

**LICENSED DIRECT ENTRY MIDWIFE**

**AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Direct-entry Midwife Act.

**Highlighted Provisions:**

This bill:

- ▶ clarifies that the provisions apply only to licensed Direct-entry midwives;
- ▶ defines normal birth;
- ▶ amends the definition of the practice of licensed 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;
- ▶ amends the membership of the board for licensed Direct-entry midwives; and
- ▶ requires the raw data reports to be submitted to the Physician's Licensing Board for

independent review and analysis.

**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



28 58-77-201, as enacted by Laws of Utah 2005, Chapter 299

29 58-77-601, as enacted by Laws of Utah 2005, Chapter 299



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

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

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

45 (a) that is spontaneous in onset;

46 (b) with a singleton fetus;

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

48 (d) that remains low risk through the course of labor and delivery;

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

51 (f) in which after delivery, the mother and baby are in good condition.

52 (6) "Physician" means an individual licensed as a physician and surgeon, osteopathic  
53 physician, or naturopathic physician.

54 (7) "Practice of Licensed Direct-entry midwifery":

55 (a) means practice of providing the necessary supervision, care, and advice to a client  
56 during [~~essentially~~] normal pregnancy, labor, delivery, postpartum, and newborn periods that is  
57 consistent with national professional midwifery standards and that is based upon the  
58 acquisition of clinical skills necessary for the care of pregnant women and newborns, including

59 antepartum, intrapartum, postpartum, newborn, and limited interconceptual care and includes:

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

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

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

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

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

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

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

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

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

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

73        ~~[(v)]~~ (E) one dose of intramuscular oxytocin if a hemorrhage occurs, in which case the  
74 licensed Direct-entry midwife must ~~[either]~~;

75        (I) consult immediately with a physician licensed under Title 58, Chapter 67, Utah  
76 Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act~~[-]~~; and

77        (II) initiate transfer, and notify the local hospital if requested by the consulting  
78 physician, or if the client's condition does not immediately improve~~[-, initiate transfer and notify~~  
79 ~~the local hospital]~~;

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 ~~[(h)]~~ (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 licensed Direct-entry midwife[-]; and

116 (b) does not include a pregnancy that involves:

117 (i) pulmonary disease, renal disease, chronic or active hepatic disease, endocrine

118 disease, neurological disease, a significant autoimmune disease, Group B streptococcus

119 colonization or infection disease, or isoimmunization;

120 (ii) deep vein thrombosis or pulmonary embolus;

- 121 (iii) a significant hematological disorder or coagulopathy;  
 122 (iv) hypertension;  
 123 (v) diabetes mellitus;  
 124 (vi) a family history of a serious genetic disorder that may affect the current pregnancy;  
 125 (vii) a history of neonatal infection, cerclage or incompetent cervix, an infant below  
 126 2,500 grams or above 4,500 grams, a preterm singleton birth of 36 weeks or less, postpartum  
 127 hemorrhage requiring transfusion, three or more consecutive miscarriages, a miscarriage after  
 128 14 weeks, or a stillborn;  
 129 (viii) a prior myomectomy, hysterotomy, or c-section;  
 130 (ix) current drug addition or abuse;  
 131 (x) positive HIV antibody or AIDS;  
 132 (xi) any condition, disease, or illness that would disqualify a certified nurse midwife,  
 133 licensed under Chapter 44a, Nurse Midwife Practice Act, from delivering a child without  
 134 assistance under the protocols of two or more general acute hospitals in Utah; or  
 135 (xii) any other condition that may present an unreasonable risk of harm to a pregnant  
 136 woman or unborn child as determined by the division by administrative rule.  
 137 (8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-77-501.  
 138 (9) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-77-502 and as  
 139 may be further defined by rule.
- 140 Section 2. Section **58-77-201** is amended to read:  
 141 **58-77-201. Board.**  
 142 (1) There is created the Licensed Direct-entry Midwife Board consisting of [~~four~~]:  
 143 (a) three licensed Direct-entry midwives [~~and~~];  
 144 (b) three members who are one of the following:  
 145 (i) a physician licensed under this title; or  
 146 (ii) a certified nurse midwife licensed under this title;  
 147 (c) one member of the general public[?] who is not:  
 148 (i) related to a Direct-entry midwife or any member of the board;  
 149 (ii) a student of a school for licensed Direct-entry midwives; or  
 150 (iii) a current or former client of a member of the board.  
 151 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

152 (3) (a) The duties and responsibilities of the board shall be in accordance with Sections  
153 58-1-202 and 58-1-203.

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

155 (i) assist the division in reviewing complaints concerning the unlawful or

156 unprofessional conduct of a licensed Direct-entry midwife; and

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

158 (c) (i) For the years 2006 through 2011, the board shall present an annual report to the

159 Legislature's Health and Human Services Interim Committee describing the outcome data of

160 licensed Direct-entry midwives practicing in Utah.

161 (ii) The board shall base its report on data provided in large part from the Midwives'

162 Alliance of North America.

163 (4) A board member who has, under Subsection (3), reviewed a complaint or advised

164 in its investigation may be disqualified from participating with the board when the board serves

165 as a presiding officer in an adjudicative proceeding concerning the complaint.

166 (5) Qualified faculty, board members, and other staff of Direct-entry midwifery

167 learning institutions may serve as one or more of the licensed Directed-entry midwives on the

168 board.

169 Section 3. Section **58-77-601** is amended to read:

170 **58-77-601. Standards of practice.**

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

172 informed consent from a client.

173 (b) The consent must include:

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

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

176 client has one;

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

178 midwife or a physician;

179 (iv) all sections required by the North American Registry of Midwives in its informed

180 consent guidelines, including:

181 (A) a description of the licensed Direct-entry midwife's education, training, continuing

182 education, and experience in midwifery;

- 183 (B) a description of the licensed Direct-entry midwife's peer review process;
- 184 (C) the licensed Direct-entry midwife's philosophy of practice;
- 185 (D) a promise to provide the client, upon request, separate documents describing the
- 186 rules governing licensed Direct-entry midwifery practice, including a list of conditions
- 187 indicating the need for consultation, collaboration, referral, transfer or mandatory transfer, and
- 188 the licensed Direct-entry midwife's personal written practice guidelines;
- 189 (E) a medical back-up or transfer plan;
- 190 (F) a description of the services provided to the client by the licensed Direct-entry
- 191 midwife;
- 192 (G) the licensed Direct-entry midwife's current legal status;
- 193 (H) the availability of a grievance process; and
- 194 (I) client and licensed Direct-entry midwife signatures and the date of signing; and
- 195 (v) whether the licensed Direct-entry midwife is covered by a professional liability
- 196 insurance policy.
- 197 (2) (a) A licensed Direct-entry midwife shall appropriately recommend and facilitate
- 198 consultation with, collaboration with, referral to, or transfer or mandatory transfer of care to a
- 199 licensed health care professional when the circumstances require that action in accordance with
- 200 this section and standards established by division rule.
- 201 (b) Mandatory consultation with a licensed health care provider is required upon:
- 202 (i) a threatened miscarriage or miscarriage after 14 weeks;
- 203 (ii) vaginal bleeding after 13 weeks of gestation;
- 204 (iii) symptoms of malnutrition or anorexia;
- 205 (iv) discovery of maternal age as of the estimated day of conception of more than 35
- 206 years;
- 207 (v) history of genital herpes or a current sexually transmitted disease;
- 208 (vi) infection requiring antibiotics;
- 209 (vii) hepatitis;
- 210 (viii) abnormal pap smear during current pregnancy;
- 211 (ix) significant decrease in fetal movement after 24 weeks;
- 212 (x) no prenatal care prior to 28 weeks;
- 213 (xi) thin, nonparticulate meconium; or

214 (xii) 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, or Chapter 68, Utah Osteopathic Medical  
218 Practice Act, is required, upon evidence of:

219 (i) preeclampsia or other hypertensive disorder;

220 (ii) diabetes mellitus;

221 (iii) deep vein thrombosis or pulmonary embolus;

222 (iv) placental anomaly;

223 (v) placenta previa after 20 weeks;

224 (vi) onset of labor or membrane rupture before the completion of 37 weeks;

225 (vii) abnormal fetal heart rate, biophysical profile, or nonreactive stress test;

226 (viii) multiple gestations;

227 (ix) known or suspected Group B streptococcus colonization or infection;

228 (x) intrauterine growth restriction, which includes a fundal height that measures more  
229 than three centimeters less than the weeks of gestation;

230 (xi) any other condition that could place the life or long-term health of the pregnant  
231 woman or unborn child at risk as determined by the division by rule; or

232 (xii) suspected macrosomia, which includes a fundal height measuring more than three  
233 centimeters greater than the weeks of gestation.

234 (d) Mandatory transfer of care during labor and an immediate transfer in the manner  
235 specifically set forth in Subsection (4)(a), (b), or (c) is required upon evidence of:

236 (i) any condition listed in Subsection (2)(c);

237 (ii) a prolapsed cord;

238 (iii) chorioamnionitis;

239 (iv) a membrane rupture of more than 18 hours;

240 (v) maternal seizure, loss of consciousness, or shock;

241 (vi) breech or other inappropriate fetal presence;

242 (vii) an erratic fetal heart rate or other form of fetal distress;

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



- 245 division by rule; or
- 246 (ix) failure to deliver after three hours of pushing.
- 247 (e) Mandatory transfer of care after delivery and immediate transfer of the mother in
- 248 the manner specifically set forth in Subsection (4)(a), (b), or (c) is required upon evidence of:
- 249 (i) no immediate cessation of hemorrhage after a single dose of IM pitocin;
- 250 (ii) retained placenta or placental fragments;
- 251 (iii) a cervical laceration, sulcus laceration, or laceration of the third or fourth degree;
- 252 (iv) uterine prolapse, inversion, or rupture;
- 253 (v) maternal seizure, loss of consciousness, or shock;
- 254 (vi) postpartum preeclampsia;
- 255 (vii) a temperature of more than 38.5 degrees Celsius or other abnormal vital sign;
- 256 (viii) anaphylaxis; or
- 257 (ix) any other condition that could place the life or long-term health of the mother at
- 258 significant risk if not acted upon immediately as determined by the division by rule.
- 259 (f) Mandatory transfer of care after delivery and an immediate transfer of a newborn
- 260 child in the manner specifically set forth in Subsection (4)(a), (b), or (c) shall be consistent
- 261 with:
- 262 (i) protocols and guidelines established by state law; and
- 263 (ii) any other condition that could place a newborn's health at risk as determined by the
- 264 division:
- 265 (A) in consultation with the professional boards of healthcare providers whose scope of
- 266 practice includes the care of newborns; and
- 267 (B) by administrative rule adopted by the division.
- 268 (3) If after a client has been informed that she has or may have a condition indicating
- 269 the need for medical consultation, collaboration, referral, or transfer and the client chooses to
- 270 decline, then the licensed Direct-entry midwife shall:
- 271 (a) terminate care in accordance with procedures established by division rule; or
- 272 (b) except when transfer of care is mandatory under Subsections (2)(c) through (f),
- 273 continue to provide care for the client if the client signs a waiver of medical consultation,
- 274 collaboration, referral, or transfer.
- 275 (4) If after a client has been informed that she has or may have a condition indicating

276 the need for mandatory transfer, the licensed Direct-entry midwife shall, in accordance with  
277 procedures established by division rule, terminate the care or initiate transfer by:

- 278 (a) calling 911 and reporting the need for immediate transfer;
- 279 (b) immediately transporting the client by private vehicle to the receiving provider; or
- 280 (c) contacting the physician to whom the client will be transferred and following that  
281 physician's orders.

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

285 (b) The raw data submitted by a licensed Direct-entry midwife shall be submitted to the  
286 Physician Licensing Board created in Section 58-67-201 for independent review and analysis.

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

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**Legislative Review Note**  
**as of 1-3-08 1:30 PM**

**Office of Legislative Research and General Counsel**

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**S.B. 93 - Licensed Direct Entry Midwife Amendments**

**Fiscal Note**

2008 General Session  
State of Utah

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**State Impact**

Enactment of this bill will require an appropriation of \$300 on-going from the Commerce Service Fund to pay per-diem for an additional board member. It may also result in decreased revenue to the Commerce Service Fund of \$200 in FY 2009 and \$1,000 in FY 2010 due fewer people registering with the Department of Commerce, Division of Occupational Licensing. The net impact on the General Fund of these Commerce Service Fund changes is lost revenue of \$500 in FY 2009 and \$1300 in FY 2010.

	<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	(\$500)	(\$1,300)
Commerce Service Fund	\$0	\$300	\$300	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$300</b>	<b>\$300</b>	<b>\$0</b>	<b>(\$500)</b>	<b>(\$1,300)</b>

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**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.