

C-Engrossed
House Bill 2380

Ordered by the Senate June 21
Including House Amendments dated April 19 and Senate Amendments
dated June 8 and June 21

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Health Care)

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.

Makes certain data discovered during peer review of licensed direct entry midwife inadmissible. Prohibits person from bringing cause of action against licensed physician or hospital for injuries to patient resulting from care provided by direct entry midwife not at hospital.

Requires Center of Health Statistics to collect and report data on all birth and fetal deaths occurring in Oregon. **Increases, for biennium beginning July 1, 2011, limitation on expenditures from fees, moneys and other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by Oregon Health Authority for purpose of collecting and reporting data.**

Eliminates member from State Board of Direct Entry Midwifery.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to direct entry midwifery; creating new provisions; amending ORS 687.405, 687.470 and
3 687.495; limiting expenditures; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 687.405 to**
6 **687.495.**

7 **SECTION 2. (1) Peer review of a licensed direct entry midwife conducted under ORS**
8 **687.480 is subject to the provisions of ORS 41.675. Charts and records created during or for**
9 **the purpose of the practice of direct entry midwifery are not data under ORS 41.675.**

10 **(2) Peer review that is conducted outside of the Oregon Health Licensing Agency may**
11 **not be used to replace agency regulatory investigations of complaints against licensed direct**
12 **entry midwives.**

13 **SECTION 3. (1) As used in this section:**

14 **(a) "Direct entry midwife" means a person practicing direct entry midwifery as defined**
15 **in ORS 687.405.**

16 **(b) "Hospital" has the meaning given that term in ORS 442.015.**

17 **(2) A person may not bring a cause of action against a physician licensed under ORS**
18 **chapter 677 or against a hospital for injury to a patient if:**

19 **(a) The injury occurred as a result of care provided by a direct entry midwife in a setting**
20 **outside the hospital; and**

21 **(b) The direct entry midwife requested that the patient be transported to the hospital**
22 **because the direct entry midwife could not provide appropriate care to the patient.**

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 **(3) This section does not apply to the extent the physician or hospital contributed to the**
2 **injury or to a claim of vicarious liability for care provided by a direct entry midwife.**

3 **(4) This section does not limit the liability of a physician or a hospital for gross**
4 **negligence or reckless, wanton or intentional misconduct.**

5 **SECTION 4.** ORS 687.405 is amended to read:

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

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

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

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

11 **SECTION 5.** ORS 687.495 is amended to read:

12 687.495. (1) [*In cooperation with the State Board of Direct Entry Midwifery, the Oregon Health*
13 *Licensing Agency*] **The Center for Health Statistics established under ORS 432.010** shall collect
14 and report data on [*births for which a direct entry midwife was the primary care provider*] **birth and**
15 **fetal death outcomes occurring in this state, including intrapartum and neonatal transfers**
16 **to hospital care from another birthing facility, hospital or other location. The center shall**
17 **report the data by attendant type.** The report shall distinguish outcomes between licensed direct
18 entry midwives and direct entry midwives who are not licensed under ORS 687.405 to 687.495.

19 **(2) The Oregon Health Authority may accept gifts, grants and contributions from any**
20 **public or private source for the purpose of carrying out the provisions of this section.**

21 **SECTION 6.** ORS 687.470 is amended to read:

22 687.470. (1) There is established within the Oregon Health Licensing Agency the State Board
23 of Direct Entry Midwifery. The board consists of [*eight*] **seven** members appointed by the Governor
24 and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All
25 members of the board must be residents of this state. Of the members of the board:

26 (a) Four must be licensed direct entry midwives.

27 (b) [*Two*] **One** must be a certified nurse [*midwives*] **midwife**.

28 (c) One must be a physician licensed under ORS chapter 677 involved at the time of appointment
29 in obstetrical care or education.

30 (d) One must be a member of the public.

31 (2)(a) Board members required to be licensed direct entry midwives may be selected by the
32 Governor from a list of three to five nominees for each vacancy, submitted by a professional or-
33 ganization representing direct entry midwives.

34 (b) In selecting the members of the board, the Governor shall strive to balance the represen-
35 tation on the board according to:

36 (A) Geographic areas of this state; and

37 (B) Ethnic group.

38 (3)(a) The term of office of each member is three years, but a member serves at the pleasure of
39 the Governor. The terms must be staggered so that no more than three terms end each year. Va-
40 cancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold
41 the member’s office until the appointment and qualification of a successor. A member is eligible for
42 reappointment. If a person serves two consecutive full terms, a period of at least three years must
43 elapse before the person is again eligible for appointment to serve on the board.

44 (b) A board member shall be removed immediately from the board if, during the member’s term,
45 the member:

1 (A) Is not a resident of this state;

2 (B) Has been absent from three consecutive board meetings, unless at least one absence is ex-
3 cused; or

4 (C) Is not a licensed direct entry midwife or a retired direct entry midwife who was a licensed
5 direct entry midwife in good standing at the time of retirement, if the board member was appointed
6 to serve on the board as a direct entry midwife.

7 (4) Members of the board are entitled to compensation and expenses as provided in ORS 292.495.
8 The agency may provide by rule for compensation to board members for the performance of official
9 duties at a rate that is greater than the rate provided in ORS 292.495.

10 **SECTION 7. Notwithstanding any other law limiting expenditures, the limitation on**
11 **expenditures established by section 2 (1), chapter __, Oregon Laws 2011 (Enrolled Senate**
12 **Bill 5529), for the biennium beginning July 1, 2011, as the maximum limit for payment of ex-**
13 **penditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding**
14 **lottery funds and federal funds, collected or received by the Oregon Health Authority, is in-**
15 **creased by \$30,000 for the purpose of carrying out the provisions of section 5 of this 2011 Act.**

16 **SECTION 8. (1) The amendments to ORS 687.470 by section 6 of this 2011 Act apply to**
17 **appointments to the State Board of Direct Entry Midwifery made on or after the effective**
18 **date of this 2011 Act.**

19 **(2) A member serving on the board on the effective date of this 2011 Act continues to**
20 **serve until the term of office for which the member was appointed terminates by expiration**
21 **of time, resignation from the board or removal of the member from office.**

22 **SECTION 9. This 2011 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
24 **on its passage.**

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