

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 482

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[Reported February 26, 2025, from the Committee on
Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding 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, and §30-44-13, relating to creating the
4 Certified Professional Midwife Licensing and Regulation Act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 44. CERTIFIED PROFESSIONAL MIDWIFE LICENSING AND REGULATION.

§30-44-1. Definitions.

1 "Administer" means the direct provision of a prescription drug or device, whether by
2 injection, ingestion, or any other means, to the body of a client.

3 "Board" means the West Virginia Board of Registered Nurses.

4 "Client" means a person receiving midwife care and shall be considered synonymous with
5 "patient".

6 "Consultation" means discussing the aspects of an individual client's circumstance with
7 other professionals to assure comprehensive and quality care for the client and for purposes of
8 adjusting the client's treatment plan.

9 "Collaboration" means the process by which a licensed midwife and an appropriate
10 obstetrical provider jointly manage the care of a client.

11 "CPM" means the certified professional midwife credential issued by the North American
12 Registry of Midwives (NARM).

13 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C.
14 § 1320d et seq. of the United States Code.

15 "NARM" means the North American Registry of Midwives.

16 "NACPM" means the National Association of Certified Professional Midwives.

17 "Midwife care" means providing primary maternity care that is consistent with NARM
18 standards and NACPM practice guidelines.

19 "Referral" means the process by which a licensed midwife arranges for an accepting
20 licensed health care provider to assume primary management responsibility for the condition
21 requiring referral, which shall not preclude the licensed midwife from continuing in the provision of
22 care as mutually agreed upon with the accepting provider.

23 "Transfer" means the act of transporting a client to a licensed health care facility providing
24 a higher level of care.

§30-44-2. License requirements.

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 18 years of age;

4 (2) Has achieved a high school diploma or the equivalent thereof;

5 (3) Has completed midwife education according to North American Registry of Midwives
6 (NARM) requirements or those of a successor organization;

7 (4) Holds a valid certified professional midwife credential granted by NARM or a successor
8 organization;

9 (5) Has filed with the board an application as established by the Board, demonstrating that
10 they have met the qualifications outlined in this section, and paid an application fee, as established
11 by the Board, not to exceed \$100; and

12 (6) If the applicant has been licensed in another jurisdiction, has provided information on
13 the status of each license and any disciplinary action taken or pending to the Board.

14 (b) An applicant who meets the requirements of this section shall be issued a license to
15 practice as a licensed midwife. The license shall be issued for a term of two years from the date of
16 initial licensure and may be renewed pursuant to §30-44-3 of this code.

§30-44-3. License renewal and reinstatement.

1 (a) *Renewal.* — A license to practice as a licensed midwife (LM) may be renewed by
2 completing the licensure renewal application for a licensed midwife and paying the fee established
3 in §30-44-2 of this code.

4 **(b) The board may deny an application for renewal for any reason which would justify the**
5 **denial of an original application.**

6 **(c) The LM shall provide evidence of current certification with NARM at the time of renewal.**

7 **(d) Renewal applicants shall provide proof of participation in data submission on perinatal**
8 **outcomes to a national or state midwife organization.**

9 **(e) Upon approval of the renewal application for a licensed midwife, the license shall be**
10 **renewed for two years.**

11 **(f) *Reinstatement.* — If the LM license has lapsed, an applicant may file the application for**
12 **licensure as a licensed midwife to request reinstatement and pay the fee established in §30-44-2**
13 **of this code. The applicant shall provide evidence of current certification with NARM at the time**
14 **of application for reinstatement.**

15 **(g) An LM whose license has been suspended may apply for reinstatement upon the**
16 **expiration of the suspension period by:**

17 **(1) Submitting a reinstatement application;**

18 **(2) Providing proof of compliance with any terms or conditions of the suspension order;**

19 **(3) Demonstrating current certification with NARM; and**

20 **(4) Paying the reinstatement fee established by the board, not to exceed \$150.**

21 **(h) An LM whose license has been revoked may apply for reinstatement after a minimum**
22 **of one year by:**

23 **(1) Submitting a reinstatement application to the board;**

24 **(2) Demonstrating evidence of rehabilitation, including completion of any required**
25 **corrective actions specified in the revocation order;**

26 **(3) Providing proof of current certification with NARM; and**

27 **(4) Paying the reinstatement fee established by the board, not to exceed \$250.**

28 **(i) The Board may expedite reinstatement applications for suspensions or revocations if**
29 **the applicant demonstrates urgency in returning to practice due to critical community needs or**
30 **exceptional circumstances.**

§30-44-4. Contents of license.

Each license or certificate issued by the board shall bear:

(1) A serial number;

(2) The full name of the applicant;

(3) The date of expiration;

(4) The date of issuance;

(5) The seal of the board; and

(6) The signature of the executive secretary of the board.

§30-44-5. Use of titles.

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

§30-44-6. Denial, revocation, or suspension of license; grounds for discipline.

The board may deny, revoke, or suspend any license to provide midwife care issued or applied for in accordance with the provisions of this article, or to otherwise discipline a licensee or applicant upon proof that he or she:

(1) Is or was guilty of fraud or deceit in procuring or attempting to procure a license to provide midwife care, or has been convicted of a felony; or

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

(3) Is habitually intemperate, or is addicted to the use of habit-forming drugs or is mentally incompetent; or

(4) Is guilty of conduct derogatory to the morals or standing of the profession; or

(5) Is calling himself or herself a licensed midwife without a current license; or

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

(7) Is providing or offering to provide services that are outside of the scope of practice as defined by NARM or NACPM.

§30-44-7. Exceptions.

This article may not be construed to prohibit:

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

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

(3) Any person from performing tasks related to midwife care under the direct and immediate supervision of a licensed doctor of medicine or osteopathy, a certified nurse-midwife, or a licensed midwife during completion of NARM requirements to achieve a CPM credential.

§30-44-8. Prohibitions and penalties.

(a) It is a misdemeanor for any person to:

(1) Refer to himself or herself as a licensed midwife while his or her license, issued under the provisions of this article, is suspended or revoked;

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

(3) Provide midwife care with an active CPM credential without being licensed as a licensed midwife; or

(4) Otherwise violate any provisions of this article.

(b) Upon conviction, such misdemeanor shall be punishable by a fine of not more than \$250.

§30-44-9. Rulemaking for providing midwife care.

1 (a) The board shall propose rules for legislative approval in accordance with the provisions
2 of §29A-3-1 et seq. of this code that:

3 (1) Are consistent with the NARM current job description for the profession and the
4 NACPM standards of practice;

5 (2) Ensure independent practice; and

6 (3) Provide for an appropriate license fee.

7 (b) The rules may not require any agreement, written or otherwise, with another health care
8 professional, or require the assessment of a woman who is seeking midwife care services by
9 another health care professional.

§30-44-10. Medical tests, medications, and medical devices.

1 (a) A licensed midwife may order medical testing, order medical devices, and use
2 medications necessary for providing midwife care.

3 (b) A licensed midwife may not obtain or use any drug in Schedule I through V of the
4 Uniform Controlled Substances Act, 21 U.S.C. § 801.

5 (c) A licensed midwife may obtain medications and devices to treat conditions from entities
6 including a pharmacy, manufacturer, medical equipment supplier, outsourcing facility,
7 warehouser, or wholesale distributor.

8 (d) An entity that provides a medication to a licensed midwife in accordance with this
9 section and who relies in good faith upon the license information provided by the licensed midwife
10 is not subject to liability for providing the medication.

11 (e) All medications prescribed or administered must be documented in the client's medical
12 records.

§30-44-11. Licensed midwife responsibilities.

1 (a) Risk assessment. —

2 (1) Upon initiation of care, a licensed midwife shall request and review the client's medical
3 history 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 licensed health care professional for any
5 chronic medical condition, the licensed midwife shall consult with an appropriate obstetrical health
6 care provider as part of the risk assessment for evaluating appropriateness of birth outside of a
7 hospital.

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

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

17 (A) Complete placenta previa;

18 (B) Partial placenta previa persisting after 32 weeks;

19 (C) HIV infection;

20 (D) Cardiovascular disease, including hypertension;

21 (E) Severe psychiatric illness;

22 (F) Pre-eclampsia or eclampsia;

23 (G) Intrauterine growth restriction;

24 (H) Known potentially serious anatomic fetal abnormalities;

25 (I) Any type of diabetes not controlled by diet and exercise;

26 (J) Labor prior to 37 weeks;

27 (K) Substance use disorder with current or recent use; or

(L) Any other condition or symptom that may threaten the life of the client or fetus, as assessed by the licensed midwife exercising reasonable skill and knowledge.

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

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

(b) Transfers. —

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

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

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

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

(C) Notify the receiving provider or hospital, if possible, of:

(i) The incoming transfer;

(ii) The reason for the transfer;

(iii) A brief relevant clinical history;

(iv) The planned mode of transport; and

(v) The expected time of arrival.

(D) The licensed midwife may continue to provide routine or urgent care en route in coordination with any emergency services personnel and may address the psychosocial needs of the client during the change of birth setting.

(c) Medical Records. —

(1) The licensed midwife shall maintain a record for each client. The record shall be complete and accurate. It shall document:

(A) The client's history;

(B) Physical examinations;

(C) Laboratory test results;

(D) Medications prescribed or administered;

(E) Antepartum visits;

(F) Consultations, collaborations, and referrals;

(G) Labor and delivery;

(H) Postpartum visits; and

(I) Neonatal evaluations.

(2) The licensed midwife shall comply with all state and federal laws and regulations regarding the confidentiality of the client's records, including, but not limited to, the Health Insurance Portability and Accountability Act (HIPAA) of 1996, 42 U.S.C. § 1320d et al.

(d) Newborn care. —

The customary scope of care of a newborn up to six weeks of age by a licensed midwife includes, but is not limited to, clinical assessment, treatment, education, support, and referral.

§30-44-12. Confidentiality.

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

§30-44-13. Immunity.

1 No person other than the licensed midwife who provided care to the patient may be liable
2 for the licensed midwife's negligent, grossly negligent, or willful and wanton acts or omissions.
3 Except as otherwise provided by law, no other licensed midwife, doctor of medicine or osteopathy,
4 nurse, advanced practice registered nurse, prehospital emergency medical personnel, or hospital
5 or agents thereof, may be exempt from liability: (1) For their own subsequent and independent
6 negligent, grossly negligent, or willful and wanton acts or omissions; or (2) if that 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, may not be considered 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 licensed midwife.