

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**Sec. 1. 32 MRSA §12501, sub-§6-A** is enacted to read:

**6-A. Licensed midwife.** "Licensed midwife" means a person who is licensed by the board to practice midwifery under this chapter.

**Sec. 2. 32 MRSA §12501, sub-§6-B** is enacted to read:

**6-B. Midwifery.** "Midwifery" means a system of health care for the provision of care, support and education consistent with a midwife's training, education and experience to women and their newborns throughout the prenatal and postpartum period.

**Sec. 3. 32 MRSA §12502, sub-§1**, as amended by PL 2007, c. 402, Pt. AA, §1, is further amended to read:

**1. Membership.** The Board of Complementary Health Care Providers, as established in Title 5, section 12004-A, subsection 8-A, shall regulate the professions of midwifery, acupuncture and naturopathic medicine according to the provisions of this chapter. The board consists of 79 members appointed by the Governor. The Governor shall make the initial appointments to the board no later than 60 days after the effective date of this section and shall inform the Commissioner of Professional and Financial Regulation of these appointments. The commissioner shall call the first meeting of the board on a date no later than 30 days following notification of appointments by the Governor. All members of the board must be residents of this State. Two members of the board must be acupuncturists licensed in this State. Two members of the board must be practitioners of naturopathic medicine who are eligible for licensure under, or are licensed pursuant to, the requirements of subchapter 3. Two members of the board must be licensed midwives. One member must be a public member as defined in Title 5, section 12004-A. One member must be an allopathic or osteopathic physician who is licensed in this State. One member must be a pharmacist who is licensed in this State.

**Sec. 4. 32 MRSA §12502, sub-§6**, as amended by PL 2007, c. 402, Pt. AA, §1, is further amended to read:

**6. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~Four~~Six members of the board constitute a quorum.

**Sec. 5. 32 MRSA §12503, sub-§1**, as amended by PL 2007, c. 402, Pt. AA, §2, is further amended to read:

**1. Duties.** The board shall:

- A. Adopt rules necessary to administer this chapter;
- B. Set standards of practice for acupuncturists ~~and~~, naturopathic doctors and licensed midwives;
- D. Ensure that acupuncturists and naturopathic doctors serving the public meet minimum standards of proficiency and competency to protect the health, safety and welfare of the public; ~~and~~
- E. Administer and enforce the provisions of this chapter and any rules adopted by the board under that authority granted in this chapter; and
- L. Adopt the standards of care and scope of practice standards published by an international certification agency for certified professional midwives or other credentialing authority acceptable to the board.

**Sec. 6. 32 MRSA c. 113-B, sub-c. 4** is enacted to read:

## **SUBCHAPTER 4**

### **LICENSED Midwives**

#### **§ 12531. Licensing; licensee title**

**1. License required.** A person may not profess to be a licensed midwife in this State unless that person holds a current, valid license to practice midwifery from the board.

**2. Title.** An individual who holds a current license to practice midwifery in this State has the right to use the title "licensed midwife" and the abbreviation "L.M." No other individual may assume the title or use the abbreviation or other words, letters, signs or devices to indicate that the individual using the same is a licensed midwife.

**3. Exception.** This subchapter does not apply to student midwives working under the supervision of a licensed midwife, under protocols defined by the board.

Nothing in this subchapter may be construed to require any person who practices the same techniques as or techniques similar to those of licensed midwives to obtain a license as a licensed midwife under this subchapter.

Certified nurse midwives who become licensed midwives remain subject to the jurisdiction of the State Board of Nursing and are subject to this subchapter.

#### **§ 12532. Qualifications for licensed midwives**

**1. Eligibility.** To be eligible to apply for a license under this subchapter, an applicant must meet requirements regarding education and experience as established by the board. The requirements must include certification as a certified professional midwife from a national certification agency whose mission is to establish and administer certification for the credential of certified professional midwife or other credentialing authority acceptable to the board.

## **§ 12533. Scope of practice**

**1. Scope of practice.** The scope of practice for licensed midwives includes the provision of care, support and education consistent with a midwife's training, education and experience to women and their newborns throughout the prenatal and postpartum period. Care provided by a licensed midwife may occur in any setting, including in a home, freestanding birthing center, office or medical facility, and may include care, support and education that is related to:

- A. Measures that promote and maintain the health of the mother and baby;
- B. The detection of abnormal conditions;
- C. The procurement of appropriate medical assistance;
- D. The execution of emergency measures;
- E. The provision of newborn care;
- F. The provision of well-woman health care; and
- G. The principles of informed choice, including written disclosure of specific information to any person to whom midwifery is provided.

The written disclosure described in paragraph G must include such information determined necessary by the board, including, but not limited to, the licensed midwife's education, experience and credentials, the midwifery model of care, a notice of the licensed midwife's professional liability insurance coverage status and the board's contact information.

**2. Authority to possess and administer medication.** Licensed midwives have limited authority to possess and administer noncontrolled prescription medication, as set out in this subsection.

A. A licensed midwife may possess and administer, in the course of the practice of midwifery, only the following noncontrolled prescription drugs and substances:

(1) Oxygen;

(2) Oxytocin, excluding the oxytocic drug methergine, for the sole purpose of postpartum control of maternal hemorrhage;

(3) Vitamin K;

(4) Eye prophylaxis; and

(5) Local anesthetics or numbing agents for repair of lacerations.

B. When administering oxytocin under paragraph A, a licensed midwife may not administer more than 20 units of oxytocin to a single patient. Oxytocin may be administered only for postpartum purposes in order to treat hemorrhaging and specifically may not be used to induce labor.

### **§ 12534. Fees**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any application may not exceed \$200 and the fee for initial and renewal licensure of licensed midwives may not exceed \$750 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

### **§ 12535. Application for renewal**

1. Requirements. Prior to the expiration of a license, a licensed midwife may make an application for renewal upon payment of the renewal fee as set under section 12534 and upon satisfactory demonstration of completion of any requirements adopted by the board as a condition of renewal.

2. Late renewal. An application under subsection 1 made no more than 90 days past the date of expiration of a license must include a late fee in addition to the renewal fee as set under section 12534. An application received more than 90 days past the expiration date is subject to all requirements covering new applicants under this subchapter.

**Sec. 7. 32 MRSA §13811** is enacted to read:

### **§ 13811. Drug administration by licensed midwives**

A licensed midwife who is licensed under section 12531 may:

1. Possession. Possess, in the course of the practice of midwifery, only the noncontrolled prescription drugs and substances set out in this subsection:

A. Oxygen;

B. Oxytocin, excluding the oxytocic drug methergine, for the sole purpose of postpartum control of maternal hemorrhage;

C. Vitamin K;

D. Eye prophylaxis; and

E. Local anesthetics or numbing agents for repair of lacerations; and

**2. Administration.** Administer, in the course of the practice of midwifery, those drugs and substances that are listed in subsection 1. When administering oxytocin under this section, a licensed midwife may not administer more than 20 units of oxytocin to a single patient. Oxytocin may be administered only for postpartum purposes in order to treat hemorrhaging and specifically may not be used to induce labor. When a licensed midwife administers oxytocin in accordance with this section, the licensed midwife shall report that use to the maternal and child health division of the Department of Health and Human Services, Maine Center for Disease Control and Prevention within 7 days of the use of oxytocin.

**Sec. 8. 32 MRSA §13812** is enacted to read:

**§ 13812. Dispensing of medication by pharmacist**

**1. Dispensing of medication.** A pharmacist may sell and dispense to a licensed midwife licensed under section 12531 the noncontrolled prescription drugs and substances identified in section 13811.

**2. Good faith.** A pharmacist, or person acting at the direction of a pharmacist, who:

A. In good faith sells and dispenses noncontrolled prescription drugs and substances to a licensed midwife pursuant to this section is not liable for any adverse reactions caused by any method of use by the licensed midwife; and

B. Makes a report relating to the dispensing of noncontrolled prescription drugs and substances to a licensed midwife pursuant to section 13811 to an enforcement agency is immune from any civil liability that may result from that action, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information.

In a proceeding in which a pharmacist, or person acting at the direction of a pharmacist, invokes the immunity provided pursuant to this subsection, there is a rebuttable presumption of good faith.

**Sec. 9. Appointments to the Board of Complementary Health Care Providers.**

The Governor, within 60 days following the effective date of this Act, shall appoint 2 licensed midwives to serve as board members on the Board of Complementary Health Care Providers pursuant to the Maine Revised Statutes, Title 32, section 12502.

**Sec. 10. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 117, subchapter 11, in the subchapter headnote, the words "noncontrolled prescription drug administration" are amended to read "noncontrolled prescription drug dispensing and administration" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 11. Appropriations and allocations.** The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Licensing and Enforcement 0352**

Initiative: Allocates funds for a portion of the All Other costs associated with establishing a license for certified professional midwives under the Board of Complementary Health Care Providers.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2007-08</b>	<b>2008-09</b>
All Other	\$0	\$10,450
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<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$10,450</b>

**Licensing and Enforcement 0352**

Initiative: Appropriates funds for one half-time investigator position, per diem for 2 additional board members to the Board of Complementary Health Care Providers and related All Other costs associated with establishing a license for certified professional midwives.

<b>GENERAL FUND</b>	<b>2007-08</b>	<b>2008-09</b>
POSITIONS - LEGISLATIVE COUNT	0.000	0.500
Personal Services	\$0	\$32,251
All Other	\$0	\$23,613
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<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$55,864</b>

<b>PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2007-08</b>	<b>2008-09</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$55,864</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$10,450</b>
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<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$66,314</b>

**SUMMARY**

This amendment is the majority report of the committee. The amendment replaces the bill and establishes a license for certified professional midwives under the Board of Complementary Health Care Providers. It adds 2 licensed midwives to the board. The amendment restricts the use of the title "licensed midwife" and the abbreviation "L.M." to licensed midwives who hold a current license to

practice midwifery in this State. It authorizes licensed midwives to possess and administer a limited number of noncontrolled prescription drugs and substances in the course of the practice of midwifery, including oxygen; oxytocin, excluding the oxytocic drug methergine, for the sole purpose of postpartum control of maternal hemorrhaging; vitamin K; eye prophylaxis; and local anesthetics or numbing agents for repair of lacerations. It requires midwives to report the use of the antihemorrhagic medication to the maternal and child health division of the Department of Health and Human Services, Maine Center for Disease Control and Prevention.

It also provides that a pharmacist, acting in good faith, is not prohibited from selling and dispensing any of those drugs and substances to a licensed midwife. A pharmacist, or person acting at the direction of a pharmacist, who in good faith sells and dispenses noncontrolled prescription drugs and substances to a licensed midwife is not liable for any adverse reactions caused by any method of use by the licensed midwife. A pharmacist, or person acting at the direction of a pharmacist, who makes a report to an enforcement agency is immune from any civil liability that may result from that action, including, but not limited to, any civil liability that might otherwise arise under state or local laws or rules regarding confidentiality of information. It also establishes a rebuttable presumption of good faith for pharmacists.

**FISCAL NOTE REQUIRED**  
(See attached)