

HOUSE BILL No. 5070

October 13, 2011, Introduced by Reps. McBroom, Liss, Heise, Glardon, Foster, Horn, McCann, Yonker, Stallworth, O'Brien, Rendon, Kurtz, Wayne Schmidt, Durhal, Johnson, Roy Schmidt, Tlaib, Hooker, Daley, Irwin, Haugh, Muxlow, Lyons, Walsh, Jenkins, Rutledge, Pettalia, Denby, LaFontaine, Byrum, Bumstead, Agema, Shaughnessy, MacGregor, Price, Cotter and Lipton and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 16326 and part 171.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 16326. FEES FOR AN INDIVIDUAL LICENSED OR SEEKING
2 LICENSE TO PRACTICE AS A MIDWIFE UNDER PART 171 ARE AS FOLLOWS:

3	(A) APPLICATION PROCESSING FEE.....	\$ 20.00
4	(B) LICENSE FEE, PER YEAR.....	75.00
5	(C) STUDENT LICENSE FEE, PER YEAR.....	10.00
6	(D) TEMPORARY LICENSE.....	10.00
7	(E) LIMITED LICENSE, PER YEAR.....	10.00

PART 171. MIDWIFERY

9 SEC. 17101. (1) AS USED IN THIS PART:

10 (A) "APPROPRIATE HEALTH PROFESSIONAL", FOR THE PURPOSES OF

1 REFERRAL, CONSULTATION, OR COLLABORATION WITH A MIDWIFE UNDER
2 THIS PART, MEANS ANY OF THE FOLLOWING:

3 (i) A PHYSICIAN.

4 (ii) A CERTIFIED NURSE MIDWIFE.

5 (iii) AS IDENTIFIED IN RULES PROMULGATED UNDER SECTION 17115,
6 ANOTHER APPROPRIATE HEALTH PROFESSIONAL LICENSED, REGISTERED, OR
7 OTHERWISE AUTHORIZED TO ENGAGE IN A HEALTH PROFESSION UNDER THIS
8 ARTICLE.

9 (B) "CERTIFIED NURSE MIDWIFE" MEANS A REGISTERED
10 PROFESSIONAL NURSE UNDER PART 172 WHO HAS BEEN ISSUED A SPECIALTY
11 CERTIFICATION IN THE PROFESSION SPECIALTY FIELD OF NURSE
12 MIDWIFERY BY THE BOARD OF NURSING UNDER SECTION 17210.

13 (C) "MIDWIFE" MEANS AN INDIVIDUAL LICENSED UNDER THIS PART
14 TO ENGAGE IN THE PRACTICE OF MIDWIFERY.

15 (D) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED TO ENGAGE IN
16 THE PRACTICE OF MEDICINE UNDER PART 170 OR THE PRACTICE OF
17 OSTEOPATHIC MEDICINE AND SURGERY UNDER PART 175.

18 (E) "PRACTICE OF MIDWIFERY", SUBJECT TO SUBSECTION (2),
19 MEANS PROVIDING MATERNITY CARE THAT IS CONSISTENT WITH A
20 MIDWIFE'S TRAINING, EDUCATION, AND EXPERIENCE, TO WOMEN AND
21 NEONATES DURING THE ANTEPARTUM, INTRAPARTUM, AND POSTPARTUM
22 PERIODS.

23 (2) PRACTICE OF MIDWIFERY DOES NOT INCLUDE EITHER OF THE
24 FOLLOWING:

25 (A) THE PRACTICE OF MEDICINE OR OSTEOPATHIC MEDICINE AND
26 SURGERY.

27 (B) THE PRACTICE OF NURSING, INCLUDING THE PRACTICE OF

1 NURSING WITH A SPECIALTY CERTIFICATION IN THE PROFESSION
2 SPECIALTY FIELD OF NURSE MIDWIFERY UNDER PART 172.

3 (3) IN ADDITION TO THE DEFINITIONS OF THIS PART, ARTICLE 1
4 CONTAINS GENERAL DEFINITIONS AND PRINCIPLES OF CONSTRUCTION
5 APPLICABLE TO ALL ARTICLES IN THIS CODE AND PART 161 CONTAINS
6 DEFINITIONS APPLICABLE TO THIS PART.

7 SEC. 17103. BEGINNING THE EFFECTIVE DATE OF RULES
8 PROMULGATED UNDER SECTION 17115, AN INDIVIDUAL SHALL NOT USE THE
9 TITLES "LICENSED MIDWIFE", "PROFESSIONAL MIDWIFE", OR "L.M.", OR
10 SIMILAR WORDS OR INITIALS THAT INDICATE THAT THE INDIVIDUAL IS A
11 LICENSED MIDWIFE, UNLESS THE INDIVIDUAL IS LICENSED UNDER THIS
12 PART.

13 SEC. 17105. (1) BEGINNING ON THE EFFECTIVE DATE OF RULES
14 PROMULGATED UNDER SECTION 17115, AN INDIVIDUAL SHALL NOT ENGAGE
15 IN THE PRACTICE OF MIDWIFERY UNLESS LICENSED UNDER THIS PART OR
16 IS OTHERWISE AUTHORIZED BY THIS ARTICLE.

17 (2) A MIDWIFE SHALL NOT PERFORM AN ACT, TASK, OR FUNCTION
18 WITHIN THE PRACTICE OF MIDWIFERY UNLESS HE OR SHE IS TRAINED TO
19 PERFORM THE ACT, TASK, OR FUNCTION AND THE PERFORMANCE OF THAT
20 ACT, TASK, OR FUNCTION IS CONSISTENT WITH THE RULES PROMULGATED
21 UNDER SECTION 17115.

22 (3) IN ADDITION TO THE EXEMPTIONS FROM LICENSURE UNDER
23 SECTION 16171, SUBSECTION (1) DOES NOT PREVENT ANY OF THE
24 FOLLOWING:

25 (A) AN INDIVIDUAL LICENSED, REGISTERED, OR CERTIFIED UNDER
26 ANY OTHER PART OR ACT FROM PERFORMING ACTIVITIES THAT ARE
27 CONSIDERED TO BE WITHIN THE PRACTICE OF MIDWIFERY IF THOSE

1 ACTIVITIES ARE WITHIN THE INDIVIDUAL'S SCOPE OF PRACTICE AND IF
2 THE INDIVIDUAL DOES NOT USE THE TITLES PROTECTED UNDER SECTION
3 17103.

4 (B) SUBJECT TO SECTION 16215, AN EMPLOYEE OR OTHER
5 INDIVIDUAL WHO IS ASSISTING A MIDWIFE; WHO IS UNDER THE MIDWIFE'S
6 SUPERVISION; AND WHO IS PERFORMING ACTIVITIES OR FUNCTIONS THAT
7 ARE DELEGATED BY THE MIDWIFE, THAT ARE NONDISCRETIONARY, THAT DO
8 NOT REQUIRE THE EXERCISE OF PROFESSIONAL JUDGMENT FOR THEIR
9 PERFORMANCE, AND THAT ARE WITHIN THE MIDWIFE'S AUTHORITY TO
10 PERFORM. THIS SUBDIVISION DOES NOT APPLY TO AN INDIVIDUAL SUBJECT
11 TO SECTION 17121.

12 (C) AN INDIVIDUAL FROM PERFORMING ACTIVITIES THAT ARE WITHIN
13 THE PRACTICE OF MIDWIFERY IF THOSE ACTIVITIES ARE PERFORMED UNDER
14 THE DIRECT AND IMMEDIATE SUPERVISION OF AN APPROPRIATE HEALTH
15 PROFESSIONAL DURING COMPLETION OF THE NORTH AMERICAN REGISTRY OF
16 MIDWIVES PORTFOLIO EVALUATION PROCESS OR AS A STUDENT AT A
17 MIDWIFERY EDUCATION PROGRAM ACCREDITED BY THE MIDWIFERY EDUCATION
18 ACCREDITATION COUNCIL OR OTHER ACCREDITING BODY APPROVED BY THE
19 BOARD.

20 (D) SELF-CARE BY A PATIENT OR UNCOMPENSATED CARE BY A FRIEND
21 OR FAMILY MEMBER WHO DOES NOT REPRESENT OR HOLD HIMSELF OR
22 HERSELF OUT TO BE A MIDWIFE.

23 (E) SERVICES PROVIDED BY A RELIGIOUS PRACTITIONER IF THAT
24 RELIGIOUS PRACTITIONER DOES NOT HOLD HIMSELF OR HERSELF OUT TO
25 THE PUBLIC AS A MIDWIFE AND DOES NOT USE ANY OF THE TITLES
26 PROTECTED UNDER SECTION 17103.

27 (F) SERVICES PROVIDED BY A MEMBER OF A BONA FIDE CHURCH OR

1 RELIGIOUS DENOMINATION IF ALL OF THE FOLLOWING ARE MET:

2 (i) THE SERVICES ARE PROVIDED TO ANOTHER MEMBER OF THAT
3 CHURCH OR DENOMINATION AND THAT OTHER MEMBER IS AN ADHERENT OF
4 THE ESTABLISHED TENETS OR TEACHINGS OF THAT CHURCH OR
5 DENOMINATION AND RELIES ON TREATMENT BY PRAYER OR SPIRITUAL MEANS
6 ONLY, IN ACCORDANCE WITH THE CREED OR TENETS OF THAT CHURCH OR
7 DENOMINATION.

8 (ii) THE INDIVIDUAL PROVIDING THE SERVICES DOES NOT RECEIVE A
9 FEE FOR THOSE SERVICES. FOR PURPOSES OF THIS SUBPARAGRAPH, A
10 VOLUNTARY CONTRIBUTION IS NOT CONSIDERED A FEE FOR THE SERVICES
11 PROVIDED BY THAT INDIVIDUAL.

12 SEC. 17107. (1) A MIDWIFE SHALL CONSULT WITH OR REFER A
13 PATIENT TO AN APPROPRIATE HEALTH PROFESSIONAL IF THE MIDWIFE
14 DETERMINES THE PATIENT HAS SIGNIFICANT DEVIATIONS FROM NORMAL
15 THAT MAY AFFECT THE PATIENT'S OR NEONATE'S OUTCOME DURING THE
16 ANTEPARTUM, INTRAPARTUM, OR POSTPARTUM PERIODS.

17 (2) IF A MIDWIFE CONSULTS WITH AN APPROPRIATE HEALTH
18 PROFESSIONAL UNDER SUBSECTION (1), AFTER THAT CONSULTATION THE
19 MIDWIFE SHALL MAINTAIN CARE OF THE PATIENT TO THE GREATEST DEGREE
20 POSSIBLE ACCORDING TO THE PATIENT'S WISHES DURING THE PREGNANCY
21 AND, IF POSSIBLE, DURING THE ANTEPARTUM, INTRAPARTUM, OR
22 POSTPARTUM PERIODS. CONSULTATION WITH AN APPROPRIATE HEALTH
23 PROFESSIONAL DESCRIBED IN THIS SUBSECTION DOES NOT PRECLUDE THE
24 POSSIBILITY OF AN OUT-OF-HOSPITAL BIRTH.

25 SEC. 17109. (1) A MIDWIFE SHALL NOT DO ANY OF THE FOLLOWING:

26 (A) ADMINISTER PRESCRIPTION PHARMACOLOGICAL AGENTS INTENDED
27 TO INDUCE OR AUGMENT LABOR.

(B) EXCEPT AS PROVIDED IN SUBSECTION (2), ADMINISTER
PRESCRIPTION PHARMACOLOGICAL AGENTS TO PROVIDE ANTEPARTUM AND
INTRAPARTUM PAIN MANAGEMENT.

(C) USE VACUUM EXTRACTORS OR FORCEPS.

(D) PRESCRIBE MEDICATIONS.

(E) PERFORM SURGICAL PROCEDURES OTHER THAN EPISIOTOMIES OR
REPAIRS OF PERINEAL LACERATIONS.

(F) ANY OTHER ACT, TASK, OR FUNCTION PROHIBITED IN RULES
PROMULGATED UNDER THIS PART.

(2) A MIDWIFE MAY ADMINISTER A PRESCRIPTION PHARMACOLOGICAL
AGENT FOR ANTEPARTUM AND INTRAPARTUM PAIN MANAGEMENT IF THE
ADMINISTRATION OF THAT AGENT IS CONSISTENT WITH THE SCOPE OF THE
PRACTICE OF MIDWIFERY AND THE MIDWIFE HOLDS A STANDING
PRESCRIPTION FOR THAT AGENT FROM AN INDIVIDUAL AUTHORIZED TO
PRESCRIBE THAT AGENT UNDER THIS ACT.

SEC. 17111. (1) THE MICHIGAN BOARD OF LICENSED MIDWIFERY IS
CREATED IN THE DEPARTMENT. THE BOARD CONSISTS OF THE FOLLOWING 7
MEMBERS WHO MEET THE REQUIREMENTS OF PART 161:

(A) FIVE MIDWIVES.

(B) 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, 2 MEMBERS SHALL SERVE FOR 2
YEARS, 2 MEMBERS SHALL SERVE FOR 3 YEARS, AND 3 MEMBERS SHALL
SERVE FOR 4 YEARS.

1 SEC. 17113. IF IT RECEIVES A COMPLETE APPLICATION AND
2 PAYMENT OF THE FEE PRESCRIBED IN SECTION 16326, THE DEPARTMENT
3 SHALL ISSUE A LICENSE UNDER THIS PART TO THE APPLICANT IF THE
4 APPLICANT MEETS BOTH OF THE FOLLOWING:

5 (A) HE OR SHE HOLDS THE CREDENTIAL OF CERTIFIED PROFESSIONAL
6 MIDWIFE FROM THE NORTH AMERICAN REGISTRY OF MIDWIVES OR HOLDS AN
7 EQUIVALENT CREDENTIAL FROM ANOTHER ACCREDITED MIDWIFERY TRAINING
8 PROGRAM APPROVED BY THE BOARD UNDER SECTION 16148.

9 (B) HE OR SHE SUCCESSFULLY PASSES AN EXAMINATION APPROVED BY
10 THE BOARD.

11 SEC. 17115. (1) ON OR BEFORE THE EXPIRATION OF 24 MONTHS
12 AFTER THE EFFECTIVE DATE OF THIS PART, THE DEPARTMENT, IN
13 CONSULTATION WITH THE BOARD, SHALL PROMULGATE RULES TO DO ALL OF
14 THE FOLLOWING:

15 (A) ESTABLISH AND IMPLEMENT THE LICENSURE PROGRAM FOR THE
16 PRACTICE OF MIDWIFERY UNDER THIS PART.

17 (B) SUBJECT TO SECTION 16204, PRESCRIBE THE COMPLETION OF
18 CONTINUING EDUCATION FOR THE PRACTICE OF MIDWIFERY AS A CONDITION
19 FOR LICENSE RENEWAL.

20 (C) SUBJECT TO SUBSECTIONS (3), (4), AND (5), DESCRIBE AND
21 REGULATE, LIMIT, OR PROHIBIT THE PERFORMANCE OF ACTS, TASKS, OR
22 FUNCTIONS BY MIDWIVES. THE DEPARTMENT SHALL INCLUDE RULES THAT
23 RECOGNIZE AND INCORPORATE THE REQUIREMENTS UNDER SECTION 17107
24 REGARDING THE REFERRAL TO AND CONSULTATION WITH APPROPRIATE
25 HEALTH PROFESSIONALS.

26 (2) IN ADDITION TO THE AUTHORITY TO PROMULGATE RULES UNDER
27 SECTION 16145 AND SUBJECT TO THIS SECTION AND SECTION 16175, THE

1 DEPARTMENT, IN CONSULTATION WITH THE BOARD, MAY PROMULGATE RULES
2 TO SUPPLEMENT THE REQUIREMENTS FOR LICENSURE UNDER THIS PART,
3 INCLUDING THE ADOPTION OF UPDATED STANDARDS APPLICABLE TO THE
4 PRACTICE OF MIDWIFERY ESTABLISHED BY THE NORTH AMERICAN REGISTRY
5 OF MIDWIVES OR SUCCESSOR AGENCY.

6 (3) THE DEPARTMENT SHALL NOT PROMULGATE ANY RULES UNDER THIS
7 SECTION THAT LIMIT OR RESTRICT THE SCOPE OF THE PRACTICE OF
8 MIDWIFERY ESTABLISHED UNDER THIS ARTICLE.

9 (4) THE DEPARTMENT SHALL NOT PROMULGATE ANY RULES UNDER THIS
10 SECTION THAT LIMIT THE AUTHORITY OF A MIDWIFE TO ADMINISTER
11 PRESCRIPTION PHARMACOLOGICAL AGENTS UNDER SECTION 17109(2) OR
12 PROHIBIT THE ADMINISTRATION OF THOSE AGENTS BY A MIDWIFE.

13 (5) THE DEPARTMENT SHALL NOT PROMULGATE ANY RULES UNDER THIS
14 SECTION UNLESS THOSE RULES ARE CONSISTENT WITH BOTH OF THE
15 FOLLOWING:

16 (A) THE ESSENTIAL DOCUMENTS OF THE NATIONAL ASSOCIATION OF
17 CERTIFIED PROFESSIONAL MIDWIVES (COPYRIGHT 2004), PUBLISHED BY
18 THAT ASSOCIATION.

19 (B) THE ANALYSIS OF THE 2001 JOB ANALYSIS SURVEY, PUBLISHED
20 BY THE NORTH AMERICAN REGISTRY OF MIDWIVES.

21 SEC. 17117. (1) THE DEPARTMENT MAY GRANT A LICENSE UNDER
22 THIS PART TO A PERSON WHO IS LICENSED AS A MIDWIFE IN ANOTHER
23 STATE AT THE TIME OF APPLICATION IF THE APPLICANT PROVIDES
24 EVIDENCE SATISFACTORY TO THE BOARD AND THE DEPARTMENT AS TO ALL
25 OF THE FOLLOWING:

26 (A) THE APPLICANT MEETS THE REQUIREMENTS OF THIS PART AND
27 RULES PROMULGATED UNDER THIS PART FOR LICENSURE.

1 (B) THERE ARE NO PENDING DISCIPLINARY PROCEEDINGS AGAINST
2 THE APPLICANT BEFORE A SIMILAR LICENSING AGENCY OF THIS OR ANY
3 OTHER STATE OR COUNTRY.

4 (C) IF SANCTIONS HAVE BEEN IMPOSED AGAINST THE APPLICANT BY
5 A SIMILAR LICENSING AGENCY OF THIS OR ANY OTHER STATE OR COUNTRY
6 BASED UPON GROUNDS THAT ARE SUBSTANTIALLY SIMILAR TO THOSE UNDER
7 THIS ARTICLE, AS DETERMINED BY THE BOARD, THE SANCTIONS ARE NOT
8 IN FORCE AT THE TIME OF THE APPLICATION.

9 (D) THE OTHER STATE MAINTAINS LICENSURE STANDARDS EQUIVALENT
10 TO OR MORE STRINGENT THAN THOSE OF THIS STATE.

11 (2) THE BOARD MAY MAKE AN INDEPENDENT INQUIRY TO DETERMINE
12 WHETHER AN APPLICANT MEETS THE REQUIREMENTS DESCRIBED IN
13 SUBSECTION (1) (B) AND (C).

14 SEC. 17119. THIS PART DOES NOT REQUIRE NEW OR ADDITIONAL
15 THIRD PARTY REIMBURSEMENT OR MANDATED WORKER'S COMPENSATION
16 BENEFITS FOR SERVICES RENDERED BY AN INDIVIDUAL LICENSED UNDER
17 THIS PART.

18 SEC. 17121. (1) THE DEPARTMENT MAY ISSUE A STUDENT LICENSE
19 TO AN INDIVIDUAL WHO MEETS BOTH OF THE FOLLOWING:

20 (A) IS A STUDENT, INTERN, OR APPRENTICE OF A MIDWIFE.

21 (B) IS ENGAGED IN A COURSE OF EDUCATION OR TRAINING IN THE
22 PRACTICE OF MIDWIFERY WITH THE MIDWIFE AND UNDER THE MIDWIFE'S
23 SUPERVISION.

24 (2) AN INDIVIDUAL WHO HOLDS A STUDENT LICENSE UNDER THIS
25 SECTION MAY ENGAGE IN ANY ACTIVITY OR FUNCTION INCLUDED IN THE
26 PRACTICE OF MIDWIFERY, UNDER THE SUPERVISION OF A MIDWIFE,
27 DELEGATED TO HIM OR HER BY THE MIDWIFE.

1 (3) THE DEPARTMENT SHALL ISSUE A STUDENT LICENSE UNDER THIS
2 SECTION FOR A TERM OF 3 YEARS. AN INDIVIDUAL MAY RENEW HIS OR HER
3 STUDENT LICENSE FOR AN ADDITIONAL 1 YEAR, AND FOR ANY ADDITIONAL
4 PERIOD BEYOND 1 YEAR ONLY WITH THE APPROVAL OF THE BOARD.