

Representative Derek E. Brown proposes the following substitute bill:

NURSE MIDWIFE PRACTICE ACT AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derek E. Brown

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions of the Nurse Midwife Practice Act.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to a practice plan with a consulting physician;
- ▶ amends the definition of practice as a certified nurse midwife; and
- ▶ amends the unprofessional conduct provisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-44a-102, as last amended by Laws of Utah 2008, Chapter 382

58-44a-502, as enacted by Laws of Utah 1998, Chapter 288

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

Section 1. Section **58-44a-102** is amended to read:



26 **58-44a-102. Definitions.**

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

28 (1) "Administrative penalty" means a monetary fine imposed by the division for acts or
29 omissions determined to constitute unprofessional or unlawful conduct in accordance with a
30 fine schedule established by rule and as a result of an adjudicative proceeding conducted in
31 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

32 (2) "Board" means the Certified Nurse Midwife Board created in Section 58-44a-201.

33 (3) "Consultation and Referral Plan" means a written plan jointly developed by a
34 certified nurse midwife, as defined in Subsection (6), and a consulting physician that permits
35 the certified nurse midwife to prescribe schedule II-III controlled substances in consultation
36 with the consulting physician.

37 (4) "Consulting physician" means a physician and surgeon or osteopathic physician:

38 (a) ~~[licensed]~~ with an unrestricted license as a physician;

39 (b) qualified by education, training, and current practice in obstetrics, gynecology, or
40 both to act as a consulting physician to a nurse midwife practicing under this chapter and
41 providing intrapartum care or prescribing Schedule II-III controlled substances; and

42 (c) who ~~[has agreed under a practice plan to be]~~ is available to consult with a nurse
43 midwife, which ~~[plan]~~ does not include the consulting ~~[physician's]~~ physician being present at
44 the time or place the nurse midwife is engaged in practice.

45 (5) "Individual" means a natural person.

46 (6) "Intrapartum referral plan":

47 (a) means a written plan prepared by a nurse midwife describing the guidelines under
48 which the nurse midwife will consult with a consulting physician, collaborate with a consulting
49 physician, and refer patients to a consulting physician; and

50 (b) does not require the nurse midwife to obtain the signature of a physician on the
51 intrapartum referral plan.

52 ~~[(6)]~~ (7) "Nurse midwife" means a person licensed under this chapter to engage in
53 practice as a certified nurse midwife.

54 ~~[(7)]~~ (8) "Physician" means a physician and surgeon or osteopathic surgeon licensed
55 under ~~[Title 58,]~~ Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic
56 Medical Practice Act.

57 [(8)] (9) "Practice as a certified nurse midwife" means:

58 (a) practice as a registered nurse as defined in Section 58-31b-102, and as consistent
59 with the education, training, experience, and current competency of the licensee; [~~and~~]

60 (b) practice of nursing within the generally recognized scope and standards of nurse
61 midwifery as defined by rule and consistent with professionally recognized preparations and
62 educational standards of a certified nurse midwife by a person licensed under this chapter,
63 which practice includes [~~the authority to~~]:

64 (i) having a safe mechanism for obtaining medical consultation, collaboration, and
65 referral with one or more consulting physicians who have agreed to consult, collaborate and
66 receive referrals, but who are not required to sign a written document regarding the agreement;

67 (ii) providing a patient with information regarding other health care providers and
68 health care services and referral to other health care providers and health care services when
69 requested or when care is not within the scope of practice of a certified nurse midwife; and

70 (iii) maintaining written documentation of the parameters of service for independent
71 and collaborative midwifery management and transfer of care when needed; and

72 (c) the authority to:

73 (i) elicit and record a patient's complete health information, including physical
74 examination, history, and laboratory findings commonly used in providing obstetrical,
75 gynecological, and well infant services to a patient;

76 (ii) assess findings and upon abnormal findings from the history, physical examination,
77 or laboratory findings, manage the treatment of the patient, collaborate with the consulting
78 physician or another qualified physician, or refer the patient to the consulting physician or to
79 another qualified physician as appropriate;

80 (iii) diagnose, plan, and implement appropriate patient care, including the
81 administration and prescribing of:

82 (A) prescription drugs;

83 (B) schedule IV-V controlled substances; and

84 (C) schedule II-III controlled substances in accordance with a consultation and referral
85 plan;

86 (iv) evaluate the results of patient care;

87 (v) consult as is appropriate regarding patient care and the results of patient care;

88 (vi) manage the intrapartum period according to accepted standards of nurse midwifery
89 practice and a written [~~practice and referral plan~~] intrapartum referral plan, including
90 performance of routine episiotomy and repairs, and administration of anesthesia, including
91 local, pudendal, or paracervical block anesthesia, but not including general anesthesia and
92 major conduction anesthesia;

93 (vii) manage the postpartum period;

94 (viii) provide gynecological services;

95 (ix) provide noncomplicated newborn and infant care to the age of one year; and

96 (x) represent or hold oneself out as a certified nurse midwife, or nurse midwife, or use
97 the title certified nurse midwife, nurse midwife, or the initials C.N.M., N.M., or R.N.

98 [~~(9) "Practice and referral plan" means a written plan entered into with a consulting
99 physician and detailing guidelines by which a certified nurse midwife consults, collaborates,
100 and refers patients.]~~

101 (10) "Unlawful conduct" is defined in Sections 58-1-501 and 58-44a-501.

102 (11) "Unlicensed assistive personnel" means any unlicensed person, regardless of title,
103 to whom tasks are delegated by a licensed certified nurse midwife in accordance with the
104 standards of the profession as defined by rule.

105 (12) "Unprofessional conduct" is defined in Sections 58-1-501 and 58-44a-502 and as
106 may be further defined by rule.

107 Section 2. Section **58-44a-502** is amended to read:

108 **58-44a-502. Unprofessional conduct.**

109 "Unprofessional conduct" includes:

110 (1) disregard for a patient's dignity or right to privacy as to his person, condition,
111 possessions, or medical record;

112 (2) engaging in an act, practice, or omission which when considered with the duties
113 and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or
114 welfare of a patient or the public;

115 (3) failure to confine one's practice as a certified nurse midwife to those acts or
116 practices permitted by law;

117 (4) failure to file or record any medical report as required by law, impeding or
118 obstructing the filing or recording of such a report, or inducing another to fail to file or record

119 such a report;

120 (5) breach of a statutory, common law, regulatory, or ethical requirement of

121 confidentiality with respect to a person who is a patient, unless ordered by the court;

122 (6) failure to pay a penalty imposed by the division; [~~and~~]

123 (7) prescribing a schedule II-III controlled substance without a consulting physician[-];

124 and

125 (8) (a) failure to have and maintain a safe mechanism for obtaining medical

126 consultation, collaboration and referral with a consulting physician including failure to identify

127 one or more consulting physicians in the written documents required by Subsection (9)(b)(iii);

128 or

129 (b) representing that the certified nurse midwife is in compliance with Subsection

130 (8)(a) when the certified nurse midwife is not in compliance with Subsection (8)(a).