

No. 35. An act relating to insurance coverage for midwifery services and home births.

(S.15)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 8 V.S.A. § 4099d is added to read:

§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

(a) A health insurance plan or health benefit plan providing maternity benefits shall also provide coverage for services rendered by a midwife licensed pursuant to chapter 85 of Title 26 or an advanced practice registered nurse licensed pursuant to chapter 28 of Title 26 who is certified as a nurse midwife for services within the licensed midwife's or certified nurse midwife's scope of practice and provided in a hospital or other health care facility or at home.

(b) Coverage for services provided by a licensed midwife or certified nurse midwife shall not be subject to any greater co-payment, deductible, or coinsurance than is applicable to any other similar benefits provided by the plan.

(c) A health insurance plan may require that the maternity services be provided by a licensed midwife or certified nurse midwife under contract with the plan.

(d) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in

18 V.S.A. § 9402, as well as Medicaid, the Vermont health access plan, and any other public health care assistance program offered or administered by the state or by any subdivision or instrumentality of the state. The term shall not include policies or plans providing coverage for specific disease or other limited benefit coverage.

Sec. 2. 18 V.S.A. chapter 30 is added to read:

CHAPTER 30. MATERNAL MORTALITY REVIEW PANEL

§ 1551. DEFINITIONS

As used in this chapter:

(1) “Maternal mortality” or “maternal death” means:

(A) pregnancy-associated death;

(B) pregnancy-related death; or

(C) pregnancy-associated but not pregnancy-related death.

(2) “Pregnancy-associated death” means the death of a woman while pregnant or within one year following the end of pregnancy, irrespective of cause.

(3) “Pregnancy-associated, but not pregnancy-related death” means the death of a woman while pregnant or within one year following the end of pregnancy due to a cause unrelated to pregnancy.

(4) “Pregnancy-related death” means the death of a woman while pregnant or within one year following the end of pregnancy, irrespective of the

duration and site of the pregnancy, from any cause related to or aggravated by her pregnancy or its management, but not from accidental or incidental causes.

§ 1552. MATERNAL MORTALITY REVIEW PANEL ESTABLISHED

(a) There is established a maternal mortality review panel to conduct comprehensive, multidisciplinary reviews of maternal deaths in Vermont for the purposes of identifying factors associated with the deaths and making recommendations for system changes to improve health care services for women in this state. The members of the panel shall be appointed by the commissioner of health as follows:

(1) Two members from the Vermont section of the American College of Obstetricians and Gynecologists, one of whom shall be a generalist obstetrician and one of whom shall be a maternal fetal medicine specialist.

(2) One member from the Vermont chapter of the American Academy of Pediatrics, specializing in neonatology.

(3) One member from the Vermont chapter of the American College of Nurse-Midwives.

(4) One member who is a midwife licensed pursuant to chapter 85 of Title 26.

(5) One member from the Vermont section of the Association of Women's Health, Obstetric and Neonatal Nurses.

(6) The director of the division of maternal and child health in the Vermont department of health, or designee.

(7) An epidemiologist from the department of health with experience analyzing perinatal data, or designee.

(8) The chief medical examiner or designee.

(9) A representative of the community mental health centers.

(10) A member of the public.

(b) The term of each member shall be three years and the terms shall be staggered. The commissioner shall appoint the initial chair of the panel, who shall call the first meeting of the panel and serve as chair for six months, after which time the panel shall elect its chair. Members of the panel shall receive no compensation.

(c) The commissioner may delegate to the Northern New England Perinatal Quality Improvement Network (NNEPQIN) the functions of collecting, analyzing, and disseminating maternal mortality information; organizing and convening meetings of the panel; and such other substantive and administrative tasks as may be incident to these activities. The activities of the NNEPQIN and its employees or agents shall be subject to the same confidentiality provisions as apply to members of the panel.

§ 1553. DUTIES

(a) The panel, in collaboration with the commissioner of health or designee, shall conduct comprehensive, multidisciplinary reviews of maternal mortality in Vermont.

(b) Each member of the panel shall be responsible for disseminating panel recommendations to his or her respective institution and professional organization, as applicable. All such information shall be disseminated through the institution's or organization's quality assurance program in order to protect the confidentiality of all participants and patients involved in any incident.

(c) On or before January 15 of each year, the commissioner of health shall submit a report to the house committees on health care and on human services and the senate committee on health and welfare containing at least the following information:

(1) a description of the adverse events reviewed by the panel during the preceding 12 months, including statistics and causes;

(2) corrective action plans to address, in the aggregate, such adverse events; and

(3) recommendations for system changes and legislation relating to the delivery of health care in Vermont.

(d) The panel shall not:

(1) Call witnesses or take testimony from any individual involved in the investigation of a maternal death.

(2) Enforce any public health standard or criminal law or otherwise participate in any legal proceeding, except to the extent that a member of the panel is involved in the investigation of a maternal death or resulting prosecution and must participate in a legal proceeding in the course of performing his or her duties outside the panel.

§ 1554. CONFIDENTIALITY

(a) The panel's proceedings, records, and opinions shall be confidential and shall not be subject to inspection or review under subchapter 3 of chapter 5 of Title 1 or to discovery, subpoena, or introduction into evidence in any civil or criminal proceeding; provided, however, that nothing in this subsection shall be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the panel's proceedings.

(b) Members of the panel shall not be questioned in any civil or criminal proceeding regarding the information presented in or opinions formed as a result of a meeting of the panel; provided, however, that nothing in this subsection shall be construed to prevent a member of the panel from testifying

to information obtained independently of the panel or which is public information.

§ 1555. INFORMATION RELATED TO MATERNAL MORTALITY

(a)(1) Health care providers; health care facilities; clinics; laboratories; medical records departments; and state offices, agencies, and departments shall report all maternal mortality deaths to the chair of the maternal mortality review panel and to the commissioner of health or designee.

(2) The commissioner and the chair may acquire the information described in subdivision (1) of this subsection from health care facilities, maternal mortality review programs, and other sources in other states to ensure that the panel's records of Vermont maternal mortality cases are accurate and complete.

(b)(1) The commissioner shall have access to individually identifiable information relating to the occurrence of maternal deaths only on a case-by-case basis where public health is at risk. As used in this section, "individually identifiable information" includes vital records; hospital discharge data; prenatal, fetal, pediatric, or infant medical records; hospital or clinic records; laboratory reports; records of fetal deaths or induced terminations of pregnancies; and autopsy reports.

(2) The commissioner or designee may retain identifiable information regarding facilities where maternal deaths occur and geographic information

on each case solely for the purposes of trending and analysis over time. In accordance with the rules adopted pursuant to subdivision 1556(4) of this title, all individually identifiable information on individuals and identifiable information on facilities shall be removed prior to any case review by the panel.

(3) The chair shall not acquire or retain any individually identifiable information.

(c) If a root cause analysis of a maternal mortality event has been completed, the findings of such analysis shall be included in the records supplied to the review panel.

§ 1556. RULEMAKING

The commissioner of health, with the advice and recommendation of a majority of the members of the panel, shall adopt rules pursuant to chapter 25 of Title 3 related to the following:

(1) The system for identifying and reporting maternal deaths to the commissioner or designee.

(2) The form and manner through which the panel may acquire information under section 1555 of this title.

(3) The protocol to be used in carefully and sensitively contacting a family member of the deceased woman for a discussion of the events

surrounding the death, including allowing grieving family members to delay or refuse such an interview.

(4) Ensuring de-identification of all individuals and facilities involved in the panel's review of cases.

Sec. 3. 18 V.S.A. § 5087 is amended to read:

§ 5087. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

(a) The commissioner of health shall establish a statewide birth information network designed to identify newborns who have specified health conditions which may respond to early intervention and treatment by the health care system.

(b) The department of health is authorized to collect information for the birth information network for the purpose of preventing and controlling disease, injury, and disability. The commissioner of health, in collaboration with appropriate partners, shall coordinate existing data systems and records to enhance the network's comprehensiveness and effectiveness, including:

- (1) Vital records (birth, death, and fetal death certificates).
- (2) The children with special health needs database.
- (3) Newborn metabolic screening.
- (4) Universal newborn hearing screening.
- (5) The hearing outreach program.
- (6) The cancer registry.

- (7) The lead screening registry.
- (8) The immunization registry.
- (9) The special supplemental nutrition program for women, infants, and children.
- (10) The Medicaid claims database.
- (11) The hospital discharge data system.
- (12) Health records (such as discharge summaries, disease indexes, nursery logs, pediatric logs, and neonatal intensive care unit logs) from hospitals, outpatient specialty clinics, genetics clinics, and cytogenetics laboratories.
- (13) The Vermont health care claims uniform reporting and evaluation system.

(c) The commissioner of health shall refer to the report submitted to the general assembly by the birth information council, pursuant to section 5086 of this title, for the purpose of establishing guiding principles for the research and decision-making necessary for the development of the birth information network.

(d) The network shall provide information on public health activities, such as surveillance, assessment, and planning for interventions to improve the health and quality of life for Vermont's infants and children and their families. This information shall be used for improving health care delivery systems and

outreach and referral services for families with children with special health needs and for determining measures that can be taken to prevent further medical conditions.

(e) The network shall be designed to follow infants and children up to one year of age with the 40 medical conditions listed in the matrix developed by the birth information council which have been selected as identifiable via existing Vermont data systems and are considered to be representative of the most significant health conditions of newborns in Vermont, including conditions relating to upper and lower limbs. The department of health is authorized to amend the list of medical conditions through rulemaking pursuant to chapter 25 of Title 3 to meet the objectives of this section.

(f) The network's data system shall be designed to coordinate with the data systems of other states so that data on out-of-state births to Vermont residents will be captured for vital records, case ascertainment, and follow-up services. The commissioner of health is authorized to enter into interstate agreements containing the necessary conditions for information transmission.

(g) The commissioner of health shall compile information every two years to document possible links between environmental and chemical exposure with the special health conditions of Vermont's infants and children.

(h) The department of health shall develop a form that contains a description of the birth information network and the purpose of the network.

The form shall include a statement that the parent or guardian of a child may contact the department of health and have his or her child's personally identifying information removed from the network, using a process developed by the advisory committee.

Sec. 4. 18 V.S.A. chapter 104 is added to read:

CHAPTER 104. BIRTH RECORDS

§ 5112. ISSUANCE OF NEW BIRTH CERTIFICATE; CHANGE OF SEX

(a) Upon receiving from the probate division of the superior court a court order that an individual's sexual reassignment has been completed, the state registrar shall issue a new birth certificate to show that the sex of the individual born in this state has been changed.

(b) An affidavit by a licensed physician who has treated or evaluated the individual stating that the individual has undergone surgical, hormonal, or other treatment appropriate for that individual for the purpose of gender transition shall constitute sufficient evidence for the court to issue an order that sexual reassignment has been completed. The affidavit shall include the medical license number and signature of the physician.

(c) A new certificate issued pursuant to subsection (a) of this section shall be substituted for the original birth certificate in official records. The new certificate shall not show that a change in name or sex, or both, has been made. The original birth certificate, the probate court order, and any other records

relating to the issuance of the new birth certificate shall be confidential and shall not be subject to public inspection pursuant to 1 V.S.A. § 317(c); however an individual may have access to his or her own records and may authorize the state registrar to confirm that, pursuant to court order, it has issued a new birth certificate to the individual that reflects a change in name or sex, or both.

(d) If an individual born in this state has an amended birth certificate showing that the sex of the individual has been changed, and the birth certificate is marked “Court Amended” or otherwise clearly shows that it has been amended, the individual may receive a new birth certificate from the state registrar upon application.

Sec. 5. 26 V.S.A. § 4187 is amended to read:

§ 4187. RENEWALS

(a)(1) Biennially, the director shall forward a renewal form to each licensed midwife. The completed form shall include verification that during the preceding two years, the licensed midwife has:

- (A) completed 20 hours of continuing education approved by the director by rule;
- (B) participated in at least four peer reviews;
- (C) submitted individual practice data; ~~and~~

(D) maintained current cardiopulmonary resuscitation certification; and

(E) filed a timely certificate of birth for each birth at which he or she was the attending midwife, as required by law.

(2) Upon receipt of the completed form and of the renewal fee, the director shall issue a renewal license to applicants who qualify under this section.

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Sec. 6. 26 V.S.A. § 4190 is amended to read:

§ 4190. WRITTEN PLAN FOR CONSULTATION, EMERGENCY
TRANSFER, AND TRANSPORT

(a) Every licensed midwife shall develop a written plan for consultation with physicians licensed under chapter 23 of this title and other health care providers for emergency transfer, for transport of an infant to a newborn nursery or neonatal intensive care nursery, and for transport of a woman to an appropriate obstetrical department or patient care area. The written plan shall be submitted to the director on an approved form with the application required by section 4184 of this title and biennially thereafter with the renewal form required by section 4187 of this title. The written transport plan shall be reviewed and approved by the advisors appointed pursuant to section 4186 of this title and shall be provided to any health care facility or health care

professional identified in the plan. The director, in consultation with the advisors, the commissioner of health, and other interested parties, shall develop a single, uniform form for use in all cases in which a transfer or transport occurs, which shall include the medical information needed by the facility or professional receiving the transferred or transported patient.

(b)(1) A licensed midwife shall, within 30 days of a birth or sentinel event, complete any peer review that is both required by rules governing licensed midwives and which is generated due to a death, significant morbidity to client or child, transfer to hospital, or to practice performed outside the standards for midwives as set forth in the rules governing licensed midwives. This peer review report shall be submitted to the office of professional regulation within 30 days of its completion.

(2) During the peer review process, other health care professionals engaged in the care or treatment of the client may provide written input to the peer review panel related to quality assurance and other matters within or related to the licensed midwife's scope of practice. The written comments shall be filed with the office of professional regulation and subject to the same confidentiality provisions as apply to other documents related to peer reviews. Upon completion of the peer review process, the director shall provide notice of the final disposition of the peer review to all health care professionals who submitted input pursuant to this subdivision.

Sec. 7. DATA SUBMISSION

Each midwife licensed pursuant to chapter 85 of Title 26 and each advanced practice registered nurse licensed pursuant to chapter 28 of Title 26 who is certified as a nurse midwife shall submit data to the database maintained by the Division of Research of the Midwives Alliance of North America regarding each home birth in Vermont for which he or she is the attending midwife.

Sec. 8. DEPARTMENT OF HEALTH; REPORTING REQUIREMENT

(a) The department of health shall access the database maintained by the Division of Research of the Midwives Alliance of North America to obtain information relating to care provided in Vermont by midwives licensed pursuant to chapter 85 of Title 26 and by advanced practice registered nurses licensed pursuant to chapter 28 of Title 26 who are certified as nurse midwives.

(b) No later than March 15 of each year from 2012 through 2016, inclusive, the commissioner of health or designee shall provide testimony to the house committee on health care and the senate committee on health and welfare regarding the activities of licensed midwives and certified nurse midwives performing home births and providing prenatal and postnatal care in a nonmedical environment during the preceding year. The testimony shall include the number of home births in Vermont, the number of hospital transports associated with home births, the treatment of high-risk patients, and

other relevant data, as well as the level of compliance of the licensed midwives and certified nurse midwives with the laws and rules governing their scope of practice.

Sec. 9. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on October 1, 2011, and shall apply to all health insurance plans and health benefit plans on and after October 1, 2011, on such date as a health insurer issues, offers, or renews the plan, but in no event later than October 1, 2012.

(b) The remaining sections of this act shall take effect on passage.

Approved: May 18, 2011