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S.B. 93
3rd Sub. (Ivory)

Representative Bradley G. Last 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

3rd Sub. S.B. 93

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

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

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 licensed 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) "Normal labor, delivery, post partum, and newborn period" means a birth:

(a) that is spontaneous in onset;

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

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

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

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

[~~(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 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[~~.~~] who is not:

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

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

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

(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 Sections 58-77-102 and 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 licensed under Chapter 67, Utah Medical Practice Act, or their designee, selected by the Utah Medical Association;

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

(c) three licensed Direct-entry midwives, selected by the board; and

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

(i) related to a Direct-entry midwife;

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

(iii) a current or former client of a member of 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 Sections 58-77-102 and 58-77-60; and

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

(b) If the division does not incorporate a recommendation of the advisory committee into an administrative rule proposed by the division, 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.

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) A licensed Direct-entry midwife shall 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.

(b) Mandatory consultation with a physician licensed under Chapter 67, Utah Medical Practice Act, is required upon:

(i) miscarriage after 14 weeks;

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

(iii) a baby in the breech position at any time, after 36 weeks gestation; or

(iv) 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.

(c) Mandatory transfer of patient care before the onset of labor to a physician licensed

under Chapter 67, Utah Medical Practice Act, is required, upon evidence of:

(i) placenta previa after 27 weeks and prior to 27 weeks if there is any spotting or bleeding;

(ii) a threatened miscarriage;

(iii) no onset of labor before 43 weeks of gestation;

(iv) deep vein thrombosis or pulmonary embolus;

(v) multiple gestation; or

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

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

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

(ii) a prior c-section;

(iii) persistent breech at term;

(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;

(vi) particulate moderate or thick meconium unless delivery is imminent;

(vii) 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 as determined by the division by rule; or

(viii) failure to deliver after three hours of pushing unless delivery is imminent.

(e) Mandatory transfer of care after delivery and immediate transfer of the mother in the manner specifically set forth in Subsection (4)(a), (b), or (c) is required upon evidence of any condition that could place the life or long-term health of the mother at significant risk if not acted upon immediately as determined by the division by rule.

(f) Mandatory transfer of care after delivery and an immediate transfer of a newborn child in the manner specifically set forth in Subsection (4)(a), (b), or (c) shall be consistent with:

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

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

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

(B) by administrative rule adopted by the division.

(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) except when transfer of care is mandatory under Subsections (2)(c) through (f), 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) 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) This chapter does not mandate health insurance coverage for midwifery services.