

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5491

By Delegate Summers, Crouse, and Young

By Request

[Introduced February 06, 2024; Referred to the
Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §30-44-1, §30-44-2, §30-44-3, §30-44-4, §30-44-5, §30-44-6, §30-44-7, §30-
 3 44-8, §30-44-9, §30-44-10, §30-44-11, §30-44-12, §30-44-13, §30-44-14, §30-44-14a,
 4 §30-44-14b, §30-44-15, §30-44-16, and §30-44-17, all relating generally to certified
 5 professional midwives; providing for definitions; setting forth the license required to
 6 practice; providing requirements for the license; providing for the license renewal and
 7 reinstatement; establishing temporary permits; detailing the contents of the license or
 8 certificate, providing for continuing education; clarifying the use of titles; providing for the
 9 denial, revocation, or suspension of license; listing exceptions; establishing prohibitions
 10 and penalties; creating an injunction or other relief against unlawful acts; providing for
 11 regulations governing the practice of midwifery; defining established medical tests, legend
 12 drug formulary, and medical devices; creating a drugs legend; creating a medical tests
 13 legend; providing for midwife responsibilities; providing for confidentiality; and providing for
 14 immunity.

Be it enacted by the Legislature of West Virginia:

ARTICLE 44. CERTIFIED PROFESSIONAL MIDWIFE.

§30-44-1. Definitions.

As used in this article:

"Midwife" means any person who provides primary maternity care by affirmative act or conduct prior to, during, and subsequent to childbirth, and who is not licensed as a doctor of medicine or osteopathy or certified nurse-midwife;

"Licensed midwife" means a person who has been granted a license under this chapter to engage in the practice of midwifery and does not have the same meaning as the practice of an APRN-designated certified nurse-midwife;

"Practicing midwifery" means providing primary maternity care that is consistent with a midwife's training, education, and experience to women and their newborns throughout the

10 childbearing cycle, and identifying and referring women or their newborns who require a higher
11 level of medical care to an appropriate practitioner;

12 "Board" means the West Virginia Board of Registered Nurses;

13 "Temporary permit" means a permit authorizing the holder to practice midwifery in this
14 state until such permit is no longer effective or the holder is granted a license by the West Virginia
15 Board of Registered Nurses;

16 "Client" means a person receiving midwifery care and shall be considered synonymous
17 with the word "patient";

18 "CPM" means the Certified Professional Midwife credential issued by the North American
19 Registry of Midwives;

20 "NARM" means the North American Registry of Midwives;

21 "Administer" means the direct provision of a prescription drug or device, whether by
22 injection, ingestion or any other means, to the body of a client;

23 "Consultation" means discussing the aspects of an individual client's circumstance with
24 other professionals to assure comprehensive and quality care for the client and for purposes of
25 making adjustments to the client's treatment plan. Consultation may include history-taking,
26 examination of the client, rendering an opinion concerning diagnosis or treatment, or offering
27 service, assistance or advice;

28 "Direct supervision" means immediate on-premises availability to continually coordinate,
29 direct and inspect at first hand the practice of another practitioner;

30 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, 42 USC
31 1320d et seq;

32 "Collaboration" means the process by which a licensed midwife and a physician or other
33 appropriate healthcare provider jointly manage the care of a client;

34 "Referral" means the process by which a licensed midwife arranges for an accepting
35 physician or other appropriate licensed healthcare provider to assume primary management

36 responsibility for the condition requiring referral, which shall not preclude the licensed midwife
37 from continuing in the provision of care as mutually agreed upon with the accepting provider;

38 "Transfer" means the act of transporting a client to a licensed healthcare facility providing a
39 higher level of care.

§30-44-2. License required to practice.

1 It shall be unlawful for any person to practice midwifery in this state or use the title of
2 licensed midwife unless they hold a license issued by the Board. The Board may license an
3 applicant as a midwife after such applicant has submitted evidence satisfactory to the Board that
4 they have obtained the Certified Professional Midwife (CPM) credential.

§30-44-3. License to practice midwifery.

1 (a) The Board may issue a license to practice midwifery to an applicant who meets the
2 following requirements:

3 (1) Is at least 21 years of age;

4 (2) Has completed an approved four-year high school course of study or the equivalent
5 thereof, as determined by the appropriate educational agency;

6 (3) Has completed midwifery education according to North American Registry of Midwives
7 requirements or a successor organization;

8 (4) Holds a valid certified professional midwife credential granted by the North American
9 Registry of Midwives or a successor organization;

10 (5) Has filed with the Board an application as established by the Board demonstrating that
11 they have met the qualifications set forth in this section, and pay an application fee as established
12 by the Board.

13 (6) Provides evidence of current American Heart Association Basic Life Support (BLS) for
14 health care providers and Neonatal Resuscitation Program (NRP) certifications.

15 (7) Has completed a criminal background check, as required by §30-1D-1 et seq. of this
16 code; and

17 (8) Does not have an active substance use disorder, as these terms are defined in §27-1A-
 18 11 of this code, unless an applicant in an active recovery process, which may be evidenced by
 19 participation in a Nurse Health Program, structured aftercare, or a 12-step program or other similar
 20 group or process, may be considered.

21 (9) If an applicant has been licensed or certified in another jurisdiction, the applicant shall
 22 provide information on the status of each license or certificate held and on any disciplinary action
 23 taken or pending in that jurisdiction or from their certification organization

24 (b) A license to practice midwifery issued by the Board shall for all purposes be considered
 25 a license issued under this section: *Provided*, That a person holding a license shall renew the
 26 license.

§30-44-4. License renewal and reinstatement.

1 (a) *Renewal.*

2 (1) Persons regulated by this article shall, biennially, renew his or her Board authorization
 3 by completing a form prescribed by the Board and submitting any other information required by the
 4 Board.

5 (2) The Board shall charge a fee for each renewal of a Board authorization and shall
 6 charge a late fee for any renewal not paid by the due date.

7 (3) The Board may deny an application for renewal for any reason which would justify the
 8 denial of an original application.

9 (4) License renewal shall be contingent upon maintaining a Certified Professional Midwife
 10 certification.

11 (5) Renewal applicants will provide proof of participation in data submission on perinatal
 12 outcomes to a national or state midwifery organization; and

13 (6) A written plan for consultation with other health care providers, emergency transfer,
 14 transport of an infant to a newborn nursery or neonatal intensive care nursery, and transport of an
 15 individual to an appropriate obstetrical department or patient care areas shall be submitted with

16 the license renewal fee to the Board.

17 (b) Quality improvement program.

18 (1) As a condition of renewing a license, a licensed midwife shall:

19 (A) Participate in a coordinated quality improvement program peer review process that
20 complies with the requirements set by the Board

21 (B) Attest every two years that the midwife has completed peer review for a minimum of
22 five of the midwife's clinical cases over the course of those two years.

23 (2) A midwife may be excused from or granted an extension of participation in a peer
24 review process due to illness or other extenuating circumstances. The Board, upon request, will
25 determine if the requirements may be waived or if an extension may be granted.

26 (3) For auditing purposes, written confirmation of participation in a peer review process
27 from the peer review program shall suffice. The midwife must keep her/his participation records.

28 (c) Reinstatement.

29 (1) A licensed midwife who allows licensure to lapse for a period of two years or more and
30 chooses to resume practice shall submit to the Board a reinstatement application, information on
31 practice and licensure in other jurisdictions for the period in which the license was lapsed in West
32 Virginia, proof of current, active certification by NARM, and the fee for reinstatement of licensure

33 (2) A licensed midwife whose license has been revoked by the Board and who wishes to be
34 reinstated must make a new application to the Board, hold current, active certification by NARM,
35 and pay the fee for reinstatement of a revoked license.

§30-44-5. Temporary permits.

1 The Board may issue a temporary permit to a person applying for a license under this
2 article.

§30-44-6. Contents of license or certificate.

1 Each license or certificate issued by the Board shall bear a serial number, the full name of
2 the applicant, the date of expiration of any such license and the date of issuance of any such

3 certificate, the seal of the Board, and shall be signed by the executive secretary of the Board.

§30-44-7. Continuing education.

1 (a) A licensed midwife shall complete twenty-four (24) hours of continuing education (CE)
2 every two years. CE course work must contribute to the professional knowledge and development
3 of clinical practice of midwifery.

4 (b) A licensed midwife shall obtain CE hours through one or more of the categories listed
5 below. Documentation for all activities must include licensee's name, date of activity, and number
6 of hours. Additional specific documentation is defined below:

7 (1) Acceptable CE course work. A minimum of twenty hours is required per reporting
8 period in acceptable CE course work. For the purposes of this section, acceptable CE course work
9 means courses offered or authorized by industry recognized local, state, private, national and
10 international organizations, agencies or institutions of higher learning. The Board will not authorize
11 or approve specific CE courses. The required documentation for this category is a certificate or
12 documentation of attendance.

13 (2) Course work or classes offered by an accredited college or university. The course work
14 must provide skills and knowledge beyond entry-level skills. The required documentation for this
15 category is a transcript or documentation of attendance. A maximum of ten hours is allowed per
16 reporting period for this category.

17 (3) Professional conference or workshop. The required documentation for this category is
18 a certificate or documentation of attendance.

§30-44-8. Use of titles.

1 An individual certified by the Board as a licensed midwife pursuant to the provisions of this
2 article shall be known as a West Virginia licensed midwife and may use the initials "LM" after his or
3 her name. No other person may assume a title or use abbreviations or any other words, letters,
4 figures, signs, or devices to indicate that the person using the same is a Licensed Midwife.

§30-44-9. Denial, revocation, or suspension of license; grounds for discipline.

1 The Board shall have the power to deny, revoke, or suspend any license to practice
2 midwifery issued or applied for in accordance with the provisions of this article, or to otherwise
3 discipline a licensee or applicant upon proof that he or she:

4 (1) Is or was guilty of fraud or deceit in procuring or attempting to procure a license to
5 practice midwifery; or

6 (2) Has been convicted of a felony; or

7 (3) Is unfit or incompetent by reason of negligence, habits, or other causes; or

8 (4) Is habitually intemperate or is addicted to the use of habit-forming drugs; or

9 (5) Is mentally incompetent; or

10 (6) Is guilty of conduct derogatory to the morals or standing of the profession of midwifery;

11 or

12 (7) Is practicing or attempting to practice midwifery without a license or reregistration; or

13 (8) Has willfully or repeatedly violated any of the provisions of this article; or

14 (9) Performing or offering to perform services for which the midwife is not qualified by
15 education, training or experience.

§30-44-10.

Exceptions.

1 This article shall not be construed to prohibit:

2 (1) An appropriate licensed health care provider or other person from providing emergency
3 care, including care of a precipitous delivery; or

4 (2) Any licensed midwife from delegating to apprentice or personnel under his/her personal
5 employ and supervised by him such activities or functions that are nondiscretionary and that do
6 not require the exercise of professional judgment for their performance, if such activities or
7 functions are authorized by and performed for the licensed midwife and responsibility for such
8 activities or functions is assumed by the licensed midwife; or

9 (3) Any person from performing tasks related to the practice of midwifery under the direct
10 and immediate supervision of a licensed doctor of medicine or osteopathy, a certified nurse-

11 midwife, or a licensed midwife during completion of the North American Registry of Midwives'
 12 Portfolio Evaluation Process Program within a time period specified in regulations adopted by the
 13 Board or while enrolled in an accredited midwifery education program; or

14 (4) Traditional birth attendants if:

15 (A) The traditional birth attendant has cultural or religious traditions that have historically
 16 included the attendance of traditional birth attendants at births; and

17 (B) That birth attendant serves only the women and families in that distinct cultural religious
 18 group.

§30-44-11. Prohibitions and penalties.

1 It shall be a misdemeanor for any person to:

2 (1) Practice licensed midwifery unless duly licensed to do so under the provisions of this
 3 article; or

4 (2) Use in connection with his or her name any designation tending to imply that he or she
 5 is licensed to practice midwifery unless duly licensed so to practice under the provisions of this
 6 article; or

7 (3) Practice midwifery during the time his or her license issued under the provisions of this
 8 article shall be suspended or revoked; or

9 (4) Otherwise violate any provisions of this article.

10 Upon conviction, each such misdemeanor shall be punishable by a fine of not less than
 11 twenty-five (\$25) nor more than two hundred fifty (\$250).

§30-44-12. Injunction or other relief against unlawful acts.

1 The practice of midwifery by any person who has not been licensed under the provisions of
 2 this article, or whose license has expired or has been suspended or revoked, is hereby declared to
 3 be inimical to the public health and welfare and to be a public nuisance. Whenever in the judgment
 4 of the Board any person has engaged in, is engaging in or is about to engage in the practice of
 5 midwifery without holding a valid license hereunder, or has engaged, is engaging or is about to

6 engage in any act which constitutes, or will constitute, a violation of this article, the Board may
7 make application to the appropriate court having equity jurisdiction for an order enjoining such
8 practices or acts, and upon a showing that such person has engaged, is engaging or is about to
9 engage, in any such practices or acts, an injunction, restraining order, or such other order as the
10 court may deem appropriate shall be entered by the court.

11 The remedy provided in this section shall be in addition to, and not in lieu of, all other
12 penalties and remedies provided in this article.

§30-44-13. Regulations governing the practice of midwifery.

1 (a) The Board will adopt midwifery regulations which shall:

2 (1) Be consistent with the North American Registry of Midwives' current job description for
3 the profession and the National Association of Certified Professional Midwives' standards of
4 practice, except that prescriptive authority shall be prohibited;

5 (2) Ensure independent practice;

6 (3) Provide for an appropriate license fee; and

7 (4) Require a licensed midwife to provide written disclosures to any client seeking
8 midwifery care. The licensed midwife shall review each disclosure item and obtain the client's
9 signature as evidence that the disclosures have been received and explained. Such disclosures
10 shall include:

11 (A) A description of the licensed midwife's qualifications, experience, and training;

12 (B) A written protocol for medical emergencies, including hospital transport, particular to
13 each client;

14 (C) A statement as to whether the licensed midwife has hospital privileges;

15 (D) A statement that a licensed midwife is prohibited from prescribing, possessing or
16 administering controlled substances;

17 (E) A copy of the regulations governing the practice of midwifery;

18 (F) The financial responsibility of the client;

19 (G) Procedures established by the licensed midwife for consultation, collaboration,
20 referral, or transfer of care to a physician or other appropriate healthcare provider;

21 (H) A statement concerning malpractice or liability insurance coverage; and

22 (I) A description of the right to file a complaint with the Board of Nursing, NARM, and/or the
23 Midwives Alliance of West Virginia and the procedures and contact information for filing such
24 complaint.

25 (b) Such regulations shall not:

26 (1) Require any agreement, written or otherwise, with another health care professional; or

27 (2) Require the assessment of a woman who is seeking midwifery services by another
28 health care professional.

§30-44-14. Permitted medical tests, legend drug formulary, and medical devices.

1 A licensed midwife may order medical testing, order medical devices, and obtain and use
2 legend drugs when providing midwifery services. These shall be limited to only those tests and
3 drugs that are indicated and approved for the safe conduct of pregnancy, labor and birth,
4 postpartum, and lactation care of a client and not intended for the diagnosis or management of any
5 acute condition unrelated to the child bearing cycle. A licensed midwife shall have a procedure,
6 policy or guideline for the use of each legend drug and device. A midwife may not administer a
7 legend drug or use a legend device for which they are not qualified by education, training, and
8 experience.

9 (1) The licensed midwife shall not obtain or use any drug, in Schedule I through V of the
10 Drug Control Act.

11 (2) A licensed midwife may obtain medications and devices to treat conditions from entities
12 including a pharmacy, or a manufacturer, medical equipment supplier, outsourcing facility,
13 warehouser, or wholesale distributor.

14 (3) An entity that provides a medication to a licensed midwife in accordance with this
15 section, and who relies in good faith upon the license information provided by the licensed

16 midwife, is not subject to liability for providing the medication.

17 (4) All medication administration must be documented in the client's medical record

§30-44-14a. Drugs legend.

1 (a) A licensed midwife may obtain, transport, and administer the following formulary
2 medications:

3 (1) Vitamin K;

4 (2) Rho D immune globulin;

5 (3) Erythromycin ophthalmic ointment USP, five-tenths (0.5) percent;

6 (4) Oxygen;

7 (5) Hepatitis B vaccine;

8 (6) Antibiotics which may be administered pursuant to United States Centers for Disease
9 Control (CDC) Guidelines for Group Beta Streptococcus (GBS) Prophylaxis:

10 (A) Penicillin;

11 (B) Ampicillin;

12 (C) Cefazolin;

13 (D) Clindamycin; and

14 (E) Vancomycin;

15 (7) Topical anesthetics:

16 (A) Procaine HCl;

17 (B) Novacaine;

18 (C) Benzocaine;

19 (D) Cetacaine; and

20 (E) Generic equivalents;

21 (7) Lidocaine, one (1) percent up to twenty (20) milliliters per patient;

22 (8) Epinephrine;

23 (9) Glucose gel to be administered orally for neonatal hypoglycemia;

- 24 (10) Tranexamic acid;
- 25 (11) Oxytocin (Pitocin);
- 26 (12) Misoprostil (Cytotec);
- 27 (13) Methylergonovine (Methergine);
- 28 (14) Hemabate;
- 29 (15) Lactated ringer's;
- 30 (16) Normal saline; and
- 31 (17) Medical supplies needed to administer the medications listed in this administrative
- 32 regulation.

33 (b)(1) A licensed midwife shall obtain and transport for emergencies oxytocin for
 34 prevention of postpartum hemorrhage and Lactated Ringer's or Normal Saline for intravenous
 35 infusion.

36 (c) The licensed midwife shall obtain and transport at least one (1) of the following to be
 37 used in the event of postpartum hemorrhage and if oxytocin is not successful:

- 38 (1) Methylergonovine (Methergine);
- 39 (2) Hemabate; or
- 40 (3) Misoprostol (Cytotec).

§30-44-14b. Medical tests legend.

- 1 Complete blood count (CBC);
- 2 Blood type, Rh, and antibody screen;
- 3 Screening for gestational diabetes;
- 4 Hepatitis B and C panels for immunity or infection;
- 5 HIV test;
- 6 HPV test;
- 7 Cervical cancer screening (Pap smear/cervical cytology);
- 8 Screen tests for sexually transmitted infections;

- 9 Rubella titers;
- 10 Urine or serum HCG;
- 11 Urinalysis;
- 12 Urine culture including Group B strep;
- 13 Vaginal culture for Group B strep;
- 14 Varicella titers;
- 15 Ultrasound for fetal viability, confirmation of intrauterine pregnancy, gestational age, fetal
- 16 position, fetal growth, placental localization, anatomy scan, amniotic fluid index, biophysical profile
- 17 or nuchal translucency;
- 18 Standard state newborn screening for metabolic disorders;
- 19 Newborn hearing screening;
- 20 Critical congenital heart disease screening (pulse oximetry);
- 21 Vitamin D;
- 22 Hemoglobin A1C;
- 23 Standard screening tests for fetal genetic abnormalities including Quad Screen and cell-
- 24 free DNA testing;
- 25 Thyroid testing;
- 26 Non-stress tests;
- 27 Neo-Bilirubin or Total-Bilirubin;
- 28 Coombs and blood type test of the newborn; and
- 29 The fetal screen and Rhogam tests of the client;
- 30 A licensed midwife may order any other test which is determined as necessary after
- 31 consultation with a physician or other appropriate licensed healthcare provider.

§30-44-15. Midwife responsibilities.

- 1 (a) Risk Assessment.
- 2 (1) Upon initiation of care, a midwife shall request and review the client's medical history in

3 order to identify pre-existing conditions or indicators that require disclosure of risk for a planned
4 out-of-hospital birth. If the client is under the care of a physician or other licensed healthcare
5 professional for any chronic medical condition, the midwife shall consult with a physician or other
6 appropriate licensed healthcare provider as part of the risk assessment for evaluating
7 appropriateness of birth outside of a hospital.

8 (2) The midwife shall offer standard tests and screenings for evaluating risks and shall
9 document client response to such recommendations. The midwife shall also continually assess
10 the pregnant woman and baby in order to recognize conditions that may arise during the course of
11 care that require disclosure of risk for birth outside of a hospital.

12 (3) The midwife shall review the client's pregnancy history, including records of the
13 current or previous pregnancies. If, on initial or subsequent assessment, one (1) of the conditions
14 listed in this section exists, the licensed midwife shall consult with a physician or other appropriate
15 licensed healthcare provider and shall mutually select either independent management,
16 collaboration, or referral as appropriate and shall document that recommendation in the client
17 record:

18 (A) Complete placenta previa;

19 (B) Partial placenta previa persisting after thirty-two (32) weeks;

20 (C) HIV infection;

21 (D) Cardiovascular disease, including hypertension;

22 (E) Severe psychiatric illness;

23 (F) History of cervical incompetence;

24 (G) Pre-eclampsia or eclampsia;

25 (H) Intrauterine growth restriction;

26 (I) Breech presentation persisting after thirty-six (36) weeks;

27 (J) Known potentially serious anatomic fetal abnormalities;

28 (K) Any type of diabetes not controlled by diet and exercise;

29 (L) Labor prior to 37 weeks

30 (M) Substance use disorder with current or recent use; or

31 (N) Any other condition or symptom which may threaten the life of the client or fetus, as
32 assessed by the midwife exercising reasonable skill and knowledge.

33 (d) If a client with a condition listed in this section declines to accept a medically indicated
34 consultation, collaboration, or referral, the licensed midwife shall document the refusal in writing
35 and shall transition the client to an appropriate higher level of care.

36 (4) If a risk factor first develops during labor or delivery, the individual midwife must use
37 judgment, taking into account the health and condition of the mother and baby in determining
38 whether to proceed with an out of hospital birth or arrange transportation to a hospital. If the
39 condition puts the client or baby acutely in jeopardy, but the client refuses the transfer to a higher
40 level of care, the midwife shall call 911 and provide care until another appropriate licensed
41 healthcare provider assumes care.

42 (b) Transfers.

43 (1) Every licensed midwife shall develop a written plan for consultation with other health
44 care providers, emergency transfer, transport of an infant to a newborn nursery or neonatal
45 intensive care nursery, and transport of an individual to an appropriate obstetrical department or
46 patient care area. Transport via private vehicle is an acceptable method of transport if it is the
47 most expedient and safest method for accessing medical services.

48 (2) When the maternal or fetal health status requires transfer to a health care facility for a
49 higher level of care, the licensed midwife shall:

50 (A) Initiate immediate transport according to the licensed midwife's emergency plan;

51 (B) Provide emergency stabilization until emergency medical services arrive or transfer is
52 completed;

53 (C) Accompany the client or follow the client to a hospital in a timely fashion;

54 (D) The midwife shall notify the receiving provider or hospital of:

- 55 (i) The incoming transfer;
- 56 (ii) The reason for the transfer;
- 57 (iii) A brief relevant clinical history;
- 58 (iv) The planned mode of transport; and
- 59 (v) The expected time of arrival
- 60 (3) The midwife shall continue to provide routine or urgent care en route in coordination
- 61 with any emergency services personnel and shall address the psychosocial needs of the client
- 62 during the change of birth setting;
- 63 (4) Upon arrival at the hospital, the midwife shall provide a verbal report, including details
- 64 on the client's current health status and the need for urgent care. The midwife shall also provide a
- 65 legible copy of relevant prenatal and labor medical records;
- 66 (5) The midwife shall transfer clinical responsibility to the hospital provider;
- 67 (6) If the client chooses, the midwife may remain to provide continuous support.
- 68 (c) Medical Records
- 69 (1) The midwife shall maintain a record for each client. The record shall be complete and
- 70 accurate. It shall document:
- 71 (A) The client's history;
- 72 (B) Physical examinations;
- 73 (C) Laboratory test results;
- 74 (D) Medications administered;
- 75 (E) Antepartum visits;
- 76 (F) Consultations, collaborations, and referrals;
- 77 (G) Labor and delivery;
- 78 (H) Postpartum visits; and
- 79 (I) Neonatal evaluations.
- 80 (2) The midwife shall comply with all state and federal laws and regulations regarding the

81 confidentiality of the client's records such as pursuant to the Health Insurance Portability and
82 Accountability Act (HIPAA) of 1996, Pub.L. No. 104-191, 110 Stat. 1936.

83 (d) Delegation to nurse.

84 A licensed midwife may delegate to a registered nurse or a licensed practical nurse
85 selected acts, tasks, or procedures that constitute the practice of midwifery but do not exceed the
86 education of the nurse.

87 (e) Midwife-client communication; termination of relationship.

88 (1) Communication with clients.

89 (A) A licensed midwife shall accurately inform a client or the client's legally authorized
90 representative of the client's assessment and prescribed plan of care. A licensed midwife shall not
91 deliberately make a false or misleading statement regarding the midwife's skill or the efficacy or
92 value of a treatment or procedure directed by the midwife.

93 (B) A licensed midwife shall present information relating to the client's care to a client or the
94 client's legally authorized representative in understandable terms and encourage participation in
95 the decisions regarding the client's care.

96 (C) Before any invasive procedure is performed, informed consent shall be obtained from
97 the client. Licensed midwives shall inform clients of the risks, benefits, and alternatives of the
98 recommended procedure that a reasonably prudent licensed midwife practicing in West Virginia
99 would tell a client. In the instance of a minor or a client who is incapable of making an informed
100 decision on the client's own behalf or is incapable of communicating such a decision due to a
101 physical or mental disorder, the legally authorized person available to give consent shall be
102 informed and the consent documented.

103 (2) Termination of the practitioner/client relationship.

104 (A) The licensed midwife or the client may terminate the relationship. In either case, the
105 practitioner shall make a copy of the client record available.

106 (B) A licensed midwife shall not terminate the relationship or make services unavailable

107 without documented notice to the client that allows for a reasonable time to obtain the services of
108 another practitioner.

109 (f) *Elements of care for the newborn.*

110 (1) The customary scope of care of a newborn up to twenty-eight (28) days of age by a
111 licensed midwife includes, but is not limited to, clinical assessment, treatment, education, support
112 and referral as described in this section. Newborn care shall not go beyond the scope of the
113 midwife's education, training and experience.

114 (A) Immediate newborn care includes, but is not limited to:

115 (i) Appearance, pulse, grimace, activity and respiration (APGAR) assessment;

116 (ii) Stabilization and monitoring of the newborn for a minimum of two hours postpartum;

117 (iii) Early initiation and facilitation of breast or bottle feeding;

118 (iv) Complete physical examination;

119 (v) Education for parents regarding care and monitoring of the normal newborn; and

120 (vi) Physician consultation, referral and/or transfer of care in the event of significant
121 deviations from normal.

122 (B) Other support may include:

123 (i) Neonatal resuscitation; and

124 (ii) Legend drugs and devices

125 (2) Subsequent care may include, but is not limited to:

126 (A) Evaluating the newborn for well-being such as jaundice, weight loss, and adequate
127 feeding and elimination patterns;

128 (B) Newborn metabolic screening

129 (C) Critical congenital heart disease screening

130 (D) Perform comprehensive lactation assessment and care for a maternal and infant dyad
131 for the duration of lactation; and

132 (E) Consultation and/or referral to pediatric care for any significant deviation from normal.

§30-44-16. **Confidentiality.**

1 A midwife shall not willfully or negligently breach the confidentiality between a midwife and
2 a client. A breach of confidentiality that is required or permitted by applicable law or beyond the
3 control of the practitioner shall not be considered negligent or willful.

§30-44-17. **Immunity.**

1 No person other than the licensed midwife who provided care to the patient shall be liable
2 for the midwife's negligent, grossly negligent or willful and wanton acts or omissions. Except as
3 otherwise provided by law, no other licensed midwife, doctor of medicine or osteopathy, nurse,
4 advanced practice registered nurse, prehospital emergency medical personnel, or hospital or
5 agents thereof, shall be exempt from liability (i) for their own subsequent and independent
6 negligent, grossly negligent or willful and wanton acts or omissions or (ii) if such person has a
7 business relationship with the licensed midwife who provided care to the patient. Another licensed
8 midwife, doctor of medicine or osteopathy, nurse, advanced practice registered nurse, prehospital
9 emergency medical personnel, or hospital or agents thereof, shall not be deemed to have
10 established a business relationship or relationship of agency, employment, partnership, or joint
11 venture with the licensed midwife solely by providing consultation to or accepting referral from the
12 midwife.

NOTE: The purpose of this bill is to generally provide for certified professional midwives.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.