

**Proposed 2023 Statutes      Draft**

**LEGISLATIVE INTENT.** It is the intent of the legislature to preserve the right of women to deliver children at home or licensed birth centers with licensed midwives, to remove obstacles for safe deliveries outside of hospitals, to assure quality care of pregnant women and the children they deliver, and to guarantee insurance coverage for home births.

Sec. 08.65.010. BOARD ESTABLISHED. (a) There is established the Board of Certified Direct-Entry Midwives. (b) The board consists of five members appointed by the governor subject to confirmation by the legislature in joint session. Members serve for staggered terms of four years and, except as provided in AS 39.05.080(4), each member serves until a successor is appointed and qualified. The board consists of ~~two~~ members who are certified in this state as direct-entry midwives, ~~one physician licensed by the State Medical Board in this state who has an obstetrical practice or has specialized training in obstetrics, one certified nurse midwife licensed by the Board of Nursing in this state,~~ and one public member. (c) ~~The board shall elect a chair and a secretary from among its members to terms of one year.~~ (d) A member may serve no more than two complete consecutive terms on the board

**DRAFT Sec. 08.65.010 BOARD ESTABLISHED** (a) There is established the Board of Licensed Midwives

(b) The board consists of five members appointed by the governor subject to confirmation by the legislature in joint session. Members serve for staggered terms of four years and, except as provided in AS 39.05.080(4), each member serves until a successor is appointed and qualified. The board consists of **four members who are licensed midwives and have practiced in Alaska for at least two years** and one public member **who have no direct, financial interest in the health care industry.**

(c) A member may serve no more than two complete consecutive terms on the board.

**Sec. 08.65.020. MEETINGS.** The board shall meet twice annually and may hold special meetings at the call of the chair or on the written notice of two board members.

Sec. 08.65.030. DUTIES AND POWERS OF BOARD. (a) The board shall (1) examine applicants and issue certificates to those applicants it finds qualified; (2) adopt regulations ~~establishing certification and certificate renewal requirements;~~ (3) issue permits to apprentice direct-entry midwives; (4) hold hearings and order the disciplinary sanction of a person who violates this chapter or a regulation of the board; (5) supply forms for applications, licenses, permits, ~~certificates,~~ and other papers and records; (6) enforce the provisions of this chapter and adopt regulations necessary to make the provisions of this chapter effective; (7) ~~approve curricula and adopt standards for basic education, training, and apprentice programs;~~ (8) ~~provide for surveys of the basic direct-entry midwife education programs in the state at the times it considers necessary;~~ (9) approve education, training, and apprentice programs that meet the requirements of this chapter and of the board, and deny, revoke, or suspend approval of those ~~programs for failure to meet the requirements;~~ (10) adopt regulations establishing practice requirements for certified direct-entry midwives under AS 08.65.140. (b) The board may by

regulation require that a ~~certified direct-entry~~ midwife undergo a uniform or random period of peer review to ensure the quality of care provided by the ~~certified direct-entry~~ midwife.

**DRAFT Sec. 08.65.030. DUTIES AND POWERS OF BOARD.** (a) The board shall

1. examine applicants and issue licenses or permits to those applicants it finds qualified;
2. adopt regulations regarding licensing, license renewal, the national midwifery examination and the national scope of practice of midwifery
3. issue permits to apprentice midwives;
4. hold hearings and order the disciplinary sanction of a person who violates this chapter or a regulation of the board;
5. supply forms for applications, licenses, permits, and other papers and records;
6. enforce the provisions of this chapter and adopt regulations necessary to make the provisions of this chapter effective;
7. adopt regulations establishing practice requirements for Licensed Midwives under AS 08.65.140.

(b) The board may by regulation require that a licensed midwife undergo a uniform or random period of peer review to ensure the quality of care provided by the licensed midwife.

(c) The board may **NOT** adopt a regulation that

1. requires a person to have a nursing degree or diploma to be licensed under this chapter;
2. requires a licensed midwife to practice midwifery under the supervision of, or in collaboration with, another health care provider or a health care facility;
3. requires a licensed midwife to enter into an agreement, whether written, oral, or in another form, with another health care provider or a health care facility;
4. limits the location where a licensed midwife may practice midwifery
5. restricts or limits educational pathways to becoming a Licensed Midwife

Sec. 08.65.040. ADMINISTRATIVE PROCEDURE ACT. AS 44.62 (Administrative Procedure Act) applies to regulations and proceedings under this chapter

Sec. 08.65.050. QUALIFICATIONS FOR LICENSE. The board shall issue a certificate to practice direct-entry midwifery to a person who (1) applies on a form provided by the board; (2) pays the fees required under AS 08.65.100; -2- (3) furnishes evidence satisfactory to the board that the person has not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.65.110; (4) furnishes evidence satisfactory to the board that the person has completed a course of study and supervised clinical experience; the study and experience must be of at least one year's duration; (5) successfully completes the examination required by the board

**DRAFT Sec. 08.65.050. QUALIFICATIONS FOR LICENSE.** The board shall issue a license to practice midwifery to a person who

1. holds a valid certified professional midwife certificate if the certificate is issued by a nationally recognized midwife organization recognized by the board and the requirements for the certificate are consistent with this chapter;
2. applies on a form provided by the board;

3. pays the fees required under AS 08.65.100;
4. furnishes evidence satisfactory to the board that the person has not engaged in conduct that is ground for imposing disciplinary sanctions under AS 08.65.110;
5. furnishes evidence to the board that the person has completed a course of midwifery study and supervised clinical experience; the study and experience must be at least **two years** duration
6. successfully completes the **national** examination required by the board

~~Sec. 08.65.060. EXAMINATIONS. The board shall conduct examinations at least once each year. Examinations may be written, oral, or practical or a combination of these. The board shall utilize the examination provided by a nationally certified midwives organization recognized by the board. An applicant who has failed the examination may not retake the examination for a period of six months. An applicant who has failed the examination more than one time may not retake the examination unless the applicant has participated in or successfully completed further education and training programs as prescribed by the board. The board may require an applicant to pass an examination about Alaska laws that are applicable to the profession of direct-entry midwives~~

~~Sec. 08.65.070. LICENSURE BY CREDENTIALS. The board may by regulation provide for the certification without examination of a person who meets the requirements of AS 08.65.050(1) — (4), who is currently licensed in another state with licensing requirements at least equivalent in scope, quality, and difficulty to those of this state, and who has passed the national examination required of certified direct-entry midwives in this state. At a minimum, an applicant for certification by credentials (1) may not be the subject of an unresolved complaint or disciplinary action before a regulatory authority in this state or another jurisdiction; (2) may not have failed the examination for a certificate or license to practice midwifery in this state; (3) may not have had a certificate or license to practice midwifery revoked in this state or another jurisdiction; (4) shall submit proof of continued competency satisfactory to the board; and (5) shall pay the required fees~~

Sec. 08.65.080. RENEWAL. A certificate issued under AS 08.65.050 or 08.65.070 expires on a date determined by the board and may be renewed every two years upon payment of the required fee and the submission of evidence satisfactory to the board that the ~~certified direct-entry~~ midwife has met the continuing education requirements of the board, has demonstrated continued practical professional competence under regulations adopted by the board, and has not committed an act that is a ground for discipline under AS 08.65.110

**DRAFT Sec. 08.65.080. Renewal.** A **license** issued under AS 08.65.050 or 08.65.970 expires on a date determined by the board and may be renewed every two years upon payment of the required fee and the submission of evidence satisfactory to the board that the **licensed** midwife has met the continuing education requirements of the board, **holds a valid certified professional midwife certificate issued by a nationally recognized midwife organization recognized by the board to ensure the requirements for the certificate are consistent with this chapter,** and has demonstrated continued practical professional competence under regulations adopted by the board, and has not committed an act that is a ground for discipline under AS 08.65.110

Sec. 08.65.090. APPRENTICE DIRECT-ENTRY MIDWIVES. (a) The board shall issue a permit to

practice as an apprentice ~~direct-entry~~ midwife to a person who satisfies the requirements of AS 08.65.050 (1) — (3) and who has been accepted into a program of education, training, and apprenticeship approved by the board under AS 08.65.030. A permit application under this section must include information the board may require. The permit is valid for a term of two years and may be renewed in accordance with regulations adopted by the board. (b) An apprentice ~~direct-entry~~ midwife may perform all the activities of a ~~certified direct-entry~~ midwife if supervised in a manner prescribed by the board by (1) a ~~certified direct-entry~~ midwife who has been licensed and practicing in this state for at least two years and has acted as a primary or assistant midwife at 50 or more births since the date the ~~certified direct-entry~~ midwife was first licensed; (2) ~~a certified direct-entry midwife who has been licensed for at least two years in a state with licensing requirements at least equivalent in scope, quality, and difficulty to those of this state at the time of licensing, has practiced midwifery for the last two years, and has acted as a primary or assistant midwife at 50 or more births since the date the certified direct-entry midwife was first licensed;~~ (3) a physician licensed in this state with an obstetrical practice at the time of undertaking the apprenticeship; or (4) a certified nurse midwife licensed by the Board of Nursing in this state with an obstetrical practice at the time of undertaking the apprenticeship

**DRAFT Sec. 08.65.090 Apprentice Midwife** (a) The board shall issue a permit to practice as an apprentice midwife to a person who satisfies the requirements of AS 08.65.050 (1) — (4) and who has been accepted into a program of **midwifery** education, training, and apprenticeship under AS 08.65.030 **and that prepares the apprentice for the national midwifery exam.**

A permit application under this section must include information the board may require.

The permit is valid for a term of two years and may be renewed in accordance with regulations adopted by the board.

b) An apprentice midwife may perform all the activities of a **licensed** midwife if supervised in a manner prescribed by the board in regulations.

**Sec. 08.65.100. FEES.** The department shall set fees under AS 08.01.065 to implement this chapter

Sec. 08.65.110. GROUNDS FOR DISCIPLINE, SUSPENSION, OR REVOCATION OF CERTIFICATION. The board may impose a disciplinary sanction on a person holding a ~~certificate~~ or permit under this chapter if the board finds that the person (1) secured a ~~certificate~~ or permit through deceit, fraud, or intentional misrepresentation; (2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities; (3) advertised professional services in a false or misleading manner; (4) has been convicted of a felony or other crime that affects the licensee's ability to continue to practice competently and safely; -3- (5) intentionally or negligently engaged in or permitted the performance of client care by persons under the ~~certified direct-entry~~ midwife's supervision that does not conform to minimum professional standards regardless of whether actual injury to the client occurred; (6) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board; (7) continued to practice after becoming unfit due to (A) professional incompetence; (B) failure to keep informed of current professional practices; (C) addiction or severe dependency on alcohol or other drugs that impairs the ability to practice safely; (D) physical or mental disability; (8) engaged in lewd or immoral conduct in connection with the delivery of professional service to clients

**DRAFT Sec. 08.65.110.** Grounds for discipline, suspension, or revocation of certification. The

board may impose a disciplinary sanction on a person holding a **license** or permit under this chapter if the board finds that the person

- 1) secured a **license** or permit through deceit, fraud, or intentional misrepresentation;
- 2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;
- 3) advertised professional services in a false or misleading manner;
- 4) has been convicted of a felony or other crime that affects the licensee's ability to continue to practice competently and safely;
- 5) intentionally or negligently engaged in or permitted the performance of client care by persons under the **licensed** midwife's supervision that does not conform to minimum professional standards regardless of whether actual injury to the client occurred;
- 6) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board;
- 7) continued to practice after becoming unfit due to (A) professional incompetence; (B) failure to keep informed of current professional practices; (C) addiction or severe dependency on alcohol or other drugs that impairs the ability to practice safely; or (D) physical or mental disability; or
- 8) engaged in lewd or immoral conduct in connection with the delivery of professional service to clients.

**Sec. 08.65.120. DISCIPLINARY SANCTIONS.** (a) When it finds that a person holding a **certificate** or permit is guilty of an offense under AS 08.65.110, the board, in addition to the powers provided in AS 08.01.075, may impose the following sanctions singly or in combination: (1) permanently revoke a **certificate** or permit to practice; (2) suspend a **certificate** or permit for a determinate period of time; (3) censure a person holding a certificate or permit; (4) issue a letter of reprimand; (5) place a person holding a **certificate** or permit on probationary status and require the person to (A) report regularly to the board upon matters involving the basis of probation; (B) limit practice to those areas prescribed; (C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement; (6) impose limitations or conditions on the practice of a person holding a **certificate** or permit. (b) The board may withdraw probationary status if it finds that the deficiencies that required the sanction have been remedied. (c) The board may summarily suspend a license before final hearing or during the appeals process if the board finds that the licensee poses a clear and immediate danger to the public health and safety if the licensee continues to practice. A person whose license is suspended under this section is entitled to a hearing conducted by the office of administrative hearings (AS 44.64.010) not later than seven days after the effective date of the order, and the person may appeal the suspension after a hearing to a court of competent jurisdiction. (d) The board may reinstate a **certificate** or permit that has been suspended or revoked if the board finds after a hearing that the applicant is able to practice with reasonable skill and safety. (e) The board shall seek consistency in the application of disciplinary sanctions, and significant departure from prior decisions involving similar situations shall be explained in findings of fact or orders

**DRAFT Sec. 08.65.120. DISCIPLINARY SANCTIONS.** (a) When it finds that a person holding a **license** or permit is guilty of an offense under AS 08.65.110, the board, in addition to the powers provided in AS 08.01.075, may impose the following sanctions singly or in combination: (1) permanently revoke a **license** or permit to practice; (2) suspend a **license** or permit for a determinate period of time; (3) censure a person holding a **license** or permit; (4) issue a letter of reprimand; (5) place a person holding a certificate or permit on probationary status and require the person to (A) report regularly to the board upon matters involving the basis of probation; (B) limit practice to those areas prescribed; (C) continue professional education until a satisfactory degree of skill has been attained in those areas determined by the board to need improvement; (6) impose limitations or conditions on the practice of a person holding a **license** or permit. (b) The board may withdraw probationary status if it finds that the deficiencies that required the sanction have been remedied. (c) The board may summarily suspend a license before final hearing or during the appeals process if the board finds that the licensee poses a clear and immediate danger to the public health and safety if the licensee continues to practice. A person whose license is suspended under this section is entitled to a hearing conducted by the office of administrative hearings (AS 44.64.010) not later than seven days after the effective date of the order, and the person may appeal the suspension after a hearing to a court of competent jurisdiction. (d) The board may reinstate a **license** or permit that has been suspended or revoked if the board finds after a hearing that the applicant is able to practice with reasonable skill and safety. (e) The board shall seek consistency in the application of disciplinary sanctions, and significant departure from prior decisions involving similar situations shall be explained in findings of fact or orders

**Sec. 08.65.130. CRIMINAL PENALTY.** A person who violates this chapter is guilty of a class B misdemeanor

Sec. 08.65.140. REQUIRED PRACTICES. The board shall adopt regulations regarding the practice of ~~direct entry~~ midwifery. At a minimum, the regulations must require that a ~~certified direct entry~~ midwife ~~(1) recommend, before care or delivery of a client, that the client undergo a physical examination performed by a physician, physician assistant, or advanced practice registered nurse who is licensed in this state;~~ (2) obtain informed consent from a client before onset of labor; (3) comply with AS 18.15.150 regarding taking of blood samples, AS 18.15.200 regarding screening of phenylketonuria (PKU), AS 18.50.160 regarding birth registration, AS 18.50.230 regarding registration of deaths, AS 18.50.240 regarding fetal death registration, and regulations adopted by the Department of Health and Social Services concerning prophylactic treatment of the eyes of newborn infants; ~~(4) not knowingly deliver a woman with certain types of health conditions, prior history, or complications as specified by the board.~~

**DRAFT Sec. 08.65.140. REQUIRED PRACTICES.** The board shall adopt regulations regarding the practice of midwifery. At a minimum, the regulations must require that a **licensed** midwife

1. obtain informed consent from a client before onset of labor;
2. comply with AS 18.15.150 regarding taking of blood samples, AS 18.15.200 regarding screening of phenylketonuria (PKU), AS 18.50.160 regarding birth registration, AS 18.50.230 regarding registration of deaths, AS 18.50.240 regarding fetal death registration, and regulations adopted by the Department of Health and Social Services

- concerning prophylactic treatment of the eyes of newborn infants;
3. can practice to the full scope of practice of their national midwifery certificate as outlined in the CIB (Candidate Information Booklet) by NARM (North American Registry of Midwives)

Sec. 08.65.150. PROHIBITED PRACTICES. Except as provided in AS 08.65.170, a person who is not ~~certified~~ under this chapter as a ~~direct-entry~~ midwife may not practice midwifery for compensation.

**DRAFT Sec. 08.65.150.** PROHIBITED PRACTICES. Except as provided in AS 08.65.170, a person who is not **licensed** under this chapter as a midwife may not practice midwifery for compensation.

Sec. 08.65.160. ~~CERTIFICATION~~ REQUIRED IF DESIGNATION USED. A person who is not ~~certified~~ under this chapter or whose ~~certification~~ is suspended or revoked, or whose ~~certification~~ has lapsed, who knowingly uses in connection with the person's name the words or letters "C.D.M.," "Certified Direct-Entry Midwife," or other letters, words, or insignia indicating or implying that the person is ~~certified~~ as a direct-entry midwife by this state or who in any way, orally or in writing, directly or by implication, knowingly holds out as being ~~certified~~ by the state as a direct-entry midwife in this state is guilty of a class B misdemeanor.

**DRAFT Sec. 08.65.160.** LICENSE REQUIRED IF DESIGNATION USED. A person who is not **licensed** under this chapter, whose **license** is suspended or revoked, or whose **license** has lapsed who knowingly uses in connection with the person's name the letters "L.M.," the words "Licensed Midwife," or other letters, words, or insignia indicating or implying that the person is **licensed** as a midwife by this state or who in any way, orally or in writing, directly or by implication, knowingly holds out as being **licensed** as a midwife in this state is guilty of a class B misdemeanor. **In this section, "knowingly" has the meaning given in AS 11.81.900.**

**Sec. 08.65.170.** Exclusions. This chapter does not apply to a person

- 1) who is licensed as a physician in this state;
- 2) who is licensed as an advanced practice registered nurse by the Board of Nursing in this state

Sec. 08.65.180. RESPONSIBILITY FOR CARE. If a ~~certified direct-entry~~ midwife seeks to consult with or refer a patient to a licensed physician, the responsibility of the physician for the patient does not begin until the patient is physically within the physician's care.

**DRAFT Sec. 08.65.180.** Responsibility for care. If a **licensed** midwife seeks to consult with or refer a patient to a licensed physician, the responsibility of the physician for the patient does not begin until the patient is physically within the physician's care.

Sec. 08.65.190. DEFINITIONS. In this chapter, (1) "board" means the Board of ~~Certified Direct-Entry~~ Midwives; (2) "department" means the Department of Commerce, Community, and Economic Development; (3) "practice of midwifery" means providing necessary supervision, health care, preventative measures, and education to women during pregnancy, labor, and the postpartum ~~period~~; conducting deliveries on the midwife's own responsibility; providing immediate postpartum care of the newborn infant, well-baby care for the infant through the

age of ~~four~~ weeks, and preventative measures for the infant; identifying physical, social, and emotional needs of the newborn and the woman; arranging for consultation, referral, and continued involvement of the midwife on a collaborative basis when the care required extends beyond the scope of practice of the midwife; providing direct supervision of student and apprentice midwives; and executing emergency measures in the absence of medical assistance, as specified in regulations adopted by the board.

**DRAFT Sec. 08.65.190. DEFINITIONS.** In this chapter,

- 1) "board" means the Board of **Licensed** Midwives;
- 2) "department" means the Department of Commerce, Community, and Economic Development;
- 3) **"licensed midwife" means a midwife who is licensed under this chapter to practice midwifery;**
- 4) **"midwife" means a person who practices midwifery.**
- 5) **"health care facility" has the meaning given in AS 18.35.399;**
- 6) **"health care provider" has the meaning given in AS 09.65.300.**
- 7) "practice of midwifery" means providing necessary supervision, health care, preventative measures, and education to women during **preconception**, pregnancy, labor, delivery and the **first** postpartum **year**; conducting deliveries on the midwife's own responsibility; providing immediate postpartum care of the newborn infant, well-baby care for the infant through the age of **six** weeks, and preventative measures for the infant; identifying physical, social, and emotional needs of the newborn and the woman; arranging for consultation, referral, and continued involvement of the midwife on a collaborative basis when the care required extends beyond the scope of practice of the midwife; providing direct supervision of student and apprentice midwives; and executing emergency measures in the absence of medical assistance, as specified in regulations adopted by the board.



**Sec. 30. AS 21.42.355** is amended by adding new subsections to read:

(1) If a health care insurance plan or an excepted benefits policy or contract provides indemnity for the cost of services of a physician provided to women during preconception, pregnancy, childbirth, and the period after childbirth up to one year, indemnity in a reasonable amount shall also be provided for the cost of a midwife licensed under AS 08.65 who provides the same services. Indemnity may be provided under this subsection only if the licensed midwife is practicing as a licensed midwife within the scope of the license.

(2) If a health care insurance plan or an excepted benefits policy or contract provides for furnishing those services required of a physician in the care of women during preconception, pregnancy, childbirth, and the period after childbirth up to one year, the contract shall also provide that a midwife licensed under AS 08.65 may furnish those same services instead of a physician, within their scope of practice. Services may be provided under this subsection only if the licensed midwife is practicing as a licensed midwife in accordance with the regulations adopted under AS 08.65.030(a)(7), and the services provided are within the scope of practice of the license.

Insurance Coverage for Homebirth (Dept of Law will decide where this will be placed)

Home Birth. For personal, economic, or location reasons some Alaskan women will have home births.

(a) A planned home birth is an elective alternative to delivery in a birthing center or hospital setting.

(b) Coverage of professional fees for a home birth (i.e., elective, planned delivery in the home setting), including prenatal care, delivery and all post-partum care of both mother and newborn, will be covered by healthcare insurance when services are provided by a licensed midwife who is acting within the scope of their license or certification under this applicable state law.

(c) Telemedicine – a Licensed Midwife shall be permitted to provide services using telemedicine and receive comparable compensation for visits.