

House File 2086 - Introduced

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A BILL FOR

1 An Act providing for midwife licensure and providing for a fee
2 and a penalty, and including effective date provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.1, subsections 3 and 6, Code 2014,
2 are amended to read as follows:

3 3. "*Licensed*" or "*certified*", when applied to a physician
4 and surgeon, podiatric physician, osteopathic physician and
5 surgeon, physician assistant, psychologist, chiropractor,
6 nurse, dentist, dental hygienist, dental assistant,
7 optometrist, speech pathologist, audiologist, pharmacist,
8 physical therapist, physical therapist assistant, occupational
9 therapist, occupational therapy assistant, orthotist,
10 prosthetist, pedorthist, respiratory care practitioner,
11 practitioner of cosmetology arts and sciences, practitioner
12 of barbering, funeral director, dietitian, marital and family
13 therapist, mental health counselor, social worker, massage
14 therapist, midwife, athletic trainer, acupuncturist, nursing
15 home administrator, hearing aid dispenser, or sign language
16 interpreter or transliterator means a person licensed under
17 this subtitle.

18 6. "*Profession*" means medicine and surgery, podiatry,
19 osteopathic medicine and surgery, practice as a physician
20 assistant, psychology, chiropractic, nursing, dentistry,
21 dental hygiene, dental assisting, optometry, speech pathology,
22 audiology, pharmacy, physical therapy, physical therapist
23 assisting, occupational therapy, occupational therapy
24 assisting, respiratory care, cosmetology arts and sciences,
25 barbering, mortuary science, marital and family therapy,
26 mental health counseling, social work, dietetics, massage
27 therapy, midwifery, athletic training, acupuncture, nursing
28 home administration, hearing aid dispensing, sign language
29 interpreting or transliterating, orthotics, prosthetics, or
30 pedorthics.

31 Sec. 2. Section 147.2, subsection 1, Code 2014, is amended
32 to read as follows:

33 1. A person shall not engage in the practice of medicine
34 and surgery, podiatry, osteopathic medicine and surgery,
35 psychology, chiropractic, physical therapy, physical

1 therapist assisting, nursing, dentistry, dental hygiene,
2 dental assisting, optometry, speech pathology, audiology,
3 occupational therapy, occupational therapy assisting,
4 orthotics, prosthetics, pedorthics, respiratory care,
5 pharmacy, cosmetology arts and sciences, barbering, social
6 work, dietetics, marital and family therapy or mental health
7 counseling, massage therapy, midwifery, mortuary science,
8 athletic training, acupuncture, nursing home administration,
9 hearing aid dispensing, or sign language interpreting
10 or transliterating, or shall not practice as a physician
11 assistant, unless the person has obtained a license for that
12 purpose from the board for the profession.

13 Sec. 3. Section 147.13, Code 2014, is amended by adding the
14 following new subsection:

15 NEW SUBSECTION. 25. For midwifery, the board of midwifery.

16 Sec. 4. Section 147.14, subsection 1, Code 2014, is amended
17 by adding the following new paragraph:

18 NEW PARAGRAPH. x. For midwifery, a total of seven members,
19 three members who are licensed midwives under chapter 148G;
20 one member who is licensed under chapter 148, is a practicing
21 family physician, and has professional experience consulting
22 for and collaborating with direct-entry midwives; one member
23 who is an advanced registered nurse practitioner licensed under
24 chapter 152, is a certified nurse midwife, and has professional
25 experience consulting for and collaborating with direct-entry
26 midwives; and two members who are not licensed midwives or
27 licensed health care providers who have received direct-entry
28 midwifery services and who shall represent the general public.

29 Sec. 5. Section 147.74, Code 2014, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 5A. A midwife licensed under chapter 148G
32 may use the words "licensed midwife" or the initials "L.M."
33 after the person's name.

34 Sec. 6. NEW SECTION. 148G.1 **Definitions.**

35 As used in this chapter, unless the context otherwise

1 requires:

2 1. "*Board*" means the board of midwifery.

3 2. "*Licensed midwife*" means a person who is licensed to
4 practice midwifery as provided in this chapter.

5 3. "*Out-of-hospital*" means any facility, institution, or
6 place which is not an ambulatory surgical center or a hospital,
7 such as a birth center as defined in section 135.61 or a
8 private home.

9 4. "*Practice of midwifery*" means the provision of primary
10 maternity care during the antepartum, intrapartum, or
11 postpartum period by a person who is neither licensed to
12 practice under chapter 148 or 148C, nor a nurse recognized
13 by the Iowa board of nursing as an advanced registered nurse
14 practitioner who is a certified nurse midwife, and who is not
15 rendering emergency services without compensation. "*Practice*
16 *of midwifery*" may also include the carrying and administration
17 of certain medications during the practice of midwifery,
18 including oxytocin, as a postpartum antihemorrhagic agent,
19 oxygen, intravenous fluids for stabilization, vitamin K, eye
20 prophylactics, and other drugs or procedures as appropriate for
21 the scope of practice for licensed midwives as determined by
22 the board.

23 Sec. 7. NEW SECTION. 148G.2 Licensure — licensed
24 midwifery.

25 1. Beginning July 1, 2015, every person practicing
26 midwifery in this state shall be licensed pursuant to this
27 chapter. The board shall adopt rules pursuant to chapters 17A,
28 147, and 272C establishing procedures for the licensing of new
29 and practicing midwives.

30 2. Prior to obtaining licensure, an applicant shall
31 successfully pass an examination prescribed and approved by
32 the board as determined in rule demonstrating competencies
33 in at least all of the following areas: risk assessment
34 and management; prenatal care; management of normal labor,
35 birth, and postpartum; newborn care up to six weeks; and adult

1 cardiopulmonary resuscitation and newborn resuscitation.

2 3. The applicant shall provide documentation, satisfactory
3 to the board, of all of the following:

4 a. Knowledge and proficiency of all didactic components
5 of midwifery, including definitions, signs and symptoms,
6 differential diagnosis for risk assessment, stabilization and
7 treatment, follow-up, referral, and transport.

8 b. Complete and thorough preparation as an assistant
9 midwife prior to assuming responsibility as a primary midwife.
10 Clinical care performed under supervision during training
11 including, at a minimum:

12 (1) Seventy-five prenatal exams.

13 (2) Twenty births as an assistant midwife.

14 (3) Twenty births as primary midwife from the onset of labor
15 to the delivery of the placenta and the stabilization of mother
16 and newborn.

17 (4) Twenty newborn exams.

18 (5) Forty postpartum exams.

19 c. Assessment and verification of performance of skills
20 during an intensive, hands-on skills assessment, performed for
21 and scored by an evaluator approved by the board.

22 d. Passage of a three-hundred-fifty-item national board
23 examination that covers all aspects of midwifery care as
24 identified by job analysis.

25 e. Evidence that the applicant has provided prenatal,
26 intrapartal, and postpartal care as well newborn assessment,
27 equivalent to a minimum of one thousand three hundred fifty
28 clinical contact hours under the direct supervision of one or
29 more instructors approved by the North American registry of
30 midwives.

31 4. The applicant shall hold a certified professional
32 midwife credential issued by the North American registry of
33 midwives or any other nationally accredited credential as
34 specified by the board. If an applicant has been subject to
35 prior revocation of a license to practice medicine or nursing,

1 the applicant shall not be eligible for licensure under this
2 chapter, except as determined by the board.

3 5. The board may request, at the applicant's expense, that
4 the department of public safety perform a criminal history
5 check and the department of human services perform child and
6 dependent adult abuse record checks of the applicant. If an
7 applicant has a criminal record or a record of founded child or
8 dependent adult abuse, the board shall perform an evaluation to
9 determine whether the record warrants denial of licensure.

10 Sec. 8. NEW SECTION. 148G.3 Use of title — penalty.

11 A person shall not use the title licensed midwife, describe
12 or imply that the person is a licensed midwife, or represent
13 the person as a licensed midwife unless the person is licensed
14 under this chapter or is licensed as a nurse-midwife under
15 chapter 152.

16 Sec. 9. NEW SECTION. 148G.4 Rules.

17 1. The board shall:

18 a. Adopt rules relating to standards for professional
19 conduct of persons licensed under this chapter.

20 b. Adopt rules consistent with this chapter and with
21 chapters 147 and 272C which are necessary for the performance
22 of its duties.

23 c. Act on matters concerning licensure and the processes
24 of applying for, granting, suspending, imposing supervisory
25 or probationary conditions upon, reinstating, and revoking a
26 license.

27 d. Administer the provisions of this chapter requiring
28 documentation required to demonstrate competence as a midwife,
29 and the processing of applications for licenses and license
30 renewal.

31 e. Develop continuing education requirements as a condition
32 of license renewal.

33 f. Evaluate requirements for licensure in other states to
34 determine if reciprocity may be granted.

35 g. Establish and collect licensure fees as provided in

1 section 147.80 and retain fees as provided in section 147.82.

2 *h.* Establish procedures for the issuance, renewal, and
3 revocation or suspension of a license under this chapter.

4 *i.* Maintain a registry of licensed midwives and statistics
5 on the practice of midwifery utilizing vital statistics data.

6 2. In developing rules, the board may consult with
7 persons knowledgeable regarding the prenatal and postpartum
8 birth process, particularly those possessing experience with
9 out-of-hospital births, including but not limited to persons
10 licensed under chapter 148, certified professional midwives,
11 advanced registered nurse practitioners who are certified nurse
12 midwives, and women who have given birth in an out-of-hospital
13 setting. In developing rules relating to the practice of
14 midwifery, the board shall reflect the knowledge and skills
15 identified by the North American registry of midwives' current
16 job description for the profession and the standards of
17 practice of midwifery established by the national association
18 of certified professional midwives or a successor organization.

19 3. Rules relating to the practice of midwifery shall be
20 consistent with the North American registry of midwives'
21 current job description for the profession and the standards
22 of practice of midwifery established by the national
23 association of certified professional midwives or a successor
24 organization, and shall not expand the scope of practice of
25 midwifery established by the national association of certified
26 professional midwives or a successor organization.

27 4. At such time as the board determines that liability
28 insurance is available at an affordable price to certified
29 professional midwives, the board may mandate such coverage.
30 Until that time, each midwife shall comply with the disclosure
31 requirements in section 148G.5.

32 **Sec. 10. NEW SECTION. 148G.5 Client disclosure.**

33 Prior to accepting a patient for midwifery care, a licensed
34 midwife shall provide information indicating all of the
35 following:

1 1. Evidence that the care provider is a licensed midwife
2 meeting the requirements of this chapter.

3 2. Whether the licensed midwife has malpractice liability
4 insurance coverage and the policy limits of such coverage.

5 3. The midwife's educational background and relevant
6 experience, including experience in various birth settings.

7 4. The nature, scope, and location of the care to be
8 given, including the possibility of and the guidelines for
9 consultation, referral, or transfer of the patient to a
10 hospital from an out-of-hospital setting.

11 **Sec. 11. NEW SECTION. 148G.6 Exceptions.**

12 1. This chapter does not prevent qualified members of other
13 professions including but not limited to individuals licensed
14 under chapter 148 or 152 from providing services consistent
15 with the nature of the practice of midwifery.

16 2. This chapter does not prevent or prohibit a student
17 midwife from performing tasks related to the practice of
18 midwifery under the supervision of a licensed midwife, a
19 certified nurse midwife, or a licensed physician during
20 completion of the licensure process.

21 3. The practice of midwifery in this state prior to July
22 1, 2015, shall not constitute grounds for disciplinary action
23 by the board. The board may issue a license to a person who
24 has practiced midwifery in this state prior to that date upon
25 application and compliance with the provisions of this chapter
26 and the rules adopted pursuant to this chapter.

27 **Sec. 12. NEW SECTION. 148G.7 Prohibited practice.**

28 A person shall not practice midwifery, or represent that the
29 person is a midwife, unless the person is licensed as provided
30 in this chapter.

31 **Sec. 13. NEW SECTION. 148G.8 Requirements for licensure —**
32 **temporary license.**

33 Beginning July 1, 2015, an individual who does not meet the
34 requirements for licensure by examination pursuant to section
35 148G.2 may apply for a one-year temporary license as determined

1 by the board in rules. Renewal of the temporary license shall
2 be determined by the board. The board may revoke a temporary
3 license if it determines that the temporary licensee has
4 violated standards established by rule.

5 Sec. 14. NEW SECTION. **148G.9 Limits on liability.**

6 If a midwife does not have malpractice liability insurance,
7 a health care provider caring for a patient that has been
8 transferred to the health care provider's care from an
9 out-of-hospital setting shall be immune from liability for
10 treatment of the patient and the patient's child. Such
11 immunity shall not apply to acts or omissions constituting
12 gross negligence, recklessness, or intentional misconduct.
13 For purposes of this section, "*health care provider*" means
14 a physician or surgeon, osteopathic physician or surgeon,
15 physician assistant, or nurse licensed in this state, or a
16 hospital licensed pursuant to chapter 135B.

17 Sec. 15. Section 272C.1, subsection 6, Code 2014, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. *ag.* The board of midwifery, created pursuant
20 to chapter 147.

21 Sec. 16. Section 272C.4, subsection 6, Code 2014, is amended
22 to read as follows:

23 6. Define by rule acts or omissions that are grounds for
24 revocation or suspension of a license under section 100D.5,
25 105.22, 147.55, 148.6, 148B.7, 148G.4, 152.10, 153.34, 154A.24,
26 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15,
27 or 602.3203 or chapter 151 or 155, as applicable, and to define
28 by rule acts or omissions that constitute negligence, careless
29 acts, or omissions within the meaning of section 272C.3,
30 subsection 2, paragraph "b", which licensees are required to
31 report to the board pursuant to section 272C.9, subsection 2.

32 Sec. 17. **INITIAL APPOINTMENTS.**

33 1. Notwithstanding any provision to the contrary in this
34 Act, the initial midwife appointees to the board of midwifery
35 shall fulfill the national certification requirements of the

1 North American registry of midwives.

2 2. One of the initial midwife appointments to the board
3 shall be appointed for a one-year term, one shall be appointed
4 for a two-year term, and one shall be appointed for a
5 three-year term. The members who are licensed under chapter
6 148 or 152 shall each be appointed for a two-year term, and the
7 members representing the general public shall each be appointed
8 to a three-year term.

9 Sec. 18. EFFECTIVE DATE. The following provision or
10 provisions of this Act take effect July 1, 2015:

11 1. The section of this Act amending section 147.2,
12 subsection 1.

13 2. The section of this Act enacting section 148G.7.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with
16 the explanation's substance by the members of the general assembly.

17 This bill creates new Code chapter 148G that provides for
18 the licensure of midwives beginning July 1, 2015. A midwife
19 is not an allopathic or osteopathic physician licensed under
20 Code chapter 148 or a nurse licensed under Code chapter
21 152 providing primary maternity care during the antepartum,
22 intrapartum, or postpartum period.

23 The bill provides for the establishment of a seven-member
24 board of midwifery consisting of three members who are
25 midwives, one physician, one nurse, and two members who
26 represent the general public. The bill provides for fees to
27 fund the board and provides penalties for violation of the
28 licensure requirement; those penalties are set out for all
29 health-related boards in Code chapters 147 and 272C. Code
30 section 147.86 provides that it is a serious misdemeanor to
31 violate a provision of the licensing laws.

32 The board is similar in composition and responsibilities to
33 other health-related licensing boards.

34 The bill provides that a health care provider caring for a
35 patient transferred from an out-of-hospital setting is immune

1 from liability for that care, if the midwife does not have
2 malpractice liability insurance.

3 The provisions of the bill amending Code section 147.2 and
4 enacting Code section 148G.7, both prohibiting the practice of
5 midwifery without a license, take effect July 1, 2015.