

HOUSE No. 2209

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan and Brandy Fluker Oakley

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act promoting access to midwifery care and out-of-hospital birth options.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/19/2023</i>
<i>Brandy Fluker Oakley</i>	<i>12th Suffolk</i>	<i>1/30/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/30/2023</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>1/30/2023</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/30/2023</i>
<i>Steven Owens</i>	<i>29th Middlesex</i>	<i>1/31/2023</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/31/2023</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>1/31/2023</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/31/2023</i>
<i>Vanna Howard</i>	<i>17th Middlesex</i>	<i>1/31/2023</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/31/2023</i>
<i>Christopher J. Worrell</i>	<i>5th Suffolk</i>	<i>1/31/2023</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>1/31/2023</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/1/2023</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/2/2023</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>2/2/2023</i>
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>2/2/2023</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/3/2023</i>

<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/5/2023</i>
<i>Daniel Cahill</i>	<i>10th Essex</i>	<i>2/6/2023</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/6/2023</i>
<i>Samantha Montaña</i>	<i>15th Suffolk</i>	<i>2/6/2023</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>2/6/2023</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>2/6/2023</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>2/7/2023</i>
<i>Jennifer Balinsky Armini</i>	<i>8th Essex</i>	<i>2/7/2023</i>
<i>Patrick M. O'Connor</i>	<i>First Plymouth and Norfolk</i>	<i>2/7/2023</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>2/8/2023</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>2/8/2023</i>
<i>Sally P. Kerans</i>	<i>13th Essex</i>	<i>2/8/2023</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Plymouth and Bristol</i>	<i>2/8/2023</i>
<i>Jessica Ann Giannino</i>	<i>16th Suffolk</i>	<i>2/8/2023</i>
<i>Rob Consalvo</i>	<i>14th Suffolk</i>	<i>2/8/2023</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>2/9/2023</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/9/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/10/2023</i>
<i>Margaret R. Scarsdale</i>	<i>1st Middlesex</i>	<i>2/13/2023</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>2/15/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>2/21/2023</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/21/2023</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>2/21/2023</i>
<i>Bud L. Williams</i>	<i>11th Hampden</i>	<i>2/22/2023</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/22/2023</i>
<i>Smitty Pignatelli</i>	<i>3rd Berkshire</i>	<i>2/22/2023</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>2/22/2023</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>2/22/2023</i>
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/22/2023</i>
<i>Christopher Richard Flanagan</i>	<i>1st Barnstable</i>	<i>2/23/2023</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>2/26/2023</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/28/2023</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>3/1/2023</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>3/1/2023</i>
<i>Adrienne Pusateri Ramos</i>	<i>14th Essex</i>	<i>3/1/2023</i>

HOUSE No. 2209

By Representatives Khan of Newton and Fluker Oakley of Boston, a petition (accompanied by bill, House, No. 2209) of Kay Khan, Brandy Fluker Oakley and others for legislation to establish a board of registration in midwifery and further regulating out-of-hospital birth access and safety. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2341 OF 2021-2022.]

The Commonwealth of Massachusetts

—————
**In the One Hundred and Ninety-Third General Court
(2023-2024)**
—————

An Act promoting access to midwifery care and out-of-hospital birth options.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 9 of chapter 13 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by inserting, in line 7, after the word “counselors” the
3 following words:- , the board of registration in midwifery.

4 SECTION 2. Said chapter 13, as so appearing, is hereby further amended by adding the
5 following section:-

6 Section 110. (a) There shall be within the department of public health a board of
7 registration in midwifery. The board shall consist of 8 members to be appointed by the governor,
8 5 of whom shall be midwives with not less than 5 years of experience in the practice of
9 midwifery and who shall be licensed under sections 276 to 289, inclusive, of chapter 112, 1 of

10 whom shall be a physician licensed to practice medicine under section 2 of said chapter 112 with
11 experience working with midwives, 1 of whom shall be a certified nurse-midwife licensed to
12 practice midwifery under section 80B of said chapter 112 and 1 of whom shall be a member of
13 the public. Four of the members of the board of registration in midwifery shall have experience
14 working on the issue of racial disparities in maternal health or be a member of a population that
15 is underrepresented in the midwifery profession. When making the appointments, the governor
16 shall consider the recommendations of organizations representing certified professional
17 midwives in the commonwealth. The appointed members shall serve for terms of 3 years. Upon
18 the expiration of a term of office, a member shall continue to serve until a successor has been
19 appointed and qualified. A member shall not serve for more than 2 consecutive terms; provided,
20 however, that a person who is chosen to fill a vacancy in an unexpired term of a prior board
21 member may serve for 2 consecutive terms in addition to the remainder of that unexpired term. A
22 member may be removed by the governor for neglect of duty, misconduct, malfeasance or
23 misfeasance in the office after a written notice of the charges against the member and sufficient
24 opportunity to be heard thereon. Upon the death or removal for cause of a member of the board,
25 the governor shall fill the vacancy for the remainder of that member's term after considering
26 suggestions from a list of nominees provided by organizations representing certified professional
27 midwives in the commonwealth. For the initial appointment of the board, the 5 members
28 required to be licensed midwives shall be persons with at least 5 years of experience in the
29 practice of midwifery who meet the eligibility requirements set forth in subsection (a) of section
30 281 of chapter 112. Members of the board shall be residents of the commonwealth.

31 (b) Annually, the board shall elect from its membership a chair and a secretary who shall
32 serve until their successors have been elected and qualified. The board shall meet not less than 4

33 times annually and may hold additional meetings at the call of the chair or upon the request of
34 not less than 4 members. A quorum for the conduct of official business shall be a majority of
35 those appointed. Board members shall serve without compensation but shall be reimbursed for
36 actual and reasonable expenses incurred in the performance of their duties. The members shall be
37 public employees for the purposes of chapter 258 for all acts or omissions within the scope of
38 their duties as board members.

39 SECTION 3. Section 1E of chapter 46 of the General Laws, as appearing in the 2020
40 Official Edition, is hereby amended by inserting after the definition of “Physician” the following
41 definition:-

42 “Licensed midwife,” a midwife licensed to practice by the board of registration in
43 midwifery as provided in sections 276 to 289 of chapter 112.

44 SECTION 4. Section 3B of said chapter 46, as so appearing, is hereby amended by
45 inserting after the word “physician”, in line 1, the following words:- or licensed midwife.

46 SECTION 5. Section 1 of chapter 94C of the general laws, as appearing in the 2020
47 Official Edition, is hereby amended by inserting after the definition of “Isomer” the following
48 definition:-

49 “Licensed midwife,” a midwife licensed to practice by the board of registration in
50 midwifery as provided in sections 276 to 289 of chapter 112.

51 SECTION 6. Section 7 of said chapter 94C, as so appearing, is hereby amended by
52 adding the following new subsection:-

53 (j) The commissioner shall promulgate regulations which provide for the automatic
54 registration of licensed midwives, upon the receipt of the fee as herein provided, to issue written
55 prescriptions in accordance with the provisions of sections 279 of chapter 112 and the
56 regulations issued by the board of registration in midwifery under said section 279 of chapter
57 112, unless the registration of such licensed midwife has been suspended or revoked pursuant to
58 the provisions of section 13 or section 14 or unless such registration is denied for cause by the
59 commissioner pursuant to the provisions of chapter 30A. Prior to promulgating such regulations,
60 the commissioner shall consult with the board of registration in midwifery.

61 SECTION 7. Section 9 of said chapter 94C, as so appearing, is hereby amended by
62 inserting in paragraph (a), after the words “certified nurse midwife as provided in section 80C of
63 said chapter 112” the following words:- , licensed midwife as limited by subsection (j) of said
64 section 7 and section 279 of said chapter 112.

65 SECTION 8. Section 9 of said chapter 94C, as so appearing, is hereby further amended in
66 paragraph (b), by inserting after the words “midwife” in each place that they appear, the
67 following words:- , licensed midwife.

68 SECTION 9. Said section 9 of said chapter 94C, as so appearing, is hereby further
69 amended in paragraph (b), by inserting after the words “nurse-midwifery” in each place that they
70 appear, the following words:- , midwifery.

71 SECTION 10. Section 9 of said chapter 94C is further amended in paragraph (c), by
72 inserting after the words “certified nurse midwife” in each place that they appear, the following
73 words:- , licensed midwife.

74 SECTION 11. The definition of “medical peer review committee” in section 1 of chapter
75 111 of the General Laws, as appearing in the 2020 official edition, is hereby amended by adding
76 the following sentence:- “Medical peer review committee” shall include a committee or
77 association that is authorized by a midwifery society or association to evaluate the quality of
78 midwifery services or the competence of midwives and suggest improvements in midwifery
79 practices to improve patient care.

80 SECTION 12. Section 202 of said chapter 111, as so appearing, is hereby amended by
81 inserting, in the second and third paragraphs, after the word “attendance”, in each instance, the
82 following words:- or midwife in attendance.

83 SECTION 13. Said section 202, as so appearing, is hereby further amended by inserting,
84 in the fourth paragraph, after the word “attendance” the following words:- or without the
85 attendance of a midwife,.

86 SECTION 14. Section 204 of said chapter 111, as so appearing, is hereby amended by
87 inserting, in lines 7, 12 and 28, after the word “medicine”, in each instance, the following word:-
88 , midwifery.

89 SECTION 15. Chapter 112 of the General Laws, as appearing in the 2020 Official
90 Edition, is hereby amended by adding the following new sections:-

91 Section 276. As used in sections 276 to 288, inclusive, of this chapter, the following
92 words shall have the following meanings unless the context clearly requires otherwise:

93 “Board”, the board of registration in midwifery, established under section 110 of chapter
94 13.

95 “Certified nurse-midwife”, a nurse with advanced training and who has obtained
96 certification by the American Midwifery Certification Board.

97 “Certified professional midwife”, a professional independent midwifery practitioner who
98 has obtained certification by the NARM."

99 “Client”, a person under the care of a licensed midwife, as described by a written
100 statement pursuant to section 284 of this chapter.

101 “Licensed midwife”, a person registered by the board to practice midwifery in the
102 commonwealth under sections 276 to 288, inclusive, of this chapter.

103 “MBC”, the midwifery bridge certificate issued by the NARM or its successor credential.

104 “MEAC”, the Midwifery Education Accreditation Council or its successor organization.

105 “Midwifery”, the practice of providing primary care to a client and newborn during the
106 preconception, antepartum, intrapartum and postpartum periods.

107 “NARM”, the North American Registry of Midwives or its successor organization.

108 Section 277. Nothing in sections 276 to 288, inclusive, of this chapter shall limit or
109 regulate the practice of a licensed physician, certified nurse-midwife, or licensed basic or
110 advanced emergency medical technician. The practice of midwifery shall not constitute the
111 practice of medicine, certified nurse-midwifery or emergency medical care.

112 Section 278. (a) The board shall:

113 (i) adopt rules and promulgate regulations governing licensed midwives and the practice
114 of midwifery to promote public health, welfare and safety, consistent with the essential
115 competencies identified by the NARM;

116 (ii) administer the licensing process, including, but not limited to:

117 (A) receiving, reviewing, approving, rejecting and issuing applications for licensure;

118 (B) renewing, suspending, revoking and reinstating licenses;

119 (C) investigating complaints against persons licensed under sections 276 to 288,
120 inclusive, of this chapter;

121 (D) holding hearings and ordering the disciplinary sanction of a person who violates
122 sections 276 to 288, inclusive, of this chapter or a regulation of the board;

123 (iii) establish administrative procedures for processing applications and renewals;

124 (iv) have the authority to adopt and provide a uniform, proctored examination for
125 applicants to measure the qualifications necessary for licensure;

126 (v) develop practice standards for licensed midwives that shall include, but not be limited
127 to:

128 (A) adoption of ethical standards for licensed midwives and apprentice midwives;

129 (B) maintenance of records of care, including client charts;

130 (C) participation in peer review; and

131 (D) development of standardized informed consent, reporting and written emergency
132 transport plan forms;

133 (vi) establish and maintain records of its actions and proceedings in accordance with
134 public records laws; and

135 (vii) adopt professional continuing education requirements for licensed midwives seeking
136 renewal consistent with those maintained by the NARM.

137 (b) Nothing in this section shall limit the board's authority to impose sanctions that are
138 considered reasonable and appropriate by the board. A person subject to any disciplinary action
139 taken by the board under this section or taken due to a violation of any other law, rule or
140 regulation may file a petition for judicial review pursuant to section 64 of this chapter.

141 (c) A licensed midwife shall accept and provide care to clients only in accordance with
142 the scope and standards of practice identified in the rules adopted pursuant to this section.

143 (d) Notwithstanding any other provision in this section, the board shall not issue any
144 regulations that require a licensed midwife to practice under the supervision of or in
145 collaboration with another healthcare provider or to enter into an agreement, written or
146 otherwise, with another healthcare provider.

147 Section 279. A licensed midwife duly registered to issue written prescriptions in
148 accordance with the provisions of subsection (j) of section 7 of chapter 94C may order, possess,
149 purchase, and administer pharmaceutical agents consistent with the scope of midwifery practice,
150 including without limitation antihemorrhagic agents including but not limited to oxytocin,
151 misoprostol and methergine; intravenous fluids for stabilization; vitamin K; eye prophylaxes;

152 oxygen; antibiotics for Group B Streptococcal antibiotic prophylaxes; Rho (D) immune globulin;
153 local anesthetic; epinephrine; and other pharmaceutical agents identified by the board, however,
154 that nothing in this section shall be construed to permit a licensed midwife's use of
155 pharmaceutical agents which are (a) controlled substances as described by Title 21 U.S.C.
156 Section 812 or in chapter 94C, except for those listed in schedule VI; or (b) not identified by
157 rules and regulations promulgated by the board of registration in midwifery as consistent with
158 the scope of midwifery practice.

159 Section 280. A person who desires to be licensed and registered as a licensed midwife
160 shall apply to the board in writing on an application form prescribed and furnished by the board.
161 The applicant shall include in the application statements under oath satisfactory to the board
162 showing that the applicant possesses the qualifications described under section 281 prior to any
163 examination which may be required under section 278. The secretary of administration and
164 finance, pursuant to section 3B of chapter 7, shall establish a license application fee, a license
165 renewal fee and any other fee applicable under sections 276 to 288, inclusive, of this chapter;
166 provided, however, that such license applicant and license renewal fees shall not exceed \$200
167 biennially. The board, in consultation with the secretary of administration and finance, shall
168 institute a process for applicants to apply for a financial hardship waiver, which may reduce or
169 fully exempt an applicant from paying the fee pursuant to this section. Fees collected by the
170 board shall be deposited into the Quality in Health Professions Trust Fund pursuant to section
171 35X of chapter 10 to support board operations and administration and to reimburse board
172 members for actual and necessary expenses incurred in the performance of their official duties.

173 Section 281. (a) To be eligible for registration and licensure by the board as a licensed
174 midwife, an applicant shall: (i) be of good moral character; (ii) be a graduate of a high school or
175 its equivalent; and (iii) possess a valid certified professional midwife credential from the NARM.

176 (b) An applicant for a license to practice midwifery as a certified professional midwife
177 shall submit to the board proof of successful completion of a formal midwifery education and
178 training program as follows:

179 (i) a certificate of completion or equivalent from an educational program or institution
180 accredited by the MEAC; or

181 (ii) an MBC, provided that an applicant: (1) is certified as a certified professional
182 midwife within 5 years after the effective date of this section and completed a midwifery
183 education and training program from an educational program or institution that is not accredited
184 by the MEAC; or (2) is licensed as a professional midwife in a state that does not require
185 completion of a midwifery education and training program from an educational program or
186 institution that is accredited by the MEAC.

187 Section 282. The board may license in a like manner, without examination, any
188 midwife who has been licensed in another state under laws which, in the opinion of the board,
189 require qualifications and maintain standards substantially the same as those of this
190 commonwealth for licensed midwives, provided, however, that such midwife applies and remits
191 fees as provided for in section 279.

192 Section 283. (a) The board may, after a hearing pursuant to chapter 30A, revoke, suspend
193 or cancel the license of a licensed midwife, or reprimand or censure a licensed midwife, for any
194 of the reasons set forth in section 61.

195 (b) No person filing a complaint or reporting information pursuant to this section or
196 assisting the board at its request in any manner in discharging its duties and functions shall be
197 liable in any cause of action arising out of providing such information or assistance; provided,
198 however, that the person making the complaint or reporting or providing such information or
199 assistance does so in good faith and without malice.

200 Section 284. When accepting a client for care, a licensed midwife shall obtain the client's
201 informed consent, which shall be evidenced by a written statement in a form prescribed by the
202 board and signed by both the licensed midwife and the client.

203 Section 285. A licensed midwife shall prepare, in a form prescribed by the board, a
204 written plan for the appropriate delivery of emergency care. The plan shall include, but not be
205 limited to: (i) consultation with other health care providers; (ii) emergency transfer; and (iii)
206 access to neonatal intensive care units and obstetrical units or other patient care areas.

207 Section 286. A health care provider that consults with or accepts a transport, transfer or
208 referral from a licensed midwife, or that provides care to a client of a licensed midwife or such
209 client's newborn, shall not be liable in a civil action for personal injury or death resulting from
210 an act or omission by the licensed midwife, unless the professional negligence or malpractice of
211 the health care provider was a proximate cause of the injury or death.

212 Section 287. (a) The board may petition any court of competent jurisdiction for an
213 injunction against any person practicing midwifery or any branch thereof without a license
214 granted pursuant to sections 276 to 288, inclusive, of this chapter. Proof of damage or harm
215 sustained by any person shall not be required for issuance of such injunction. Nothing in this
216 section shall relieve a person from criminal prosecution for practicing without a license.

217 (b) Nothing in this section shall prevent or restrict the practice, service or activities of:

218 (i) a person licensed in the commonwealth from engaging in activities within the scope of
219 practice of the profession or occupation for which such person is licensed; provided, however,
220 that such person does not represent to the public, directly or indirectly, that such person is
221 licensed under sections 276 to 289, inclusive, and that such person does not use any name, title
222 or designation indicating that such person is licensed under said sections 276 to 289, inclusive; or

223 (ii) a person employed as a midwife by the federal government or an agency thereof if
224 that person provides midwifery services solely under the direction and control of the
225 organization by which such person is employed;

226 (iii) a traditional birth attendant who provides midwifery services if no fee is
227 contemplated, charged or received, and such person has cultural or religious traditions that have
228 historically included the attendance of traditional birth attendants at birth, and the birth attendant
229 serves only individuals and families in that distinct cultural or religious group;

230 (iv) persons who are members of Native American communities and provide traditional
231 midwife services to their communities; or

232 (v) any person rendering aid in an emergency.

233 Section 288. A licensed midwife, registered by the board of registration in midwifery
234 pursuant to sections 276 to 288, inclusive, of this chapter, who provides services to any person or
235 beneficiary covered by Title XIX of the Social Security Act or MassHealth pursuant to section
236 9A of chapter 118E, may accept the Medicaid or MassHealth approved rate as payment in full

237 for such services; provided, that a licensed midwife who accepts the Medicaid or MassHealth
238 approved rate pursuant to this section shall be reimbursed at said rate for such services

239 SECTION 16. Chapter 118E of the General Laws, as appearing in the 2020 Official
240 Edition, is hereby amended in section 10A by adding the words “licensed midwife,” after the
241 word “physician,” in line 15 and after the word “pediatrician,” in line 20, and by inserting at the
242 end of the section the following sentence:- The division shall provide coverage for midwifery
243 services including prenatal care, childbirth and postpartum care provided by a licensed midwife
244 regardless of the site of services.

245 SECTION 17. The board established pursuant to section 110 of chapter 13 of the General
246 Laws shall adopt rules and promulgate regulations pursuant to this act within 1 year from the
247 effective date of this act.

248 SECTION 18. The board established pursuant to section 110 of chapter 13 of the General
249 Laws shall promulgate regulations for the licensure of individuals practicing midwifery prior to
250 the date on which the board commences issuing licenses; provided, however, that individuals
251 practicing midwifery in the commonwealth as of the date on which the board commences issuing
252 licenses shall have 2 years from that date to complete the requirements necessary for licensure.

253 SECTION 19. Nothing in this act shall preclude a person who was practicing midwifery
254 before the effective date of this act from practicing midwifery in the commonwealth until the
255 board establishes procedures for the licensure of midwives pursuant to this act.

256 SECTION 20. The department of public health shall promulgate regulations within 1 year
257 from the effective date of this act, governing birth centers, consistent with standards set forth by
258 the American Association of Birth Centers, including without limitation authorizing licensed

259 professional midwives to practice in birth centers as primary birth attendants, director of birth
260 centers, and director of clinical affairs. Licensed professional midwives practicing in licensed
261 birth centers shall not be required to enter into any agreement for supervision or collaboration
262 with any other healthcare provider or hospital.