

House Bill 2242

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Oregon Health Licensing Agency)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates new category of and definitions and qualifications for licensed direct entry midwife and unlicensed direct entry midwife.

Prohibits licensed direct entry midwife from practicing midwifery if license suspended or revoked under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to direct entry midwives; amending ORS 687.405, 687.415, 687.420, 687.425, 687.445, 687.480,
3 687.493 and 687.495.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 687.405 is amended to read:

6 687.405. As used in ORS 687.405 to 687.495: [*“licensed direct entry midwife” means a person*
7 *who:*]

8 [(1) *Supervises the conduct of labor and childbirth;*]

9 [(2) *Advises the parent as to the progress of the childbirth; and*]

10 [(3) *Renders prenatal, intrapartum and postpartum care.*]

11 (1) **“Direct entry midwife” means a person who is:**

12 (a) **Educated in the practice of midwifery through self-study, apprenticeship, midwifery**
13 **school or through a college or university program that is distinct from a nursing program;**
14 **and**

15 (b) **Trained to provide, in out-of-hospital settings, a midwifery care model to newborns**
16 **and healthy women throughout the childbearing cycle.**

17 (2) **“Licensed direct entry midwife” means a person who:**

18 (a) **Meets the qualifications for licensure and is eligible for reimbursement under ORS**
19 **687.420;**

20 (b) **Holds, but is not required to hold, a credential issued by a nationally recognized reg-**
21 **istry of midwives; and**

22 (c) **Adheres to prescribed midwifery practice standards, risk assessment criteria and**
23 **standards of care established by Oregon law or adopted by the Oregon Health Licensing**
24 **Agency by rule.**

25 (3) **“Practice of midwifery” means a direct entry midwife working in partnership with**
26 **women to:**

27 (a) **Give support, midwifery care and advice throughout the prenatal, intrapartum and**
28 **postpartum periods; and**

29 (b) **Conduct births and provide midwifery care for newborns and infants. Midwifery care**
30 **includes preventive measures, promotion of vaginal birth, detection of complications in**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **mother and child, provision of health counseling and education, use of medical or other ap-**
 2 **propriate assistance and provision of emergency measures.**

3 (4) **“Unlicensed direct entry midwife” means a person who:**

4 (a) **May, but is not required to, hold a credential issued by a nationally recognized reg-**
 5 **istry of midwives; and**

6 (b) **Is educated through informal means, such as self-study or apprenticeship, or through**
 7 **completion of a formal program.**

8 **SECTION 2.** ORS 687.415 is amended to read:

9 687.415. (1) A license authorized by ORS [687.405 to 687.495] **687.420** is required [only] for pur-
 10 poses of reimbursement under medical assistance programs. **A license [and]** is not required for the
 11 practice of direct entry midwifery in this state.

12 (2) [Nothing in] ORS 687.405 to 687.495 [is intended to] **do not** require a direct entry midwife to
 13 become licensed as described in ORS 687.420 [(2)].

14 **SECTION 3.** ORS 687.420 is amended to read:

15 687.420. (1) The State Board of Direct Entry Midwifery shall establish standards for qualifica-
 16 tions for the licensure of direct entry midwives. Such standards shall include:

17 (a) Sufficient knowledge in the following areas:

- 18 (A) Techniques in taking patient histories;
- 19 (B) Anatomy and physiology of the female reproductive system;
- 20 (C) Appropriate use of diagnostic testing;
- 21 (D) Necessity for referral;
- 22 (E) Pathology in childbirth;
- 23 (F) Mechanisms of labor;
- 24 (G) Aseptic techniques;
- 25 (H) Postpartum care;
- 26 (I) Examinations of newborn infants; and
- 27 (J) Family planning;

28 (b) Successful passage of [*written and oral*] **prescribed examinations that are recognized or**
 29 **approved by the board;**

30 (c) Participation in:

- 31 (A) 25 assisted deliveries;
- 32 (B) 25 deliveries for which the midwife was the primary care provider;
- 33 (C) 100 prenatal care visits;
- 34 (D) 25 newborn examinations; and
- 35 (E) 40 postnatal examinations;

36 (d) Current certification in cardiopulmonary resuscitation for infants and adults; [*and*]

37 (e) **Preparation of** a written plan for emergency transport; **and**

38 (f) **Preparation of a professional disclosure statement that includes requirements for in-**
 39 **formed consent as determined by the Oregon Health Licensing Agency by rule.**

40 (2) [*Any person who desires to become licensed as a direct entry midwife*] **An applicant for**
 41 **licensure as a direct entry midwife** shall submit an application to the [*Oregon Health Licensing*]
 42 agency [*stating*] **on forms prescribed by the agency. The application shall include satisfactory**
 43 **evidence of** the applicant’s qualifications for licensure **pursuant to this section and payment of**
 44 **fees required pursuant to ORS 687.435.**

45 (3) **Subject to ORS 676.612,** [*If the applicant meets the standards established under subsection*

1 (1) of this section and the applicant is not disqualified from licensure under ORS 676.612,] the agency
 2 shall issue [an annual license to the] **a license to practice as a direct entry midwife.** [The agency
 3 shall impose a fee for licensure and examination in the amount established pursuant to ORS 687.435.]

4 [(3)] (4) Any direct entry midwife licensed under this section is entitled to payment under the
 5 rules of the medical assistance program for services provided to any eligible recipient of medical
 6 assistance.

7 **SECTION 4.** ORS 687.445 is amended to read:

8 687.445. (1) In the manner prescribed in ORS chapter 183 for contested cases and in consultation
 9 with the State Board of Direct Entry Midwifery, the Oregon Health Licensing Agency may impose
 10 a form of discipline specified in ORS 676.612 against any person practicing direct entry midwifery
 11 for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 687.405
 12 to 687.495, or the rules adopted thereunder.

13 **(2) A direct entry midwife licensed under ORS 687.420 may not continue to practice direct
 14 entry midwifery in Oregon if:**

15 **(a) The licensee’s license has been suspended under ORS 183.430 (2); or**

16 **(b) The licensee has been issued a final order under ORS 183.470 revoking the individual’s
 17 license.**

18 **(3) When the agency, in consultation with the board, proposes to refuse to issue a li-
 19 cense, to suspend a license or to revoke a license, opportunity for hearing shall be accorded
 20 as provided in ORS chapter 183.**

21 **(4) Any licensee who has been disciplined by the agency may obtain judicial review of the
 22 decision in the manner prescribed by ORS chapter 183.**

23 **(5) When a license issued under ORS 687.420 is denied or revoked for any cause, the
 24 agency may, after the lapse of two years from the date of such revocation and upon written
 25 application by the person formerly licensed, issue or restore the license.**

26 **(6) The lapse, suspension or revocation of a license issued under ORS 687.420, by order
 27 of the agency or by a court decision or the voluntary surrender of a license by a licensee,
 28 does not deprive the agency of jurisdiction to proceed with any investigation of or any action
 29 or disciplinary proceedings against the licensee or to revise or render null and void an order
 30 of disciplinary action against the licensee.**

31 **SECTION 5.** ORS 687.480 is amended to read:

32 687.480. The State Board of Direct Entry Midwifery shall develop practice standards that
 33 [shall] include but [not be] **are not** limited to:

34 (1) Maintenance of records of care, including client charts;

35 (2) Participation in peer review;

36 (3) Development of a written plan for emergency transport;

37 (4) Guidelines for equipment; [and]

38 (5) Maintenance of patient disclosure forms, which includes information regarding whether the
 39 midwife has malpractice insurance[.];

40 **(6) Adoption of a professional disclosure statement; and**

41 **(7) Establishment of procedures for obtaining informed consent.**

42 **SECTION 6.** ORS 687.425 is amended to read:

43 687.425. (1) A license issued by the Oregon Health Licensing Agency for a direct entry midwife
 44 shall expire after one year. The agency shall renew a license upon receipt of the renewal application
 45 and fee and proof of current cardiopulmonary resuscitation certification for infants and adults, if the

1 applicant is otherwise in compliance with the rules adopted by the State Board of Direct Entry
 2 Midwifery and the agency. **The agency may require records of births attended by a direct entry**
 3 **midwife as a condition of license renewal.**

4 (2) The agency shall establish a procedure for the renewal of licenses. Notwithstanding sub-
 5 section (1) of this section, the agency may vary the renewal date of a license by giving the applicant
 6 written notice of the renewal date being assigned and by making prorated adjustments to the re-
 7 newal fee.

8 (3) The board shall prescribe requirements for license renewal including, but not limited to,
 9 continuing education that must include training in use of legend drugs and devices. In addition to
 10 continuing education requirements, a midwife who has attended fewer than five births in the previ-
 11 ous year shall be required to take an additional 10 hours of continuing education as prescribed by
 12 the board. All licensing requirements shall be approved by the board by rule.

13 (4) Any license that is not renewed shall automatically revert to inactive status. The license
 14 may be reactivated only if the license holder meets other qualifications for reactivation as pre-
 15 scribed by the agency in consultation with the board.

16 (5) The agency may mail a notice of renewal to the last-known address of the license holder.

17 **SECTION 7.** ORS 687.493 is amended to read:

18 687.493. (1) A **direct entry** midwife licensed under ORS [687.405 to 687.495] **687.420** may pur-
 19 chase and administer authorized scheduled legend drugs and devices that are used in pregnancy,
 20 birth, postpartum care, newborn care or resuscitation and that are deemed integral to providing safe
 21 care to the public by the State Board of Direct Entry Midwifery by rule.

22 (2) Legend drugs authorized under subsection (1) of this section are limited:

23 (a) For neonatal use to prophylactic ophthalmic medications, vitamin K and oxygen; and

24 (b) For maternal use to postpartum antihemorrhagics, Rh_o(D) immune globulin, epinephrine,
 25 intravenous fluids, local anesthetic and oxygen.

26 (3) Legend devices authorized under subsection (1) of this section are limited to devices for in-
 27 jection of medications, for the administration of intravenous fluids, for adult and infant resuscitation
 28 and for rupturing the amniotic membranes.

29 (4) A pharmacist who dispenses drugs and devices to a licensed midwife as authorized by this
 30 section and in conformity with the provisions of ORS chapter 689 is not liable for any adverse re-
 31 actions caused by administration of the legend drugs and devices by the midwife.

32 **SECTION 8.** ORS 687.495 is amended to read:

33 687.495. In cooperation with the State Board of Direct Entry Midwifery, the Oregon Health Li-
 34 censing Agency shall collect and report data on births for which a direct entry midwife was the
 35 primary care provider. The report shall distinguish outcomes between licensed direct entry midwives
 36 and **unlicensed** direct entry midwives [*who are not licensed*] under ORS 687.405 to 687.495.

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