

Act No. 417
Public Acts of 2016
Approved by the Governor
January 3, 2017
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Reps. McBroom, Brett Roberts, Aaron Miller, Rendon, Runestad, Chang, Chatfield, Heise, Franz, Vaupel, Glardon, Cole, Pagan, Lyons, Hovey-Wright, Jenkins, Irwin, Johnson, Darany, Muxlow, Price, Pettalia, Dianda, Rutledge, Kivela, Geiss, Cochran, Santana and Inman

ENROLLED HOUSE BILL No. 4598

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” (MCL 333.1101 to 333.25211) by adding section 16326 and part 171.

The People of the State of Michigan enact:

Sec. 16326. (1) Fees for an individual who is licensed or seeking licensure to engage in the practice of midwifery under part 171 are as follows:

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| (a) Subject to subsection (2) and section 17116(4), application processing fee..... | \$ 450.00 |
| (b) License fee, per year | 200.00 |
| (c) Temporary license fee, per year..... | 200.00 |

(2) After the department receives more than a total of \$23,000.00 in application processing fees from individuals who are licensed or seeking licensure to engage in the practice of midwifery under part 171, the application processing fee is reduced to \$75.00.

PART 171. MIDWIFERY

Sec. 17101. (1) As used in this part:

- (a) “Appropriate health professional”, for the purposes of referral, consultation, or collaboration with a midwife under this part, means any of the following:
- (i) A physician.

(ii) A certified nurse midwife.

(iii) As identified in rules promulgated under section 17117, another appropriate health professional licensed, registered, or otherwise authorized to engage in a health profession under this article.

(b) “Certified nurse midwife” means a registered professional nurse under part 172 who has been granted a specialty certification in the profession specialty field of nurse midwifery by the board of nursing under section 17210.

(c) “Health care provider” means an individual who is licensed or registered under this article.

(d) “Midwife” means an individual licensed under this part to engage in the practice of midwifery.

(e) “Physician” means an individual licensed to engage in the practice of medicine under part 170 or the practice of osteopathic medicine and surgery under part 175.

(f) “Practice of midwifery”, subject to subsection (2), means providing maternity care that is consistent with a midwife’s training, education, and experience, to women and neonates during the antepartum, intrapartum, and postpartum periods.

(2) For purposes of this part, practice of midwifery does not include either of the following:

(a) The practice of medicine or osteopathic medicine and surgery.

(b) The practice of nursing, including the practice of nursing with a specialty certification in the profession specialty field of nurse midwifery under part 172.

(3) In addition to the definitions of this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

Sec. 17103. Beginning on the effective date of rules promulgated under section 17117, an individual shall not use the titles “licensed midwife” or “l.m.”, or similar words or initials that indicate that the individual is licensed as a midwife, unless the individual is licensed under this part.

Sec. 17105. (1) Beginning on the effective date of rules promulgated under section 17117, an individual shall not engage in the practice of midwifery unless licensed under this part or otherwise authorized by this article.

(2) A midwife shall not perform an act, task, or function within the practice of midwifery unless he or she is trained to perform the act, task, or function and the performance of that act, task, or function is consistent with the rules promulgated under section 17117.

(3) In addition to the exemptions from licensure under section 16171, subsection (1) does not prevent any of the following:

(a) An individual licensed, registered, or certified under any other part or act from performing activities that are considered to be within the practice of midwifery if those activities are within the individual’s scope of practice and if the individual does not use the titles protected under section 17103.

(b) Subject to section 16215, an employee or other individual who is assisting a midwife and who is under the midwife’s supervision from performing activities or functions that are delegated by the midwife, that are nondiscretionary, that do not require the exercise of professional judgment for their performance, and that are within the midwife’s authority to perform.

(c) An individual from performing activities that are within the practice of midwifery if those activities are performed under the direct and immediate supervision of an appropriate health professional while engaged in any of the following:

(i) Completing a portfolio evaluation process of the North American Registry of Midwives or an organization that the board determines is a successor organization.

(ii) Participating as a student attending a midwifery education program that is accredited by the Midwifery Education and Accreditation Council or another accrediting organization approved by the board.

(d) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a midwife.

(e) Services provided by a religious practitioner if that religious practitioner does not hold himself or herself out to the public as a midwife who is licensed to engage in the practice of midwifery in this state and does not use any of the titles protected under section 17103.

(f) Services provided by a member of a bona fide church or religious denomination if all of the following are met:

(i) The services are provided to another member of that church or denomination and that other member is an adherent of the established tenets or teachings of that church or denomination and relies on treatment by prayer or spiritual means only, in accordance with the creed or tenets of that church or denomination.

(ii) The individual providing the services does not receive a fee for those services. For purposes of this subparagraph, a voluntary contribution is not considered a fee for the services provided by that individual.

Sec. 17107. (1) At the inception of care, a midwife shall establish a protocol for transfer of care to a physician or to a hospital that is specific to that patient.

(2) For purposes of subsection (1), the board shall identify or create a standard form, and recommend use of the standard form, to collect information on a patient whose care is transferred, either temporarily or permanently, to a hospital or a physician.

(3) The board shall promulgate rules that require a midwife to report a patient's data to the MANA Statistical Registry maintained by the Midwives Alliance of North America, or a similar registry maintained by a successor organization approved by the board, unless the patient refuses to consent to the reporting of his or her data.

Sec. 17109. A midwife shall obtain informed consent from a patient at the inception of care and continuing throughout the patient's care.

Sec. 17110. A health care provider who provides care to a patient of a midwife who is licensed under this part is not liable in a civil action for personal injury or death resulting from an act or omission by the midwife, unless the professional negligence or malpractice of the health care provider was a proximate cause of the injury or death.

Sec. 17111. (1) A midwife shall not do any of the following:

- (a) Except as provided in subsection (2), administer prescription drugs or medications.
- (b) Use vacuum extractors or forceps.
- (c) Prescribe medications.
- (d) Perform surgical procedures other than episiotomies or repairs of perineal lacerations.
- (e) Any other act, task, or function prohibited in rules promulgated under this part.

(2) Beginning on the effective date of the rules promulgated under subsection (3), a midwife who has appropriate pharmacology training as established by rule by the board, and who holds a standing prescription from a health care provider with prescriptive authority, may administer any of the following in accordance with the rules promulgated under subsection (3):

- (a) Prophylactic vitamin K to a newborn, either orally or through intramuscular injection.
 - (b) Antihemorrhagic agents to a postpartum mother after the birth of the baby.
 - (c) Local anesthetic for the repair of lacerations to a mother.
 - (d) Oxygen to a mother or newborn.
 - (e) Prophylactic eye agent to a newborn.
 - (f) Prophylactic Rho(D) immunoglobulin to a mother.
 - (g) Agents for group B streptococcus prophylaxis, recommended by the federal centers for disease control and prevention, to a mother.
 - (h) Intravenous fluids, excluding blood products, to a mother.
 - (i) Any other drug or medication prescribed by a health care provider with prescriptive authority that is consistent with the scope of practice of midwifery and is authorized by the board by rule.
- (3) The department, in consultation with the board, shall promulgate rules concerning the administration of prescription drugs or medications described in subsection (2) by midwives.

Sec. 17112. (1) Beginning on the effective date of, and subject to, the rules described in section 17117, and if necessary to the practice of midwifery and consistent with the scope of practice of midwifery, a midwife may directly obtain supplies and devices, order and obtain screening tests including ultrasound tests, and receive verbal and written reports of the results of those tests.

(2) The department shall promulgate rules that include standards for the delineation of findings that preclude a woman or a newborn from being classified as having a normal pregnancy, labor, delivery, postpartum period, or newborn period. In promulgating the rules described in this subsection, the department shall consider any data, views, questions, and arguments submitted by the Michigan board of licensed midwifery, the Michigan board of medicine, and the Michigan board of osteopathic medicine and surgery.

(3) The finding described in subsection (2) shall form the basis for any requirements or restrictions imposed by the board on the practice of midwifery when providing care to women or newborns whose condition is classified as outside of normal.

Sec. 17113. (1) The Michigan board of licensed midwifery is created in the department. The board consists of the following 12 members, each of whom must meet the requirements of part 161:

- (a) Seven midwives.
- (b) One certified nurse midwife.
- (c) One physician who is board certified as an obstetrician-gynecologist.
- (d) One physician who is board certified as a pediatrician.

(e) Two members of the general public, 1 of whom is a consumer of midwifery care.

(2) Except as otherwise provided in this article, the term of office of a member of the board is 4 years and expires on December 31 of the year in which the term expires. For members first appointed under this section, 5 members shall serve for 2 years, 4 members shall serve for 3 years, and 3 members shall serve for 4 years.

Sec. 17115. (1) If the department receives a complete application and payment of the fee prescribed in section 16326, the board shall grant a license under this part to the applicant if the applicant meets all of the following:

(a) Except as provided in subsection (2), he or she has completed an educational program or pathway accredited by the Midwifery Education and Accreditation Council or another accrediting organization approved by the board.

(b) He or she holds the credential of certified professional midwife from the North American Registry of Midwives or holds an equivalent credential from another midwifery credentialing program that is approved by the board under section 16148 and accredited by the National Commission for Certifying Agencies or another accrediting organization approved by the board.

(c) He or she successfully passes an examination approved by the department, in consultation with the board. If the education program described in subdivision (a) includes an examination that meets the requirements of section 16178(1), the board may accept passing of that examination as meeting the requirements of this subdivision.

(2) An applicant who holds the credential described in subsection (1)(b) before January 1, 2020, and has not completed the educational program or pathway described in subsection (1)(a), meets the requirement of subsection (1)(a) if he or she provides evidence that he or she holds a midwifery bridge certificate awarded by the North American Registry of Midwives, or an equivalent credential from another midwifery credentialing program that is approved by the board under section 16148 and accredited by the National Commission for Certifying Agencies or another accrediting organization approved by the board.

Sec. 17116. (1) If the department receives a completed application and an application fee and temporary license fee described in section 16326, the board shall grant a nonrenewable temporary license under this part to an individual who holds a credential of certified professional midwife from a midwifery education program that does not meet the requirements of section 17115(1)(a). An individual who holds a temporary license under this section must hold a midwifery bridge certificate awarded by the North American Registry of Midwives, or an equivalent credential approved by the board, to qualify for a license when his or her temporary license expires.

(2) The term of a temporary license under this section is 24 months.

(3) An applicant who is granted a temporary license under this section is subject to all other requirements of this part and rules promulgated under this part, and the department may automatically void the temporary license if the applicant fails to comply with those requirements.

(4) An individual who paid an application fee under section 16326 in connection with an application for a temporary license under this section is not required to pay an application fee in connection with an application for an initial license under this part if the department receives the application within 60 days after the expiration of the temporary license.

Sec. 17117. (1) Within 24 months after the effective date of this part, the department, in consultation with the board, shall promulgate rules to do all of the following:

(a) Establish and implement the licensure program for the practice of midwifery under this part.

(b) Require the completion of continuing education for the practice of midwifery as a condition for license renewal. However, the rule shall allow the board to accept proof of a current credential under section 17115(1)(b) as meeting the requirements of this subdivision.

(c) Describe and regulate, limit, or prohibit the performance of acts, tasks, or functions by midwives. The department shall include rules that recognize and incorporate the requirements under section 17107 regarding the referral to and consultation with appropriate health professionals and ensure that those rules conform to national standards for the practice of midwifery as defined in section 17101.

(d) For purposes of section 17109, establish the process by which informed consent is obtained and ensure that the process conforms to national standards for the practice of midwifery as defined in section 17101. The process established for obtaining informed consent shall include at least all of the following:

(i) A requirement that at the inception of care for a client, the midwife must provide a copy of the rules promulgated by the department under this section.

(ii) A requirement that at the inception of care for a client, the midwife must orally and in writing disclose whether the midwife has malpractice liability insurance coverage and, if so, the policy limitations of that coverage.

(e) For purposes of establishing protocols for transfer of care under section 17107, establish the duties a midwife must perform if an emergency transfer to a hospital is necessary. Rules promulgated under this subdivision shall conform to nationally recognized guidelines on safe transfers.

(2) In addition to the authority to promulgate rules under section 16145 and subject to this section and section 16175, the department, in consultation with the board, may promulgate rules to supplement the requirements for licensure under this part, including the adoption of updated standards applicable to the practice of midwifery established by the North American Registry of Midwives or an organization that the board determines is a successor organization.

Sec. 17119. (1) The board may grant a license under this part to an individual who is licensed as a midwife in another state at the time of application if the applicant provides evidence satisfactory to the board and the department that all of the following are met:

(a) Subject to subsection (2), the applicant meets the requirements described in section 17115(1) and (2).

(b) There are no pending disciplinary proceedings against the applicant before a similar licensing agency of this or any other state or country.

(c) If sanctions have been imposed against the applicant by a similar licensing agency of this or any other state or country based upon grounds that are substantially similar to those under this article, as determined by the board, the sanctions are not in force at the time of the application.

(2) If an applicant is licensed as a midwife in a state that does not require completion of an educational program or pathway equivalent to section 17115(1)(a) for licensure, the department may determine that the applicant has met the requirements of subsection (1)(a) if he or she meets all of the following:

(a) The requirements of this part and rules promulgated under this part for licensure, except section 17115(1)(a).

(b) The requirements of section 17115(2), regardless of the date he or she obtained the credential of certified professional midwife described in section 17115(1)(b).

(3) The board may make an independent inquiry to determine whether an applicant meets the requirements described in subsection (1)(b) and (c).

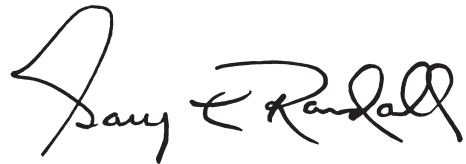
Sec. 17121. (1) Except as provided in subsection (2) and section 17116, the department shall determine the term of initial or renewal licenses granted under this part.

(2) Until the application processing fee for a license under this part is reduced to \$75.00 under section 16326, the term of an initial license under part 171 is 1 year. This subsection does not limit the department's authority under this section to establish a renewal cycle for licenses under this part regardless of the amount of the application fee under section 16326.

Sec. 17123. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor