

State of South Dakota

EIGHTY-SIXTH SESSION LEGISLATIVE ASSEMBLY, 2011

391S0125

HOUSE ENGROSSED NO. **HB 1061** - 2/9/2011

Introduced by: Representatives Hunt, Brunner, Dennert, Feickert, Haggar, Jensen, Liss, Miller, Munsterman, Nelson (Stace), Olson (Betty), Sly, Steele, and Verchio and Senators Rhoden, Begalka, Frerichs, Fryslie, Lederman, and Sutton

1 FOR AN ACT ENTITLED, An Act to provide for the practice and regulation of registered
2 midwives.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Department," the Department of Health;

6 (2) "Registered midwife," any person who has been registered to practice midwifery
7 pursuant to this Act.

8 Section 2. The department shall promulgate rules, pursuant to chapter 1-26, to establish
9 practice guidelines for registered midwives that are substantially similar to the "Practice
10 Guidelines for Out of Hospital Birth by Certified Nurse Midwives in South Dakota" established
11 by the Board of Nursing and the Board of Medical and Osteopathic Examiners for certified
12 nurse midwives. However, the practice guidelines for registered midwives may not include
13 prescriptive authority but shall include a list of medications that a registered midwife may
14 administer after completing a pharmacology course accredited by the Midwifery Education



1 Accreditation Council or approved by the department that covers any medication on the list and
2 the use of the medication in the out-of-hospital setting. The practice guidelines shall also include
3 the provision of care and services that is limited to the following:

- 4 (1) Monitoring the physical, psychological, and social well-being of the mother
5 throughout the childbearing cycle;
- 6 (2) Providing the mother with individualized education, counseling and prenatal care,
7 continuous hands-on assistance during labor and delivery, and postpartum support;
- 8 (3) Monitoring and supporting the baby during the pregnancy, labor, delivery and
9 postpartum period; and
- 10 (4) Identifying and referring women and newborns who require medical attention.

11 Section 3. No person may practice as a registered midwife unless that person is registered
12 with the department pursuant to this Act. No person may use the title, registered midwife, to
13 describe or imply that he or she is a registered midwife, or represent himself or herself as a
14 registered midwife unless the person is granted registration pursuant to this Act. A violation of
15 this section is a Class 2 misdemeanor. The following persons are exempt from the registration
16 requirements of this Act:

- 17 (1) Any certified nurse midwife, registered nurse, or licensed nurse practitioner
18 authorized to practice in South Dakota;
- 19 (2) Any student midwife engaged in an internship, preceptorship, or other clinical
20 training program, who is under the direction and supervision of a preceptor
21 recognized by the North American Registry of Midwives; and
- 22 (3) Any person exempt pursuant to § 36-2-20.

23 Section 4. Any person seeking registration under this Act shall complete the application
24 prescribed by the department and submit the application along with the registration fee to the

1 department. The registration shall be renewed annually by payment of the renewal fee and proof
2 that the midwife has maintained his or her certification with the North American Registry of
3 Midwives. A registration not renewed by December thirty-first of each year lapses. Any fee
4 collected pursuant to this section shall be deposited in the general fund.

5 Section 5. The department shall register any midwife who has submitted a completed
6 application form, paid the registration fee, and met the following requirements:

- 7 (1) Is at least twenty-one years of age at the time of application;
- 8 (2) Has earned a high school diploma or the equivalent;
- 9 (3) Has earned and maintains the Certified Professional Midwife credential issued by the
10 North American Registry of Midwives accredited by the National Commission for
11 Certifying Agencies;
- 12 (4) Has earned and maintains certification in neonatal resuscitation obtained through
13 completion of American Heart Association approved cardiopulmonary resuscitation
14 courses or American Academy of Pediatrics approved neonatal resuscitation courses;
15 and
- 16 (5) Has successfully completed a course accredited by the Midwifery Education
17 Accreditation Council or approved by the department in suturing, intravenous fluid
18 resuscitation, and pharmacology that covers any medication on the list established by
19 the department; and
- 20 (6) Has submitted to a state and federal criminal background investigation by means of
21 fingerprint checks by the Division of Criminal Investigation and the Federal Bureau
22 of Investigation. Upon application, the department shall submit completed fingerprint
23 cards to the Division of Criminal Investigation. Upon completion of the criminal
24 background check, the Division of Criminal Investigation shall forward to the

department all information obtained as a result of the criminal background check. This information shall be obtained prior to registration of the applicant. Failure to submit or cooperate with the criminal background investigation or a record of a felony conviction is grounds for denial of an application. The applicant shall pay for any fees charged for the cost of fingerprinting or the criminal background investigation.

Section 6. The department may adopt rules, pursuant to chapter 1-26, in the following areas:

- (1) Content of applications;
- (2) Fees for initial registration and renewal not to exceed one hundred dollars; and
- (3) Renewal of registration.

Section 7. If the department deems it appropriate, the department may, in compliance with chapter 1-26:

- (1) Issue a reprimand to the registered midwife;
- (2) Place the registered midwife on probation and supervision;
- (3) Suspend the registered midwife's registration until the registered midwife completes a course of therapy, treatment, training, or any combination thereof;
- (4) Suspend the registered midwife's registration for a fixed period; or
- (5) Revoke the registered midwife's certificate.

Section 8. A registered midwife shall report to the department any termination, revocation, or suspension of the registered midwife's certification within five days of being notified of such action.

Section 9. A registered midwife shall file birth certificates with the department in accordance with § 34-25-8. Filing a birth certificate known by the registered midwife to be fraudulent is a Class 2 misdemeanor.

1 Section 10. In addition to the plan of care agreement detailed in the practice guidelines a
2 registered midwife shall, at an initial consultation with a client, provide a copy of an informed
3 consent document to be signed by the registered midwife and the client, which document shall
4 disclose to the client, in writing, all of the following:

- 5 (1) The registered midwife's experience, qualifications, and training;
- 6 (2) Whether or not the registered midwife has malpractice liability insurance;
- 7 (3) A plan for consultation, referral, and transport for medical emergencies specific to
8 each client, including identification of the closest hospital with labor and delivery
9 services, the closest hospital with an emergency department, and a physician who
10 will be called for consultation.

11 The registered midwife shall provide the client's health records to the hospital identified in
12 the transport plan at least one month prior to the expected delivery date. However, no client
13 health records may be transmitted unless the client has provided specific consent permitting the
14 midwife to share the client's health records with the hospital in compliance with this section and
15 with relevant federal and state patient privacy laws. A copy of the signed consent shall be
16 transmitted to the hospital with the health records. If consent is not granted by the client, the
17 midwife shall notify the hospital that the hospital is included in a home birth transport plan and
18 identify the estimated due date. In any event, if there is no transport, the registered midwife shall
19 notify the hospital within one week after delivery.

20 Section 11. Nothing in this Act permits a registered midwife to provide services in a hospital
21 licensed pursuant to chapter 34-12 unless the hospital has specifically granted such privileges.

22 Section 12. No registered midwife may use forceps or vacuum extraction or perform
23 cesarean sections or abortions.

24 Section 13. No licensed health care provider or hospital or agent thereof is liable for any

1 injury which directly or indirectly arises out of, or is the result of, an act or omission by a
2 registered midwife.

3 Section 14. That chapter 36-9 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Nothing in this chapter may be construed as prohibiting the care and services described in
6 section 2 of this Act, provided in the performance of his or her duties, by a registered midwife
7 registered pursuant to this Act, so long as the registered midwife does not claim to be a
8 registered nurse or licensed practical nurse.

9 Section 15. That chapter 36-9A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 Nothing in this chapter may be construed as prohibiting the care and services described in
12 section 2 of this Act, provided in the performance of his or her duties, by a registered midwife
13 registered pursuant to this Act, so long as the registered midwife does not claim to be a nurse
14 practitioner or certified nurse midwife.

15 Section 16. That chapter 36-4 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Nothing in this chapter may be construed as prohibiting the care and services described in
18 section 2 of this Act, provided in the performance of his or her duties, by a registered midwife
19 registered pursuant to this Act, so long as the registered midwife does not claim to be a
20 physician or surgeon.