

1 **MIDWIFE CERTIFICATION ACT**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Thomas V. Hatch**

5 **This act modifies the Occupations and Professions Code by enacting the Midwife**
6 **Certification Act. The act provides for certification of Direct-entry midwives by the**
7 **Division of Occupational and Professional Licensing. The act provides for definitions**
8 **relating to the practice of certified Direct-entry midwives. The act creates the Certified**
9 **Direct-entry Midwife Board and sets forth its membership and duties. The act requires**
10 **the division to establish a Certified Direct-entry Midwife Formulary Committee and a**
11 **certified Direct-entry midwife formulary to define which prescription drugs and devices**
12 **can be prescribed and administered by certified Direct-entry midwives and to provide**
13 **guidelines for their use. The act provides for disciplinary action, including**
14 **administrative penalties, against certified Direct-entry midwives. The act defines and**
15 **provides penalties for unlawful and unprofessional conduct. The act sets standards for**
16 **consultation, collaboration, referral, and transfer to or with other health care providers**
17 **and sets standards for liability under those circumstances. The act brings certified**
18 **Direct-entry midwives within the scope of the Health Care Providers Immunity From**
19 **Liability Act.**

20 This act affects sections of Utah Code Annotated 1953 as follows:

21 AMENDS:

22 **58-13-2**, as last amended by Chapter 160, Laws of Utah 2000

23 **58-13-3**, as last amended by Chapter 160, Laws of Utah 2000

24 **78-14-3**, as last amended by Chapter 131, Laws of Utah 2002

25 ENACTS:

26 **58-77-101**, Utah Code Annotated 1953

27 **58-77-102**, Utah Code Annotated 1953



- 28 **58-77-201**, Utah Code Annotated 1953
- 29 **58-77-202**, Utah Code Annotated 1953
- 30 **58-77-301**, Utah Code Annotated 1953
- 31 **58-77-302**, Utah Code Annotated 1953
- 32 **58-77-303**, Utah Code Annotated 1953
- 33 **58-77-304**, Utah Code Annotated 1953
- 34 **58-77-401**, Utah Code Annotated 1953
- 35 **58-77-501**, Utah Code Annotated 1953
- 36 **58-77-502**, Utah Code Annotated 1953
- 37 **58-77-503**, Utah Code Annotated 1953
- 38 **58-77-601**, Utah Code Annotated 1953
- 39 **58-77-602**, Utah Code Annotated 1953
- 40 **58-77-603**, Utah Code Annotated 1953

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

42 Section 1. Section **58-13-2** is amended to read:

43 **58-13-2. Emergency care rendered by licensee.**

44 A person licensed or certified under Title 58, Occupations and Professions, to practice
45 as any of the following health care professionals, who is under no legal duty to respond, and
46 who in good faith renders emergency care at the scene of an emergency gratuitously and in
47 good faith, is not liable for any civil damages as a result of any acts or omissions by the person
48 in rendering the emergency care:

- 49 (1) osteopathic physician;
- 50 (2) physician and surgeon;
- 51 (3) naturopath;
- 52 (4) dentist or dental hygienist;
- 53 (5) chiropractic physician;
- 54 (6) physician assistant;
- 55 (7) optometrist; [or]
- 56 (8) nurse licensed under Section 58-31b-301[-]; or
- 57 (9) Direct-entry midwife certified under Section 58-77-301.

58 Section 2. Section **58-13-3** is amended to read:

59 **58-13-3. Qualified immunity -- Health professionals -- Charity care.**

60 (1) (a) The Legislature finds many residents of this state do not receive medical care
61 and preventive health care because they lack health insurance or because of financial
62 difficulties or cost.

63 (b) The Legislature also finds that many physicians, charity health care facilities, and
64 other health care professionals in this state would be willing to volunteer medical and allied
65 services without compensation if they were not subject to the high exposure of liability
66 connected with providing these services.

67 ~~[(b)]~~ (c) The Legislature therefore declares that its intention in enacting this section is
68 to encourage the provision of uncompensated volunteer health care in charity care settings in
69 exchange for a limitation on liability for the health care facilities and health care professionals
70 who provide those volunteer services.

71 (2) As used in this section:

72 (a) "Health care facility" means any clinic or hospital, church, or organization whose
73 primary purpose is to sponsor, promote, or organize uncompensated health care services for
74 people unable to pay for health care services.

75 (b) "Health care professional" means individuals licensed or certified under Title 58,
76 Occupations and Professions, as physicians and surgeons, osteopaths, podiatrists, optometrists,
77 chiropractors, dentists, dental hygienists, registered nurses, certified nurse midwives, ~~[and]~~
78 other nurses licensed under Section 58-31b-301, and certified Direct-entry midwives.

79 (c) "Remuneration or compensation":

80 (i) (A) means direct or indirect receipt of any payment by the physician and surgeon,
81 health care facility, other health care professional, or organization, on behalf of the patient,
82 including payment or reimbursement under medicare or medicaid, or under the state program
83 for the medically indigent on behalf of the patient; and

84 (B) compensation, salary, or reimbursement to the health care professional from any
85 source for the health care professional's services or time in volunteering to provide
86 uncompensated health care; and

87 (ii) does not mean any grant or donation to the health care facility used to offset direct
88 costs associated with providing the uncompensated health care such as medical supplies or
89 drugs.

90 (3) A health care professional who provides health care treatment at a health care
91 facility is not liable in a medical malpractice action if:

92 (a) the treatment was within the scope of the health care professional's license under
93 this title;

94 (b) neither the health care professional nor the health care facility received
95 compensation or remuneration for the treatment;

96 (c) the acts or omissions of the health care professional were not grossly negligent or
97 willful and wanton; and

98 (d) prior to rendering services, the health care professional disclosed in writing to the
99 patient, or if a minor, to the patient's parent or legal guardian, that the health care professional
100 is providing the services without receiving remuneration or compensation and that in exchange
101 for receiving uncompensated health care, the patient consents to waive any right to sue for
102 professional negligence except for acts or omissions which are grossly negligent or are willful
103 and wanton.

104 (4) A health care facility which sponsors, promotes, or organizes the uncompensated
105 care is not liable in a medical malpractice action for acts and omissions if:

106 (a) the health care facility meets the requirements in Subsection (3)(b);

107 (b) the acts and omissions of the health care facility were not grossly negligent or
108 willful and wanton; and

109 (c) the health care facility has posted, in a conspicuous place, a notice that in
110 accordance with this section the health care facility is not liable for any civil damages for acts
111 or omissions except for those acts or omissions that are grossly negligent or are willful and
112 wanton.

113 (5) Immunity from liability under this section does not extend to the use of general
114 anesthesia or care that requires an overnight stay in a general acute or specialty hospital
115 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

116 Section 3. Section **58-77-101** is enacted to read:

117 **CHAPTER 77. MIDWIFE CERTIFICATION ACT**

118 **Part 1. General Provisions**

119 **58-77-101. Title.**

120 This chapter is known as the "Midwife Certification Act."

121 Section 4. Section **58-77-102** is enacted to read:

122 **58-77-102. Definitions.**

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

124 (1) "Board" means the Certified Direct-entry Midwife Board created in Section
125 58-77-201.

126 (2) "Certified Direct-entry midwife" means a person certified under this chapter.

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

128 (4) "Midwife" means an individual who is engaging in the practice of midwifery.

129 (5) "Physician" means an individual licensed as a physician and surgeon, osteopathic
130 physician, or naturopathic physician.

131 (6) "Practice of midwifery" means practice that is in accordance with national
132 professional midwifery standards and that is based upon the acquisition of clinical skills
133 necessary for the care of essentially normal pregnant women and newborns, including
134 antepartum, intrapartum, postpartum, newborn, and limited interconceptual care and includes:

135 (a) obtaining an informed consent to provide services;

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

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

138 (d) evaluating the results of client care;

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

141 (f) obtaining medications, as specified in this Subsection (6)(f) or by rule, to administer
142 to clients, including:

143 (i) prescription vitamins;

144 (ii) Rho D immunoglobulin;

145 (iii) CDC- or ACOG-recommended agents for Group B strep prophylaxis;

146 (iv) sterile water;

147 (v) IV fluids, excluding blood products;

148 (vi) oxytocin (Pitocin) or methlergonvine maleate (Methergine) for use postpartum

149 only;

150 (vii) oxygen;

151 (viii) local anesthetics for suturing an episiotomy or natural lacerations;

- 152 (ix) vitamin K to prevent hemorrhagic disease of the newborn;
153 (x) eye prophylaxis to prevent ophthalmia neonatorum as required by law; and
154 (xi) other medications that are not controlled substances as defined in Section 58-37-2
155 and which are approved by the division in collaboration with the Certified Direct-entry
156 Midwife Formulary Committee;
- 157 (g) obtaining food, food extracts, dietary supplements as defined by the federal Food,
158 Drug, and Cosmetic Act, homeopathic remedies, plant substances that are not designated as
159 prescription drugs or controlled substances, and over-the-counter medications to administer to
160 clients;
- 161 (h) obtaining and using appropriate equipment and devices such as Doppler, fetal
162 monitor, blood pressure cuff, phlebotomy supplies, instruments, and sutures;
- 163 (i) obtaining appropriate screening and testing, including laboratory tests, urinalysis,
164 and ultrasound;
- 165 (j) managing the antepartum period;
- 166 (k) managing the intrapartum period including:
167 (i) monitoring and evaluating the condition of mother and fetus;
168 (ii) performing emergency episiotomy; and
169 (iii) delivering in any out-of-hospital setting;
- 170 (l) managing the postpartum period including:
171 (i) suturing of episiotomy or first and second degree natural perineal and labial
172 lacerations, including the administration of a local anesthetic; and
- 173 (ii) managing hemorrhage, including the administration of Pitocin, Methergine, or IV
174 fluids;
- 175 (m) managing the newborn period including:
176 (i) providing care for the newborn, including performing a normal newborn
177 examination; and
- 178 (ii) resuscitating a newborn;
- 179 (n) providing the following limited interconceptual services:
180 (i) breastfeeding support and counseling;
181 (ii) family planning, limited to natural family planning, cervical caps and diaphragms;
182 and

183 (iii) Pap smears, where all abnormal results are to be referred to a physician; and
184 (o) executing the orders of a licensed health care professional, only within the
185 education, knowledge, and skill of the midwife.

186 (7) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-77-501.

187 (8) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-77-502 and as
188 may be further defined by rule.

189 Section 5. Section **58-77-201** is enacted to read:

190 **Part 2. Board**

191 **58-77-201. Board.**

192 (1) There is created the Certified Direct-entry Midwife Board consisting of four
193 certified Direct-entry midwives and one member of the general public.

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

195 (3) (a) The duties and responsibilities of the board shall be in accordance with Sections
196 58-1-202 and 58-1-203.

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

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

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

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

204 (5) Faculty, board members, and other staff of Direct-entry midwifery learning
205 institutions may serve on the board.

206 Section 6. Section **58-77-202** is enacted to read:

207 **58-77-202. Certified Direct-entry Midwife Formulary Committee -- Adoption of**
208 **certified Direct-entry midwife formulary.**

209 (1) The division shall establish a Certified Direct-entry Midwife Formulary Committee
210 under Subsection 58-1-203(1)(f) to make recommendations to the board and the division
211 regarding the certified Direct-entry midwife formulary, including recommendations on which
212 prescription drugs and devices are appropriate for the scope of practice of certified Direct-entry
213 midwives and guidelines for their use.

- 214 (2) The committee shall consist of five members as follows:
- 215 (a) two certified Direct-entry midwives;
- 216 (b) one licensed physician who has recent, within five years, professional experience
- 217 consulting for and collaborating with Direct-entry midwives;
- 218 (c) one certified nurse midwife who has recent, within five years, professional
- 219 experience consulting for and collaborating with Direct-entry midwives; and
- 220 (d) one licensed pharmacist.

- 221 (3) The committee members shall:
- 222 (a) be appointed by the director of the division; and
- 223 (b) serve without compensation, travel costs, or per diem for their services.
- 224 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 225 division shall adopt by rule a certified Direct-entry midwife formulary which includes:
- 226 (a) those additional prescription drugs or devices which may be obtained and
- 227 administered by certified Direct-entry midwives as defined in Subsection 58-77-102(f)(xi); and
- 228 (b) standards, conditions, and guidelines for use of the prescription drugs or devices
- 229 included in the formulary.

230 Section 7. Section **58-77-301** is enacted to read:

231 **Part 3. Certification**

232 **58-77-301. Certification classification.**

233 The division shall issue to a person who qualifies under this chapter a certification as a

234 certified Direct-entry midwife.

235 Section 8. Section **58-77-302** is enacted to read:

236 **58-77-302. Qualifications for certification.**

237 Each applicant for certification as a certified Direct-entry midwife shall:

- 238 (1) submit an application in a form prescribed by the division;
- 239 (2) pay a fee as determined by the department under Section 63-38-3.2;
- 240 (3) be of good moral character;
- 241 (4) hold a Certified Professional Midwife certificate in good standing with the North
- 242 American Registry of Midwives or equivalent certification approved by the division in
- 243 collaboration with the board;
- 244 (5) hold current adult and infant CPR and newborn resuscitation certifications through

245 an organization approved by the division in collaboration with the board; and

246 (6) provide documentation of successful completion of an approved pharmacology
247 course as defined by division rule.

248 Section 9. Section **58-77-303** is enacted to read:

249 **58-77-303. Term of certification -- Expiration -- Renewal.**

250 (1) (a) The division shall issue each certification under this chapter in accordance with
251 a two-year renewal cycle established by rule.

252 (b) The division may by rule extend or shorten a renewal period by as much as one year
253 to stagger the renewal cycles it administers.

254 (2) Each certification automatically expires on the expiration date shown on the
255 certification unless the individual renews it in accordance with Section 58-1-308.

256 (3) At the time of renewal, the certified Direct-entry midwife shall be in current
257 compliance with the requirements of Section 58-77-302.

258 Section 10. Section **58-77-304** is enacted to read:

259 **58-77-304. Parents rights.**

260 Nothing in this chapter abridges, limits, or changes in any way the right of parents to
261 deliver their baby where, when, how, and with whom they choose, regardless of certification
262 under this chapter.

263 Section 11. Section **58-77-401** is enacted to read:

264 **Part 4. Certification Denial and Discipline**

265 **58-77-401. Grounds for denial of certification -- Disciplinary proceedings.**

266 Grounds for refusing to issue a certification to an applicant, for refusing to renew the
267 certification, for revoking, suspending, restricting, or placing on probation the certification, for
268 issuing a public or private reprimand, and for issuing a cease and desist order shall be in
269 accordance with Section 58-1-401.

270 Section 12. Section **58-77-501** is enacted to read:

271 **Part 5. Unlawful and Unprofessional Conduct -- Penalties**

272 **58-77-501. Unlawful conduct.**

273 In addition to the definition in Subsection 58-1-501(1), "unlawful conduct" includes:

274 (1) representing or holding oneself out as a certified Direct-entry midwife when not
275 certified under this chapter; and

276 (2) using prescription medications, except oxygen, while engaged in the practice of
277 midwifery when not certified under this chapter.

278 Section 13. Section **58-77-502** is enacted to read:

279 **58-77-502. Unprofessional conduct.**

280 In addition to the definition in Subsection 58-1-501(2), "unprofessional conduct"
281 includes:

282 (1) engaging in any act or practice for which the certified Direct-entry midwife is not
283 competent;

284 (2) failing to obtain informed consent as described in Subsection 58-77-601(1);

285 (3) disregarding a client's dignity or right to privacy as to her person, condition,
286 possessions, or medical record;

287 (4) failing to file or record any medical report as required by law, impeding, or
288 obstructing the filing or recording of such a report, or inducing another to fail to file or record
289 such a report;

290 (5) breaching a statutory, common law, regulatory, or ethical requirement of
291 confidentiality with respect to a person who is a client, unless ordered by the court;

292 (6) inappropriately delegating midwifery duties;

293 (7) using advertising or an identification statement that is false, misleading, or
294 deceptive;

295 (8) using in combination with the term "midwife" the term "nurse" or another title,
296 initial, or designation that falsely implies that the midwife is licensed as a certified nurse
297 midwife, registered nurse, or licensed practical nurse; and

298 (9) submitting a birth certificate known by the person to be false or fraudulent.

299 Section 14. Section **58-77-503** is enacted to read:

300 **58-77-503. Penalty for unlawful conduct.**

301 A person who violates the unlawful conduct provisions defined in this chapter is guilty
302 of a class A misdemeanor.

303 Section 15. Section **58-77-601** is enacted to read:

304 **Part 6. Standards of Practice**

305 **58-77-601. Standards of practice.**

306 (1) (a) Prior to providing any services, a certified Direct-entry midwife must obtain an

307 informed consent from a client.

308 (b) The consent must include:

309 (i) the name and certificate number of the midwife;

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

312 (iii) all sections required by the North American Registry of Midwives in its informed
313 consent guidelines.

314 (2) (a) The certified Direct-entry midwife must recommend to the client that she be
315 evaluated by a physician or certified nurse midwife during the first trimester.

316 (b) If the client refuses, the certified Direct-entry midwife must document the refusal
317 and have the client sign another informed consent indicating the refusal to be evaluated by a
318 physician or certified nurse midwife.

319 (3) A certified Direct-entry midwife shall appropriately consult with, collaborate with,
320 refer to, or recommend that a client transfer care to a licensed health care professional when the
321 circumstances require that action in accordance with standards established by division rule.

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

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

327 (b) terminate care in accordance with procedures established by division rule.

328 (5) If transfer of care results from an emergency situation, the certified Direct-entry
329 midwife shall initiate transfer by:

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

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

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

334 Section 16. Section **58-77-602** is enacted to read:

335 **58-77-602. Immunity and liability.**

336 (1) If a certified Direct-entry midwife seeks to consult with, refer, or transfer a client to
337 a physician, certified nurse midwife, or facility, the responsibility of the provider or facility for

338 the client does not begin until the client is physically within the care of the provider or facility.

339 (2) A physician or certified nurse midwife who examines a client in accordance with
340 Subsection 58-77-601(2) is only liable for the actual examination and cannot be held
341 accountable for the client's decision to pursue an out-of-hospital birth or the services of a
342 certified Direct-entry midwife.

343 (3) (a) A physician or certified nurse midwife may, upon receiving a briefing data from
344 a certified Direct-entry midwife, issue a medical order for the midwife's client, without that
345 client being an explicit patient of the physician or certified nurse midwife.

346 (b) The responsibility and liability for the briefing and the proper execution of the
347 medical order is that of the certified Direct-entry midwife.

348 (c) The provider giving the order is responsible and liable only for the appropriateness
349 of the order given the data received.

350 (d) The issuing of an order for a midwife's client does not constitute a delegation of
351 duties from the other provider to the midwife.

352 Section 17. Section **58-77-603** is enacted to read:

353 **58-77-603. Prohibited practices.**

354 A certified Direct-entry midwife may not:

355 (1) administer a prescription drug to a client, other than those specified in Subsection
356 58-77-102(6);

357 (2) use forceps or a vacuum extractor, or effect any type of surgical delivery except for
358 the cutting of an emergency episiotomy;

359 (3) administer any type of epidural, spinal, or caudal anesthetic, or any type of narcotic
360 analgesia; or

361 (4) induce abortion.

362 Section 18. Section **78-14-3** is amended to read:

363 **78-14-3. Definitions.**

364 As used in this chapter:

365 (1) "Audiologist" means a person licensed to practice audiology under Title 58,
366 Chapter 41, Speech-language Pathology and Audiology Licensing Act.

367 (2) "Certified Direct-entry midwife" means a person certified under the Midwife
368 Certification Act to practice midwifery as defined in Section 58-77-102.

369 ~~[(2)]~~ (3) "Certified social worker" means a person licensed to practice as a certified
370 social worker under Section 58-60-305.

371 ~~[(3)]~~ (4) "Chiropractic physician" means a person licensed to practice chiropractic
372 under Title 58, Chapter 73, Chiropractic Physician Practice Act.

373 ~~[(4)]~~ (5) "Clinical social worker" means a person licensed to practice as a clinical
374 social worker under Section 58-60-305.

375 ~~[(5)]~~ (6) "Commissioner" means the commissioner of insurance as provided in Section
376 31A-2-102.

377 ~~[(6)]~~ (7) "Dental hygienist" means a person licensed to practice dental hygiene as
378 defined in Section 58-69-102.

379 ~~[(7)]~~ (8) "Dentist" means a person licensed to practice dentistry as defined in Section
380 58-69-102.

381 ~~[(8)]~~ (9) "Division" means the Division of Occupational and Professional Licensing
382 created in Section 58-1-103.

383 ~~[(9)]~~ (10) "Future damages" includes damages for future medical treatment, care or
384 custody, loss of future earnings, loss of bodily function, or future pain and suffering of the
385 judgment creditor.

386 ~~[(10)]~~ (11) "Health care" means any act or treatment performed or furnished, or which
387 should have been performed or furnished, by any health care provider for, to, or on behalf of a
388 patient during the patient's medical care, treatment, or confinement.

389 ~~[(11)]~~ (12) "Health care facility" means general acute hospitals, specialty hospitals,
390 home health agencies, hospices, nursing care facilities, assisted living facilities, birthing
391 centers, ambulatory surgical facilities, small health care facilities, health care facilities owned
392 or operated by health maintenance organizations, and end stage renal disease facilities.

393 ~~[(12)]~~ (13) "Health care provider" includes any person, partnership, association,
394 corporation, or other facility or institution who causes to be rendered or who renders health
395 care or professional services as a hospital, health care facility, physician, registered nurse,
396 licensed practical nurse, nurse midwife, certified Direct-entry midwife, dentist, dental
397 hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist,
398 podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic
399 physician, osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical

400 social worker, certified social worker, social service worker, marriage and family counselor,
401 practitioner of obstetrics, or others rendering similar care and services relating to or arising out
402 of the health needs of persons or groups of persons and officers, employees, or agents of any of
403 the above acting in the course and scope of their employment.

404 ~~[(13)]~~ (14) "Hospital" means a public or private institution licensed under Title 26,
405 Chapter 21, Health Care Facility Licensing and Inspection Act.

406 ~~[(14)]~~ (15) "Licensed practical nurse" means a person licensed to practice as a licensed
407 practical nurse as provided in Section 58-31b-301.

408 ~~[(15)]~~ (16) "Malpractice action against a health care provider" means any action against
409 a health care provider, whether in contract, tort, breach of warranty, wrongful death, or
410 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered
411 or which should have been rendered by the health care provider.

412 ~~[(16)]~~ (17) "Marriage and family therapist" means a person licensed to practice as a
413 marriage therapist or family therapist under Section 58-60-405 and Section 58-60-305.

414 ~~[(17)]~~ (18) "Naturopathic physician" means a person licensed to practice naturopathy
415 as defined in Section 58-71-102.

416 ~~[(18)]~~ (19) "Nurse midwife" means a person licensed to engage in practice as a nurse
417 midwife under Section 58-44a-301.

418 ~~[(19)]~~ (20) "Optometrist" means a person licensed to practice optometry under Title 58,
419 Chapter 16a, Utah Optometry Practice Act.

420 ~~[(20)]~~ (21) "Osteopathic physician" means a person licensed to practice osteopathy
421 under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

422 ~~[(21)]~~ (22) "Patient" means a person who is under the care of a health care provider,
423 under a contract, express or implied.

424 ~~[(22)]~~ (23) "Pharmacist" means a person licensed to practice pharmacy as provided in
425 Section 58-17a-301.

426 ~~[(23)]~~ (24) "Physical therapist" means a person licensed to practice physical therapy
427 under Title 58, Chapter 24a, Physical Therapist Practice Act.

428 ~~[(24)]~~ (25) "Physician" means a person licensed to practice medicine and surgery under
429 Title 58, Chapter 67, Utah Medical Practice Act.

430 ~~[(25)]~~ (26) "Podiatric physician" means a person licensed to practice podiatry under

431 Title 58, Chapter 5a, Podiatric Physician Licensing Act.

432 [~~(26)~~] (27) "Practitioner of obstetrics" means a person licensed to practice as a
433 physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58,
434 Chapter 68, Utah Osteopathic Medical Practice Act.

435 [~~(27)~~] (28) "Psychologist" means a person licensed under Title 58, Chapter 61,
436 Psychologist Licensing Act, to practice psychology as defined in Section 58-61-102.

437 [~~(28)~~] (29) "Registered nurse" means a person licensed to practice professional nursing
438 as provided in Section 58-31b-301.

439 [~~(29)~~] (30) "Representative" means the spouse, parent, guardian, trustee,
440 attorney-in-fact, or other legal agent of the patient.

441 [~~(30)~~] (31) "Social service worker" means a person licensed to practice as a social
442 service worker under Section 58-60-205.

443 [~~(31)~~] (32) "Speech-language pathologist" means a person licensed to practice
444 speech-language pathology under Title 58, Chapter 41, Speech-language Pathology and
445 Audiology Licensing Act.

446 [~~(32)~~] (33) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act
447 or omission proximately causing injury or damage to another.

Legislative Review Note

as of 1-14-03 2:18 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

Current year costs can be handled within existing budgets. FY 2004 will see an increase of \$1,500 in revenues and costs of \$1,200 for board meeting expenses.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
Commerce Service Fund	\$1,200	\$1,200	\$1,500	\$1,500
TOTAL	\$1,200	\$1,200	\$1,500	\$1,500

Individual and Business Impact

Business and individual impacts are expected to be small.
