House BILL NO. 555

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING THE PRACTICES AND PROCEDURES OF DIRECT-ENTRY MIDWIVES; CHANGING THE COMPOSITION OF THE ALTERNATIVE HEALTH CARE BOARD; DEFINING "HIGH-RISK PREGNANCY"; REQUIRING THE BOARD TO HEAR COMPLAINTS; CHANGING THE REQUIREMENTS FOR LICENSURE, REPORTING, AND CONSULTATION WITH PHYSICIANS; REVISING THE USE OF THE TERM "DIRECT-ENTRY MIDWIFE"; AND AMENDING SECTIONS 2-15-1840, 37-27-103, 37-27-105, 37-27-201, 37-27-315, AND 37-27-320, MCA."

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

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

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

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

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

(b) ~~one public member~~ two public members who ~~is~~ are not ~~a member~~ members of a profession regulated by the board; and

(c) one member who is a Montana physician with hospital privileges, whose practice includes obstetrics~~.~~;

(d) one member who is a Montana physician with hospital privileges, whose practice includes pediatrics; and

(e) one member who is a certified nurse-midwife, nurse practitioner, or physician assistant-certified.

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

(4) All members shall serve staggered 4-year terms. A member may not be appointed for more than

two consecutive terms. The governor may remove a member from the board for neglect of a duty required by law, for incompetency, or for unprofessional or dishonorable conduct.

(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."

Section 2. Section 37-27-103, MCA, is amended to read:

"**37-27-103. Definitions.** As used in this chapter, the following definitions apply:

(1) "Apprentice" means a person who is working under the supervision of a licensed direct-entry midwife and is seeking licensure as a direct-entry midwife under this chapter.

(2) "Board" means the alternative health care board established in 2-15-1840.

(3) "Continuous care" means care provided for one person from the initial history-taking interview through monthly prenatal, intrapartum, and postpartum periods.

(4) "Direct-entry midwife" means a person who advises, attends, or assists a woman during pregnancy, labor, natural childbirth, or the postpartum period.

(5) "High-risk pregnancy" means a pregnancy in which any of the following conditions are present:

(a) chronic medical problems, including:

(i) cardiac disease (Class II or greater);

(ii) diabetes mellitus (Types I and II and gestational);

(iii) essential hypertension (greater than 140/90 Hg, not controlled by medication);

(iv) hemoglobinopathies;

(v) renal disease (chronic, diagnosed, not urinary tract infection);

(vi) thrombophlebitis or pulmonary embolism;

(vii) epilepsy currently on medication;

(viii) current severe psychiatric condition requiring medication within a 6-month period prior to pregnancy;

(ix) active tuberculosis, syphilis, gonorrhea, strep B, hepatitis, AIDS, or genital herpes at the onset of labor;

(x) current drug or alcohol abuse or dependency;

(xi) current malignant disease; or

(xii) chronic obstructive pulmonary disease, except for controlled asthma;

(b) current pregnancy-related conditions:

(i) pregnancy-induced hypertension (pre-eclamptic or eclamptic symptoms);

(ii) premature labor (before 37 weeks gestation verified estimated date of delivery by dates and physical exam);

(iii) placental abruption;

(iv) placenta previa at the onset of labor;

(v) fetus in any presentation other than vertex at the onset of labor;

(vi) multiple gestation;

(vii) primary genital herpes in the first trimester; or

(viii) Rh sensitization;

(c) previous obstetrical history:

(i) previous Rh sensitization;

(ii) history of inverted uterus;

(iii) history of postpartum hemorrhage requiring transfusion;

(iv) under 18 years of age;

(v) more than 41 weeks gestation;

(vi) previous C-section;

(vii) history of second or third trimester fetal loss;

(viii) history of preterm delivery;

(ix) history of incompetent cervix;

(x) history of shoulder dystocia;

(xi) positive diagnosis of HIV.

~~(5)~~ (6) "Licensee" means a person authorized by this chapter to practice direct-entry midwifery.

~~(6)~~ (7) "Postpartum period" means the period up to 6 weeks following birth.

~~(7)~~ (8) "Practice of direct-entry midwifery" means the advising, attending, or assisting of a woman during pregnancy, labor, natural childbirth, or the postpartum period."

Section 3. Section 37-27-105, MCA, is amended to read:

"**37-27-105. General powers and duties of board -- rulemaking authority.** (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in this section; ~~and~~

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties; and

(c) hear complaints from any woman who has been accepted for direct-entry midwifery care by a licensed direct-entry midwife, or from any direct-entry midwife, certified nurse-midwife, or physician on behalf of the woman.

(2) The board shall have the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules must include but are not limited to:

(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;

(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989;

(c) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

(d) the development of eligibility criteria for client screening by direct-entry midwives in order to achieve the goal of providing midwifery services to women during low-risk pregnancies;

(e) the development of procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses;

(f) the adoption of disciplinary standards for licensees;

(g) the establishment of investigatory and hearing procedures for processing complaints received by the board;

(h) the establishment of continuing education requirements of at least 14 hours annually for license renewal for direct-entry midwives;

(i) the development of standardized informed consent and reporting forms;

(j) the adoption of ethical standards for licensed direct-entry midwives;

(k) the adoption of supporting documentation requirements for primary birth attendants; and

(l) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201."

Section 4. 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 possess a high school diploma or its equivalent;

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

(3) shall satisfactorily complete at least one year of direct-entry midwife training at an approved institution, including an educational ~~requirements in~~ curriculum concerning pregnancy and natural childbirth~~,~~ that is approved by the board~~, which~~. The curriculum must include but ~~are~~ is 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:

(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 advanced adult and infant cardiopulmonary resuscitation. Certification must be current at the time of application and remain valid throughout the license period.

(6) shall file documentation with the board that the applicant has completed:

(a) a neonatal resuscitation program sanctioned by the American heart association or the American academy of pediatrics; and

(b) 20 hours a year of continuing education that is specifically related to prenatal care, labor, and delivery."

Section 5. Section 37-27-315, MCA, is amended to read:

"**37-27-315. Physician consultation ~~advised~~ -- transfer of care -- requirements.** (1) A licensed direct-entry midwife shall advise ~~all women~~ a woman accepted for midwifery care to consult with a physician or certified nurse-midwife at least twice during the pregnancy.

(2) If at any time a woman accepted for midwifery care exhibits signs of a high-risk pregnancy, the licensed direct-entry midwife shall immediately consult with a physician who has hospital privileges. If the woman is transferred to the physician's care, the licensee shall maintain written documentation of the woman's condition for 1 year after the date of the transfer.

(3) If any of the conditions in subsections (3)(a) and (3)(b) are present in a woman or if any of the conditions in subsection (3)(c) are present in a newborn, the direct-entry midwife shall consult a physician and, at the physician's request, transfer care to a physician who has obstetrical or neonatal hospital privileges. Documentation of the condition, recommendation and treatment must be maintained in the client records. The conditions include:

(a) prenatal factors:

(i) severe hyperemesis;

(ii) rubella contracted in the first or second trimester;

(iii) maternal anemia, when hemoglobin is less than 10 and hematocrit is less than 30, and that is unresponsive within 1 month of treatment;

(iv) suspected oligohydramnios;

(v) suspected polyhydramnios;

(vi) premature rupture of membranes at less than 37 completed weeks;

(vii) postterm greater than 41 weeks by dates and physical exam;

(viii) suspected large for gestational age or suspected small for gestational age;

(ix) Rh sensitization in the present pregnancy that does not result from a recent RhoGAM;

(x) a history of severe postpartum hemorrhage requiring transfusion;

(xi) known serious maternal viral or bacterial infection at term;

(xii) blood pressure greater than 140/90 or an increase of 30 mm Hg systolic or 15 mm Hg diastolic over baseline, any of which is unresolved within 7 days;

(xiii) signs and symptoms of pre-eclampsia;

(xiv) signs and symptoms of gestational diabetes;

(xv) unresolved vaginitis that requires antibiotic treatment;

(xvi) a urinary tract infection;

(xvii) continued vaginal bleeding before the onset of labor;

(xviii) signs of fetal distress or demise;

(xix) persistent fever;

(xx) abnormal Pap smear, showing atypia or CIN;

(xxi) any condyloma;

(xxii) grand multiparity, meaning six or more babies, each beyond 20 weeks of development;

(xxiii) maternal age of less than 14 or greater than 40;

(b) labor, birth risks, and postpartum factors:

(i) fetal distress, including heart rate below 120 or greater than 160;

(ii) unengaged vertex above 2 station in primipara in active labor;

(iii) fever of 102 degrees Fahrenheit or greater;

(iv) prolonged rupture of membranes for greater than 24 hours with no progress of labor;

(v) meconium-stained fluid;

(vi) bleeding heavier than menses prior to or during delivery;

(vii) maternal respiratory distress including hypotension and confusion;

(viii) desire by the mother for a consultation or transfer;

(ix) maternal hemorrhage uncontrolled by IM pitocin;

(x) a third or fourth degree perineal laceration;

(xi) signs of infection;

(xii) evidence of thrombophlebitis; and

(c) newborn risk factors:

(i) less than three vessels in umbilical cord;

(ii) an Apgar score of less than 7 at 5 minutes;

(iii) baby's failure to urinate or move bowels within 24 hours;

(iv) obvious anomaly;

(v) respiratory distress;

(vi) cardiac irregularities;

(vii) pale cyanotic or gray color;

(viii) abnormal cry;

(ix) jaundice within 24 hours of birth;

(x) signs of prematurity, dysmaturity, or postmaturity;

(xi) lethargy;

(xii) edema;

(xiii) signs of hypoglycemia;

(xiv) abnormal facial expression;

(xv) abnormal body temperature;

(xvi) history of previous neonatal complications;

(xvii) abnormal neurological signs, including jitteriness and decreased tone, seizures, or poor sucking reflex; and

(xviii) inability to nurse after 24 hours."

Section 6. Section 37-27-320, MCA, is amended to read:

"**37-27-320. Reports -- failure to report.** (1) A licensed direct-entry midwife shall submit semiannually to the board, on forms supplied by the board, a summary report on each patient given care. The report must include vital statistics on each patient and information on the procedures and scope of care administered, including any transport of the patient to a hospital and physician referrals, but may not include information disclosing the identity of the patient.

(2) A licensed direct-entry midwife shall report within 72 hours to the board and to the department of health and environmental sciences the charting and hospital summary, the obstetrical history, and any maternal, fetal, or neonatal mortality or morbidity in ~~patients~~ a patient for whom care has been given.

(3) Failure of a direct-entry midwife to submit required reports constitutes grounds to deny renewal of a license."

NEW SECTION. **Section 7. Clarification of titles.** In order to avoid confusing a direct-entry midwife with a certified nurse-midwife, all written or broadcasted references to a person licensed under this chapter or to the services that person provides must incorporate the term "direct-entry midwife".

NEW SECTION. **Section 8. Codification instruction.** [Section 7] is intended to be codified as an integral part of Title 37, chapter 27, part 3, and the provisions of Title 37, chapter 27, part 3, apply to [section 7].

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