

SENATE FILE NO. SF0048

Licensure of midwives.

Sponsored by: Senator(s) Johnson and Representative(s)
Harvey

A BILL

for

1 AN ACT relating to professions and occupations; creating a
2 board of midwifery; specifying membership; specifying
3 duties and powers; providing for licensure of midwives;
4 specifying requirements for licensure; providing
5 exceptions; granting rulemaking authority; providing
6 definitions; specifying grounds for denial, suspension or
7 revocation of license; providing for appeals; providing
8 penalties; providing for criminal background checks of
9 applicants for licensure; authorizing limited
10 administration of prescription drugs by midwives; providing
11 an appropriation; specifying immunity of others for actions
12 of a midwife; and providing for effective dates.

13

14 *Be It Enacted by the Legislature of the State of Wyoming:*

15

1 **Section 1.** W.S. 33-46-101 through 33-46-108 are
2 created to read:

3

4

CHAPTER 46

5

MIDWIVES LICENSURE ACT

6

7

33-46-101. Short title.

8

9 This act shall be known and may be cited as the "Midwives
10 Licensure Act".

11

12

33-46-102. Definitions.

13

14

(a) As used in this act:

15

16

(i) "Board" means the board of midwifery;

17

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20

21

(ii) "Midwife" means any person who provides
primary prenatal, intrapartum and postpartum care by
affirmative act or conduct to women and newborns during the
childbearing cycle;

22

23

24

(iii) "Midwifery" or "practice of midwifery"
means providing primary maternity care that is consistent

1 with a midwife's training, education and experience to
2 women and their newborn children throughout the
3 childbearing cycle, and includes identifying and referring
4 women or their newborn children who require medical care to
5 an appropriate health professional;

6

7 (iv) "This act" means W.S. 33-46-101 through
8 33-46-108.

9

10 **33-46-103. Board of midwifery.**

11

12 (a) The board of midwifery is established. The board
13 shall regulate the practice of midwifery in the state to
14 ensure the safety of women and newborn children receiving
15 care from midwives.

16

17 (b) The board shall license as a midwife any person
18 who applies in the manner prescribed by the board in rules
19 and regulations and who:

20

21 (i) Pays the fees established by the board
22 pursuant to this act;

23

1 (ii) Has successfully completed the academic
2 requirements of a midwifery education program approved by
3 the board;

4
5 (iii) Has passed the written examination of the
6 North American registry of midwives, provided that the
7 board may by rule and regulation provide for a different
8 examination if necessary and may define the passing score
9 necessary for licensure under this act;

10
11 (iv) Has completed a practicum or course of
12 practical experience meeting the requirements established
13 by rule and regulation of the board;

14
15 (v) Has provided the board fingerprints and
16 other information necessary for a criminal history record
17 background check as provided under W.S. 7-19-201;

18
19 (vi) Has successfully completed a personal
20 interview with the board, if the board deems an interview
21 appropriate in general or in a specific case;

22
23 (vii) Has not provided materially false or
24 misleading information to the board;

1

2 (viii) Has not been convicted of a crime which
3 in the judgment of the board renders the person unfit to
4 practice midwifery.

5

6 (c) The board may by endorsement license any person
7 as a midwife who applies in the manner prescribed by the
8 board and who:

9

10 (i) Pays the fees established by the board
11 pursuant to this act;

12

13 (ii) Is currently licensed or certified by any
14 state with requirements at least as stringent as this state
15 and is in good standing in that state;

16

17 (iii) Has successfully completed a personal
18 interview with the board if the board deems an interview
19 appropriate in general or in a specific case;

20

21 (iv) Has provided the board fingerprints and
22 other information necessary for a criminal history record
23 background check as provided under W.S. 7-19-201;

24

1 (v) Has not provided materially false or
2 misleading information to the board;

3

4 (vi) Has not been convicted of a crime which in
5 the judgment of the board renders the person unfit to
6 practice midwifery;

7

8 (vii) Has not been sanctioned in another state
9 without resolution satisfactory to the board.

10

11 (d) The period of licensure shall be two (2) years
12 and the board shall renew the license upon application,
13 payment of fees and completion of any required continuing
14 education, absent cause to take action pursuant to
15 subsection (e) of this section.

16

17 (e) The board may revoke, suspend or condition the
18 license of a midwife or require the midwife to practice for
19 a time under the supervision of a person licensed under the
20 Medical Practice Act, a certified nurse midwife or another
21 midwife as appropriate if the board finds the midwife has
22 committed any one (1) or more of the following:

23

1 (i) Been convicted of a crime which renders the
2 person unfit to practice midwifery;

3

4 (ii) Violated this act;

5

6 (iii) Abused or neglected women or newborns
7 under the midwife's care;

8

9 (iv) Failed to refer women or newborn children
10 in need of care or at risk of needing care beyond the
11 abilities of the midwife to an appropriate health care
12 professional in accord with standards of the national
13 association of certified professional midwives or other
14 national midwife certifying agency established for such
15 purpose which has been reviewed and approved by the board;

16

17 (v) Provided a level or degree of care
18 indicating a need for additional training of the midwife or
19 additional professional supervision of the midwife.

20

21 (f) The board may authorize its chairman or executive
22 secretary, if any, to issue a provisional license allowing
23 any of the following:

24

1 (i) Any person eligible for licensure to
2 practice under the supervision of another midwife, a person
3 licensed under the Medical Practice Act or a certified
4 nurse midwife until the board has the opportunity to act on
5 the person's application for licensure, however this
6 paragraph shall not apply to any person whose license or
7 certificate is under revocation, suspension or disciplinary
8 restriction in another state;

9

10 (ii) Any person undertaking the practicum
11 required under this act to practice under the supervision
12 of another midwife, a certified nurse midwife or a person
13 licensed under the Medical Practice Act;

14

15 (iii) Any person licensed or certified in
16 another state with requirements at least as stringent as
17 this state to practice for not more than thirty (30) days
18 to provide education and instruction in midwifery or to act
19 as a locum tenens for a midwife licensed under this act.
20 The board may define by rule and regulation the number of
21 times during a year a provisional license pursuant to this
22 paragraph may be issued.

23

1 (g) Unless otherwise provided in this act, hearing
2 procedures shall be promulgated in accordance with, and a
3 person aggrieved by a decision of the board may take an
4 appeal pursuant to, the Wyoming Administrative Procedure
5 Act.

6

7 (h) The practice of midwifery in Wyoming prior to the
8 effective date of this act shall not constitute grounds for
9 the board to deny licensure to or to discipline any person
10 who otherwise qualifies for licensure under this act.

11

12 (j) The board shall make, adopt, amend, repeal and
13 enforce reasonable rules and regulations necessary for the
14 proper administration and enforcement of this act. The
15 rules adopted by the board shall:

16

17 (i) Develop uniform and reasonable scope of
18 practice standards for midwifery;

19

20 (ii) Develop a protocol for written informed
21 consent to treatment, which shall include all of the
22 following:

23

1 (A) The licensed midwife's experience and
2 training;

3

4 (B) Instructions for obtaining a copy of
5 rules adopted by the board pursuant to this act;

6

7 (C) Instructions for obtaining a copy of
8 documents adopted by the national association of certified
9 professional midwives that identify the nature of and
10 standards of practice for responsible midwifery practice;

11

12 (D) Instructions for filing complaints with
13 the board;

14

15 (E) Notice of the type and liability limits
16 of professional or personal liability insurance maintained
17 by the midwife;

18

19 (F) A written protocol for emergencies,
20 including hospital transport that is specific for each
21 individual client;

22

1 (G) A description of the procedures,
2 benefits and risks of home birth, primarily those
3 conditions that may arise during delivery;

4

5 (H) Any other information required by board
6 rule.

7

8 (iii) Define a protocol for the use of those
9 drugs approved by the board for administration to mothers
10 and babies. The protocol shall include amounts and methods
11 of obtaining, storing and disposing of approved drugs,
12 indications for usage, dosage, route of administration and
13 duration of treatment;

14

15 (iv) Define a protocol for medical waste
16 disposal.

17

18 (k) Rules adopted by the board shall not:

19

20 (i) Require a licensed midwife to have a nursing
21 degree or diploma;

22

23 (ii) Except as a condition imposed as a
24 disciplinary measure pursuant to W.S. 33-46-103(e), require

1 a licensed midwife to practice midwifery under the
2 supervision of another health care provider;

3

4 (iii) Except as a condition imposed as a
5 disciplinary measure pursuant to W.S. 33-46-103(e), require
6 a licensed midwife to enter into an agreement, written or
7 otherwise, with another health care provider;

8

9 (iv) Except as a condition imposed as a
10 disciplinary measure pursuant to W.S. 33-46-103(e), require
11 peer review for licensed midwives;

12

13 (v) Limit the location where a licensed midwife
14 may practice midwifery;

15

16 (vi) Allow a licensed midwife to use vacuum
17 extraction or forceps as an aid in the delivery of a
18 newborn;

19

20 (vii) Grant a licensed midwife prescriptive
21 privilege, except as provided in the protocol established
22 pursuant to W.S. 33-46-103(j)(iii);

23

1 (viii) Allow a licensed midwife to perform
2 abortions.

3

4 **33-46-104. Board membership and organization.**

5

6 (a) The board shall consist of five (5) members
7 appointed by the governor including three (3) certified
8 professional midwives, one (1) certified nurse midwife or
9 person licensed under the Medical Practice Act and one (1)
10 consumer of midwifery care. The governor shall have the
11 authority to appoint to the board qualified midwives
12 licensed or certified in another state. Commencing July 1,
13 2016, the registered nurse or person licensed under the
14 Medical Practice Act position may be filled by a midwife.

15

16 (b) The initial appointments shall be for staggered
17 terms with two (2) members being appointed for two (2) year
18 terms, two (2) members being appointed for three (3) year
19 terms and one (1) member being appointed for a four (4)
20 year term. Thereafter, members shall be appointed for four
21 (4) year terms. Vacancies shall be filled in the same
22 manner as original appointments.

23

1 (c) The board shall elect a chairman and a vice
2 chairman from among its membership. A majority of the
3 board shall constitute a quorum. The meetings of the board
4 shall be held at the call of the chairman or whenever a
5 majority of the board members request and shall be held at
6 least three (3) times per year.

7

8 (d) The attorney general shall provide legal counsel
9 as necessary for the board and shall do so without charge
10 until July 1, 2010 to assist the board in its organization
11 and promulgation of initial rules.

12

13 **33-46-105. Prohibited acts and exceptions.**

14

15 (a) Unless licensed pursuant to this act, no person
16 shall practice midwifery or hold himself out to be a
17 midwife, a licensed midwife or a certified professional
18 midwife except that a certified nurse midwife may hold
19 himself out to be a midwife.

20

21 (b) The following shall not be considered to be
22 practicing midwifery under this act:

23

1 (i) Any person rendering aid to a woman
2 delivering a baby in the case of an emergency;

3

4 (ii) Any family member assisting a woman
5 delivering a baby;

6

7 (iii) Any person recommending or referring a
8 woman to medical care or a specific health care
9 practitioner;

10

11 (iv) Any person licensed under another chapter
12 of this title while practicing within the scope of the
13 license.

14

15 **33-46-106. Penalties.**

16

17 Any person violating any provision of this act is guilty of
18 a misdemeanor punishable by a fine of not more than one
19 thousand dollars (\$1,000.00), imprisonment for not more
20 than one (1) year, or both.

21

22 **33-46-107. Immunity.**

23

1 (a) No person other than the licensed midwife who
2 provided care to the patient shall be liable for the
3 midwife's negligent, grossly negligent or willful and
4 wanton acts or omissions.

5

6 (b) No hospital, person licensed under the Medical
7 Practice Act, nurse, prehospital emergency medical
8 personnel or any of their agents shall be liable for care
9 provided to a woman or newborn child subsequent to care
10 provided by a midwife whose care was negligent, grossly
11 negligent or willful and wanton in acts or omissions,
12 except that any hospital, person licensed under the Medical
13 Practice Act, nurse, prehospital emergency medical
14 personnel or any of their agents shall remain liable as
15 otherwise provided by law for his or its own actions which
16 are independent of the actions and omissions of the
17 midwife.

18

19 (c) No person licensed under the Medical Practice
20 Act, nurse or hospital in which they practice shall be
21 liable for any failures of a midwife to meet any standard
22 of care for patients on which they provide consultation to
23 a midwife or accept a referral from the midwife but shall

1 remain liable as otherwise provided by law for his or its
2 own actions.

3

4 (d) For purposes of this section, "midwife" means the
5 licensed midwife who provided care to the patient and any
6 employer under whose authority the midwife provided that
7 care.

8

9 **33-46-108. Fees.**

10

11 The board shall establish fees as necessary to provide for
12 the administration of this act, including establishment of
13 a reasonable working capital contingency fund. The board
14 may establish fees for licensure, renewal of licenses, late
15 applications, provisional licensure and per delivery fees
16 for midwives conducting deliveries. Any per delivery fee
17 established by the board shall not exceed fifty dollars
18 (\$50.00) and shall be forwarded to the board at the
19 interval specified by board rules and regulations. The
20 fees shall be deposited and managed in the same manner as
21 other fees collected pursuant to this act.

22

1 **Section 2.** W.S. 7-19-106(a) by creating a new
2 paragraph (xxiv), 7-19-201(a) by creating a new paragraph
3 (xix) and 33-24-129 are amended to read:

4

5 **7-19-106. Access to, and dissemination of,**
6 **information.**

7

8 (a) Criminal history record information shall be
9 disseminated by criminal justice agencies in this state,
10 whether directly or through any intermediary, only to:

11

12 (xxiv) The board of midwifery for purposes of
13 obtaining background information on applicants for
14 licensure by the board whose application or other
15 information received by the board indicates the applicant
16 has or may have been convicted of a crime, and for purposes
17 of investigation of complaints and disciplinary action
18 against licensees of the board.

19

20 **7-19-201. State or national criminal history record**
21 **information.**

22

1 (a) The following persons shall be required to submit
2 to fingerprinting in order to obtain state and national
3 criminal history record information:

4
5 (xix) All persons applying for licensure to the
6 Wyoming board of midwifery whose application or other
7 information received by the board indicates that the
8 applicant has or may have been convicted of a crime, and
9 any licensee of the board of midwifery upon written request
10 from the board of midwifery as part of an ongoing
11 investigation of or disciplinary action against the
12 licensee.

13
14 **33-24-129. Exempted professions.**

15
16 This act does not apply to physicians, dentists,
17 veterinarians, podiatrists, optometrists, ~~or~~ osteopaths or
18 midwives licensed by law to practice their professions
19 within this state or to other persons authorized by federal
20 law and state law to treat sick and injured persons in
21 Wyoming and to use controlled substances in the course of
22 treatment.

23

1 **Section 3.** There is appropriated twenty thousand
2 dollars (\$20,000.00) from the general fund to the
3 department of administration and information. This
4 appropriation shall be for the period beginning with the
5 effective date of this section and ending June 30, 2011.
6 This appropriation shall only be expended for the purpose
7 of providing necessary support and executive secretary
8 services for the board of midwifery as created under
9 section 1 of this act. Notwithstanding any other provision
10 of law, this appropriation shall not be transferred or
11 expended for any other purpose and any unexpended,
12 unobligated funds remaining from this appropriation shall
13 revert as provided by law on June 30, 2011. The board
14 shall submit a supplemental budget request for the fiscal
15 year beginning July 1, 2011 and standard budget requests
16 for subsequent biennia through the normal budget process.

17

18 **Section 4.**

19

20 (a) Except as provided in subsection (b) of this
21 section, this act is effective July 1, 2010.

22

1 (b) W.S. 33-46-103(a) and 33-46-104 created by this
2 act and sections 2 and 3 of this act are effective
3 immediately upon completion of all acts necessary for a
4 bill to become law as provided by Article 4, Section 8 of
5 the Wyoming Constitution. The board of midwifery may
6 immediately commence drafting and adoption of rules and
7 regulations for the implementation of this act and may
8 immediately accept applications for midwife licenses to be
9 issued on or after July 1, 2010.

10

11

(END)