

Senator Margaret Dayton proposes the following substitute bill:

LICENSED DIRECT ENTRY MIDWIFE

AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill amends the Direct-entry Midwife Act.

Highlighted Provisions:

This bill:

- ▶ defines normal birth;
- ▶ amends the definition of the practice of Direct-entry midwifery;
- ▶ clarifies provisions related to the transfer of a client to a hospital;
- ▶ amends standards of practice related to mandatory transfers of clients; and
- ▶ creates an advisory committee for the administrative rules related to licensed

Direct-entry midwives.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-77-102, as enacted by Laws of Utah 2005, Chapter 299



26 58-77-201, as enacted by Laws of Utah 2005, Chapter 299

27 58-77-601, as enacted by Laws of Utah 2005, Chapter 299

28 ENACTS:

29 58-77-204, Utah Code Annotated 1953



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section 58-77-102 is amended to read:

33 **58-77-102. Definitions.**

34 In addition to the definitions in Section 58-1-102, as used in this chapter:

35 (1) "Board" means the Licensed Direct-entry Midwife Board created in Section
36 58-77-201.

37 (2) "Certified nurse-midwife" means a person licensed under Title 58, Chapter 44a,
38 Nurse Midwife Practice Act.

39 (3) "Client" means a woman under the care of a licensed Direct-entry midwife and her
40 fetus or newborn.

41 (4) [~~Direct-entry~~] "Direct-entry midwife" means an individual who is engaging in the
42 practice of Direct-entry midwifery.

43 (5) "Licensed Direct-entry midwife" means a person licensed under this chapter.

44 (6) "Normal labor, delivery, post partum and newborn period" means a birth:

45 (a) that is spontaneous in onset;

46 (b) that is low risk at the start of labor;

47 (c) that remains low risk through the course of labor and delivery;

48 (d) in which the infant is born spontaneously in the vertex position between 37 and 42
49 completed weeks of pregnancy; and

50 (e) in which after delivery, the mother and baby are in good condition.

51 [~~(6)~~] (7) "Physician" means an individual licensed as a physician and surgeon,
52 osteopathic physician, or naturopathic physician.

53 [~~(7)~~] (8) "Practice of Direct-entry midwifery":

54 (a) means practice of providing the necessary supervision, care, and advice to a client
55 during [~~essentially~~] normal pregnancy, labor, delivery, postpartum, and newborn periods that is
56 consistent with national professional midwifery standards and that is based upon the

57 acquisition of clinical skills necessary for the care of pregnant women and newborns, including
 58 antepartum, intrapartum, postpartum, newborn, and limited interconceptual care and includes:

59 ~~[(a)]~~ (i) obtaining an informed consent to provide services;

60 ~~[(b)]~~ (ii) obtaining a health history, including a physical examination;

61 ~~[(c)]~~ (iii) developing a plan of care for a client;

62 ~~[(d)]~~ (iv) evaluating the results of client care;

63 ~~[(e)]~~ (v) consulting and collaborating with and referring and transferring care to
 64 licensed health care professionals, as is appropriate, regarding the care of a client;

65 ~~[(f)]~~ (vi) obtaining medications, as specified in this Subsection ~~[(7)(f)]~~ (8)(a)(vi), to
 66 administer to clients, including:

67 ~~[(i)]~~ (A) prescription vitamins;

68 ~~[(ii)]~~ (B) Rho D immunoglobulin;

69 ~~[(iii)]~~ (C) sterile water;

70 ~~[(iv)]~~ (D) one dose of intramuscular oxytocin after the delivery of the placenta to
 71 minimize blood loss;

72 ~~[(v) one dose of intramuscular oxytocin if a hemorrhage occurs, in which case the
 73 licensed Direct-entry midwife must either consult immediately with a physician licensed under
 74 Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic
 75 Medical Practice Act, and initiate transfer, if requested, or if the client's condition does not
 76 immediately improve, initiate transfer and notify the local hospital;]~~

77 (E) an additional single dose of oxytocin if a hemorrhage occurs, in which case the
 78 Direct-entry midwife must initiate transfer if the client's condition does not immediately
 79 improve;

80 ~~[(vi)]~~ (F) oxygen;

81 ~~[(vii)]~~ (G) local anesthetics without epinephrine used in accordance with Subsection
 82 (7)(f)(a)(xii);

83 ~~[(viii)]~~ (H) vitamin K to prevent hemorrhagic disease of the newborn;

84 ~~[(ix)]~~ (I) eye prophylaxis to prevent ophthalmia neonatorum as required by law; and

85 ~~[(x)]~~ (J) any other medication approved by a licensed health care provider with
 86 authority to prescribe that medication;

87 ~~[(g)]~~ (vii) obtaining food, food extracts, dietary supplements, as defined by the Federal

88 Food, Drug, and Cosmetic Act, homeopathic remedies, plant substances that are not designated
89 as prescription drugs or controlled substances, and over-the-counter medications to administer
90 to clients;

91 ~~(h)~~ (viii) obtaining and using appropriate equipment and devices such as Doppler,
92 blood pressure cuff, phlebotomy supplies, instruments, and sutures;

93 ~~(i)~~ (ix) obtaining appropriate screening and testing, including laboratory tests,
94 urinalysis, and ultrasound;

95 ~~(j)~~ (x) managing the antepartum period;

96 ~~(k)~~ (xi) managing the intrapartum period including:

97 ~~(i)~~ (A) monitoring and evaluating the condition of mother and fetus;

98 ~~(ii)~~ (B) performing emergency episiotomy; and

99 ~~(iii)~~ (C) delivering in any out-of-hospital setting;

100 ~~(l)~~ (xii) managing the postpartum period including suturing of episiotomy or first and
101 second degree natural perineal and labial lacerations, including the administration of a local
102 anesthetic;

103 ~~(m)~~ (xiii) managing the newborn period including:

104 ~~(i)~~ (A) providing care for the newborn, including performing a normal newborn
105 examination; and

106 ~~(ii)~~ (B) resuscitating a newborn;

107 ~~(n)~~ (xiv) providing limited interconceptual services in order to provide continuity of
108 care including:

109 ~~(i)~~ (A) breastfeeding support and counseling;

110 ~~(ii)~~ (B) family planning, limited to natural family planning, cervical caps, and
111 diaphragms; and

112 ~~(iii)~~ (C) pap smears, where all clients with abnormal results are to be referred to an
113 appropriate licensed health care provider; and

114 ~~(o)~~ (xv) executing the orders of a licensed health care professional, only within the
115 education, knowledge, and skill of the Direct-entry midwife[-]; and

116 (b) does not include a pregnancy that involves any of the following:

117 (i) deep vein thrombosis or pulmonary embolus;

118 (ii) multiple gestation; or

119 (iii) any other condition that may present an unreasonable risk of harm to a pregnant
120 woman or unborn child as determined by the division by administrative rule.

121 [~~8~~] (9) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-77-501.

122 [~~9~~] (10) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-77-502
123 and as may be further defined by rule.

124 Section 2. Section **58-77-201** is amended to read:

125 **58-77-201. Board.**

126 (1) There is created the Licensed Direct-entry Midwife Board consisting of:

127 (a) four licensed Direct-entry midwives; and

128 (b) one member of the general public[-] who is not:

129 (i) related to a licensed Direct-entry midwife or any member of the board;

130 (ii) a student of a school for licensed Direct-entry midwives; or

131 (iii) a current or former client of a member of the board.

132 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

133 (3) (a) The duties and responsibilities of the board shall be in accordance with Sections
134 58-1-202 and 58-1-203.

135 (b) The board shall designate one of its members on a permanent or rotating basis to:

136 (i) assist the division in reviewing complaints concerning the unlawful or
137 unprofessional conduct of a licensed Direct-entry midwife; and

138 (ii) advise the division in its investigation of these complaints.

139 (c) (i) For the years 2006 through 2011, the board shall present an annual report to the
140 Legislature's Health and Human Services Interim Committee describing the outcome data of
141 licensed Direct-entry midwives practicing in Utah.

142 (ii) The board shall base its report on data provided in large part from the Midwives'
143 Alliance of North America.

144 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
145 in its investigation may be disqualified from participating with the board when the board serves
146 as a presiding officer in an adjudicative proceeding concerning the complaint.

147 (5) Qualified faculty, board members, and other staff of Direct-entry midwifery
148 learning institutions may serve as one or more of the licensed Directed-entry midwives on the
149 board.

150 Section 3. Section **58-77-204** is enacted to read:

151 **58-77-204. Administrative rules advisory committee.**

152 (1) The division shall:

153 (a) convene an advisory committee to assist the division with developing

154 administrative rules under Sections 58-77-102, and 58-77-601; and

155 (b) provide notice of any meetings convened under Subsection (1)(a) to the members of
156 the advisory committee at least one week prior to the meeting, if possible.

157 (2) The advisory committee shall include:

158 (a) two physicians licensed under Chapter 67, Utah Medical Practices Act, or their
159 designee, selected by the Utah Medical Association;

160 (b) one licensed certified nurse midwife recommended by the Certified Nurse Midwife
161 Association and the Utah Medical Association;

162 (c) three licensed direct entry midwives, selected by the board; and

163 (d) one member of the public, selected by the division, who is not:

164 (i) related to a direct entry midwife;

165 (ii) a student of a school for licensed direct entry midwives; or

166 (iii) a current or former client of a member of the board.

167 (3) (a) The division shall submit the following to the advisory committee:

168 (i) administrative rules adopted by the division prior to March 1, 2008 under the
169 provisions of Sections 58-77-102 and 58-77-60; and

170 (ii) an administrative rule proposed by the division after March 1, 2008 under the
171 provisions of Section 58-77-102 and 58-77-601.

172 (b) If the division does not incorporate a recommendation of the advisory committee
173 into an administrative rule proposed by the division, the division shall provide a written report
174 to the Legislative Administrative Rules Review Committee which explains why the division
175 did not adopt a recommendation of the advisory committee.

176 Section 4. Section **58-77-601** is amended to read:

177 **58-77-601. Standards of practice.**

178 (1) (a) Prior to providing any services, a licensed Direct-entry midwife must obtain an
179 informed consent from a client.

180 (b) The consent must include:

- 181 (i) the name and license number of the Direct-entry midwife;
- 182 (ii) the client's name, address, telephone number, and primary care provider, if the
- 183 client has one;
- 184 (iii) the fact, if true, that the licensed Direct-entry midwife is not a certified nurse
- 185 midwife or a physician;
- 186 ~~[(iv) all sections required by the North American Registry of Midwives in its informed~~
- 187 ~~consent guidelines, including:]~~
- 188 ~~[(A)]~~ (iv) a description of the licensed Direct-entry midwife's education, training,
- 189 continuing education, and experience in midwifery;
- 190 ~~[(B)]~~ (v) a description of the licensed Direct-entry midwife's peer review process;
- 191 ~~[(C)]~~ (vi) the licensed Direct-entry midwife's philosophy of practice;
- 192 ~~[(D)]~~ (vii) a promise to provide the client, upon request, separate documents describing
- 193 the rules governing licensed Direct-entry midwifery practice, including a list of conditions
- 194 indicating the need for consultation, collaboration, referral, transfer or mandatory transfer, and
- 195 the licensed Direct-entry midwife's personal written practice guidelines;
- 196 ~~[(E)]~~ (viii) a medical back-up or transfer plan;
- 197 ~~[(F)]~~ (ix) a description of the services provided to the client by the licensed
- 198 Direct-entry midwife;
- 199 ~~[(G)]~~ (x) the licensed Direct-entry midwife's current legal status;
- 200 ~~[(H)]~~ (xi) the availability of a grievance process; ~~[and]~~
- 201 ~~[(I)]~~ (xii) client and licensed Direct-entry midwife signatures and the date of signing;
- 202 and
- 203 ~~[(v)]~~ (xiii) whether the licensed Direct-entry midwife is covered by a professional
- 204 liability insurance policy.
- 205 (2) (a) A licensed Direct-entry midwife shall appropriately recommend and facilitate
- 206 consultation with, collaboration with, referral to, or transfer or mandatory transfer of care to a
- 207 licensed health care professional when the circumstances require that action in accordance with
- 208 this section and standards established by division rule.
- 209 (b) Mandatory consultation with a physician licensed under Chapter 67, Utah Medical
- 210 Practice Act, is required upon:
- 211 (i) miscarriage after 14 weeks;

- 212 (ii) failure to deliver by 42 weeks of gestation;
- 213 (iii) a baby in the breech position at any time, after 36 weeks gestation; or
- 214 (iv) any other condition or symptom that may place the health of the pregnant woman
- 215 or unborn child at unreasonable risk as determined by the division by rule.
- 216 (c) Mandatory transfer of patient care before the onset of labor to a physician licensed
- 217 under Chapter 67, Utah Medical Practice Act, is required, upon evidence of:
- 218 (i) placenta previa after 27 weeks and prior to 27 weeks if there is any spotting or
- 219 bleeding;
- 220 (ii) a threatened miscarriage;
- 221 (iii) no onset of labor before 43 weeks of gestation; or
- 222 (iv) any other condition that could place the life or long-term health of the pregnant
- 223 woman or unborn child at risk as determined by the division by rule.
- 224 (d) Mandatory transfer of care during labor and an immediate transfer in the manner
- 225 specifically set forth in Subsection (4)(a), (b), or (c) is required upon evidence of:
- 226 (i) any condition listed in Subsection (2)(c);
- 227 (ii) a prior c-section;
- 228 (iii) persistent breech at term; or
- 229 (iv) inappropriate fetal presentation as determined by the licensed Direct Entry
- 230 Midwife;
- 231 (v) non-reassuring fetal heart pattern indicative of fetal distress that does not
- 232 immediately respond to treatment by the Direct-entry midwife;
- 233 (vi) particulate moderate or thick meconium unless delivery is imminent;
- 234 (vii) any other condition that could place the life or long-term health of the pregnant
- 235 woman or unborn child at significant risk if not acted upon immediately as determined by the
- 236 division by rule; or
- 237 (viii) failure to deliver after three hours of pushing unless delivery is imminent.
- 238 (e) Mandatory transfer of care after delivery and immediate transfer of the mother in
- 239 the manner specifically set forth in Subsection (4)(a), (b), or (c) is required upon evidence of
- 240 any condition that could place the life or long-term health of the mother at significant risk if not
- 241 acted upon immediately as determined by the division by rule.
- 242 (f) Mandatory transfer of care after delivery and an immediate transfer of a newborn

243 child in the manner specifically set forth in Subsection (4)(a), (b), or (c) shall be consistent
244 with:

245 (i) protocols and guidelines established by state law; and

246 (ii) any other condition that could place a newborn's health at risk as determined by the
247 division:

248 (A) in consultation with the professional board of physicians licensed under Chapter
249 67, Utah Medical Practices Act, whose scope of practice includes the care of newborns; and

250 (B) by administrative rule adopted by the division.

251 (3) If after a client has been informed that she has or may have a condition indicating
252 the need for medical consultation, collaboration, referral, or transfer and the client chooses to
253 decline, then the licensed Direct-entry midwife shall:

254 (a) terminate care in accordance with procedures established by division rule; or

255 (b) except when transfer of care is mandatory under Subsections (2)(c) through (f),
256 continue to provide care for the client if the client signs a waiver of medical consultation,
257 collaboration, referral, or transfer.

258 (4) If after a client has been informed that she has or may have a condition indicating
259 the need for mandatory transfer, the licensed Direct-entry midwife shall, in accordance with
260 procedures established by division rule, terminate the care or initiate transfer by:

261 (a) calling 911 and reporting the need for immediate transfer;

262 (b) immediately transporting the client by private vehicle to the receiving provider; or

263 (c) contacting the physician to whom the client will be transferred and following that
264 physician's orders.

265 (5) For the period from 2006 through 2011, a licensed Direct-entry midwife must
266 submit outcome data to the Midwives' Alliance of North America's Division of Research on the
267 form and in the manner prescribed by rule.

268 (6) This chapter does not mandate health insurance coverage for midwifery services.

S.B. 93 1st Sub. (Green) - Licensed Direct Entry Midwife Amendments

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will reduce revenue to the Commerce Service Fund by \$200 in FY 2009 and \$1,000 in FY 2010 and ultimately the transfer to the General Fund.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$200)	(\$1,000)
Total	\$0	\$0	\$0	\$0	(\$200)	(\$1,000)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses local governments. Individuals may be affected due changes in licensing requirements.