INTERIM STUDY PROPOSAL 2025-105

State of Arkansas
95th General Assembly

A Bill

JMB/JMB
HOUSE BILL

By: Representative Bentley

Filed with: House Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO AMEND THE LICENSED LAY MIDWIFE ACT; TO CHANGE THE TERM LAY MIDWIFE TO LICENSED MIDWIFE; TO CLARIFY THE PRACTICE OF LICENSED MIDWIFERY; TO INCLUDE DELIVERY OF A CHILD IN A BREECH POSITION AND DELIVERY OF A VAGINAL BIRTH AFTER CESAREAN AS WITHIN THE SCOPE OF PRACTICE OF LICENSED MIDWIFERY; TO ALLOW LICENSED MIDWIVES TO ADMINISTER CERTAIN MEDICATIONS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LICENSED LAY MIDWIFE ACT; TO CHANGE THE TERM LAY MIDWIFE TO LICENSED MIDWIFE; TO CLARIFY THE PRACTICE OF LICENSED MIDWIFERY; AND TO INCLUDE CERTAIN DELIVERIES AS WITHIN THE SCOPE OF PRACTICE OF LICENSED MIDWIFERY.

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

SECTION 1. Arkansas Code Title 17, Chapter 85, Subchapter 1 is amended to read as follows:

Chapter 85 — ~~Lay~~ Licensed Midwives

17-85-101. Short title.

This chapter shall be known as the "Licensed ~~Lay~~ Midwife Act".

17-85-102. Purpose.

(a)(1) It is the purpose and intent of this chapter to grant the State Board of Health the authority to license ~~lay~~ licensed midwives statewide.

(2) It is furthermore the intent of this chapter to supersede Acts 1983, No. 838.

(3) This chapter is to be the sole authority of the board to license licensed midwives.

(b) Furthermore, it is the intent of this chapter that the board continue its present ~~lay~~ licensed midwife licensure program, but expand that program to be applicable statewide.

17-85-103. ~~Definition~~ Definitions.

As used in this chapter:

(1) "Licensed ~~a "lay~~ midwife" ~~is~~ means any person other than a physician, a nurse midwife, or a licensed nurse practicing within the scope of the Arkansas Nurse Practice Act, § 17-87-101 et seq., who performs for compensation the practice of licensed midwifery ~~those skills relevant to the management of women in the antepartum, intrapartum, and postpartum period of the maternity cycle~~; and

(2) "Practice of licensed midwifery" means the management of women in the antepartum, intrapartum, and postpartum period of the maternity cycle, including:

(A) Conducting a delivery of a child, including when:

(i) A child is in a breech position; or

(ii) The delivery is a vaginal birth after cesarean;

(B) Providing:

(i) Newborn care; and

(ii) Routine well-woman care and screenings; and

(C) Administering medications during intrapartal, postpartal, and neonatal care, including:

(i) Postpartum oxytocics;

(ii) Prophylactic ophthalmic medication;

(iii) Oxygen;

(iv) Vitamin K;

(v) Rho Immune Globulin;

(vi) Local anesthetic; and

(vii) Other medications as prescribed by the physician.

17-85-104. Construction.

~~Neither the~~ The Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., ~~nor the Arkansas Nurse Midwifery Act, § 17-87-501 et seq. [repealed],~~ shall not be construed as prohibiting the practice of licensed midwifery by persons licensed under this chapter.

17-85-105. Unlawful actions — Exception.

(a) It is unlawful for any person not licensed as a ~~lay~~ licensed midwife by the State Board of Health, excluding licensed nurse midwives and physicians licensed by the State Medical Board, to:

(1) Receive compensation for attending birth as a ~~lay~~ licensed midwife; or

(2) Indicate by any means that the person is licensed to practice ~~lay~~ licensed midwifery in Arkansas.

(b) This chapter shall not prohibit the attendance at birth of the mother's choice of family, friends, or other uncompensated labor support attendants.

17-85-106. Penalty — Injunctions.

(a) Anyone unlawfully practicing ~~lay~~ licensed midwifery without a license shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by imprisonment in the county jail for a period of not less than one (1) week nor more than six (6) months, or by fine and imprisonment.

(b)(1) The courts of this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of licensed midwifery in a proceeding by the State Board of Health or any member thereof, or by any citizen of this state in the county in which the alleged unlawful practice occurred or in which the defendant resides, or in Pulaski

County.

(2) The issuance of an injunction shall not relieve a person from criminal prosecution for violation of the provisions of this chapter, but remedy of the injunction shall be in addition to liability to criminal prosecution.

17-85-107. Power to license.

(a) The State Board of Health is empowered to license ~~lay~~ licensed midwives in this state pursuant to rules established by the board to include, but not be limited to:

(1) The qualifications for licensure;

(2) Standards of practice for prenatal, intrapartum, and postpartum care of mother and baby;

(3) Physician supervision, physician consultation, licensed nurse-midwife supervision or consultation, or physician and hospital backup;

(4) Grievance procedures; and

(5) Recordkeeping and reporting.

(b) The lawful practice of ~~lay~~ licensed midwifery shall be under the supervision of a physician licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.

(c) The board may suspend or revoke any licenses issued under this chapter for violations of this chapter or rules promulgated under this chapter.

17-85-108. Certificates of birth.

(a) When a birth occurs without a physician in attendance at or immediately after the birth but with a licensed midwife in attendance at or immediately after the birth, it shall then be the responsibility of the licensed midwife to prepare the certificate of birth required by the Vital Statistics Act, § 20-18-101 et seq. and to file the certificate of birth with the Division of Vital Records of the Department of Health in the manner and within the time prescribed by the Vital Statistics Act, § 20-18-101 et seq.

(b) The failure of the licensed midwife to prepare and file the certificate of birth shall, in addition to the penalties prescribed by § 20-18-105, constitute grounds for the suspension or revocation of the license granted under this chapter.

17-85-109. Reporting of transfers.

A hospital or licensed healthcare facility shall report to the Department of Health when a known transfer occurs of a patient from the care of a ~~lay~~ licensed midwife during the labor and delivery process to the hospital or licensed healthcare facility.

SECTION 2. Arkansas Code § 17-95-203(10), concerning the exemptions for licensure related to the practice of medicine, is amended to read as follows:

(10) The practice of ~~lay~~ licensed midwifery as defined in the Licensed ~~Lay~~ Midwife Act, § 17-85-101 et seq.;

SECTION 3. Arkansas Code § 20-9-405 is amended to read as follows:

20-9-405. Practice of midwifery.

Nothing in this subchapter shall be construed to prohibit the lawful practice of ~~lay~~ licensed midwifery in any location under the Licensed ~~Lay~~ Midwife Act, § 17-85-101 et seq.

SECTION 4. Arkansas Code § 20-15-1103(b)(3) and (4), concerning the creation of the Newborn Infant Hearing Screening Program, are amended to read as follows:

(3) Development of a hearing impairment at-risk questionnaire. The instrument shall be provided by the department to hospitals, birthing centers, and ~~lay~~ licensed midwives for use in the program;

(4) Development of appropriate written materials regarding hearing impairment. The materials shall be provided to hospitals, birthing centers, and ~~lay~~ licensed midwives for their use in the program;

SECTION 5. Arkansas Code § 20-15-1104 is amended to read as follows:

20-15-1104. Screening of newborns.

(a)(1) All hospitals, birthing centers, and ~~lay~~ licensed midwives shall complete a hearing impairment at-risk questionnaire for each newborn infant before discharge or, in the case of a ~~lay~~ licensed midwife, within seventy-two (72) hours of the birth of the infant.

(2) All hearing impairment at-risk questionnaires shall be

completed by a designee of the hospital or birthing center or by the licensed midwife.

(3) However, no infant shall be screened for hearing impairment whose parent presents a written statement that he or she objects to the screening of his or her child.

(b) The hospital, birthing center, or ~~lay~~ licensed midwife shall forward to the Department of Health a copy of all completed questionnaires.

(c) The hospital, birthing center, or ~~lay~~ licensed midwife shall provide the parents or guardians of all newborn infants with written materials provided by the department concerning hearing impairment.

SECTION 6. Arkansas Code § 20-15-1105(a), concerning the provisions of services under the Newborn Infant Hearing Screening Program, is amended to read as follows:

(a) The hospital, birthing center, or ~~lay~~ licensed midwife may elect to provide for the screening of infants for hearing impairment but is not required to do so by this subchapter.

Referred by Representative Bentley
Prepared by: JMB/JMB