LEGISLATIVE GENERAL COUNSEL
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**S.B. 93**
**7th Sub. (Buff)**

**Representative Jackie Biskupski** 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 low risk birth;
- amends the definition of the practice of Direct-entry midwifery;
- requires administrative rulemaking for standards of practice related to mandatory transfers of clients;
- creates an advisory committee for the administrative rules related to licensed Direct-entry midwives; and
- repeals the advisory committee in two years.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

7th Sub. S.B. 93

**58-77-102**, as enacted by Laws of Utah 2005, Chapter 299
**58-77-201**, as enacted by Laws of Utah 2005, Chapter 299
**58-77-601**, as enacted by Laws of Utah 2005, Chapter 299
**63-55b-158**, as last amended by Laws of Utah 2006, Chapters 46 and 291
ENACTS:
**58-77-204**, Utah Code Annotated 1953

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

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

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

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

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

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

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

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

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

(6) "Low risk" means a labor and delivery and postpartum, newborn and interconceptual care that does not include a condition that requires a mandatory transfer under administrative rules adopted by the division.

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

[~~(7)~~] (8) "Practice of Direct-entry midwifery" means practice of providing the necessary supervision, care, and advice to a client during essentially normal pregnancy, labor, delivery, postpartum, and newborn periods that is consistent with national professional midwifery standards and that is based upon the acquisition of clinical skills necessary for the care of pregnant women and newborns, including antepartum, intrapartum, postpartum, newborn, and limited interconceptual care and includes:

(a) obtaining an informed consent to provide services;

(b) obtaining a health history, including a physical examination;

(c) developing a plan of care for a client;

(d) evaluating the results of client care;

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

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

(i) prescription vitamins;

(ii) Rho D immunoglobulin;

(iii) sterile water;

(iv) one dose of intramuscular oxytocin after the delivery of the placenta to minimize blood loss;

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

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

(vi) oxygen;

(vii) local anesthetics without epinephrine used in accordance with Subsection [~~(7)~~] (8)(l);

(viii) vitamin K to prevent hemorrhagic disease of the newborn;

(ix) eye prophylaxis to prevent opthalmia neonatorum as required by law; and

(x) any other medication approved by a licensed health care provider with authority to prescribe that medication;

(g) obtaining food, food extracts, dietary supplements, as defined by the Federal Food, Drug, and Cosmetic Act, homeopathic remedies, plant substances that are not designated as prescription drugs or controlled substances, and over-the-counter medications to administer to

clients;

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

(i) obtaining appropriate screening and testing, including laboratory tests, urinalysis, and ultrasound;

(j) managing the antepartum period;

(k) managing the intrapartum period including:

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

(ii) performing emergency episiotomy; and

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

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

(m) managing the newborn period including:

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

(ii) resuscitating a newborn;

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

(i) breastfeeding support and counseling;

(ii) family planning, limited to natural family planning, cervical caps, and diaphragms; and

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

(o) executing the orders of a licensed health care professional, only within the education, knowledge, and skill of the Direct-entry midwife.

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

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

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

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

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

(a) four licensed Direct-entry midwives; and

(b) one member of the general public.

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

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

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

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

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

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

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

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

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

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

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

(1) The division shall:

(a) convene an advisory committee to assist the division with developing administrative rules under Section 58-77-601; and

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

(2) The advisory committee shall include:

(a) two physicians:

(i) licensed under Chapter 67, Utah Medical Practices Act;

(ii) recommended by the Utah Medical Association; and

(iii) who have experience working with Direct-entry midwives; and

(b) one licensed certified nurse midwife recommended by the Utah Chapter of the American College of Nurse Midwives; and

(c) three licensed direct entry midwives, selected by the board.

(3) The division shall adopt administrative rules regarding conditions that require mandatory transfer which shall include:

(a) failure to deliver the infant after three hours of pushing unless birth is imminent;

(b) gestation beyond 42 weeks without consultation with a licensed health care provider or with non-reassuring surveillance;

(c) gestation beyond 43 weeks;

(d) moderate, thick, or particulate meconium in the amniotic fluid unless birth is imminent;

(e) non-reassuring fetal heart rate pattern indicative of fetal distress that does not immediately respond to the licensed Direct-entry midwife's treatment, unless birth is imminent;

(f) a fetus in the breech presentation during labor unless birth is imminent;

(g) multiple gestation unless birth is imminent;

(h) more than two prior c-sections;

(i) prior c-section with a known classical or inverted-T or J incision;

(j) prior c-section without an ultrasound that rules out placental implantation over the uterine scar;

(k) prior c-section without a signed informed consent document detailing the risks of vaginal birth after caesarean;

(l) prior c-section with cervical dilation progress in the current labor of less than 1 cm in three hours once labor is active;

(m) prior c-section with a gestation greater than 42 weeks; and

(n) Rh isoimmunization with an antibody titre of greater than 1:8 in a mother carrying an Rh positive baby or a baby of unknown Rh type.

(4) Members appointed to the advisory committee created in this section may also serve on the Licensed Direct-entry Midwife Board established under this chapter.

(5) The director shall make appointments to the committee by July 1, 2008.

(6) The director of the division shall appoint one of the three licensed Direct-entry midwives to serve as chair of the committee.

(7) A committee member shall serve without compensation and may not receive travel costs or per diem for the member's service on the committee.

(8) (a) The committee shall recommend rules under Subsection (1) based on convincing evidence presented to the committee, and shall strive to maintain medical self-determination.

(b) A majority of members present at a meeting constitute a quorum.

(9) This section is repealed on July 1, 2011.

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

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

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

(b) The consent must include:

(i) the name and license number of the Direct-entry midwife;

(ii) the client's name, address, telephone number, and primary care provider, if the client has one;

(iii) the fact, if true, that the licensed Direct-entry midwife is not a certified nurse midwife or a physician;

[~~(iv) all sections required by the North American Registry of Midwives in its informed consent guidelines, including:~~]

[~~(A)~~] (iv) a description of the licensed Direct-entry midwife's education, training, continuing education, and experience in midwifery;

[~~(B)~~] (v) a description of the licensed Direct-entry midwife's peer review process;

[~~(C)~~] (vi) the licensed Direct-entry midwife's philosophy of practice;

[~~(D)~~] (vii) a promise to provide the client, upon request, separate documents describing the rules governing licensed Direct-entry midwifery practice, including a list of conditions indicating the need for consultation, collaboration, referral, transfer or mandatory transfer, and the licensed Direct-entry midwife's personal written practice guidelines;

[~~(E)~~] (viii) a medical back-up or transfer plan;

[~~(F)~~] (ix) a description of the services provided to the client by the licensed

Direct-entry midwife;

[~~(G)~~] (x) the licensed Direct-entry midwife's current legal status;

[~~(H)~~] (xi) the availability of a grievance process; [~~and~~]

[~~(I)~~] (xii) client and licensed Direct-entry midwife signatures and the date of signing; and

[~~(v)~~] (xiii) whether the licensed Direct-entry midwife is covered by a professional liability insurance policy.

(2) A licensed Direct-entry midwife shall:

(a) limit the licensed Direct-entry midwife's practice to a normal pregnancy, labor, postpartum, newborn and interconceptual care, which for purposes of this section means a normal labor:

(i) that is not pharmacologically induced;

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

(iii) that remains low risk through out the course of labor and delivery; and

(iv) in which the infant is born spontaneously in the vertex position between 37 and 43 completed weeks of pregnancy; and

(b) appropriately recommend and facilitate consultation with, collaboration with, referral to, or transfer or mandatory transfer of care to a licensed health care professional when the circumstances require that action in accordance with this section and standards established by division rule.

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

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

(b) continue to provide care for the client if the client signs a waiver of medical consultation, collaboration, referral, or transfer.

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

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

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

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

(5) The standards for consultation and transfer under Subsection (3) are the minimum standards that a licensed Direct-entry midwife must follow. A licensed Direct-entry midwife shall initiate consultation, collaboration, referral, or transfer of a patient sooner than required by Subsection (3) or administrative rule if in the opinion and experience of the licensed Direct-entry midwife, the condition of the client or infant warrant a consultation, collaboration, referral, or transfer.

[~~(5)~~] (6) For the period from 2006 through 2011, a licensed Direct-entry midwife must submit outcome data to the Midwives' Alliance of North America's Division of Research on the form and in the manner prescribed by rule.

[~~(6)~~] (7) This chapter does not mandate health insurance coverage for midwifery services.

Section 5. Section **63-55b-158** is amended to read:

**63-55b-158. Repeal dates -- Title 58.**

(1) Section 58-31b-301.6, Medication Aide Certified Pilot Program, is repealed May 15, 2010.

(2) Section 58-77-204 is repealed July 1, 2011.

**S.B. 93 7th Sub. (Buff) - 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.

| | FY 2008 Approp. | FY 2009 Approp. | FY 2010 Approp. | FY 2008 Revenue | FY 2009 Revenue | FY 2010 Revenue |
|---|---|---|---|---|---|---|
| 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.

*3/5/2008, 9:19:51 AM, Lead Analyst: Schoenfeld, J.D.*

**Office of the Legislative Fiscal Analyst**