

1 AN ACT relating to permits for certified professional midwives.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

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

5 *As used in Sections 1 to 7 of this Act:*

6 *(1) "APRN-designated certified nurse-midwife" means an advanced practice*
7 *registered nurse as defined in KRS 314.011 who is designated by the board as a*
8 *certified nurse-midwife;*

9 *(2) "Certified professional midwife" means a person who is certified by the North*
10 *American Registry of Midwives and issued a permit by the board to provide*
11 *certified professional midwifery services in the Commonwealth of Kentucky;*

12 *(3) "Certified professional midwifery services" means the provision of care to a*
13 *person during a low-risk pregnancy, childbirth, and the postpartum period, and*
14 *the care of a normal newborn immediately following birth. "Certified*
15 *professional midwifery services" includes consultation with or referral to medical*
16 *and other health care providers when indicated. Providing "certified professional*
17 *midwifery services" shall not have the same meaning as the practice of an*
18 *APRN-designated certified nurse-midwife as defined in KRS 314.011 or the*
19 *practice of medicine or osteopathy as defined in KRS 311.550; and*

20 *(4) "Council" means the Certified Professional Midwives Advisory Council created*
21 *in Section 2 of this Act.*

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

24 *(1) There is hereby created, under the Board of Nursing, the Certified Professional*
25 *Midwives Advisory Council, which shall advise the board on promulgating*
26 *regulations regarding qualifications, standards for training, competency*
27 *determination of certified professional midwives, any necessary statutory*

1 changes, and all other matters relating to certified professional midwives.

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

3 (a) One (1) member of the board, who shall be a nonvoting, ex officio member
4 and serve as the liaison between the chair of the council and the board;

5 (b) Three (3) certified professional midwives;

6 (c) Two (2) APRN-designated certified nurse-midwives licensed in Kentucky;

7 (d) Two (2) obstetricians licensed in Kentucky;

8 (e) One (1) practicing neonatal health care provider licensed in Kentucky; and

9 (f) One (1) member of the general public.

10 The chair of the council shall be elected annually by members of the council.

11 (3) The board may solicit nominations for the council from interested parties or
12 organizations and shall give consideration to nominees who have experience
13 collaborating with providers of, providing, or utilizing out-of-hospital midwifery
14 services.

15 (4) The board shall specify the terms for the council members, not to exceed four (4)
16 years. Members shall serve at the discretion of the board, may be reappointed at
17 the end of their terms, and shall receive reimbursement for their actual and
18 necessary expenses incurred in the performance of their official duties.

19 (5) A certified professional midwife has the same authority and responsibility as
20 licensed health care providers regarding following public health laws, reporting
21 reportable diseases and conditions, controlling and preventing communicable
22 diseases, recording of vital statistics, obtaining health histories, and performing
23 physical examinations, except that this authority is limited to activity consistent
24 with provision of services authorized by Sections 1 to 7 of this Act.

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

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

1 READ AS FOLLOWS:

2 *The board shall promulgate administrative regulations in accordance with KRS*

3 *Chapter 13A to:*

4 *(1) Establish required standards for training programs for certified professional*
5 *midwives;*

6 *(2) Establish permitting requirements for certified professional midwives, including*
7 *but not limited to:*

8 *(a) Educational requirements that are consistent with the International*
9 *Confederation of Midwives essential competencies for basic midwifery*
10 *practice and the United States Midwifery Education, Regulation, and*
11 *Association statement on the licensure of certified professional midwives;*

12 *(b) Competency validation certified by a national organization or agency and*
13 *recognized by the board; and*

14 *(c) Certified professional midwife preceptor programs;*

15 *(3) Establish statewide requirements for certified professional midwives and*
16 *hospitals regarding the transfer of care in an emergency situation;*

17 *(4) Establish provisions for disciplinary actions for certified professional midwives;*

18 *(5) Establish fees for the initial permit not to exceed one thousand dollars (\$1,000),*
19 *renewal of a permit, reinstatement of a permit, and other fees as may be*
20 *necessary, for certified professional midwives;*

21 *(6) Establish requirements for informed consent by individuals receiving services*
22 *from a certified professional midwife;*

23 *(7) Establish a list of medical tests that a certified professional midwife may order*
24 *when providing certified professional midwifery services that is limited to only*
25 *those tests that are indicated and approved for the safe conduct of pregnancy,*
26 *labor and birth, and care of a client;*

27 *(8) Establish a formulary of medications that a certified professional midwife may*

1 obtain, transport, and administer when providing certified professional midwifery
 2 services that is limited to only those medications that are indicated and approved
 3 for the safe conduct of pregnancy, labor and birth, and care of a client, and that
 4 the certified professional midwife is educationally prepared and approved to
 5 administer and monitor. This shall not be interpreted to bestow prescriptive
 6 authority and the formulary shall not include Schedule II, III, IV, or V drugs as
 7 defined in the Controlled Substances Act, 21 U.S.C. secs. 812 et seq.;

8 (9) Further regulate, as necessary, the provision of certified professional midwifery
 9 services; and

10 (10) Require certified professional midwives to report to the board the following
 11 information regarding cases in which the certified professional midwife provided
 12 services during the previous calendar year when the intended place of birth at the
 13 onset of care was in an out-of-hospital setting:

14 (a) The total number of clients provided certified professional midwife services
 15 at the onset of care;

16 (b) The number of live births attended as a certified professional midwife;

17 (c) The number of cases of fetal demise, newborn deaths, and maternal deaths
 18 attended as a certified professional midwife at the discovery of the demise or
 19 death;

20 (d) The number, reason for, and outcome of each transport of a client in the
 21 antepartum, intrapartum, or immediate postpartum periods;

22 (e) A brief description of any complications resulting in the morbidity or
 23 mortality of a mother or a newborn; and

24 (f) Any other information deemed necessary by the board.

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

27 The board may require a criminal background investigation of an applicant for a

1 permit as a certified professional midwife by means of a fingerprint check by the
2 Department of Kentucky State Police and the Federal Bureau of Investigation.

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

5 (1) It shall be unlawful for any person to provide certified professional midwifery
6 services unless that person is a certified professional midwife currently issued a
7 permit by the board in accordance with Sections 1 to 7 of this Act or is a licensed
8 health care provider providing services that are within his or her scope of
9 practice.

10 (2) It shall be unlawful for any person to hold herself or himself out as a certified
11 professional midwife authorized to provide services in Kentucky unless he or she
12 has been issued a permit by the board in accordance with Sections 1 to 7 of this
13 Act.

14 (3) It shall be unlawful for any person to operate or to offer to operate or to represent
15 or advertise the operation of a school or program of certified professional
16 midwifery unless the school or program has been approved by the board to do so.

17 (4) It shall be unlawful for any certified professional midwife or employer of a
18 certified professional midwife having knowledge of facts to refrain from
19 reporting to the board a certified professional midwife who violates any provision
20 set forth in administrative regulation for certified professional midwives.

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

24 (6) Nothing in Sections 1 to 7 of this Act shall prohibit a traditional birth attendant
25 providing midwifery services without a permit if the traditional birth attendant
26 has cultural or religious traditions that have historically included the attendance
27 of traditional birth attendants at birth, and the birth attendant serves only women

1 and families in that distinct cultural or religious group.

2 (7) Nothing in Sections 1 to 7 of this Act shall prohibit a licensed health care
3 provider or other person from providing emergency delivery services.

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

6 The council shall delineate findings regarding non-cephalic presentation, multifetal
7 gestation, previous cesarean section, and any other conditions as determined by the
8 council that preclude a client from being classified as having a low-risk pregnancy,
9 labor, delivery, or postpartum period, which shall form the basis for any requirements
10 or restrictions imposed by the board on the provision of certified professional
11 midwifery services to a client whose condition is not classified as low-risk.

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

14 A licensed physician, advanced practice registered nurse, hospital, emergency room
15 personnel, emergency medical technician ambulance personnel, or other licensed
16 health care provider shall be immune from civil liability for any injuries or death
17 resulting from acts or omissions of a certified professional midwife. Notwithstanding
18 any state law to the contrary, a licensed physician, advanced practice registered nurse,
19 hospital, emergency room personnel, emergency medical technician ambulance
20 personnel, or other licensed health care provider who consults or collaborates with a
21 certified professional midwife or accepts transfer of care of clients of a certified
22 professional midwife is not liable for damages for injuries or death alleged to have
23 occurred by reason of an act or omission, unless it is established that the injuries or the
24 death were caused willfully, wantonly or recklessly, or by gross negligence on the part
25 of the licensed physician, advanced practice registered nurse, hospital, emergency
26 room personnel, emergency medical technician ambulance personnel, or other
27 licensed health care provider.

1 ➔Section 8. KRS 164.298 is amended to read as follows:

2 (1) The governing board as defined in KRS 164.001 of each eligible postsecondary
3 education institution and college as defined in KRS 164.945 that offers an advanced
4 practice doctoral degree in nursing shall be accredited by a national nursing
5 accrediting body that includes but is not limited to the Accreditation Commission
6 for Education in Nursing, the National League for Nursing Commission for Nursing
7 Education Accreditation, the Council on Accreditation of Nurse Anesthesia
8 Educational Programs, the Accreditation Commission for Midwifery Education, or
9 the Commission on Collegiate Nursing Education and with minimal education and
10 licensure standards for admission to and graduation from an advanced practice
11 doctoral program in nursing.

12 (2) Each university offering an advanced nursing practice doctoral program shall refer
13 to the degree as the "doctor of nursing practice," with the degree being abbreviated
14 as "DNP." Any advertisement about the advanced nursing practice doctoral program
15 shall not refer to graduates using the term "doctor." Graduates of the program shall
16 accurately portray their academic credentials as well as their registered nurse and
17 advanced practice registered nurse credentials, if applicable, subject to sanction
18 under KRS 311.375(4).

19 (3) **A "certified professional midwife" as defined in Section 1 of this Act shall not**
20 **have the same meaning as an advanced practice registered nurse with a**
21 **designation by the Board of Nursing as a certified nurse-midwife.**

22 ➔Section 9. KRS 211.180 is amended to read as follows:

23 (1) The cabinet shall enforce the administrative regulations promulgated by the
24 secretary of the Cabinet for Health and Family Services for the regulation and
25 control of the matters set out below and shall formulate, promote, establish, and
26 execute policies, plans, and programs relating to all matters of public health,
27 including but not limited to the following matters:

- 1 (a) Detection, prevention, and control of communicable diseases, chronic and
2 degenerative diseases, dental diseases and abnormalities, occupational
3 diseases and health hazards peculiar to industry, home accidents and health
4 hazards, animal diseases which are transmissible to man, and other diseases
5 and health hazards that may be controlled;
- 6 (b) The adoption of regulations specifying the information required in and a
7 minimum time period for reporting a sexually transmitted disease. In adopting
8 the regulations the cabinet shall consider the need for information, protection
9 for the privacy and confidentiality of the patient, and the practical ability of
10 persons and laboratories to report in a reasonable fashion. The cabinet shall
11 require reporting of physician-diagnosed cases of acquired immunodeficiency
12 syndrome based upon diagnostic criteria from the Centers for Disease Control
13 and Prevention of the United States Public Health Service. No later than
14 October 1, 2004, the cabinet shall require reporting of cases of human
15 immunodeficiency virus infection by reporting of the name and other relevant
16 data as requested by the Centers for Disease Control and Prevention and as
17 further specified in KRS 214.645. Nothing in this section shall be construed to
18 prohibit the cabinet from identifying infected patients when and if an effective
19 cure for human immunodeficiency virus infection or any immunosuppression
20 caused by human immunodeficiency virus is found or a treatment which
21 would render a person noninfectious is found, for the purposes of offering or
22 making the cure or treatment known to the patient;
- 23 (c) The control of insects, rodents, and other vectors of disease; the safe handling
24 of food and food products; the safety of cosmetics; the control of narcotics,
25 barbiturates, and other drugs as provided by law; the sanitation of schools,
26 industrial establishments, and other public and semipublic buildings; the
27 sanitation of state and county fairs and other similar public gatherings; the

- 1 sanitation of public and semipublic recreational areas; the sanitation of public
2 rest rooms, trailer courts, hotels, tourist courts, and other establishments
3 furnishing public sleeping accommodations; the review, approval, or
4 disapproval of plans for construction, modification, or extension of equipment
5 related to food-handling in food-handling establishments; the licensure of
6 hospitals; and the control of such other factors, not assigned by law to another
7 agency, as may be necessary to insure a safe and sanitary environment;
- 8 (d) The construction, installation, and alteration of any on-site sewage disposal
9 system, except for a system with a surface discharge;
- 10 (e) Protection and improvement of the health of expectant mothers, infants,
11 preschool, and school-age children; **and**
- 12 (f) ~~[/The practice of midwifery, including the issuance of permits to and
13 supervision of women who practice midwifery; and
14 (g)]~~Protection and improvement of the health of the people through better
15 nutrition.
- 16 (2) The secretary shall have authority to establish by regulation a schedule of
17 reasonable fees, not to exceed twenty dollars (\$20) per inspector hour plus travel
18 costs pursuant to state regulations for travel reimbursement, to cover the costs of
19 inspections of manufacturers, retailers, and distributors of consumer products as
20 defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.;
21 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of
22 determining compliance with the provisions of this section and the regulations
23 adopted by the secretary pursuant thereto. Fees collected by the secretary shall be
24 deposited in the State Treasury and credited to a revolving fund account for the
25 purpose of carrying out the provisions of this section. The balance of the account
26 shall lapse to the general fund at the end of each biennium.
- 27 (3) Any administrative hearing conducted under authority of this section shall be

1 conducted in accordance with KRS Chapter 13B.

2 ➔Section 10. KRS 311.271 is amended to read as follows:

3 (1) No person shall be eligible for licensure to practice any healing art in this state
4 unless and until he furnishes satisfactory evidence to the appropriate licensing
5 agency, that prior to being licensed by the respective state agency that he was
6 credited with not less than sixty (60) transferable units of study by a college or
7 university accredited by the Southern Association of Colleges and Schools or an
8 accrediting agency recognized by the Southern Association of Colleges and Schools
9 or any successor to the powers of either; provided, however, that the transferability
10 of credits from colleges and universities located outside the United States and
11 Canada shall be determined by the appropriate licensing agency.

12 (2) (a) The term "healing art," as used herein, includes the practices of medicine,
13 osteopathy, dentistry, chiropody (podiatry), optometry, and chiropractic, but
14 does not include the practices of Christian Science or midwifery or the
15 provision of certified professional midwifery services by a certified
16 professional midwife as defined in Section 1 of this Act.

17 (b) The term "transferable units of study" means semester hour (or equivalent)
18 credits and may include advance placement credits.

19 (3) This section shall not apply to any student who is enrolled in any school of
20 medicine, osteopathy, dentistry, chiropody (podiatry), optometry, or chiropractic on
21 June 13, 1968, nor shall it affect the right of any person who is presently licensed to
22 practice a healing art in this state, to have his license renewed upon compliance
23 with all other requirements of law.

24 ➔Section 11. KRS 311.550 is amended to read as follows:

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

26 (1) "Board" means the State Board of Medical Licensure;

27 (2) "President" means the president of the State Board of Medical Licensure;

- 1 (3) "Secretary" means the secretary of the State Board of Medical Licensure;
- 2 (4) "Executive director" means the executive director of the State Board of Medical
3 Licensure or any assistant executive directors appointed by the board;
- 4 (5) "General counsel" means the general counsel of the State Board of Medical
5 Licensure or any assistant general counsel appointed by the board;
- 6 (6) "Regular license" means a license to practice medicine or osteopathy at any place in
7 this state;
- 8 (7) "Limited license" means a license to practice medicine or osteopathy in a specific
9 institution or locale to the extent indicated in the license;
- 10 (8) "Temporary permit" means a permit issued to a person who has applied for a regular
11 license, and who appears from verifiable information in the application to the
12 executive director to be qualified and eligible therefor;
- 13 (9) "Emergency permit" means a permit issued to a physician currently licensed in
14 another state, authorizing the physician to practice in this state for the duration of a
15 specific medical emergency, not to exceed thirty (30) days;
- 16 (10) Except as provided in subsection (11) of this section, the "practice of medicine or
17 osteopathy" means the diagnosis, treatment, or correction of any and all human
18 conditions, ailments, diseases, injuries, or infirmities by any and all means,
19 methods, devices, or instrumentalities;
- 20 (11) The "practice of medicine or osteopathy" does not include the practice of Christian
21 Science, the domestic administration of family remedies, the rendering of first aid
22 or medical assistance in an emergency in the absence of a person licensed to
23 practice medicine or osteopathy under the provisions of this chapter, the use of
24 automatic external defibrillators in accordance with the provisions of KRS 311.665
25 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a
26 midlevel health care practitioner as defined in KRS 216.900, the practice of
27 dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS

1 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015,
2 the practice as a nurse as defined in KRS 314.011, the practice of physical therapy
3 as defined in KRS 327.010, the practice of genetic counseling as defined in KRS
4 311.690, the performance of duties for which they have been trained by paramedics
5 licensed under KRS Chapter 311A, first responders, or emergency medical
6 technicians certified under Chapter 311A, the practice of pharmacy by persons
7 licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or
8 proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments,
9 apparatus, or mechanisms that are intended, advertised, or represented as being for
10 the treatment, correction, cure, or relief of any human ailment, disease, injury,
11 infirmity, or condition, in regular mercantile establishments, ~~for~~ the practice of
12 midwifery, or the provision of certified professional midwifery services by a
13 certified professional midwife as defined in Section 1 of this Act ~~[by women. KRS~~
14 ~~311.530 to 311.620 shall not be construed as repealing the authority conferred on~~
15 ~~the Cabinet for Health and Family Services by KRS Chapter 211 to provide for the~~
16 ~~instruction, examination, licensing, and registration of all midwives through county~~
17 ~~health officers];~~

18 (12) "Physician" means a doctor of medicine or a doctor of osteopathy;

19 (13) "Grievance" means any allegation in whatever form alleging misconduct by a
20 physician;

21 (14) "Charge" means a specific allegation alleging a violation of a specified provision of
22 this chapter;

23 (15) "Complaint" means a formal administrative pleading that sets forth charges against
24 a physician and commences a formal disciplinary proceeding;

25 (16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those
26 crimes which have dishonesty as a fundamental and necessary element, including
27 but not limited to crimes involving theft, embezzlement, false swearing, perjury,

- 1 fraud, or misrepresentation;
- 2 (17) "Telehealth" means the use of interactive audio, video, or other electronic media to
3 deliver health care. It includes the use of electronic media for diagnosis,
4 consultation, treatment, transfer of medical data, and medical education;
- 5 (18) "Order" means a direction of the board or its panels made or entered in writing that
6 determines some point or directs some step in the proceeding and is not included in
7 the final order;
- 8 (19) "Agreed order" means a written document that includes but is not limited to
9 stipulations of fact or stipulated conclusions of law that finally resolves a grievance,
10 a complaint, or a show cause order issued informally without expectation of further
11 formal proceedings in accordance with KRS 311.591(6);
- 12 (20) "Final order" means an order issued by the hearing panel that imposes one (1) or
13 more disciplinary sanctions authorized by this chapter;
- 14 (21) "Letter of agreement" means a written document that informally resolves a
15 grievance, a complaint, or a show cause order and is confidential in accordance with
16 KRS 311.619;
- 17 (22) "Letter of concern" means an advisory letter to notify a physician that, although
18 there is insufficient evidence to support disciplinary action, the board believes the
19 physician should modify or eliminate certain practices and that the continuation of
20 those practices may result in action against the physician's license;
- 21 (23) "Motion to revoke probation" means a pleading filed by the board alleging that the
22 licensee has violated a term or condition of probation and that fixes a date and time
23 for a revocation hearing;
- 24 (24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter
25 13B to determine whether the licensee has violated a term or condition of probation;
- 26 (25) "Chronic or persistent alcoholic" means an individual who is suffering from a
27 medically diagnosable disease characterized by chronic, habitual, or periodic

1 consumption of alcoholic beverages resulting in the interference with the
2 individual's social or economic functions in the community or the loss of powers of
3 self-control regarding the use of alcoholic beverages;

4 (26) "Addicted to a controlled substance" means an individual who is suffering from a
5 medically diagnosable disease characterized by chronic, habitual, or periodic use of
6 any narcotic drug or controlled substance resulting in the interference with the
7 individual's social or economic functions in the community or the loss of powers of
8 self-control regarding the use of any narcotic drug or controlled substance;

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

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

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