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## DIGEST

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HB No. 947

**Abstract:** Revises statutory provisions relative to the Midwife Practitioners Act.

Present law (R.S. 37:3241(8)) defines "licensed midwife" as meaning a person who has completed all requirements of present law, has successfully completed the examination process, and is in good standing on the registry of licensed midwives maintained by the board.

Proposed law retains present law and adds a requirement that a licensed midwife be certified as midwife by the North American Registry of Midwives in addition to being in good standing on the registry of licensed midwives maintained by the board.

Present law (R.S. 37:3241(12)) defines "physician" as meaning a person who is currently practicing obstetrics and is licensed to practice medicine or osteopathy in La.

Proposed law excludes licensed midwives, apprentice midwives, and senior apprentice midwives from the definition of "physician".

Proposed law (R.S. 37:3241(15)) defines "certified professional midwife" as meaning a person certified by the North American Registry of Midwives.

Proposed law (R.S. 37:3241(16)) defines "low risk patient" as meaning an individual who is at low or normal risk of developing complications during pregnancy and childbirth as evidenced by the absence of any preexisting maternal disease or disease arising during pregnancy or such other conditions as the board may identify in rules.

Present law (R.S. 37:3244(B)) authorizes a licensed midwife to care for low risk patients as determined by physician evaluation and examination to be essentially normal for pregnancy and childbirth.

Proposed law specifies that the care provided to low risk patients, who are declared to be essentially normal for pregnancy and childbirth, will be determined by the board.

Proposed law (R.S. 37:3244(C)) requires the physician who performs the evaluation and examination required by proposed law to disclose the reason and effect of the evaluation and examination to the patient and midwife using a form developed by the board for this purpose.

Proposed law (R.S. 37:3244(D)) requires a licensed midwife to refer a patient to a physician for risk assessment when the patient's progress at any time during pregnancy or the postpartum

period deviates from criteria generally accepted as normal as defined by the board, including but not limited to diseases such as gestational diabetes, and preeclampsia or conditions such as post-term pregnancy, 42 weeks of completed pregnancy, multiple births, or breech presentation.

Proposed law (R.S. 37:3244(E)) allows a patient to refuse a licensed midwife's referral to any physician; however, provides that a licensed midwife must not knowingly accept or maintain responsibility for the care of a woman who does not obtain physician referral or when the results of the referral indicate that she no longer qualifies as a low risk patient.

Proposed law (R.S. 37:3244(F)) requires a licensed midwife to obtain written, informed consent of the patient prior to providing any services. Further, requires that such information be provided on a form prescribed by the board which shall include but not be limited to the following:

- (1) The name and license number of the licensed midwife.
- (2) The patient's name, address, telephone number, and the name of the patient's primary care provider if the patient has one.
- (3) A statement that the licensed midwife is not an advanced practice registered nurse midwife or physician.
- (4) A description of the education, training, continuing education, and experience of the licensed midwife.
- (5) A description of the licensed midwife's philosophy of practice.
- (6) A statement recognizing the obligation of the licensed midwife to provide the client, upon request, separate documents describing the law and regulations governing the practice of midwifery, including the requirement for an evaluation and examination by a physician, the protocol for transfer or mandatory transfer, and the licensed midwife's personal written practice guidelines.
- (7) A description of the protocol for transfer to a hospital and disclosure of the hospital with which the licensed midwife has a current transfer agreement.
- (8) A complete and accurate description of the services to be provided to the patient.
- (9) Whether the licensed midwife maintains a professional liability policy and if insurance is maintained, a description of the liability conditions and limits of such insurance.
- (10) Any additional information or requirement which the board deems necessary to protect the health, safety, or welfare of the patient.

Present law (R.S. 37:3245(D)(1)) in pertinent part, specifies that upon meeting the educational and clinical experience requirements, which include an application for the license and taking the

next qualifying examination, provided by the board, a person may apply for a midwifery license.

Proposed law allows the board to issue a midwifery license to an applicant who holds current certification by the North American Registry of Midwives or such other certifying organization as the board subsequently approves.

Proposed law (R.S. 37:3248(B)) excludes from the application of midwifery laws any student pursuing a course of study in an accredited and board-approved midwifery education program who provides midwifery services, provided that such services are an integral part of the student's course of study, that are performed under the direct supervision of a physician, certified nurse midwife, or a licensed midwife, and the student is designated by a title which clearly indicates his status as a student or trainee.

Proposed law (R.S. 37:3255(D)) authorizes the board to accept as a qualifying examination for purposes of midwifery licensure an examination administered by the North American Registry of Midwives, or such other certifying examination as the board subsequently approves.

Proposed law (R.S. 37:3258(A)) specifies that a risk assessment is any physician evaluation and examination conducted in accordance with the law governing the scope of practice. Further provides that the physician performing a risk assessment is only responsible for determining that at the time of such assessment the individual is at low or normal risk of developing complications during pregnancy and childbirth.

Proposed law (R.S. 37:3258(B)) provides that a physician risk assessment, as defined by proposed law, does not create either of the following:

- (1) A physician-patient relationship or any legal duty, responsibility, or obligation by the physician to provide continuing care.
- (2) A legal relationship between the physician and the licensed midwife or any duty, responsibility, or obligation by the physician to supervise, collaborate, back-up, or oversee the licensed midwife's care of the patient.

Proposed law (R.S. 37:3258(C)) specifies that no physician or health care provider as defined by statute, no hospital as defined by statute, or no institution, facility, or clinic licensed by the department can be:

- (1) Deemed to have established a legal relationship with a licensed midwife solely by providing a risk assessment as defined in proposed law or accepting a transfer of a patient from a licensed midwife.
- (2) Liable for civil damages arising out of the negligent, grossly negligent, or wanton or willful acts or omissions of the licensed midwife solely for providing a risk assessment as defined in proposed law or accepting a transfer of a patient from a licensed midwife.

Proposed law (R.S. 37:3259) requires every licensed midwife to report to the board semiannually in a manner and form prescribed by the board. Requires the report to be submitted within the months of Jan. and July of each year and it must include all of the following:

- (1) The licensed midwife's name and license number.
- (2) The calendar year being reported.
- (3) The total number of clients served.
- (4) The total number and parish of live births attended as a primary caregiver.
- (5) The total number and parish of stillbirths attended as a primary caregiver.
- (6) The number of patients whose primary care was transferred to another health care provider during the antepartum period, and the reason for each transfer.
- (7) The number, reason, and outcome for each elective hospital transfer.
- (8) The number, reason, and outcome for each emergency transport of an expectant mother prior to labor.
- (9) A brief description of any complications resulting in the mortality of a mother or an infant.
- (10) Any other information prescribed by the board through rule or regulation.

Requires a licensed midwife to report within 48 hours to the board any maternal, fetal, or neonatal mortality or morbidity in patients for whom care has been given. Also, requires the report include the sex, weight, date and place of delivery, method of delivery, congenital anomalies of the fetus, and cause of death.

Specifies that in addition to the penalties set forth in present law, any licensed midwife failing to satisfy the provisions of proposed law will be subject to a civil fine not to exceed \$100 each day the report is filed late; however, specifies that in no case will the fine exceed \$500.

(Amends R.S. 37:3241(8) and (12), 3244(B) and (C), 3245(D)(1) and 3248; Adds R.S. 37:3241(15) and (16), 3244(D), (E), (F) and (G), 3255(D), 3258, and 3259)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Made technical changes.

2. Removed a provision which authorized a midwife to seek a risk assessment from an OBGYN, who did not practice obstetrics, or a physician who practiced family medicine if the patient had been referred to two independent physicians for a risk assessment.
3. Removed a provision which prevented the Board of Nursing from using the legal practice of midwifery as the basis for any action against a person licensed by the board.
4. Added a provision that requires a licensed midwife to obtain written, informed consent of the patient on a form prescribed by the board that includes certain enumerated information.
5. Added certified nurse midwives to the list of health care professionals that are authorized to provide direct supervision over students who provide midwifery services.
6. Added a provision that establishes reporting requirements for midwives.