

1 HB342  
2 52397-3  
3 By Representative Hall (L)  
4 RFD: Health  
5 First Read: 11-MAR-03

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8 SYNOPSIS: Under existing law, there are no provisions  
9 for direct-entry midwifery.

10 This bill would regulate the practice of  
11 direct-entry midwifery by establishing the  
12 Midwives' Advisory Council to regulate the  
13 practice. The members of the council would be  
14 appointed by the Governor and would establish  
15 standards and criteria for direct-entry midwives  
16 and charge annual fees for registration and renewal  
17 of registration with the council. The registered  
18 direct-entry midwives would be liable for acts and  
19 omissions in the performance of their services.

20  
21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 Regulating the practice of direct-entry midwifery;  
26 establishing the Midwives' Advisory Council as the regulatory  
27 agency for the practice; providing for the composition and

1 terms of the members of the council; and authorizing the  
2 council to establish standards and criteria for the practice  
3 and to charge registration fees for persons in the practice.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. The Legislature recognizes the need for a  
6 person to have the freedom to choose the manner, cost, and  
7 setting for giving birth. The Legislature finds that access to  
8 prenatal care and delivery services is limited by the  
9 inadequate number of providers of such services, and that  
10 practice of direct-entry midwifery may help reduce this  
11 shortage. The Legislature also recognizes the need for the  
12 safe delivery of newborn babies and the health, safety, and  
13 welfare of their mothers in the delivery process. The  
14 Legislature, in the interest of public health, promotes the  
15 regulation of practice of direct-entry midwifery in this state  
16 for the purpose of protecting the health and welfare of women  
17 and infants. The Legislature recognizes that direct-entry  
18 midwifery is a profession in its own right and that it is not  
19 the practice of medicine.

20 Section 2. When used in this act, the following  
21 words and phrases shall have the following meanings,  
22 respectively, unless the context clearly indicates otherwise:

23 (1) CERTIFIED PROFESSIONAL MIDWIFE (CPM). A  
24 credential awarded by the North American Registry of Midwives  
25 (NARM) to an individual who has met standards for  
26 certification set by NARM.

1 (2) COUNCIL. The Midwives' Advisory Council  
2 established in Section 3 of this act.

3 (3) DIRECT-ENTRY MIDWIFE (DEM) or MIDWIFE. A person  
4 who practices traditional, direct-entry midwifery as defined  
5 in this section.

6 (4) PRACTICE OF DIRECT-ENTRY MIDWIFERY. The  
7 advising, attending, or assisting of a woman during pregnancy,  
8 labor and natural childbirth, and during postpartum period in  
9 accordance with this act.

10 Section 3. (a) The Midwives' Advisory Council is  
11 established under the Office of Women's Health. The council  
12 members shall be appointed by the Governor from a list of  
13 qualified persons provided by all midwifery advocacy groups in  
14 the state. To be qualified, a person shall have first hand  
15 experience with direct-entry midwifery care in an  
16 out-of-hospital setting in one of the following roles: A  
17 direct-entry midwife, a health professional who has worked  
18 with direct-entry midwives, or a consumer of direct-entry  
19 midwifery services. The council shall consist of three  
20 members. The majority of the council members shall be  
21 direct-entry midwives.

22 (b) Members of the council shall serve without  
23 compensation, but shall be entitled to reimbursement for per  
24 diem travel expenses at the same rate as state employees  
25 receive for travel in an official capacity.

26 Section 4. The terms of office of the members of the  
27 council shall be staggered four-year terms. In making the

1 initial appointments, the Governor shall appoint one member to  
2 a four-year term, one member to a three-year term, and one  
3 member to a two-year term. All subsequent terms shall be for  
4 four years. No member shall be appointed for more than two  
5 consecutive terms.

6 Section 5. (a) The council shall hold an initial  
7 meeting no later than 90 days after the effective date of this  
8 act. The meeting shall be held at a time and location  
9 determined by members of the council. At the initial meeting,  
10 the council shall organize by electing a chair and adopting  
11 internal management rules pursuant to the Alabama  
12 Administrative Procedure Act to govern procedures and  
13 operations of the council.

14 (b) After the initial meeting, the council shall  
15 meet at such times as provided in the internal management  
16 rules of the council, or on the call of the chair.

17 (c) Meetings of the council may be held anywhere in  
18 Alabama designated by the council.

19 Section 6. (a) The council shall adopt regulations  
20 governing the practice of direct-entry midwifery which meet  
21 the following criteria:

22 (b) The council shall administer applications for  
23 registration of a midwife's practice.

24 (c) The council shall determine fees for  
25 application, registration, and renewal of registration. The  
26 fees shall be used to offset the expenses incurred by the  
27 council in the administration of this act.

1 (d) The council shall establish a procedure by which  
2 client complaints against a midwife may be addressed pursuant  
3 to administrative rules adopted pursuant to the Administrative  
4 Procedure Act.

5 Section 7. (a) No person shall be registered to  
6 practice midwifery under this act unless the person meets one  
7 of the following requirements:

8 (1) The person fulfills the requirements to practice  
9 midwifery which the council may promulgate by regulation.

10 (2) The person holds a current credential from the  
11 North American Registry of Midwives (NARM) as a Certified  
12 Professional Midwife (CPM).

13 (b) Upon written application, qualification, and  
14 payment of fees designated by the council, registration shall  
15 be issued by the council, and shall be renewable biennially.

16 Section 8. The Legislature hereby finds, determines,  
17 and declares the following:

18 (1) The authority granted in this act for the  
19 provision of registered midwifery services does not constitute  
20 an endorsement of the practices, and it is incumbent upon the  
21 individual seeking the services to ascertain the  
22 qualifications of the registered midwife.

23 (2) It is the policy of this state that midwives  
24 shall be liable for their acts or omissions in the performance  
25 of the services that they provide, and no licensed physician,  
26 nurse, pre-hospital emergency medical personnel, or health  
27 care institution shall be liable for any act or omission

1 resulting from the administration of services by any  
2 registrant.

3 (3) Nothing in this act shall relieve any physician,  
4 nurse, pre-hospital emergency personnel, or health care  
5 institution from liability for any willful and wanton act or  
6 omission or any act or omission constituting gross negligence,  
7 or under circumstances where a registrant has a business or  
8 supervised relationship with any such physician, nurse,  
9 pre-hospital emergency personnel, or health care institution.

10 (4) A physician, nurse, pre-hospital emergency  
11 personnel, or health care institution may provide consultation  
12 or education to the registrant without establishing a business  
13 or supervisory relationship.

14 Section 9. Any person practicing as a registered  
15 midwife shall provide disclosure of specific information in  
16 writing to any client to whom midwifery care is provided. The  
17 registered midwife is responsible to maintain this information  
18 for each client for a period of five years from the date of  
19 last consultation. The disclosure shall include, but not be  
20 limited to, the following:

21 (1) A description of the experience, qualifications,  
22 and training of the registered midwife.

23 (2) A written protocol for medical emergencies,  
24 including hospital transport, particular to each client.

25 (3) A description of the Midwives' Model of Care.

26 (4) A copy of the Midwives' Advisory Council  
27 regulations governing the practice of midwifery.

1           (5) The right of a client to refuse services unless  
2 otherwise provided by law.

3           (6) A description of the right to file a complaint  
4 against any registered midwife with the council and the  
5 procedures for filing such a complaint.

6           (7) A copy of the following notice, signed by the  
7 client: "We realize that there are risks associated with  
8 birth, including the risk of death or disability of either  
9 mother or child. We understand that a situation may arise  
10 which requires emergency medical care, and that it may not be  
11 possible to transport the mother, baby, or both to the  
12 hospital in time to benefit from such care. We fully accept  
13 the outcome and consequences of our decision to have a  
14 registered midwife attend us during pregnancy and at our  
15 birth. We realize that our registered midwife is not licensed  
16 to practice medicine. We are not seeking a licensed physician  
17 or certified nurse midwife as the primary caregiver for this  
18 pregnancy, and we understand that our registered midwife shall  
19 inform us of any observed signs or symptoms of disease or  
20 complication, which may require evaluation, care, or treatment  
21 by a medical practitioner. We agree that we are totally  
22 responsible for obtaining qualified medical assistance for the  
23 care of any disease or pathological condition."

24           (8) Such other information as the council determines  
25 is appropriate to allow the client to make an informed choice  
26 in selecting midwifery care.

1                   Section 10. This act does not apply to persons  
2 authorized under Chapter 34 of Title 19, Code of Alabama 1975,  
3 to practice as certified nurse midwives. Nurse midwives are  
4 not subject to regulation by the Midwives' Advisory Council.

5                   Section 11. The provisions of this act are  
6 severable. If any part of this act is declared invalid or  
7 unconstitutional, that declaration shall not affect the part  
8 which remains.

9                   Section 12. This act shall become effective  
10 immediately following its passage and approval by the  
11 Governor, or its otherwise becoming law.