services, Maine Center for
6 Disease Control and Prevention.

7 It also provides that a pharmacist, acting in good faith, is not prohibited from selling
8 and dispensing any of those drugs and substances to a licensed midwife. A pharmacist,
9 or person acting at the direction of a pharmacist, who in good faith sells and dispenses
10 noncontrolled prescription drugs and substances to a licensed midwife is not liable for
11 any adverse reactions caused by any method of use by the licensed midwife. A
12 pharmacist, or person acting at the direction of a pharmacist, who makes a report to an
13 enforcement agency is immune from any civil liability that may result from that action,
14 including, but not limited to, any civil liability that might otherwise arise under state or
15 local laws or rules regarding confidentiality of information. It also establishes a
16 rebuttable presumption of good faith for pharmacists.

17 **FISCAL NOTE REQUIRED**
18 **(See attached)**



123rd MAINE LEGISLATURE

LD 2253

LR 3554(02)

An Act To License Certified Professional Midwives

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Business, Research and Economic Development
Fiscal Note Required: Yes

Fiscal Note

	2007-08	2008-09	Projections 2009-10	Projections 2010-11
Net Cost (Savings)				
General Fund	\$0	\$55,864	\$43,276	\$45,131
Appropriations/Allocations				
General Fund	\$0	\$55,864	\$43,276	\$45,131
Other Special Revenue Funds	\$0	\$10,450	\$6,050	\$6,050
Revenue				
Other Special Revenue Funds	\$0	\$10,450	\$6,050	\$6,050

Correctional and Judicial Impact Statements

Increases civil violation and Class E crime case-loads with a minor effect on fines. Increases the number of civil suits. The collection of additional filing fees may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This bill includes a General Fund appropriation of \$55,864 in fiscal year 2008-09 to the Office of Licensing and Registration within the Department of Professional and Financial Regulation for 1 half-time Field Investigator position, per diem and related all other costs associated with establishing a license for certified professional midwives under the Board of Complimentary Health Care Providers. Information provided by the Office of Licensing and Registration indicates that preparation for the September 1, 2008 licensing of an estimated 22 applicants will require the printing of applications, customizing of the licensing system to accommodate licensing requirements, additional rulemaking, printing, photocopying, and postage.

This bill also includes an Other Special Revenue Funds allocation of \$10,450 in fiscal year 2008-09 to the Office of Licensing and Registration for the portion of the all other costs that can be supported by the revenue from application and licensing fees.

This legislation authorizes the Office of Licensing and Registration to establish fees. However, the fees are capped at a one-time \$200 application fee and no more than \$750 annually for initial and renewal licensure. This fiscal note assumes a fee for license renewals of \$275 which is the current license renewal fee of the Board of Complimentary Health Care Providers. Based on these amounts and the estimated number of applicants, the anticipated revenue for fiscal year 2008-09 is \$10,450. This projected revenue will not be sufficient to support the anticipated costs of the board, as presented by the Office of Licensing and Registration, without ongoing support from the General Fund.