

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2017 REGULAR SESSION
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Amend printed copy of **SB 105**

After the enacting clause by deleting the bill in its entirety and inserting the following in lieu thereof:

"➔SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act:

- (1) "APRN-designated nurse midwife" means an advanced practice registered nurse as defined in KRS 314.011 who is designated by the board as a certified nurse midwife;
- (2) "Council" means the Certified Professional Midwives Advisory Council;
- (3) "Midwifery" means providing care to a woman during a low-risk pregnancy, childbirth, and the postpartum period, and the care of a normal newborn immediately following birth. Midwifery includes consultation with or referral to medical and other health care providers when indicated. Midwifery services are provided by the certified professional midwife during labor in the client's home; and
- (4) "Certified professional midwife" means a person who is issued a permit by the board to provide midwifery services in the Commonwealth of Kentucky.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby created, under the Board of Nursing, the Certified Professional

Amendment No. SFA 1

Rep. Sen. Ralph Alvarado

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: Wenk, DeeAnn

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXX

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Midwives Advisory Council, which shall advise the board regarding qualifications, standards for training, competency determination of certified professional midwives, any necessary statutory changes, and all other matters relating to certified professional midwives.

(2) The council shall be appointed by the board and shall consist of:

(a) One (1) member of the board, who shall serve as chair of the council;

(b) Three (3) certified professional midwives;

(c) Three (3) APRN-designated nurse midwives who regularly provide midwifery services;

(d) Three (3) obstetricians licensed in Kentucky; and

(e) One (1) pediatrician licensed in Kentucky.

(3) The board may solicit nominations for the council from interested parties or organizations.

(4) The board shall specify the terms for the council members. Members shall serve at the discretion of the board and shall receive reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

(5) A certified professional midwife has the same authority and responsibility as other licensed health care providers regarding public health laws, reportable diseases and conditions, communicable disease control and prevention, recording of vital statistics, health and physical examinations, and local boards of health, except that this authority is limited to activity consistent with provision of services authorized by Sections 1 to 7 of this Act.

(6) A certified professional midwife shall keep appropriate medical records regarding treatment and outcomes as required by the board by administrative regulation.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ

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AS FOLLOWS:

The board shall promulgate administrative regulations in accordance with KRS Chapter 13A

to:

- (1) Establish required standards for training programs for certified professional midwives;**
- (2) Establish permitting requirements for certified professional midwives, including but not limited to:**
 - (a) Educational requirements that are certified by a nationally recognized organization or midwifery educational institution recognized by the board;**
 - (b) Competency validation;**
 - (c) Postgraduate preceptor programs; and**
 - (d) Transfer agreements with health care facilities that deliver babies;**
- (3) Establish provisions for the discipline of certified professional midwives;**
- (4) Establish fees for the initial permit, renewal of a permit, reinstatement of a permit, and other fees as may be necessary, for certified professional midwives;**
- (5) Establish requirements for informed consent by individuals receiving services from a certified professional midwife;**
- (6) Further regulate, as necessary, certified professional midwives; and**
- (7) Require certified professional midwives to report to the board the following information regarding cases in which the certified professional midwife assisted during the previous calendar year when the intended place of birth at the onset of care was at home:**
 - (a) The total number of clients served as primary maternity caregiver at the onset of care;**
 - (b) The number of live births attended as primary maternity caregiver;**
 - (c) The number of cases of fetal demise, infant deaths, and maternal deaths attended as primary maternity caregiver at the discovery of the demise or death;**

- (d) The number, reason for, and outcome of each transport of a client in the antepartum, intrapartum, or immediate postpartum periods;
- (e) A brief description of any complications resulting in the morbidity or mortality of a mother or a neonate; and
- (f) Any other information deemed necessary by the board.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The board may require a criminal background investigation of an applicant for a permit as a certified professional midwife by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

- (1) It shall be unlawful for any person, other than an APRN-designated nurse midwife or a physician, to provide midwifery services unless that person is a certified professional midwife currently issued a permit by the board to practice midwifery.
- (2) It shall be unlawful for any person to call or hold herself or himself out as or use the title of certified professional midwife or to practice or offer to practice as a certified professional midwife unless he or she has been issued a permit by the board in accordance with the provisions of Sections 1 to 7 of this Act.
- (3) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school or program of midwifery unless the school or program has been approved by the board to do so.
- (4) It shall be unlawful for any certified professional midwife, employer of a certified professional midwife, or any person having knowledge of facts to refrain from reporting to the board a certified professional midwife who violates any provision set forth in

administrative regulation for certified professional midwives.

(5) It shall be unlawful for any person to provide midwifery services as a certified professional midwife who is listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.

(6) Nothing in sections 1 to 7 of this Act shall prohibit a traditional birth attendant practicing midwifery without a license if the traditional birth attendant has cultural or religious traditions that have historically included the attendance of traditional birth attendants at birth, and that the birth attendant serves only women and families in that distinct cultural or religious group.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

A certified professional midwife issued a permit by the board in accordance with Sections 1 to 7 of this Act shall not provide midwifery services in cases in which there is a reasonable likelihood that any of the following conditions exist:

(1) Multifetal gestation;

(2) Breech presentation;

(3) Previous cesarean section;

(4) Previous shoulder dystocia;

(5) Gestational diabetes;

(6) Preeclampsia; or

(7) Any other high-risk pregnancy or neonatal condition that would preclude a safe birth.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) No physician, advanced practice registered nurse, hospital, emergency room personnel, emergency medical technician ambulance personnel, or other health care provider shall

be liable in any civil action arising out of any injury resulting from an act or omission of a certified professional midwife solely because the health care provider has consulted with or accepted a referral from the certified professional midwife. Nothing in this subsection shall affect the liability of any physician, advanced practice registered nurse, hospital, emergency room personnel, emergency medical technician ambulance personnel, or other health care provider for his or her own acts or omissions.

(2) A physician or advanced practice registered nurse who consults with a certified professional midwife, but who does not examine or treat a client of the midwife, shall not be deemed to have created a physician-patient or nurse-patient relationship with the client solely because of the consultation.

➔Section 8. KRS 211.180 is amended to read as follows:

- (1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for Health and Family Services for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and programs relating to all matters of public health, including but not limited to the following matters:
 - (a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;
 - (b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-

diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control and Prevention of the United States Public Health Service. No later than October 1, 2004, the cabinet shall require reporting of cases of human immunodeficiency virus infection by reporting of the name and other relevant data as requested by the Centers for Disease Control and Prevention and as further specified in KRS 214.645. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient;

- (c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;
- (d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;
- (e) Protection and improvement of the health of expectant mothers, infants, preschool,

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and school-age children; ***and***

(f) ~~{The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and~~

~~(g) }Protection and improvement of the health of the people through better nutrition.~~

(2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars (\$20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

➔Section 9. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

- (1) "Board" means the State Board of Medical Licensure;
- (2) "President" means the president of the State Board of Medical Licensure;
- (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- (4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;
- (5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

- (6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;
- (7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;
- (8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;
- (9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;
- (10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;
- (11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the domestic administration of family remedies, the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter, the use of automatic external defibrillators in accordance with the provisions of KRS 311.665 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by paramedics licensed under KRS Chapter 311A, first responders, or

emergency medical technicians certified under Chapter 311A, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery ~~by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health and Family Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers~~];

- (12) "Physician" means a doctor of medicine or a doctor of osteopathy;
- (13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;
- (14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;
- (15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;
- (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;
- (17) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education;
- (18) "Order" means a direction of the board or its panels made or entered in writing that determines some point or directs some step in the proceeding and is not included in the final order;
- (19) "Agreed order" means a written document that includes but is not limited to stipulations of

fact or stipulated conclusions of law that finally resolves a grievance, a complaint, or a show cause order issued informally without expectation of further formal proceedings in accordance with KRS 311.591(6);

- (20) "Final order" means an order issued by the hearing panel that imposes one (1) or more disciplinary sanctions authorized by this chapter;
- (21) "Letter of agreement" means a written document that informally resolves a grievance, a complaint, or a show cause order and is confidential in accordance with KRS 311.619;
- (22) "Letter of concern" means an advisory letter to notify a physician that, although there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that the continuation of those practices may result in action against the physician's license;
- (23) "Motion to revoke probation" means a pleading filed by the board alleging that the licensee has violated a term or condition of probation and that fixes a date and time for a revocation hearing;
- (24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter 13B to determine whether the licensee has violated a term or condition of probation;
- (25) "Chronic or persistent alcoholic" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of alcoholic beverages;
- (26) "Addicted to a controlled substance" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic use of any narcotic drug or controlled substance resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of any

narcotic drug or controlled substance;

(27) "Provisional permit" means a temporary permit issued to a licensee engaged in the active practice of medicine within this Commonwealth who has admitted to violating any provision of KRS 311.595 that permits the licensee to continue the practice of medicine until the board issues a final order on the registration or reregistration of the licensee;

(28) "Fellowship training license" means a license to practice medicine or osteopathy in a fellowship training program as specified by the license; and

(29) "Special faculty license" means a license to practice medicine that is limited to the extent that this practice is incidental to a necessary part of the practitioner's academic appointment at an accredited medical school program or osteopathic school program and any affiliated institution for which the medical school or osteopathic school has assumed direct responsibility."