

## HB0190S01 compared with HB0190

~~deleted text~~ shows text that was in HB0190 but was deleted in HB0190S01.

inserted text shows text that was not in HB0190 but was inserted into HB0190S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

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: \_\_\_\_\_

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#### 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:

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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

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

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

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

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

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

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

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

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

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

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

(c) who ~~[has agreed {} under a practice plan {} to be]~~ is available to consult with a nurse midwife, which ~~[plan]{};~~

~~—— (i) }~~ does not include the consulting [physician's] physician being present at the time or place the nurse midwife is engaged in practice {} {}; ~~and~~

~~—— (ii) does not require the nurse midwife to obtain the consulting physician's signature. }~~

(5) "Individual" means a natural person.

(6) "Intrapartum referral plan":

(a) means a written plan prepared by a nurse midwife describing the guidelines under which the nurse midwife will consult with a consulting physician, collaborate with a consulting

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physician, and refer patients to a consulting physician; and

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

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

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

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

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

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

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

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

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

(c) the authority to:

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

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

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another qualified physician as appropriate;

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

(A) prescription drugs;

(B) schedule IV-V controlled substances; and

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

(iv) evaluate the results of patient care;

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

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

(vii) manage the postpartum period;

(viii) provide gynecological services;

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

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

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

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

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

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

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

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

"Unprofessional conduct" includes:

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

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

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

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

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

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

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

and

(8) (a) failure to have and maintain a safe mechanism for obtaining medical consultation, collaboration and referral with a consulting physician including failure to identify one or more consulting physicians in the written documents required by Subsection (9)(b)(iii);

or

(b) representing ~~to another~~ that the certified nurse midwife is in compliance with Subsection (8)(a) when the certified nurse midwife is not in compliance with Subsection (8)(a).

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### Legislative Review Note

as of ~~2-3-12 9:33 AM~~

Office of Legislative Research and General Counsel}