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SENATE FILE

BY HATCH (COMPANION TO lsb 5170hh BY MASCHER)

A BILL FOR

An Act relating to the licensing of midwives and providing for a fee and a penalty, and including effective date provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 147.1, subsections 3 and 6, Code Supplement 2009, are amended to read as follows:

3. "Licensed" or "certified", when applied to a physician and surgeon, podiatric physician, osteopathic physician and surgeon, physician assistant, psychologist, chiropractor, nurse, dentist, dental hygienist, dental assistant, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, physical therapist assistant, occupational therapist, occupational therapy assistant, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, social worker, massage therapist, midwife, athletic trainer, acupuncturist, nursing home administrator, hearing aid dispenser, or sign language interpreter or transliterator means a person licensed under this subtitle.

6. "Profession" means medicine and surgery, podiatry, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, pharmacy, physical therapy, physical therapist assisting, occupational therapy, occupational therapy assisting, respiratory care, cosmetology arts and sciences, barbering, mortuary science, marital and family therapy, mental health counseling, social work, dietetics, massage therapy, midwifery, athletic training, acupuncture, nursing home administration, hearing aid dispensing, or sign language interpreting or transliterating.

Sec. 2. Section 147.2, subsection 1, Code 2009, is amended to read as follows:

1. A person shall not engage in the practice of medicine and surgery, podiatry, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, physical therapist assisting, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, occupational therapy, occupational therapy assisting, respiratory care, pharmacy, cosmetology arts and sciences, barbering, social work, dietetics, marital and family therapy or mental health counseling, massage

therapy, midwifery, mortuary science, athletic training, acupuncture, nursing home administration, hearing aid dispensing, or sign language interpreting or transliterating, or shall not practice as a physician assistant, unless the person has obtained a license for that purpose from the board for the profession.

Sec. 3. Section 147.13, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 24. For midwifery, the board of midwifery.

Sec. 4. Section 147.14, subsection 1, Code Supplement 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. x. For midwifery, a total of seven members, three members who are licensed midwives under chapter 148F; one member who is licensed under chapter 148, is a practicing family physician, and has professional experience consulting for and collaborating with direct-entry midwives; one member who is an advanced registered nurse practitioner licensed under chapter 152, is a certified nurse midwife, and has professional experience consulting for and collaborating with direct-entry midwives; and two members who are not licensed midwives or licensed health care providers who have received direct-entry midwifery services and who shall represent the general public.

Sec. 5. Section 147.74, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A midwife licensed under chapter 148F may use the words "licensed midwife" or the initials "L. M." after the person's name.

Sec. 6. NEW SECTION. 148F.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the board of midwifery.
2. "Licensed midwife" means a person who is licensed to practice midwifery as provided in this chapter.
3. "Out-of-hospital" means any facility, institution, or place which is not an ambulatory surgical center or a hospital, such as a birth center as defined in section 135.61 or a private home.
4. "Practice of midwifery" means the provision of primary maternity care during the antepartum, intrapartum, and postpartum periods by a person who is neither licensed to practice under chapter 148, nor a nurse recognized by the Iowa board of nursing as an advanced registered nurse practitioner who is a certified nurse midwife, and who is not rendering emergency services without compensation. "Practice of midwifery" may also include the carrying and administration of certain medications during the practice of midwifery, including oxytocin, as a postpartum antihemorrhagic agent, oxygen, intravenous fluids for stabilization, vitamin K, eye prophylactics, and other drugs or

procedures as appropriate for the scope of practice for licensed midwives as determined by the board.

Sec. 7. NEW SECTION. 148F.2 Licensure -- licensed midwifery.

Beginning July 1, 2011, every person practicing midwifery in this state shall be licensed pursuant to this chapter. The board shall adopt rules pursuant to chapters 17A, 147, and 272C establishing procedures for the licensing of new and practicing midwives. Prior to obtaining licensure, an applicant shall successfully pass an examination prescribed and approved by the board as determined in rule demonstrating competencies in at least all of the following areas: risk assessment and management; prenatal care; management of normal labor, birth, and postpartum; newborn care up to six weeks; and adult cardiopulmonary resuscitation and newborn resuscitation.

Sec. 8. NEW SECTION. 148F.3 Use of title -- penalty.

A person shall not use the title licensed midwife, describe or imply that the person is a licensed midwife, or represent the person as a licensed midwife unless the person is granted a license under this chapter or is licensed as a nurse-midwife under chapter 152.

Sec. 9. NEW SECTION. 148F.4 Rules.

1. The board shall:

a. Adopt rules relating to standards for professional conduct of persons licensed under this chapter.

b. Adopt rules consistent with this chapter and with chapters 147 and 272C which are necessary for the performance of its duties.

c. Act on matters concerning licensure and the processes of applying for, granting, suspending, imposing supervisory or probationary conditions upon, reinstating, and revoking a license.

d. Administer the provisions of this chapter requiring documentation required to demonstrate competence as a midwife, and the processing of applications for licenses and license renewal.

e. Develop continuing education requirements as a condition of license renewal.

f. Evaluate requirements for licensure in other states to determine if reciprocity may be granted.

g. Establish and collect licensure fees as provided in section 147.80 and retain fees as provided in section 147.82.

h. Adopt guidelines encouraging the development of collaborative relationships with other health care practitioners who can provide care outside of the scope of the practice of midwifery when necessary.

i. Establish procedures for the issuance, renewal, and revocation or suspension of a license under this chapter.

j. Maintain a registry of licensed midwives and statistics on the practice of midwifery utilizing vital statistics data.

2. In establishing rules, the board shall consult with persons knowledgeable regarding the prenatal and postpartum birth process, particularly those possessing experience with out-of-hospital births, including but not limited to persons licensed under chapter 148, certified professional midwives, advanced registered nurse practitioners who are certified nurse midwives, and women who have given birth in an out-of-hospital setting.

3. Rules relating to the practice of midwifery shall not be inconsistent with the North American registry of midwives' current job description for the profession and the standards of practice of midwifery established by the national association of certified professional midwives or a successor organization, and shall not expand the scope of practice of midwifery established by the national association of certified professional midwives or a successor organization.

Sec. 10. NEW SECTION. 148F.5 Client disclosure.

Prior to accepting a patient for midwifery care, a licensed midwife shall provide information indicating all of the following:

1. Evidence that the care provider is a licensed midwife meeting the requirements of this chapter.

2. Whether the licensed midwife has malpractice liability insurance coverage and the policy limits of such coverage.

3. The midwife's educational background and relevant experience, including experience in various birth settings.

4. The nature, scope, and location of the care to be given, including the possibility of and the guidelines for consultation, referral, or transfer of the patient to a hospital from an out-of-hospital setting.

Sec. 11. NEW SECTION. 148F.6 Exceptions.

1. This chapter does not prevent qualified members of other professions including but not limited to individuals licensed under chapter 148 or 152 from providing services consistent with the nature of the practice of midwifery.

2. This chapter does not prevent or prohibit a student midwife from performing tasks related to the practice of midwifery under the supervision of a licensed midwife, a

certified nurse midwife, or a licensed physician during completion of the licensure process.

3. The practice of midwifery in this state prior to July 1, 2011, shall not constitute grounds for disciplinary action by the board. The board may issue a license to a person who has practiced midwifery in this state upon application and compliance with the provisions of this chapter and the rules adopted pursuant to this chapter.

Sec. 12. NEW SECTION. 148F.7 Prohibited practice.

A person shall not practice midwifery, or represent that the person is a midwife, unless the person is licensed as provided in this chapter.

Sec. 13. NEW SECTION. 148F.8 Requirements for licensure -- temporary license.

Beginning July 1, 2011, an individual who does not meet the requirements for licensure by examination pursuant to section 148F.2 may apply for a one-year temporary license as determined by the board in rules. Renewal of the temporary license shall be determined by the board. The board may revoke a temporary license if it determines that the temporary licensee has violated standards established by rule.

Sec. 14. Section 272C.1, subsection 6, Code Supplement 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. ag. The board of midwifery, created pursuant to chapter 147.

Sec. 15. Section 272C.4, subsection 6, Code Supplement 2009, is amended to read as follows:

6. Define by rule acts or omissions that are grounds for revocation or suspension of a license under section 100D.5, 105.22, 147.55, 148.6, 148B.7, 148F.4, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151 or 155, as applicable, and to define by rule acts or omissions that constitute negligence, careless acts, or omissions within the meaning of section 272C.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 272C.9, subsection 2.

Sec. 16. INITIAL APPOINTMENTS.

1. Notwithstanding any provision to the contrary in this Act, initial professional appointees to the board of midwifery shall fulfill the national certification requirements of the North American registry of midwives.

2. One of the initial professional appointments to the board shall be appointed for a one-year term, one member shall be appointed for a two-year term, and one member shall be appointed for a three-year term. The members who are licensed under chapter 148 or 152 shall each be appointed for a two-year term, and the members representing the general public shall each be appointed to a three-year term.

Sec. 17. EFFECTIVE DATE. These sections of this Act amending section 147.2, subsection 1, and enacting section 148F.8 take effect July 1, 2011.

EXPLANATION

This bill creates new Code chapter 148F that provides for the licensure of midwives beginning July 1, 2011. A midwife is not an allopathic or osteopathic physician licensed under Code chapter 148 or a nurse licensed under Code chapter 152 providing primary maternity care during the antepartum, intrapartum, and postpartum periods.

The bill provides for the establishment of a seven-member board of midwifery consisting of three members who are midwives, one physician, one nurse, and two members who represent the general public. The bill provides for fees to fund the board and provides penalties for violation of the practice requirement; those penalties are set out for all health-related boards in Code chapters 147 and 272C. Code section 147.86 provides that it is a serious misdemeanor to violate a provision of the licensing laws.

The board is similar in composition and responsibilities to other health-related licensing boards.

The provisions of the bill amending Code section 147.2 and enacting Code section 148F.8, both prohibiting the practice of midwifery without a license, take effect July 1, 2011.