

# An Act

ENROLLED SENATE  
BILL NO. 405

By: Stanley of the Senate

and

Roe of the House

An Act relating to midwifery; amending Section 5, Chapter 40, O.S.L. 2020 (59 O.S. Supp. 2020, Section 3040.5), which relates to the Advisory Committee on Midwifery; clarifying appointment procedure and terms of members; removing inapplicable reference; amending Section 9, Chapter 40, O.S.L. 2020 (59 O.S. Supp. 2020, Section 3040.9), which relates to violations; providing for investigation; providing for confidentiality of investigative records; amending Section 13, Chapter 40, O.S.L. 2020 (59 O.S. Supp. 2020, Section 3040.13), which relates to state roster of licensed midwives; prohibiting submission of certain information; providing for purpose of certain confidential records; and providing an effective date.

SUBJECT: Advisory Committee on Midwifery

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 5, Chapter 40, O.S.L. 2020 (59 O.S. Supp. 2020, Section 3040.5), is amended to read as follows:

Section 3040.5. A. There is hereby created, to continue until July 1, 2026, ~~in accordance with the provisions of the Oklahoma Sunset Law,~~ an Advisory Committee on Midwifery, which shall consist

of seven (7) voting members to be appointed by the State Commissioner of Health as follows:

1. Three licensed midwives, each of whom has at least three (3) years of experience in the practice of midwifery;
2. One Certified Nurse-Midwife;
3. One physician who is certified by a national professional organization of physicians that certifies obstetricians and gynecologists and supports the practice of midwifery;
4. One physician who is certified by a national professional organization of physicians that certifies family practitioners or pediatricians and supports the practice of midwifery; and
5. One member of the general public who is not practicing or trained in a health care profession, and who is a parent with at least one child born with the assistance of a licensed midwife or a Certified Nurse-Midwife.

B. ~~Members of the Committee shall serve for staggered terms of six (6) years. The terms of three members shall expire on January 31 of each odd-numbered year~~ be divided into three classes. The initial terms of the first class shall expire on January 31, 2023, and subsequent terms shall expire on January 31 of each sixth year thereafter. The initial terms of the second class shall expire on January 31, 2025, and subsequent terms shall expire on January 31 of each sixth year thereafter. The initial terms of the third class shall expire on January 31, 2027, and subsequent terms shall expire on January 31 of each sixth year thereafter. Members shall serve until a qualified successor has been duly appointed. The Commissioner shall fill a vacancy no later than sixty (60) days from the date the vacancy occurs. No person shall be appointed to serve more than two (2) consecutive terms.

C. The Committee shall annually elect a chair and vice-chair from among its members.

D. The Committee shall meet at least semiannually and at any other time at the call of the chair or the Commissioner.

E. The Committee shall meet in accordance with the Oklahoma Open Meeting Act.

F. A majority of the members of the Committee, including at least two licensed midwives, shall constitute a quorum for the conduct of Committee business.

G. 1. The Committee shall advise the Commissioner on all matters pertaining to midwifery including but not limited to:

- a. scope and standards of practice,
- b. licensure requirements, examination requirements, exceptions thereto, renewal requirements, temporary licensure and endorsement or reciprocity requirements,
- c. methods and requirements for ensuring the continued competence of licensed and registered persons, including the type of courses and number of hours required to meet the basic midwifery education course and continuing midwifery education course requirements, and instructors or facilities used in the basic and continuing education requirements,
- d. procedures for reporting of outcomes including, but not limited to, live births and fetal, newborn or maternal deaths,
- e. grounds for reporting and processing complaints, violations, probation, revocation or suspension of license or reinstatement provisions, and
- f. all other matters which may pertain to the practice of midwifery.

2. The Committee shall review and make recommendations to the Commissioner on all applications for licensure.

3. The Committee shall assist and advise the Commissioner in all hearings related to the enforcement of Shepherd's Law. The Committee shall review all complaints and make recommendations to the Commissioner on appropriate disciplinary action including, but

not limited to, administrative fines, license revocation and license suspension.

SECTION 2. AMENDATORY Section 9, Chapter 40, O.S.L. 2020 (59 O.S. Supp. 2020, Section 3040.9), is amended to read as follows:

Section 3040.9. A. Effective July 1, 2021, any person who holds himself or herself out to be, represents himself or herself to be or uses the title of Certified Professional Midwife or Certified Midwife, without holding a license issued by the State Commissioner of Health, or who is in violation of any provision of Shepherd's Law shall be subject to an administrative fine for each day found to be in violation. The amount of any fine shall be determined by the Commissioner within limits set by the Commissioner pursuant to rules adopted and promulgated by the Commissioner and may be in addition to any other penalty provided by the Commissioner or otherwise provided by law.

B. The Advisory Committee on Midwifery may cause to be investigated all reported violations of Shepherd's Law. Information obtained during investigations of possible violations of Shepherd's Law shall be kept confidential but may be introduced by the State Department of Health in proceedings before the Committee, whereupon the information admitted shall become public record. Public records maintained by the Department shall be administrative records, not civil or criminal records.

C. Confidential investigative records shall not be subject to discovery or subpoena in any civil or criminal proceeding; provided, however, the Committee may give such information to law enforcement and other state agencies as necessary and appropriate in the discharge of the duties of that agency and only under circumstances that ensure against unauthorized access to the confidential investigative records.

SECTION 3. AMENDATORY Section 13, Chapter 40, O.S.L. 2020 (59 O.S. Supp. 2020, Section 3040.13), is amended to read as follows:

Section 3040.13. A. The State Department of Health shall maintain a roster of each person licensed as a midwife in this state. The roster shall contain for each licensed midwife the

information required on the informed choice and disclosure statement under Section ~~10~~ 3040.10 of this ~~act~~ title and other information the Department determines necessary to accurately identify each licensed midwife. The roster shall be a public document available under the Oklahoma Open Records Act.

B. The Department shall provide each county clerk and each local registrar of births in a county with the name of each midwife practicing in the county.

C. Any data required to be submitted to the Department pursuant to Shepherd's Law shall not contain any personally identifying information of the client by the midwife and shall be considered confidential records collected for statistical information purposes only.

SECTION 4. This act shall become effective November 1, 2021.

Passed the Senate the 27th day of April, 2021.

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Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2021.

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Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_