

HOUSE BILL NO. 158

INTRODUCED BY KADAS, HARPER, S. RICE  
BY REQUEST OF THE ALTERNATIVE HEALTH CARE BOARD

IN THE HOUSE

JANUARY 13, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
	FIRST READING.
JANUARY 20, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 21, 1993	PRINTING REPORT.
JANUARY 22, 1993	SECOND READING, DO PASS AS AMENDED.
JANUARY 23, 1993	ENGROSSING REPORT.
JANUARY 25, 1993	THIRD READING, PASSED. AYES, 95; NOES, 2.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 27, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE, & SAFETY.
	FIRST READING.
MARCH 22, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 24, 1993	SECOND READING, CONCURRED IN.
MARCH 25, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 25, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 158  
 2 INTRODUCED BY Radus / J. J. Rice  
 3 BY REQUEST OF THE ALTERNATIVE HEALTH CARE BOARD  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 6 LAWS RELATING TO THE ALTERNATIVE HEALTH CARE BOARD;  
 7 PROVIDING STAGGERED TERMS FOR MEMBERS OF THE BOARD; DELETING  
 8 THE REQUIREMENT THAT ALL MEMBERS BE PRESENT IN ORDER TO  
 9 CONDUCT BOARD BUSINESS; MAKING FEES COLLECTED BY THE BOARD  
 10 NONREFUNDABLE; CLARIFYING THE DRUGS AND THERAPIES THAT MAY  
 11 BE PRESCRIBED BY NATUROPATHIC PHYSICIANS; CLARIFYING THE  
 12 REQUIREMENTS FOR NATUROPATHIC PHYSICIAN ENDORSEMENT;  
 13 ALLOWING A PERSON WITH A HIGH SCHOOL EQUIVALENCY DIPLOMA TO  
 14 QUALIFY FOR LICENSURE AS A DIRECT-ENTRY MIDWIFE; PROVIDING  
 15 REQUIREMENTS FOR DOCUMENTATION OF THE APPRENTICESHIP  
 16 EXPERIENCE OF MIDWIVES; GRANTING THE BOARD AUTHORITY TO SET  
 17 THE PASSING GRADE ON THE LICENSING EXAMINATION FOR MIDWIVES;  
 18 ALLOWING A MIDWIFE TO OBTAIN APPRENTICESHIP EXPERIENCE BY  
 19 WORKING UNDER THE SUPERVISION OF A LICENSED NATUROPATH WHO  
 20 IS CERTIFIED FOR SPECIALTY PRACTICE IN NATUROPATHIC  
 21 CHILDBIRTH ATTENDANCE; PROVIDING RESTRICTIONS IN THE USE OF  
 22 TITLES IDENTIFYING LICENSED MIDWIVES; AMENDING SECTIONS  
 23 2-15-1840, 37-26-201, 37-26-202, 37-26-301, 37-26-404,  
 24 37-27-201, 37-27-202, 37-27-203, 37-27-205, AND 37-27-210,  
 25 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

1  
 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 3 **Section 1.** Section 2-15-1840, MCA, is amended to read:  
 4 "2-15-1840. Alternative health care board --  
 5 composition -- terms -- allocation. (1) There is an  
 6 alternative health care board.  
 7 (2) The board consists of six members appointed by the  
 8 governor with the consent of the senate. The members are:  
 9 (a) two persons from each of the health care  
 10 professions regulated by the board who have been actively  
 11 engaged in the practice of their respective professions for  
 12 at least 3 years preceding appointment to the board;  
 13 (b) one public member who is not a member of a  
 14 profession regulated by the board; and  
 15 (c) one member who is a Montana physician whose  
 16 practice includes obstetrics.  
 17 (3) The members must have been residents of this state  
 18 for at least 3 years before appointment to the board.  
 19 (4) ~~Following the initial appointment of members to the~~  
 20 ~~board, all~~ All members shall serve staggered 4-year terms. A  
 21 member may not be appointed for more than two consecutive  
 22 terms. The governor may remove a member from the board for  
 23 neglect of a duty required by law, for incompetency, or for  
 24 unprofessional or dishonorable conduct.  
 25 (5) The board is allocated to the department for

1 administrative purposes only, as prescribed in 2-15-121.

2 (6) The board is designated a quasi-judicial board for  
3 the purposes of 2-15-124, except that one member of the  
4 board need not be an attorney licensed to practice law in  
5 this state."

6 **NEW SECTION. Section 2. Transition to staggered terms**  
7 **-- appointments.** (1) On September 1, 1995, the governor  
8 shall make appointments to the alternative health care board  
9 as follows:

10 (a) one person who is a Montana physician whose  
11 practice includes obstetrics, to serve a 4-year term;

12 (b) one person who is a public member, to serve a  
13 3-year term;

14 (c) one person who is a direct-entry midwife, to serve  
15 a 2-year term; and

16 (d) one person who is a naturopath, to serve a 1-year  
17 term.

18 (2) At the expiration of the 1-year and 2-year terms  
19 provided for in subsections (1)(c) and (1)(d), the governor  
20 shall appoint the person designated to fill the position to  
21 serve a 4-year term. At the expiration of these 4-year  
22 terms, the physician 4-year term, and the public member  
23 3-year term, appointments must be made in accordance with  
24 2-15-1840.

25 (3) On September 1, 1997, the governor shall make

1 appointments to the board as follows:

2 (a) one person who is a direct-entry midwife, to serve  
3 a 1-year term; and

4 (b) one person who is a naturopath, to serve a 2-year  
5 term.

6 (4) At the end of the terms provided for in subsection  
7 (3), the governor shall appoint the person designated to  
8 fill the positions to serve a 4-year term. At the expiration  
9 of these 4-year terms, appointments must be made in  
10 accordance with 2-15-1840.

11 **Section 3. Section 37-26-201, MCA, is amended to read:**

12 **"37-26-201. Powers and duties of board.** The board  
13 shall:

14 (1) adopt rules necessary or proper to administer and  
15 enforce this chapter;

16 (2) adopt rules that specify the scope of practice of  
17 naturopathic medicine stated in 37-26-301, that are  
18 consistent with the definition of naturopathic medicine  
19 provided in 37-26-103, and that are consistent with the  
20 education provided by approved naturopathic medical  
21 colleges;

22 (3) adopt rules prescribing the time, place, content,  
23 and passing requirements of the licensure examination, which  
24 may be composed of part or all of the national naturopathic  
physicians licensing examination;

- 1 (4) adopt rules that endorse equivalent licensure
- 2 examinations of another state or territory of the United
- 3 States, the District of Columbia, or a foreign country and
- 4 that may include licensure by reciprocity;
- 5 (5) adopt rules that set nonrefundable fees,
- 6 commensurate with costs, for application, examination,
- 7 licensure, and other administrative services;
- 8 (6) approve naturopathic medical colleges as defined in
- 9 37-26-103;
- 10 (7) adopt rules for the investigation of complaints
- 11 against naturopathic physicians, for hearings on complaints,
- 12 and to impose disciplinary action against naturopathic
- 13 physicians found to be in violation of this chapter;
- 14 (8) investigate individuals falsely claiming to be
- 15 naturopathic physicians and act in cooperation with county
- 16 attorneys to enforce the provisions of this chapter;
- 17 (9) adopt rules that establish, approve, and routinely
- 18 review a continuing education curriculum and accreditation
- 19 for naturopathic physicians that is required for license
- 20 renewal;
- 21 (10) issue certificates of specialty practice;
- 22 (11) issue temporary licenses as provided for in
- 23 37-26-403; and
- 24 (12) adopt rules that, in the discretion of the board,
- 25 appropriately restrict licenses to a limited scope of

1 practice of naturopathic medicine, which may exclude the use  
 2 of minor surgery or the legend drugs allowed under  
 3 37-26-301."

4 **Section 4.** Section 37-26-202, MCA, is amended to read:

5 "37-26-202. Board meetings. (1) The board shall meet at  
 6 least once annually.

7 (2) Special meetings may be called by any two board  
 8 members or the chairman presiding officer.

9 (3) ~~All members must be present in order to conduct~~  
 10 ~~board business~~ A majority of the board constitutes a quorum  
 11 for the transaction of business."

12 **Section 5.** Section 37-26-301, MCA, is amended to read:

13 "37-26-301. Practice of naturopathic health care. (1)  
 14 Naturopathic physicians may practice naturopathic medicine  
 15 as a limited practice of the healing arts as exempted in  
 16 37-3-103(1)(n), with the following restrictions. A  
 17 naturopathic physician may not:

18 (a) prescribe, dispense, or administer any legend drug  
 19 as defined in 50-31-301 except for whole gland thyroid<sub>7</sub>;  
 20 homeopathic preparations<sub>7</sub>; and oxytocin (pitocin), provided  
 21 that the naturopathic physician may administer but may not  
 22 prescribe or dispense oxytocin (pitocin); and the natural  
 23 therapeutic substances, drugs, and therapies described in  
 24 subsection (2);

25 (b) administer ionizing radioactive substances for

therapeutic purposes;

(c) perform surgical procedures except those minor surgery procedures authorized by this chapter; or

(d) claim to practice any licensed health care profession or system of treatment other than naturopathic medicine unless holding a separate license in that profession.

(2) Naturopathic physicians may prescribe and administer for preventive and therapeutic purposes the following natural therapeutic substances, drugs, and therapies:

(a) food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanical medicines, homeopathic preparations, and oxytocin (pitocin);

(b) topical drugs, health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, therapeutic devices, and nonprescription drugs; and

(c) barrier devices for contraception, naturopathic childbirth attendance, and minor surgery.

(3) Naturopathic physicians may perform or order for diagnostic purposes a physical or orificial examination, ultrasound, phlebotomy, clinical laboratory test or examination, physiological function test, and any other noninvasive diagnostic procedure commonly used by physicians

in general practice and as authorized by 37-26-201(2).

(4) Except as provided by this subsection, it is unlawful for a naturopath to engage, directly or indirectly, in the dispensing of any drugs that a naturopath is authorized to prescribe by subsection (2). If the place where a naturopath maintains an office for the practice of naturopathy is more than 10 miles from a place of business that sells and dispenses the drugs a naturopath may prescribe under subsection (2), then, to the extent such the drugs are not available within 10 miles of the naturopath's office, the naturopath may sell such the drugs that are unavailable."

**Section 6.** Section 37-26-404, MCA, is amended to read:

"37-26-404. Licensure by endorsement. ~~{1}~~ The board may authorize the department to issue to an applicant a license by endorsement if the applicant produces evidence satisfactory to the board of:

~~{a}~~(1) a valid license or certificate issued to the applicant on the basis of an examination by an a naturopathic examining board under the laws of another state or territory of the United States, the District of Columbia, or a foreign country, whose licensing standards at the time the license or certificate was issued were, in the judgment and according to the rules of the board, acceptable for endorsement for granting a license to practice naturopathic

1 medicine; or

2       ~~(b)~~~~---~~~~(i)~~~~(2)~~ (a) an inactive license or other  
3 certificate of examination issued to or for the applicant by  
4 a naturopathic examining board under the laws of another  
5 state or territory of the United States, the District of  
6 Columbia, or a foreign country, whose examination standards  
7 at the time the license was granted or the examination was  
8 passed were acceptable for endorsement in the judgment and  
9 according to the rules of the board;

10       ~~(iii)~~~~(b)~~ the fact that he the applicant has not been  
11 disciplined or had his an inactive license suspended or  
12 revoked for malpractice;

13       ~~(iii)~~~~(c)~~ the fact that he the applicant has been  
14 actively engaged in the practice of naturopathic medicine  
15 for at least 1 year in a state or territory of the United  
16 States, the District of Columbia, or a foreign country, that  
17 does not license naturopathic physicians;

18       ~~(iv)~~~~(d)~~ the fact that he the applicant is a graduate of  
19 an approved naturopathic medical college; and

20       ~~(v)~~~~(e)~~ his the good moral character of the applicant."

21       **Section 7.** Section 37-27-201, MCA, is amended to read:

22       "37-27-201. Qualifications of applicants for license --  
23 educational and practical experience requirements. To be  
24 eligible for a license as a direct-entry midwife, an  
25 applicant:

1       (1) must be possess a high school graduate diploma or  
2 its equivalent;

3       (2) must be of good moral character and be at least 21  
4 years of age;

5       (3) shall satisfactorily complete educational  
6 requirements in pregnancy and natural childbirth, approved  
7 by the board, which must include but are not limited to the  
8 following:

9       (a) provision of care during the antepartum,  
10 intrapartum, postpartum, and newborn period;

11       (b) parenting education for prepared childbirth;

12       (c) observation skills;

13       (d) aseptic techniques;

14       (e) management of birth and immediate care of the  
15 mother and the newborn;

16       (f) recognition of early signs of possible  
17 abnormalities;

18       (g) recognition and management of emergency situations;

19       (h) special requirements for home birth;

20       (i) intramuscular and subcutaneous injections;

21       (j) suturing necessary for episiotomy repair;

22       (k) recognition of communicable diseases affecting the  
23 pregnancy, birth, newborn, and postpartum periods;

24       (l) assessment skills; and

25       (m) the use and administration of drugs authorized in

1 37-27-302;

2 (4) shall acquire practical experience, which may be  
3 attained in a home, clinic, or hospital setting. Practical  
4 experience attained in a hospital does not constitute  
5 training or supervision by the hospital, nor may a hospital  
6 be required to provide such practical experience. At a  
7 minimum, this experience must include the following types  
8 and numbers of experiences acquired through an  
9 apprenticeship or other supervisory setting:

10 (a) provision of 100 prenatal examinations;

11 (b) observation of 40 births; and

12 (c) participation as the primary birth attendant at 25  
13 births, 15 of which included continuous care, as evidenced  
14 by ~~signing--the--birth--certificate--as--the--primary--birth~~  
15 ~~attendant;~~

16 (i) birth certificates from Montana or another state;

17 (ii) a signed affidavit from the birthing mother; or

18 (iii) documented records from the person who supervised  
19 the births.

20 (5) shall file documentation with the board that the  
21 applicant has been certified by the American heart  
22 association or American red cross to perform adult and  
23 infant cardiopulmonary resuscitation. Certification must be  
24 current at the time of application and remain valid  
25 throughout the license period."

1 **Section 8.** Section 37-27-202, MCA, is amended to read:

2 **"37-27-202. Examination -- preparation -- requirements.**

3 (1) An examination for a license to practice direct-entry  
4 midwifery must be prepared by a certified nurse-midwife  
5 designated by the board in consultation with the physician  
6 on the board.

7 (2) Examinations must be conducted once each year, be  
8 fair and impartial, and be sufficiently comprehensive to  
9 adequately test the applicant's competence and ability.

10 (3) A In order to be licensed, a person must shall  
11 attain a passing grade of--at--least--70%--to--pass on the  
12 examination, as set by the board.

13 (4) A person who fails to achieve a passing grade on  
14 the examination may not engage in the practice of  
15 midwifery."

16 **Section 9.** Section 37-27-203, MCA, is amended to read:

17 **"37-27-203. Examination -- exemption.** (1) Except as  
18 provided in subsection (4), an applicant for a license as a  
19 direct-entry midwife shall pass a qualifying, written  
20 examination, prescribed by the board, that is designed to  
21 test knowledge of theory regarding pregnancy and childbirth  
22 and to test clinical judgment in midwifery management. If  
23 considered necessary, an oral interview may be conducted in  
24 addition to the written examination to determine the fitness  
25 of the applicant to practice as a direct-entry midwife.

(2) Before an applicant may take the examination, the applicant shall demonstrate to the board that the educational and practical experience requirements in 37-27-201~~(2)~~(3) and ~~(3)~~(4) have been met.

(3) An applicant is exempt from the educational and practical experience requirements of 37-27-201~~(2)~~(3) and ~~(3)~~(4) if the applicant has:

(a) satisfactorily completed the first examination given by the board following July 1, 1991; and

(b) filed supporting documentation, as required by the board by rule, certifying that the applicant has served as the primary birth attendant, providing continuous care at no less than 75 births within the 7 years prior to July 1, 1991, as verified by birth certificates from Montana or another state, a signed affidavit from the birthing mother, or documented records from the midwife.

(4) Upon payment of the license fee established by the board, a nurse-midwife certified pursuant to 37-8-409 is exempt from the requirements of 37-27-201 and this section and may be licensed as a direct-entry midwife."

**Section 10.** Section 37-27-205, MCA, is amended to read:

"37-27-205. Provisional license -- apprentice license.

(1) Upon payment of a \$200 fee to the department, the board may grant a provisional direct-entry midwife license only to a person who filed an affidavit required by section 2,

Chapter 493, Laws of 1989.

(2) The provisional license is valid until the issuance of grades for the first examination administered pursuant to 37-27-202.

(3) Upon payment of a \$200 fee to the department, the board may grant an apprentice direct-entry midwife license to a person who:

(a) is working under the personal supervision of a licensed direct-entry midwife, a certified nurse-midwife, or a physician licensed under Title 37, chapter 3, and who or a licensed naturopathic physician who is certified for the specialty practice of naturopathic childbirth attendance; and

(b) is seeking licensure as a direct-entry midwife under this chapter.

(4) An apprentice direct-entry midwife license is valid for 1 year and must be renewed annually, with a limit of four renewals."

**Section 11.** Section 37-27-210, MCA, is amended to read:

"37-27-210. Fees. (1) An applicant for a direct-entry midwife license shall, upon submitting an application to the board, pay an application fee set by the board, commensurate with costs.

(2) An applicant required to take an examination shall, before commencement of the examination, pay an examination



1 fee set by the board, commensurate with costs.

2 (3) Before a license may be issued or renewed, an  
3 applicant shall pay a fee set by the board, commensurate  
4 with costs.

5 (4) Subject to 37-1-101(6), money paid for application,  
6 examination, license, and license renewal fees must be  
7 deposited in the state special revenue fund for use by the  
8 board.

9 (5) Fees are nonrefundable."

10 NEW SECTION. Section 12. Title restricted -- enjoining  
11 unlawful practice. (1) A direct-entry midwife licensed under  
12 this chapter may use the term "licensed midwife" or  
13 "direct-entry midwife" as a title.

14 (2) Only a direct-entry midwife licensed under this  
15 chapter may use the title "licensed midwife" or  
16 "direct-entry midwife".

17 (3) The terms and titles in subsections (1) and (2)  
18 identify direct-entry midwives and are restricted to  
19 describing and identifying licensed practitioners and their  
20 practice. A person who uses these terms and titles to  
21 represent the person or the person's practice to the public  
22 without being licensed pursuant to this chapter is in  
23 violation of this chapter.

24 (4) A violation of this chapter may be enjoined by the  
25 district court on petition by the board.

1 NEW SECTION. Section 13. Codification instruction.

2 [Section 12] is intended to be codified as an integral part  
3 of Title 37, chapter 27, part 2, and the provisions of Title  
4 37, chapter 27, part 2, apply to [section 12].

5 NEW SECTION. Section 14. Effective date. [This act] is  
6 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0158, third reading.

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising the laws relating to the Alternative Health Care Board.

Assumptions:

1. Board members and other revisions addressed are currently in place or have insignificant impact.

FISCAL IMPACT:

None

David Lewis 2-13-93  
DAVID LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Mike Kadas 2-15-93  
MIKE KADAS, PRIMARY SPONSOR DATE

Fiscal Note for HB0158, third reading

HB158

APPROVED BY COMM. ON  
HUMAN SERVICES AND AGING

1 House BILL NO. 158  
2 INTRODUCED BY Adrian Lopez-Spicer  
3 BY REQUEST OF THE ALTERNATIVE HEALTH CARE BOARD  
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14 profession regulated by the board; and  
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16 practice includes obstetrics.  
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18 for at least 3 years before appointment to the board.  
19 (4) ~~Following the initial appointment of members to the~~  
20 ~~board, all~~ All members shall serve staggered 4-year terms. A  
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15 a 2-year term; and

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20 education provided by approved naturopathic medical  
21 colleges;

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10 (7) adopt rules for the investigation of complaints  
11 against naturopathic physicians, for hearings on complaints,  
12 and to impose disciplinary action against naturopathic  
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15 naturopathic physicians and act in cooperation with county  
16 attorneys to enforce the provisions of this chapter;

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19 for naturopathic physicians that is required for license  
20 renewal;

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23 37-26-403; and

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2 of minor surgery or the legend drugs allowed under  
3 37-26-301."

4 **Section 4.** Section 37-26-202, MCA, is amended to read:

5 "37-26-202. Board meetings. (1) The board shall meet at  
6 least once annually.

7 (2) Special meetings may be called by any two board  
8 members or the chairman presiding officer.

9 ~~(3) All members must be present in order to conduct~~  
10 ~~board business~~ A majority of the board constitutes a quorum  
11 for the transaction of business."

12 **Section 5.** Section 37-26-301, MCA, is amended to read:

13 "37-26-301. Practice of naturopathic health care. (1)  
14 Naturopathic physicians may practice naturopathic medicine  
15 as a limited practice of the healing arts as exempted in  
16 37-3-103(1)(n), with the following restrictions. A  
17 naturopathic physician may not:

18 (a) prescribe, dispense, or administer any legend drug  
19 as defined in 50-31-301 except for whole gland thyroid;  
20 homeopathic preparations; and oxytocin (pitocin), provided  
21 that the naturopathic physician may administer but may not  
22 prescribe or dispense oxytocin (pitocin); and the natural  
23 therapeutic substances, drugs, and therapies described in  
24 subsection (2);

25 (b) administer ionizing radioactive substances for

1 therapeutic purposes;

2 (c) perform surgical procedures except those minor  
3 surgery procedures authorized by this chapter; or

4 (d) claim to practice any licensed health care  
5 profession or system of treatment other than naturopathic  
6 medicine unless holding a separate license in that  
7 profession.

8 (2) Naturopathic physicians may prescribe and  
9 administer for preventive and therapeutic purposes the  
10 following natural therapeutic substances, drugs, and  
11 therapies:

12 (a) food, food extracts, vitamins, minerals, enzymes,  
13 whole gland thyroid, botanical medicines, homeopathic  
14 preparations, and oxytocin (pitocin);

15 (b) topical drugs, health care counseling, nutritional  
16 counseling and dietary therapy, naturopathic physical  
17 applications, therapeutic devices, and nonprescription  
18 drugs; and

19 (c) barrier devices for contraception, naturopathic  
20 childbirth attendance, and minor surgery.

21 (3) Naturopathic physicians may perform or order for  
22 diagnostic purposes a physical or orificial examination,  
23 ultrasound, phlebotomy, clinical laboratory test or  
24 examination, physiological function test, and any other  
25 noninvasive diagnostic procedure commonly used by physicians

1 in general practice and as authorized by 37-26-201(2).

2 (4) Except as provided by this subsection, it is  
3 unlawful for a naturopath to engage, directly or indirectly,  
4 in the dispensing of any drugs that a naturopath is  
5 authorized to prescribe by subsection (2). If the place  
6 where a naturopath maintains an office for the practice of  
7 naturopathy is more than 10 miles from a place of business  
8 that sells and dispenses the drugs a naturopath may  
9 prescribe under subsection (2), then, to the extent such the  
10 drugs are not available within 10 miles of the naturopath's  
11 office, the naturopath may sell such the drugs that are  
12 unavailable."

13 **Section 6.** Section 37-26-404, MCA, is amended to read:

14 "37-26-404. Licensure by endorsement. ~~{t}~~ The board may  
15 authorize the department to issue to an applicant a license  
16 by endorsement if the applicant produces evidence  
17 satisfactory to the board of:

18 ~~{a}~~(1) a valid license or certificate issued to the  
19 applicant on the basis of an examination by an a  
20 naturopathic examining board under the laws of another state  
21 or territory of the United States, the District of Columbia,  
22 or a foreign country, whose licensing standards at the time  
23 the license or certificate was issued were, in the judgment  
24 and according to the rules of the board, acceptable for  
25 endorsement for granting a license to practice naturopathic

1 medicine; or  
 2 (b)--(1)(2) (a) an inactive license or other  
 3 certificate of examination issued to or for the applicant by  
 4 a naturopathic examining board under the laws of another  
 5 state or territory of the United States, the District of  
 6 Columbia, or a foreign country, whose examination standards  
 7 at the time the license was granted or the examination was  
 8 passed were acceptable for endorsement in the judgment and  
 9 according to the rules of the board;

10 (1)(b) the fact that he the applicant has not been  
 11 disciplined or had his an inactive license suspended or  
 12 revoked for malpractice;

13 (1)(c) the fact that he the applicant has been  
 14 actively engaged in the practice of naturopathic medicine  
 15 for at least 1 year in a state or territory of the United  
 16 States, the District of Columbia, or a foreign country, that  
 17 does not license naturopathic physicians;

18 (1)(d) the fact that he the applicant is a graduate of  
 19 an approved naturopathic medical college; and

20 (1)(e) his the good moral character of the applicant."

21 **Section 7.** Section 37-27-201, MCA, is amended to read:

22 "37-27-201. Qualifications of applicants for license --  
 23 educational and practical experience requirements. To be  
 24 eligible for a license as a direct-entry midwife, an  
 25 applicant:

1 (1) must be possess a high school graduate diploma or  
 2 its equivalent;

3 (2) must be of good moral character and be at least 21  
 4 years of age;

5 (3) shall satisfactorily complete educational  
 6 requirements in pregnancy and natural childbirth, approved  
 7 by the board, which must include but are not limited to the  
 8 following:

9 (a) provision of care during the antepartum,  
 10 intrapartum, postpartum, and newborn period;

11 (b) parenting education for prepared childbirth;

12 (c) observation skills;

13 (d) aseptic techniques;

14 (e) management of birth and immediate care of the  
 15 mother and the newborn;

16 (f) recognition of early signs of possible  
 17 abnormalities;

18 (g) recognition and management of emergency situations;

19 (h) special requirements for home birth;

20 (i) intramuscular and subcutaneous injections;

21 (j) suturing necessary for episiotomy repair;

22 (k) recognition of communicable diseases affecting the  
 23 pregnancy, birth, newborn, and postpartum periods;

24 (l) assessment skills; and

25 (m) the use and administration of drugs authorized in

1 37-27-302;

2 (4) shall acquire practical experience, which may be  
3 attained in a home, clinic, or hospital setting. Practical  
4 experience attained in a hospital does not constitute  
5 training or supervision by the hospital, nor may a hospital  
6 be required to provide such practical experience. At a  
7 minimum, this experience must include the following types  
8 and numbers of experiences acquired through an  
9 apprenticeship or other supervisory setting:

10 (a) provision of 100 prenatal examinations;

11 (b) observation of 40 births; and

12 (c) participation as the primary birth attendant at 25  
13 births, 15 of which included continuous care, as evidenced  
14 by signing--the--birth--certificate--as--the--primary-birth  
15 attendant;

16 (i) birth certificates from Montana or another state;

17 (ii) a signed affidavit from the birthing mother; or

18 (iii) documented records from the person who supervised  
19 the births.

20 (5) shall file documentation with the board that the  
21 applicant has been certified by the American heart  
22 association or American red cross to perform adult and  
23 infant cardiopulmonary resuscitation. Certification must be  
24 current at the time of application and remain valid  
25 throughout the license period."

1 **Section 8.** Section 37-27-202, MCA, is amended to read:

2 "37-27-202. Examination -- preparation -- requirements.

3 (1) An examination for a license to practice direct-entry  
4 midwifery must be prepared by a certified nurse-midwife  
5 designated by the board in consultation with the physician  
6 on the board.

7 (2) Examinations must be conducted once each year, be  
8 fair and impartial, and be sufficiently comprehensive to  
9 adequately test the applicant's competence and ability.

10 (3) A In order to be licensed, a person must shall  
11 attain a passing grade of--at--least--70%--to--pass on the  
12 examination, as set by the board.

13 (4) A person who fails to achieve a passing grade on  
14 the examination may not engage in the practice of  
15 midwifery."

16 **Section 9.** Section 37-27-203, MCA, is amended to read:

17 "37-27-203. Examination -- exemption. (1) Except as  
18 provided in subsection (4), an applicant for a license as a  
19 direct-entry midwife shall pass a qualifying, written  
20 examination, prescribed by the board, that is designed to  
21 test knowledge of theory regarding pregnancy and childbirth  
22 and to test clinical judgment in midwifery management. If  
23 considered necessary, an oral interview may be conducted in  
24 addition to the written examination to determine the fitness  
25 of the applicant to practice as a direct-entry midwife.



(2) Before an applicant may take the examination, the applicant shall demonstrate to the board that the educational and practical experience requirements in 37-27-201~~(2)~~(3) and ~~(3)~~(4) have been met.

(3) An applicant is exempt from the educational and practical experience requirements of 37-27-201~~(2)~~(3) and ~~(3)~~(4) if the applicant has:

(a) satisfactorily completed the first examination given by the board following July 1, 1991; and

(b) filed supporting documentation, as required by the board by rule, certifying that the applicant has served as the primary birth attendant, providing continuous care at no less than 75 births within the 7 years prior to July 1, 1991, as verified by birth certificates from Montana or another state, a signed affidavit from the birthing mother, or documented records from the midwife.

(4) Upon payment of the license fee established by the board, a nurse-midwife certified pursuant to 37-8-409 is exempt from the requirements of 37-27-201 and this section and may be licensed as a direct-entry midwife."

**Section 10.** Section 37-27-205, MCA, is amended to read:

"37-27-205. Provisional license -- apprentice license.

(1) Upon payment of a \$200 fee to the department, the board may grant a provisional direct-entry midwife license only to a person who filed an affidavit required by section 2,

Chapter 493, Laws of 1989.

(2) The provisional license is valid until the issuance of grades for the first examination administered pursuant to 37-27-202.

(3) Upon payment of a \$200 fee to the department, the board may grant an apprentice direct-entry midwife license to a person who:

(a) is working under the personal supervision of a licensed direct-entry midwife, a certified nurse-midwife, or a physician licensed under Title 37, chapter 3, and who or a licensed naturopathic physician who is certified for the specialty practice of naturopathic childbirth attendance; and

(b) is seeking licensure as a direct-entry midwife under this chapter.

(4) An apprentice direct-entry midwife license is valid for 1 year and must be renewed annually, with a limit of four renewals."

**Section 11.** Section 37-27-210, MCA, is amended to read:

"37-27-210. Fees. (1) An applicant for a direct-entry midwife license shall, upon submitting an application to the board, pay an application fee set by the board, commensurate with costs.

(2) An applicant required to take an examination shall, before commencement of the examination, pay an examination

1 fee set by the board, commensurate with costs.

2 (3) Before a license may be issued or renewed, an  
3 applicant shall pay a fee set by the board, commensurate  
4 with costs.

5 (4) Subject to 37-1-101(6), money paid for application,  
6 examination, license, and license renewal fees must be  
7 deposited in the state special revenue fund for use by the  
8 board.

9 (5) Fees are nonrefundable."

10 NEW SECTION. Section 12. title restricted -- enjoining  
11 unlawful practice. (1) A direct-entry midwife licensed under  
12 this chapter may use the term "licensed midwife" or  
13 "direct-entry midwife" as a title.

14 (2) Only a direct-entry midwife licensed under this  
15 chapter may use the title "licensed midwife" or  
16 "direct-entry midwife".

17 (3) The terms and titles in subsections (1) and (2)  
18 identify direct-entry midwives and are restricted to  
19 describing and identifying licensed practitioners and their  
20 practice. A person who uses these terms and titles to  
21 represent the person or the person's practice to the public  
22 without being licensed pursuant to this chapter is in  
23 violation of this chapter.

24 (4) A violation of this chapter may be enjoined by the  
25 district court on petition by the board.

1 NEW SECTION. Section 13. Codification instruction.

2 {Section 12} is intended to be codified as an integral part  
3 of Title 37, chapter 27, part 2, and the provisions of Title  
4 37, chapter 27, part 2, apply to {section 12}.

5 NEW SECTION. Section 14. Effective date. [This act] is  
6 effective on passage and approval.

-End-

## 1 HOUSE BILL NO. 158

2 INTRODUCED BY KADAS, HARPER, S. RICE

3 BY REQUEST OF THE ALTERNATIVE HEALTH CARE BOARD

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
6 LAWS RELATING TO THE ALTERNATIVE HEALTH CARE BOARD;  
7 PROVIDING STAGGERED TERMS FOR MEMBERS OF THE BOARD; DELETING  
8 THE REQUIREMENT THAT ALL MEMBERS BE PRESENT IN ORDER TO  
9 CONDUCT BOARD BUSINESS; MAKING FEES COLLECTED BY THE BOARD  
10 NONREFUNDABLE; CLARIFYING THE DRUGS AND THERAPIES THAT MAY  
11 BE PRESCRIBED BY NATUROPATHIC PHYSICIANS; CLARIFYING THE  
12 REQUIREMENTS FOR NATUROPATHIC PHYSICIAN ENDORSEMENT;  
13 ALLOWING A PERSON WITH A HIGH SCHOOL EQUIVALENCY DIPLOMA TO  
14 QUALIFY FOR LICENSURE AS A DIRECT-ENTRY MIDWIFE; PROVIDING  
15 REQUIREMENTS FOR DOCUMENTATION OF THE APPRENTICESHIP  
16 EXPERIENCE OF MIDWIVES; GRANTING THE BOARD AUTHORITY TO SET  
17 THE PASSING GRADE ON THE LICENSING EXAMINATION FOR MIDWIVES;  
18 ALLOWING A MIDWIFE TO OBTAIN APPRENTICESHIP EXPERIENCE BY  
19 WORKING UNDER THE SUPERVISION OF A LICENSED NATUROPATH WHO  
20 IS CERTIFIED FOR SPECIALTY PRACTICE IN NATUROPATHIC  
21 CHILDBIRTH ATTENDANCE; PROVIDING RESTRICTIONS IN THE USE OF  
22 TITLES IDENTIFYING LICENSED MIDWIVES; AMENDING SECTIONS  
23 2-15-1840, 37-26-201, 37-26-202, 37-26-301, 37-26-404,  
24 37-27-201, 37-27-202, 37-27-203, 37-27-205, AND 37-27-210,  
25 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

1

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

3 Section 1. Section 2-15-1840, MCA, is amended to read:

4 "2-15-1840. Alternative health care board --  
5 composition -- terms -- allocation. (1) There is an  
6 alternative health care board.

7 (2) The board consists of six members appointed by the  
8 governor with the consent of the senate. The members are:

9 (a) two persons from each of the health care  
10 professions regulated by the board who have been actively  
11 engaged in the practice of their respective professions for  
12 at least 3 years preceding appointment to the board;

13 (b) one public member who is not a member of a  
14 profession regulated by the board; and

15 (c) one member who is a Montana physician whose  
16 practice includes obstetrics.

17 (3) The members must have been residents of this state  
18 for at least 3 years before appointment to the board.

19 ~~Following-the-initial-appointment-of-members-to-the~~  
20 ~~board;-all~~ All members shall serve staggered 4-year terms. A  
21 member may not be appointed for more than two consecutive  
22 terms. The governor may remove a member from the board for  
23 neglect of a duty required by law, for incompetency, or for  
24 unprofessional or dishonorable conduct.

25 (5) The board is allocated to the department for



administrative purposes only, as prescribed in 2-15-121.

(6) The board is designated a quasi-judicial board for the purposes of 2-15-124, except that one member of the board need not be an attorney licensed to practice law in this state."

**NEW SECTION. Section 2.** Transition to staggered terms -- appointments. (1) On September 1, 1995, the governor shall make appointments to the alternative health care board as follows:

(a) one person who is a Montana physician whose practice includes obstetrics, to serve a 4-year term;

(b) one person who is a public member, to serve a 3-year term;

(c) one person who is a direct-entry midwife, to serve a 2-year term; and

(d) one person who is a naturopath, to serve a 1-year term.

(2) At the expiration of the 1-year and 2-year terms provided for in subsections (1)(c) and (1)(d), the governor shall appoint the person designated to fill the position to serve a 4-year term. At the expiration of these 4-year terms, the physician 4-year term, and the public member 3-year term, appointments must be made in accordance with 2-15-1840.

(3) On September 1, 1997, the governor shall make

appointments to the board as follows:

(a) one person who is a direct-entry midwife, to serve a 1-year term; and

(b) one person who is a naturopath, to serve a 2-year term.

(4) At the end of the terms provided for in subsection (3), the governor shall appoint the person designated to fill the positions to serve a 4-year term. At the expiration of these 4-year terms, appointments must be made in accordance with 2-15-1840.

**Section 3.** Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;

1 (4) adopt rules that endorse equivalent licensure  
2 examinations of another state or territory of the United  
3 States, the District of Columbia, or a foreign country and  
4 that may include licensure by reciprocity;

5 (5) adopt rules that set nonrefundable fees,  
6 commensurate with costs, for application, examination,  
7 licensure, and other administrative services;

8 (6) approve naturopathic medical colleges as defined in  
9 37-26-103;

10 (7) adopt rules for the investigation of complaints  
11 against naturopathic physicians, for hearings on complaints,  
12 and to impose disciplinary action against naturopathic  
13 physicians found to be in violation of this chapter;

14 (8) investigate individuals falsely claiming to be  
15 naturopathic physicians and act in cooperation with county  
16 attorneys to enforce the provisions of this chapter;

17 (9) adopt rules that establish, approve, and routinely  
18 review a continuing education curriculum and accreditation  
19 for naturopathic physicians that is required for license  
20 renewal;

21 (10) issue certificates of specialty practice;

22 (11) issue temporary licenses as provided for in  
23 37-26-403; and

24 (12) adopt rules that, in the discretion of the board,  
25 appropriately restrict licenses to a limited scope of

1 practice of naturopathic medicine, which may exclude the use  
2 of minor surgery or the legend drugs allowed under  
3 37-26-301."

4 **Section 4.** Section 37-26-202, MCA, is amended to read:

5 "37-26-202. Board meetings. (1) The board shall meet at  
6 least once annually.

7 (2) Special meetings may be called by any two board  
8 members or the chairman presiding officer.

9 ~~(3) All members must be present in order to conduct~~  
10 ~~board business~~ A majority of the board constitutes a quorum  
11 for the transaction of business."

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13 "37-26-301. Practice of naturopathic health care. (1)  
14 Naturopathic physicians may practice naturopathic medicine  
15 as a limited practice of the healing arts as exempted in  
16 37-3-103(1)(n), with the following restrictions. A  
17 naturopathic physician may not:

18 (a) prescribe, dispense, or administer any legend drug  
19 as defined in 50-31-301 except for whole gland thyroid;  
20 homeopathic preparations; THE NATURAL THERAPEUTIC  
21 SUBSTANCES, DRUGS, AND THERAPIES DESCRIBED IN SUBSECTION  
22 (2); AND and oxytocin (pitocin), provided that the  
23 naturopathic physician may administer but may not prescribe  
24 or dispense oxytocin (pitocin); ~~and the natural therapeutic~~  
25 ~~substances, drugs, and therapies described in subsection~~

1 ~~(2)~~;  
 2 (b) administer ionizing radioactive substances for  
 3 therapeutic purposes;  
 4 (c) perform surgical procedures except those minor  
 5 surgery procedures authorized by this chapter; or  
 6 (d) claim to practice any licensed health care  
 7 profession or system of treatment other than naturopathic  
 8 medicine unless holding a separate license in that  
 9 profession.  
 10 (2) Naturopathic physicians may prescribe and  
 11 administer for preventive and therapeutic purposes the  
 12 following natural therapeutic substances, drugs, and  
 13 therapies:  
 14 (a) food, food extracts, vitamins, minerals, enzymes,  
 15 whole gland thyroid, botanical medicines, homeopathic  
 16 preparations, and oxytocin (pitocin);  
 17 (b) topical drugs, health care counseling, nutritional  
 18 counseling and dietary therapy, naturopathic physical  
 19 applications, therapeutic devices, and nonprescription  
 20 drugs; and  
 21 (c) barrier devices for contraception, naturopathic  
 22 childbirth attendance, and minor surgery.  
 23 (3) Naturopathic physicians may perform or order for  
 24 diagnostic purposes a physical or orificial examination,  
 25 ultrasound, phlebotomy, clinical laboratory test or

1 examination, physiological function test, and any other  
 2 noninvasive diagnostic procedure commonly used by physicians  
 3 in general practice and as authorized by 37-26-201(2).  
 4 (4) Except as provided by this subsection, it is  
 5 unlawful for a naturopath to engage, directly or indirectly,  
 6 in the dispensing of any drugs that a naturopath is  
 7 authorized to prescribe by subsection (2). If the place  
 8 where a naturopath maintains an office for the practice of  
 9 naturopathy is more than 10 miles from a place of business  
 10 that sells and dispenses the drugs a naturopath may  
 11 prescribe under subsection (2), then, to the extent such the  
 12 drugs are not available within 10 miles of the naturopath's  
 13 office, the naturopath may sell such the drugs that are  
 14 unavailable."

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 17 authorize the department to issue to an applicant a license  
 18 by endorsement if the applicant produces evidence  
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20 ~~(a)~~ (1) a valid license or certificate issued to the  
 21 applicant on the basis of an examination by an a  
 22 naturopathic examining board under the laws of another state  
 23 or territory of the United States, the District of Columbia,  
 24 or a foreign country, whose licensing standards at the time  
 25 the license or certificate was issued were, in the judgment

1 and according to the rules of the board, acceptable for  
2 endorsement for granting a license to practice naturopathic  
3 medicine; or

4 {b)--{i}(2) (a) an inactive license or other  
5 certificate of examination issued to or for the applicant by  
6 a naturopathic examining board under the laws of another  
7 state or territory of the United States, the District of  
8 Columbia, or a foreign country, whose examination standards  
9 at the time the license was granted or the examination was  
10 passed were acceptable for endorsement in the judgment and  
11 according to the rules of the board;

12 {i}(b) the fact that he the applicant has not been  
13 disciplined or had his an inactive license suspended or  
14 revoked for malpractice;

15 {i}(c) the fact that he the applicant has been  
16 actively engaged in the practice of naturopathic medicine  
17 for at least 1 year in a state or territory of the United  
18 States, the District of Columbia, or a foreign country, that  
19 does not license naturopathic physicians;

20 {i}(d) the fact that he the applicant is a graduate of  
21 an approved naturopathic medical college; and

22 {i}(e) his the good moral character of the applicant."

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24 "37-27-201. Qualifications of applicants for license --  
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4 its equivalent;

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6 years of age;

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9 by the board, which must include but are not limited to the  
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17 mother and the newborn;

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25 pregnancy, birth, newborn, and postpartum periods;

1 (l) assessment skills; and  
 2 (m) the use and administration of drugs authorized in  
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 7 training or supervision by the hospital, nor may a hospital  
 8 be required to provide such practical experience. At a  
 9 minimum, this experience must include the following types  
 10 and numbers of experiences acquired through an  
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 13 (b) observation of 40 births; and  
 14 (c) participation as the primary birth attendant at 25  
 15 births, 15 of which included continuous care, as evidenced  
 16 by ~~signing--the--birth--certificate--as--the--primary-birth~~  
 17 ~~attendant;~~  
 18 (i) birth certificates from Montana or another state;  
 19 (ii) a signed affidavit from the birthing mother; or  
 20 (iii) documented records from the person who supervised  
 21 the births.  
 22 (5) shall file documentation with the board that the  
 23 applicant has been certified by the American heart  
 24 association or American red cross to perform adult and  
 25 infant cardiopulmonary resuscitation. Certification must be

1 current at the time of application and remain valid  
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 24 and to test clinical judgment in midwifery management. If  
 25 considered necessary, an oral interview may be conducted in



1 addition to the written examination to determine the fitness  
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6 37-27-201~~(2)~~(3) and ~~(3)~~(4) have been met.

7 (3) An applicant is exempt from the educational and  
8 practical experience requirements of 37-27-201~~(2)~~(3) and  
9 ~~(3)~~(4) if the applicant has:

10 (a) satisfactorily completed the first examination  
11 given by the board following July 1, 1991; and

12 (b) filed supporting documentation, as required by the  
13 board by rule, certifying that the applicant has served as  
14 the primary birth attendant, providing continuous care at no  
15 less than 75 births within the 7 years prior to July 1,  
16 1991, as verified by birth certificates from Montana or  
17 another state, a signed affidavit from the birthing mother,  
18 or documented records from the midwife.

19 (4) Upon payment of the license fee established by the  
20 board, a nurse-midwife certified pursuant to 37-8-409 is  
21 exempt from the requirements of 37-27-201 and this section  
22 and may be licensed as a direct-entry midwife."

23 **Section 10.** Section 37-27-205, MCA, is amended to read:

24 "37-27-205. Provisional license -- apprentice license.

25 (1) Upon payment of a \$200 fee to the department, the board

1 may grant a provisional direct-entry midwife license only to  
2 a person who filed an affidavit required by section 2,  
3 Chapter 493, Laws of 1989.

4 (2) The provisional license is valid until the issuance  
5 of grades for the first examination administered pursuant to  
6 37-27-202.

7 (3) Upon payment of a \$200 fee to the department, the  
8 board may grant an apprentice direct-entry midwife license  
9 to a person who:

10 (a) is working under the personal supervision of a  
11 licensed direct-entry midwife, a certified nurse-midwife, or  
12 a physician licensed under Title 37, chapter 3, and who or a  
13 licensed naturopathic physician who is certified for the  
14 specialty practice of naturopathic childbirth attendance;  
15 and

16 (b) is seeking licensure as a direct-entry midwife  
17 under this chapter.

18 (4) An apprentice direct-entry midwife license is valid  
19 for 1 year and must be renewed annually, with a limit of  
20 four renewals."

21 **Section 11.** Section 37-27-210, MCA, is amended to read:

22 "37-27-210. Fees. (1) An applicant for a direct-entry  
23 midwife license shall, upon submitting an application to the  
24 board, pay an application fee set by the board, commensurate  
25 with costs.

1 (2) An applicant required to take an examination shall,  
2 before commencement of the examination, pay an examination  
3 fee set by the board, commensurate with costs.

4 (3) Before a license may be issued or renewed, an  
5 applicant shall pay a fee set by the board, commensurate  
6 with costs.

7 (4) Subject to 37-1-101(6), money paid for application,  
8 examination, license, and license renewal fees must be  
9 deposited in the state special revenue fund for use by the  
10 board.

11 (5) Fees are nonrefundable."

12 NEW SECTION. Section 12. Title restricted -- enjoining  
13 unlawful practice. (1) A direct-entry midwife licensed under  
14 this chapter may use the term "licensed midwife" or  
15 "direct-entry midwife" as a title.

16 (2) Only a direct-entry midwife licensed under this  
17 chapter may use the title "licensed midwife" or  
18 "direct-entry midwife".

19 (3) The terms and titles in subsections (1) and (2)  
20 identify direct-entry midwives and are restricted to  
21 describing and identifying licensed practitioners and their  
22 practice. A person who uses these terms and titles to  
23 represent the person or the person's practice to the public  
24 without being licensed pursuant to this chapter is in  
25 violation of this chapter.

1 (4) A violation of this chapter may be enjoined by the  
2 district court on petition by the board.

3 NEW SECTION. Section 13. Codification instruction.  
4 [Section 12] is intended to be codified as an integral part  
5 of Title 37, chapter 27, part 2, and the provisions of Title  
6 37, chapter 27, part 2, apply to [section 12].

7 NEW SECTION. Section 14. effective date. [This act] is  
8 effective on passage and approval.

-End-

## 1 HOUSE BILL NO. 158

2 INTRODUCED BY KADAS, HARPER, S. RICE

3 BY REQUEST OF THE ALTERNATIVE HEALTH CARE BOARD

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
6 LAWS RELATING TO THE ALTERNATIVE HEALTH CARE BOARD;  
7 PROVIDING STAGGERED TERMS FOR MEMBERS OF THE BOARD; DELETING  
8 THE REQUIREMENT THAT ALL MEMBERS BE PRESENT IN ORDER TO  
9 CONDUCT BOARD BUSINESS; MAKING FEES COLLECTED BY THE BOARD  
10 NONREFUNDABLE; CLARIFYING THE DRUGS AND THERAPIES THAT MAY  
11 BE PRESCRIBED BY NATUROPATHIC PHYSICIANS; CLARIFYING THE  
12 REQUIREMENTS FOR NATUROPATHIC PHYSICIAN ENDORSEMENT;  
13 ALLOWING A PERSON WITH A HIGH SCHOOL EQUIVALENCY DIPLOMA TO  
14 QUALIFY FOR LICENSURE AS A DIRECT-ENTRY MIDWIFE; PROVIDING  
15 REQUIREMENTS FOR DOCUMENTATION OF THE APPRENTICESHIP  
16 EXPERIENCE OF MIDWIVES; GRANTING THE BOARD AUTHORITY TO SET  
17 THE PASSING GRADE ON THE LICENSING EXAMINATION FOR MIDWIVES;  
18 ALLOWING A MIDWIFE TO OBTAIN APPRENTICESHIP EXPERIENCE BY  
19 WORKING UNDER THE SUPERVISION OF A LICENSED NATUROPATH WHO  
20 IS CERTIFIED FOR SPECIALTY PRACTICE IN NATUROPATHIC  
21 CHILDBIRTH ATTENDANCE; PROVIDING RESTRICTIONS IN THE USE OF  
22 TITLES IDENTIFYING LICENSED MIDWIVES; AMENDING SECTIONS  
23 2-15-1840, 37-26-201, 37-26-202, 37-26-301, 37-26-404,  
24 37-27-201, 37-27-202, 37-27-203, 37-27-205, AND 37-27-210,  
25 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

2 Section 1. Section 2-15-1840, MCA, is amended to read:

3 "2-15-1840. Alternative health care board --  
4 composition -- terms -- allocation. (1) There is an  
5 alternative health care board.  
6

7 (2) The board consists of six members appointed by the  
8 governor with the consent of the senate. The members are:

9 (a) two persons from each of the health care  
10 professions regulated by the board who have been actively  
11 engaged in the practice of their respective professions for  
12 at least 3 years preceding appointment to the board;

13 (b) one public member who is not a member of a  
14 profession regulated by the board; and

15 (c) one member who is a Montana physician whose  
16 practice includes obstetrics.

17 (3) The members must have been residents of this state  
18 for at least 3 years before appointment to the board.

19 ~~Following the initial appointment of members to the~~  
20 ~~board, all~~ All members shall serve staggered 4-year terms. A  
21 member may not be appointed for more than two consecutive  
22 terms. The governor may remove a member from the board for  
23 neglect of a duty required by law, for incompetency, or for  
24 unprofessional or dishonorable conduct.

25 (5) The board is allocated to the department for

administrative purposes only, as prescribed in 2-15-121.

(6) The board is designated a quasi-judicial board for the purposes of 2-15-124, except that one member of the board need not be an attorney licensed to practice law in this state."

**NEW SECTION. Section 2.** Transition to staggered terms -- appointments. (1) On September 1, 1995, the governor shall make appointments to the alternative health care board as follows:

(a) one person who is a Montana physician whose practice includes obstetrics, to serve a 4-year term;

(b) one person who is a public member, to serve a 3-year term;

(c) one person who is a direct-entry midwife, to serve a 2-year term; and

(d) one person who is a naturopath, to serve a 1-year term.

(2) At the expiration of the 1-year and 2-year terms provided for in subsections (1)(c) and (1)(d), the governor shall appoint the person designated to fill the position to serve a 4-year term. At the expiration of these 4-year terms, the physician 4-year term, and the public member 3-year term, appointments must be made in accordance with 2-15-1840.

(3) On September 1, 1997, the governor shall make

appointments to the board as follows:

(a) one person who is a direct-entry midwife, to serve a 1-year term; and

(b) one person who is a naturopath, to serve a 2-year term.

(4) At the end of the terms provided for in subsection (3), the governor shall appoint the person designated to fill the positions to serve a 4-year term. At the expiration of these 4-year terms, appointments must be made in accordance with 2-15-1840.

**Section 3.** Section 37-26-201, MCA, is amended to read:

"37-26-201. Powers and duties of board. The board shall:

(1) adopt rules necessary or proper to administer and enforce this chapter;

(2) adopt rules that specify the scope of practice of naturopathic medicine stated in 37-26-301, that are consistent with the definition of naturopathic medicine provided in 37-26-103, and that are consistent with the education provided by approved naturopathic medical colleges;

(3) adopt rules prescribing the time, place, content, and passing requirements of the licensure examination, which may be composed of part or all of the national naturopathic physicians licensing examination;

(4) adopt rules that endorse equivalent licensure examinations of another state or territory of the United States, the District of Columbia, or a foreign country and that may include licensure by reciprocity;

(5) adopt rules that set nonrefundable fees, commensurate with costs, for application, examination, licensure, and other administrative services;

(6) approve naturopathic medical colleges as defined in 37-26-103;

(7) adopt rules for the investigation of complaints against naturopathic physicians, for hearings on complaints, and to impose disciplinary action against naturopathic physicians found to be in violation of this chapter;

(8) investigate individuals falsely claiming to be naturopathic physicians and act in cooperation with county attorneys to enforce the provisions of this chapter;

(9) adopt rules that establish, approve, and routinely review a continuing education curriculum and accreditation for naturopathic physicians that is required for license renewal;

(10) issue certificates of specialty practice;

(11) issue temporary licenses as provided for in 37-26-403; and

(12) adopt rules that, in the discretion of the board, appropriately restrict licenses to a limited scope of

practice of naturopathic medicine, which may exclude the use of minor surgery or the legend drugs allowed under 37-26-301."

**Section 4.** Section 37-26-202, MCA, is amended to read:

"37-26-202. Board meetings. (1) The board shall meet at least once annually.

(2) Special meetings may be called by any two board members or the chairman presiding officer.

(3) ~~All members must be present in order to conduct board business~~ A majority of the board constitutes a quorum for the transaction of business."

**Section 5.** Section 37-26-301, MCA, is amended to read:

"37-26-301. Practice of naturopathic health care. (1) Naturopathic physicians may practice naturopathic medicine as a limited practice of the healing arts as exempted in 37-3-103(1)(n), with the following restrictions. A naturopathic physician may not:

(a) prescribe, dispense, or administer any legend drug as defined in 50-31-301 except for whole gland thyroid; homeopathic preparations; THE NATURAL THERAPEUTIC SUBSTANCES, DRUGS, AND THERAPIES DESCRIBED IN SUBSECTION (2); AND and oxytocin (pitocin), provided that the naturopathic physician may administer but may not prescribe or dispense oxytocin (pitocin); ~~and the natural therapeutic substances, drugs, and therapies described in subsection~~

1 ~~(2)~~

2 (b) administer ionizing radioactive substances for  
3 therapeutic purposes;

4 (c) perform surgical procedures except those minor  
5 surgery procedures authorized by this chapter; or

6 (d) claim to practice any licensed health care  
7 profession or system of treatment other than naturopathic  
8 medicine unless holding a separate license in that  
9 profession.

10 (2) Naturopathic physicians may prescribe and  
11 administer for preventive and therapeutic purposes the  
12 following natural therapeutic substances, drugs, and  
13 therapies:

14 (a) food, food extracts, vitamins, minerals, enzymes,  
15 whole gland thyroid, botanical medicines, homeopathic  
16 preparations, and oxytocin (pitocin);

17 (b) topical drugs, health care counseling, nutritional  
18 counseling and dietary therapy, naturopathic physical  
19 applications, therapeutic devices, and nonprescription  
20 drugs; and

21 (c) barrier devices for contraception, naturopathic  
22 childbirth attendance, and minor surgery.

23 (3) Naturopathic physicians may perform or order for  
24 diagnostic purposes a physical or orificial examination,  
25 ultrasound, phlebotomy, clinical laboratory test or

1 examination, physiological function test, and any other  
2 noninvasive diagnostic procedure commonly used by physicians  
3 in general practice and as authorized by 37-26-201(2).

4 (4) Except as provided by this subsection, it is  
5 unlawful for a naturopath to engage, directly or indirectly,  
6 in the dispensing of any drugs that a naturopath is  
7 authorized to prescribe by subsection (2). If the place  
8 where a naturopath maintains an office for the practice of  
9 naturopathy is more than 10 miles from a place of business  
10 that sells and dispenses the drugs a naturopath may  
11 prescribe under subsection (2), then, to the extent such the  
12 drugs are not available within 10 miles of the naturopath's  
13 office, the naturopath may sell such the drugs that are  
14 unavailable."

15 **Section 6.** Section 37-26-404, MCA, is amended to read:

16 "37-26-404. **Licensure by endorsement.** ~~(1)~~ The board may  
17 authorize the department to issue to an applicant a license  
18 by endorsement if the applicant produces evidence  
19 satisfactory to the board of:

20 ~~(a)~~(1) a valid license or certificate issued to the  
21 applicant on the basis of an examination by an a  
22 naturopathic examining board under the laws of another state  
23 or territory of the United States, the District of Columbia,  
24 or a foreign country, whose licensing standards at the time  
25 the license or certificate was issued were, in the judgment

and according to the rules of the board, acceptable for endorsement for granting a license to practice naturopathic medicine; or

~~(b)~~--~~(i)~~(2) (a) an inactive license or other certificate of examination issued to or for the applicant by a naturopathic examining board under the laws of another state or territory of the United States, the District of Columbia, or a foreign country, whose examination standards at the time the license was granted or the examination was passed were acceptable for endorsement in the judgment and according to the rules of the board;

~~(i)~~(b) the fact that he the applicant has not been disciplined or had his an inactive license suspended or revoked for malpractice;

~~(i)~~(c) the fact that he the applicant has been actively engaged in the practice of naturopathic medicine for at least 1 year in a state or territory of the United States, the District of Columbia, or a foreign country, that does not license naturopathic physicians;

~~(i)~~(d) the fact that he the applicant is a graduate of an approved naturopathic medical college; and

~~(i)~~(e) his the good moral character of the applicant."

**Section 7.** Section 37-27-201, MCA, is amended to read:

"37-27-201. Qualifications of applicants for license -- educational and practical experience requirements. To be

eligible for a license as a direct-entry midwife, an applicant:

(1) must be possess a high school graduate diploma or its equivalent;

(2) must be of good moral character and be at least 21 years of age;

(3) shall satisfactorily complete educational requirements in pregnancy and natural childbirth, approved by the board, which must include but are not limited to the following:

(a) provision of care during the antepartum, intrapartum, postpartum, and newborn period;

(b) parenting education for prepared childbirth;

(c) observation skills;

(d) aseptic techniques;

(e) management of birth and immediate care of the mother and the newborn;

(f) recognition of early signs of possible abnormalities;

(g) recognition and management of emergency situations;

(h) special requirements for home birth;

(i) intramuscular and subcutaneous injections;

(j) suturing necessary for episiotomy repair;

(k) recognition of communicable diseases affecting the pregnancy, birth, newborn, and postpartum periods;

(l) assessment skills; and

(m) the use and administration of drugs authorized in 37-27-302;

(4) shall acquire practical experience, which may be attained in a home, clinic, or hospital setting. Practical experience attained in a hospital does not constitute training or supervision by the hospital, nor may a hospital be required to provide such practical experience. At a minimum, this experience must include the following types and numbers of experiences acquired through an apprenticeship or other supervisory setting:

(a) provision of 100 prenatal examinations;

(b) observation of 40 births; and

(c) participation as the primary birth attendant at 25 births, 15 of which included continuous care, as evidenced by signing--the--birth--certificate--as--the--primary-birth attendant:

(i) birth certificates from Montana or another state;

(ii) a signed affidavit from the birthing mother; or

(iii) documented records from the person who supervised the births.

(5) shall file documentation with the board that the applicant has been certified by the American heart association or American red cross to perform adult and infant cardiopulmonary resuscitation. Certification must be

current at the time of application and remain valid throughout the license period."

**Section 8.** Section 37-27-202, MCA, is amended to read:

"37-27-202. Examination -- preparation -- requirements.

(1) An examination for a license to practice direct-entry midwifery must be prepared by a certified nurse-midwife designated by the board in consultation with the physician on the board.

(2) Examinations must be conducted once each year, be fair and impartial, and be sufficiently comprehensive to adequately test the applicant's competence and ability.

(3) A In order to be licensed, a person must shall attain a passing grade of--at--least--78%--to--pass on the examination, as set by the board.

(4) A person who fails to achieve a passing grade on the examination may not engage in the practice of midwifery."

**Section 9.** Section 37-27-203, MCA, is amended to read:

"37-27-203. Examination -- exemption. (1) Except as provided in subsection (4), an applicant for a license as a direct-entry midwife shall pass a qualifying, written examination, prescribed by the board, that is designed to test knowledge of theory regarding pregnancy and childbirth and to test clinical judgment in midwifery management. If considered necessary, an oral interview may be conducted in



1 addition to the written examination to determine the fitness  
2 of the applicant to practice as a direct-entry midwife.

3 (2) Before an applicant may take the examination, the  
4 applicant shall demonstrate to the board that the  
5 educational and practical experience requirements in  
6 37-27-201~~(2)~~(3) and ~~(3)~~(4) have been met.

7 (3) An applicant is exempt from the educational and  
8 practical experience requirements of 37-27-201~~(2)~~(3) and  
9 ~~(3)~~(4) if the applicant has:

10 (a) satisfactorily completed the first examination  
11 given by the board following July 1, 1991; and

12 (b) filed supporting documentation, as required by the  
13 board by rule, certifying that the applicant has served as  
14 the primary birth attendant, providing continuous care at no  
15 less than 75 births within the 7 years prior to July 1,  
16 1991, as verified by birth certificates from Montana or  
17 another state, a signed affidavit from the birthing mother,  
18 or documented records from the midwife.

19 (4) Upon payment of the license fee established by the  
20 board, a nurse-midwife certified pursuant to 37-8-409 is  
21 exempt from the requirements of 37-27-201 and this section  
22 and may be licensed as a direct-entry midwife."

23 **Section 10.** Section 37-27-205, MCA, is amended to read:

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5 of grades for the first examination administered pursuant to  
6 37-27-202.

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12 a physician licensed under Title 37, chapter 3, and who or a  
13 licensed naturopathic physician who is certified for the  
14 specialty practice of naturopathic childbirth attendance;  
15 and

16 (b) is seeking licensure as a direct-entry midwife  
17 under this chapter.

18 (4) An apprentice direct-entry midwife license is valid  
19 for 1 year and must be renewed annually, with a limit of  
20 four renewals."

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24 board, pay an application fee set by the board, commensurate  
25 with costs.

(2) An applicant required to take an examination shall, before commencement of the examination, pay an examination fee set by the board, commensurate with costs.

(3) Before a license may be issued or renewed, an applicant shall pay a fee set by the board, commensurate with costs.

(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for use by the board.

(5) Fees are nonrefundable."

**NEW SECTION. Section 12.** Title restricted -- enjoining unlawful practice. (1) A direct-entry midwife licensed under this chapter may use the term "licensed midwife" or "direct-entry midwife" as a title.

(2) Only a direct-entry midwife licensed under this chapter may use the title "licensed midwife" or "direct-entry midwife".

(3) The terms and titles in subsections (1) and (2) identify direct-entry midwives and are restricted to describing and identifying licensed practitioners and their practice. A person who uses these terms and titles to represent the person or the person's practice to the public without being licensed pursuant to this chapter is in violation of this chapter.

(4) A violation of this chapter may be enjoined by the district court on petition by the board.

**NEW SECTION. Section 13.** Codification instruction. [Section 12] is intended to be codified as an integral part of Title 37, chapter 27, part 2, and the provisions of Title 37, chapter 27, part 2, apply to [section 12].

**NEW SECTION. Section 14.** Effective date. [This act] is effective on passage and approval.

-End-