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 consultation and mandatory transfer of a client;
- creates an advisory committee for the administrative rules related to licensed Direct-entry midwives;
- amends standards of practice for licensed Direct-entry midwives; and
- repeals the administrative rules advisory committee in two years.

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

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

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 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, or Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) selected by the Utah Medical Association;

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

(i) administrative rules adopted by the division prior to March 1, 2008 under the provisions of Section 58-77-601; and

(ii) any administrative rule proposed by the division after March 1, 2008 under the provisions of Section 58-77-601.

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

(4) The division shall adopt administrative rules regarding conditions that require:

(a) mandatory consultation with a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, upon:

(i) miscarriage after 14 weeks;

(ii) failure to deliver by 42 completed weeks of gestation;

(iii) a baby in the breech position after 36 weeks gestation;

(iv) any sign or symptom of:

(A) placenta previa; or

(B) deep vein thrombosis or pulmonary embolus; or

(v) any other condition or symptom that may place the health of the pregnant woman or unborn child at unreasonable risk as determined by the division by rule;

(b) mandatory transfer of patient care before the onset of labor to a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, upon evidence of:

(i) placenta previa after 27 weeks;

(ii) diagnosed deep vein thrombosis or pulmonary embolism;

(iii) multiple gestation;

(iv) no onset of labor after 43 completed weeks of gestation;

(v) more than two prior c-sections, unless restricted by the division by rule;

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

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

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

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

(x) 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;

(xi) any other condition that could place the life or long-term health of the pregnant woman or unborn child at risk;

(c) mandatory transfer of care during labor and an immediate transfer in the manner specifically set forth in Subsections 58-77-601(4)(a), (b), or (c) upon evidence of:

(i) undiagnosed multiple gestation, unless delivery is imminent;

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

(iii) fetus in breech presentation during labor unless delivery is imminent;

(iv) inappropriate fetal presentation as determined by the licensed Direct-entry midwife;

(v) non-reassuring fetal heart pattern indicative of fetal distress that does not immediately respond to treatment by the Direct-entry midwife unless delivery is imminent;

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

(vii) failure to deliver after three hours of pushing unless delivery is imminent; or

(viii) any other condition that could place the life or long-term health of the pregnant woman or unborn child at significant risk if not acted upon immediately; and

(d) mandatory transfer of care after delivery and immediate transfer of the mother or infant in the manner specifically set forth in Subsections 58-77-601 (4)(a), (b), or (c) upon evidence of any condition that could place the life or long-term health of the mother or infant at significant risk if not acted upon immediately.

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

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

(7) The director of the division shall appoint one of the three licensed Direct-entry midwives and one of the non-Direct-entry midwife members to serve as co-chairs of the committee.

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

(9) (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 constitute a quorum.

(10) 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) (i) 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:

(A) that is not pharmacologically induced;

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

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

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

(E) except as provided in Subsection (2)(a)(ii), in which after delivery, the mother and infant remain low risk; and

(ii) the limitation of Subsection (2)(a)(i) does not prohibit a licensed Direct-entry midwife from delivering an infant when there is:

(A) intrauterine fetal demise; or

(B) a fetal anomaly incompatible with life; 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 58-77-204(4) 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 58-77-204(4) 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.