

2001 ASSEMBLY BILL 725

January 14, 2002 – Introduced by Representatives UNDERHEIM, KRAWCZYK, LIPPERT, MILLER, OLSEN, BIES, SKINDRUD, OWENS, TOWNSEND and ALBERS, cosponsored by Senators ROBSON, MOEN, MOORE, ROESSLER, ROSENZWEIG and WIRCH. Referred to Committee on Health.

1 **AN ACT to renumber and amend** 441.15 (1) and 441.15 (3) (a); **to amend** 253.13
2 (1), 441.15 (2) (intro.), 441.15 (2) (a), 441.15 (2) (b), 441.15 (3) (b) and 441.15 (4);
3 and **to create** 441.15 (1) (a), 441.15 (2) (c), 441.15 (3) (a) 3. and 441.15 (5) of the
4 statutes; **relating to:** the practice of nurse–midwifery, providing an exemption
5 from emergency rule procedures, and granting rule–making authority.

Analysis by the Legislative Reference Bureau

Under current law, no person may practice as a nurse–midwife unless he or she is issued a license by the board of nursing (board). “Nurse–midwifery” is defined as: 1) managing the care of a woman in normal childbirth; 2) providing prenatal, intrapartal, postpartal, and nonsurgical contraceptive methods; and 3) caring for a mother and newborn. Current law also requires a nurse–midwife to practice in a health care facility approved by the board and under the general supervision of a physician with training in obstetrics. Also, there must be a formal written agreement between the nurse–midwife and supervising physician. In addition, if a nurse–midwife discovers evidence of a complication that jeopardizes the health or life of a mother or newborn, a nurse–midwife must immediately refer the patient to the supervising physician or, if he or she is not available, to another physician.

This bill creates a new definition of “nurse–midwifery.” Under the bill, “nurse–midwifery” means the management of women’s health care, pregnancy, childbirth, postpartum care for newborns, family planning, and gynecological services consistent with the standards of practice of the American College of

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Nurse–Midwives and the education, training, and experience of the nurse–midwife. As under current law, the bill prohibits a person from acting as a nurse–midwife without a license issued by the board. In addition, as under current law, a nurse–midwife must practice in an approved health care facility.

In addition, under the bill, a nurse–midwife must practice in collaboration with a physician, not under a physician’s general supervision. Also, the bill requires the physician’s training in obstetrics to be postgraduate training. The bill defines “collaboration” as a process that involves two or more health care professionals working together and, when necessary, in each other’s presence. Additionally, “collaboration” is defined as a process in which each health care professional contributes his or her expertise to provide more comprehensive care than one health care professional alone can offer. The bill also requires a written agreement between the collaborating physician and nurse–midwife. Also, if a nurse–midwife discovers evidence of a complication, the nurse–midwife must consult with the collaborating physician or the physician’s designee, or make a referral as specified in the written agreement.

Finally, the bill requires the board to consult with the commissioner of insurance and promulgate rules establishing the minimum amount of malpractice liability insurance that a nurse–midwife must have in effect. The rules must include requirements and procedures for waiving the rules for any period of time for which the commissioner of insurance determines that such insurance is not reasonably available. The following are not required to have the insurance: 1) federal, state, county, city, village, and town employees who practice nurse–midwifery within the scope of their employment; 2) certain health center employees who are immune from liability under federal law; 3) employees who are covered by their employers’ insurance in at least the minimum amount required under the rules; and 4) persons who do not provide care for patients. If applicable, an applicant for a license or for renewal of a license must submit proof of the insurance to the board.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 253.13 (1) of the statutes is amended to read:
- 2 253.13 **(1)** BLOOD TESTS. The attending physician or nurse certified licensed
- 3 under s. 441.15 shall cause every infant born in each hospital or maternity home,
- 4 prior to its discharge therefrom, to be subjected to blood tests for congenital and
- 5 metabolic disorders, as specified in rules promulgated by the department. If the
- 6 infant is born elsewhere than in a hospital or maternity home, the attending

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1 physician, nurse ~~certified~~ licensed under s. 441.15 or birth attendant who attended
2 the birth shall cause the infant, within one week of birth, to be subjected to these
3 blood tests.

4 **SECTION 2.** 441.15 (1) of the statutes is renumbered 441.15 (1) (intro.) and
5 amended to read:

6 441.15 (1) (intro.) In this section, ~~“the practice;~~

7 (b) “Practice of nurse–midwifery” means the management of ~~care of a woman~~
8 ~~in normal childbirth and the provision of prenatal, intrapartal, postpartal and~~
9 ~~nonsurgical contraceptive methods and care for the mother and the newborn~~
10 women’s health care, pregnancy, childbirth, postpartum care for newborns, family
11 planning, and gynecological services consistent with the standards of practice of the
12 American College of Nurse–Midwives and the education, training, and experience
13 of the nurse–midwife.

14 **SECTION 3.** 441.15 (1) (a) of the statutes is created to read:

15 441.15 (1) (a) “Collaboration” means a process that involves 2 or more health
16 care professionals working together and, when necessary, in each other’s presence,
17 and in which each health care professional contributes his or her expertise to provide
18 more comprehensive care than one health care professional alone can offer.

19 **SECTION 4.** 441.15 (2) (intro.) of the statutes is amended to read:

20 441.15 (2) (intro.) No person may engage in the practice of nurse–midwifery
21 unless each of the following conditions is satisfied:

22 **SECTION 5.** 441.15 (2) (a) of the statutes is amended to read:

23 441.15 (2) (a) ~~Without a certificate issued~~ The person is issued a license by the
24 board under sub. (3) (a).

25 **SECTION 6.** 441.15 (2) (b) of the statutes is amended to read:

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1 441.15 (2) (b) ~~Unless such~~ The practice occurs in a health care facility approved
2 by the board by rule under sub. (3) (c), ~~under the general supervision of in~~
3 collaboration with a physician with postgraduate training in obstetrics, and
4 pursuant to a ~~formal~~ written agreement with that physician.

5 **SECTION 7.** 441.15 (2) (c) of the statutes is created to read:

6 441.15 (2) (c) Except as provided in sub. (5) (a), the person has in effect the
7 malpractice liability insurance required under the rules promulgated under sub. (5)
8 (b).

9 **SECTION 8.** 441.15 (3) (a) of the statutes is renumbered 441.15 (3) (a) (intro.)
10 and amended to read:

11 441.15 (3) (a) (intro.) The board shall grant a license to engage in the practice
12 of nurse-midwifery to any person licensed as a registered nurse under this
13 subchapter or in a party state, as defined in s. 441.50 (2) (j), who ~~meets~~ does all of the
14 following:

15 1. Submits evidence satisfactory to the board that he or she meets the
16 educational and training prerequisites established by the board for the practice of
17 nurse-midwifery ~~and who pays.~~

18 2. Pays the fee specified under s. 440.05 (1).

19 **SECTION 9.** 441.15 (3) (a) 3. of the statutes is created to read:

20 441.15 (3) (a) 3. If applicable, submits evidence satisfactory to the board that
21 he or she has in effect the malpractice liability insurance required under the rules
22 promulgated under sub. (5) (b).

23 **SECTION 10.** 441.15 (3) (b) of the statutes is amended to read:

24 441.15 (3) (b) On or before the applicable renewal date specified under s. 440.08
25 (2) (a), a person issued a certificate license under par. (a) and practicing

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1 nurse–midwifery shall submit to the board on furnished blanks a statement giving
2 his or her name, residence, and other information as that the board requires by rule,
3 with the applicable renewal fee specified under s. 440.08 (2) (a). If applicable, the
4 person shall also submit evidence satisfactory to the board that he or she has in effect
5 the malpractice liability insurance required under the rules promulgated under sub.
6 (5) (b).

7 **SECTION 11.** 441.15 (4) of the statutes is amended to read:

8 441.15 (4) A nurse–midwife who discovers evidence that any aspect of care
9 involves any complication which jeopardizes the health or life of the a newborn or
10 mother shall ~~immediately refer the patient to the supervising~~ consult with the
11 collaborating physician under sub. (2) (b) ~~or, if that physician is unavailable, to~~
12 ~~another physician or the physician's designee, or make a referral as specified in a~~
13 written agreement under sub. (2) (b).

14 **SECTION 12.** 441.15 (5) of the statutes is created to read:

15 441.15 (5) (a) Except for any of the following, no person may practice
16 nurse–midwifery unless he or she has in effect malpractice liability insurance in an
17 amount that is at least the minimum amount specified in rules promulgated under
18 par. (b):

19 1. A federal, state, county, city, village, or town employee who practices
20 nurse–midwifery within the scope of his or her employment.

21 2. A person who is considered to be an employee of the federal public health
22 service under 42 USC 233 (g).

23 3. A person whose employer has in effect malpractice liability insurance that
24 provides coverage for the person in an amount that is at least the minimum amount
25 specified in the rules.

