

**HOUSE BILL No. 2589**

By Committee on Health and Human Services

1-31

1 AN ACT concerning the independent practice of midwifery act; providing  
2 for administration by the state board of nursing; establishing a nurse-  
3 midwives advisory council; amending K.S.A. 2017 Supp. 65-28b02,  
4 65-28b03, 65-28b04, 65-28b05, 65-28b06, 65-28b07, 65-28b08 and 65-  
5 28b09 and repealing the existing sections.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2017 Supp. 65-28b02 is hereby amended to read as  
9 follows: 65-28b02. As used in the independent practice of midwifery act:

- 10 (a) "Board" means the state board of ~~healing arts~~ nursing.  
11 (b) "Certified nurse-midwife" means an individual who:  
12 (1) Is educated in the two disciplines of nursing and midwifery;  
13 (2) is currently certified by a certifying board *or entity* approved by  
14 the state board of nursing; and  
15 (3) is currently licensed under the Kansas nurse practice act.

16 (c) "Independent practice of midwifery" means the provision of  
17 clinical services by a certified nurse-midwife without the requirement of a  
18 collaborative practice agreement with a person licensed to practice  
19 medicine and surgery when such clinical services are limited to those  
20 associated with a normal, uncomplicated pregnancy and delivery,  
21 including:

- 22 (1) The prescription of drugs and diagnostic tests;  
23 (2) the performance of episiotomy or repair of a minor vaginal  
24 laceration;  
25 (3) the initial care of the normal newborn; and  
26 (4) family planning services, including treatment or referral of male  
27 partners for sexually-transmitted infections.

28 ~~(d) The provisions of this section shall become effective on January~~  
29 ~~1, 2017.~~

30 Sec. 2. K.S.A. 2017 Supp. 65-28b03 is hereby amended to read as  
31 follows: 65-28b03. (a) In order to obtain authorization to engage in the  
32 independent practice of midwifery, a certified nurse-midwife must meet  
33 the following requirements:

- 34 (1) Be licensed to practice professional nursing under the Kansas  
35 nurse practice act;  
36 (2) have successfully completed a course of study in nurse-midwifery

1 in a school of nurse-midwifery approved by the board;

2 (3) have successfully completed a national certification *in nurse-*  
3 *midwifery* approved by the board;

4 (4) have successfully completed a refresher course as defined by rules  
5 and regulations of the board, if the individual has not been in active  
6 midwifery practice for five years immediately preceding the application;

7 (5) be authorized to perform the duties of a certified nurse-midwife  
8 by the state board of nursing;

9 (6) be licensed as an advanced practice registered nurse by the state  
10 board of nursing; and

11 (7) have paid all *applicable* fees ~~for licensure~~ prescribed in K.S.A.  
12 2017 Supp. 65-28b05, and amendments thereto.

13 (b) Upon application to the board ~~by any certified nurse-midwife~~ and  
14 upon satisfaction of the standards and requirements established under this  
15 act, the board shall grant an authorization to the applicant to engage in the  
16 independent practice of midwifery, *except that no application to engage in*  
17 *the independent practice of midwifery shall be granted until the date upon*  
18 *which rules and regulations adopted to carry out the provisions of K.S.A.*  
19 *2017 Supp. 65-28b07(a), and amendments thereto, become effective.*

20 (c) *The board may grant a temporary permit to engage in the*  
21 *independent practice of midwifery to a person who has met the*  
22 *requirements of (a)(1), (2), (3), (6) and (7) for the needed amount of time*  
23 *to complete the refresher course under (a)(4), but the temporary permit*  
24 *shall not exceed 120 days.*

25 ~~(e) (d)~~ A person whose ~~licensure~~ *authorization to engage in the*  
26 *independent practice of midwifery* has been revoked may make written  
27 application to the board requesting reinstatement of the ~~license~~  
28 *authorization* in a manner prescribed by the board, which application shall  
29 be accompanied by the fee prescribed in K.S.A. 2017 Supp. 65-28b05, and  
30 amendments thereto.

31 ~~(d) The provisions of this section shall become effective on January~~  
32 ~~1, 2017.~~

33 Sec. 3. K.S.A. 2017 Supp. 65-28b04 is hereby amended to read as  
34 follows: 65-28b04. (a) ~~Licenses~~ *Authorization to engage in the*  
35 *independent practice of midwifery* issued under this act shall expire on the  
36 date of expiration established by rules and regulations of the board, unless  
37 renewed in the manner prescribed by the board. The request for renewal  
38 shall be accompanied by the fee prescribed in K.S.A. 2017 Supp. 65-  
39 28b05, and amendments thereto.

40 (b) At least 30 days before the expiration of ~~a licensee's license~~ *an*  
41 *authorization*, the board shall notify the ~~licensee holder of the~~  
42 *authorization* of the expiration, by mail, addressed to the ~~licensee's~~  
43 *person's* last known mailing address. If the ~~licensee holder of the~~

1 *authorization* fails to submit an application for renewal on a form provided  
 2 by the board, or fails to pay the renewal fee by the date of expiration, the  
 3 board shall give a second notice to the ~~licensee~~ that the *license holder of*  
 4 *the authorization that the authorization* has expired and the ~~license~~  
 5 *authorization* may be renewed only if the application for renewal, the  
 6 renewal fee, and the late renewal fee are received by the board within the  
 7 30-day period following the date of expiration and that, if both fees are not  
 8 received within the 30-day period, the ~~license authorization to engage in~~  
 9 *the independent practice of midwifery* shall be deemed canceled by  
 10 operation of law and without further proceedings.

11 (c) The board may require any ~~licensee~~ *holder of an authorization*, as  
 12 a condition of renewal, to submit with the application of renewal evidence  
 13 of satisfactory completion of a program of continuing education as  
 14 required by rules and regulations of the board.

15 (d) ~~The provisions of this section shall become effective on January~~  
 16 ~~1, 2017.~~

17 Sec. 4. K.S.A. 2017 Supp. 65-28b05 is hereby amended to read as  
 18 follows: 65-28b05. (a) The board shall charge and collect, in advance, ~~fees~~  
 19 ~~for certified nurse-midwives; the following fees~~ as established by the  
 20 board, *by rules and regulations*, not to exceed:

21	Application for license.....	\$100
22	License renewal.....	\$100
23	Late license renewal.....	\$100
24	License reinstatement fee.....	\$100
25	Revoked license fee.....	\$100
26	Certified copy of license.....	\$50
27	Verified copy of license.....	\$25
28	<i>Application for authorization</i> .....	\$100
29	<i>Authorization renewal</i> .....	\$100
30	<i>Late authorization renewal</i> .....	\$100
31	<i>Authorization reinstatement fee</i> .....	\$100
32	<i>Revoked authorization fee</i> .....	\$100
33	<i>Temporary permit fee</i> .....	\$50
34	<i>Certified copy of authorization</i> .....	\$50
35	<i>Verified copy of authorization</i> .....	\$50

36 (b) The board shall remit all moneys received by or for the board  
 37 from fees, charges or penalties to the state treasurer in accordance with the  
 38 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
 39 each such remittance, the state treasurer shall deposit the entire amount in

1 the state treasury. Ten percent of each such amount shall be credited to the  
2 state general fund, and the balance shall be credited to the ~~healing arts~~  
3 *board of nursing* fee fund. All expenditures from the ~~healing arts~~ *board of*  
4 *nursing* fee fund shall be made in accordance with appropriation acts upon  
5 warrants of the director of accounts and reports issued pursuant to  
6 vouchers approved by the president of the board or *by a person or persons*  
7 designated by the president.

8 ~~(e) The provisions of this section shall become effective on January 1,~~  
9 ~~2017.~~

10 Sec. 5. K.S.A. 2017 Supp. 65-28b06 is hereby amended to read as  
11 follows: 65-28b06. ~~(a) It shall be unlawful for a person to engage in the~~  
12 ~~independent practice of midwifery without a collaborative practice~~  
13 ~~agreement with a person licensed to practice medicine and surgery, unless~~  
14 ~~such certified nurse-midwife holds a license from the state board of~~  
15 ~~nursing and the board person holds a currently valid authorization from~~  
16 ~~the board to engage in the independent practice of midwifery under the~~  
17 ~~act.~~

18 ~~(b) The provisions of this section shall become effective on January~~  
19 ~~1, 2017.~~

20 Sec. 6. K.S.A. 2017 Supp. 65-28b07 is hereby amended to read as  
21 follows: 65-28b07. (a) The board, in consultation with the ~~state board of~~  
22 ~~nursing nurse-midwives advisory council~~, shall adopt rules and regulations  
23 pertaining to certified nurse-midwives engaging in the independent  
24 practice of midwifery and governing the ordering of tests, diagnostic  
25 services and prescribing of drugs and referral or transfer to physicians in  
26 the event of complications or emergencies. ~~Such rules and regulations~~  
27 ~~shall not be adopted until the state board of nursing and the board have~~  
28 ~~consulted and concurred on the content of each rule and regulation.~~ Such  
29 rules and regulations shall be adopted no later than January 1, 2017 15,  
30 2019.

31 (b) A certified nurse midwife engaging in the independent practice of  
32 midwifery shall be subject to the provisions of the independent practice of  
33 midwifery act with respect to the ordering of tests, diagnostic services and  
34 prescribing of drugs, and shall not be subject to the provisions of K.S.A.  
35 65-1130, and amendments thereto.

36 (c) The standards of care for certified nurse-midwives in the ordering  
37 of tests, diagnostic services and the prescribing of drugs shall be those  
38 standards which protect patients and shall be standards comparable to  
39 persons licensed to practice medicine and surgery providing the same  
40 services.

41 (d) *In addition to rules and regulations the board is otherwise*  
42 *authorized to adopt under the independent practice of nurse midwifery*  
43 *act*, the board is hereby authorized to ~~solely~~ ~~adopt~~ those rules and

1 regulations necessary to administer the ~~administrative~~ provisions of this  
2 act.

3 Sec. 7. K.S.A. 2017 Supp. 65-28b08 is hereby amended to read as  
4 follows: 65-28b08. (a) The board may deny, revoke, limit or suspend any  
5 ~~license or~~ authorization or temporary permit issued to a certified nurse-  
6 midwife to engage in the independent practice of midwifery that is issued  
7 by the board or applied for under this act, or may publicly censure a  
8 ~~licensee~~ the holder of an authorization or holder of a temporary permit or  
9 authorization, if the applicant or ~~licensee~~ holder of an authorization or  
10 temporary permit is found after a hearing:

11 (1) To be guilty of fraud or deceit while engaging in the independent  
12 practice of midwifery or in procuring or attempting to procure a ~~license an~~  
13 authorization or temporary permit to engage in the independent practice of  
14 midwifery;

15 (2) to have been found guilty of a felony or to have been found guilty  
16 of a misdemeanor involving an illegal drug offense unless the applicant or  
17 ~~licensee~~ holder of an authorization or temporary permit establishes  
18 sufficient rehabilitation to warrant the public trust, except that  
19 notwithstanding K.S.A. 74-120, and amendments thereto, no ~~license or~~  
20 authorization or temporary permit to practice and engage in the  
21 independent practice of midwifery shall be granted to a person with a  
22 felony conviction for a crime against persons as specified in article 34 of  
23 chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article  
24 54 of chapter 21 of the Kansas Statutes Annotated, and amendments  
25 thereto, or K.S.A. 2017 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and  
26 amendments thereto;

27 (3) to have committed an act of professional incompetence as defined  
28 in subsection (c);

29 (4) to be unable to practice ~~the healing arts~~ midwifery with reasonable  
30 skill and safety by reason of impairment due to physical or mental illness  
31 or condition or use of alcohol, drugs or controlled substances. All  
32 information, reports, findings and other records relating to impairment  
33 shall be confidential and not subject to discovery or release to any person  
34 or entity outside of a board proceeding. The provisions of this paragraph  
35 providing confidentiality of records shall expire on July 1, 2022, unless the  
36 legislature reviews and reenacts such provisions pursuant to K.S.A. 45-  
37 229, and amendments thereto, prior to July 1, 2022;

38 (5) to be a person who has been adjudged in need of a guardian or  
39 conservator, or both, under the act for obtaining a guardian or conservator,  
40 or both, and who has not been restored to capacity under that act;

41 (6) to be guilty of unprofessional conduct as defined by rules and  
42 regulations of the board;

43 (7) to have willfully or repeatedly violated the provisions of the

1 Kansas nurse practice act or any rules and regulations adopted pursuant to  
2 that act;

3 (8) to have a license to practice nursing as a registered nurse or as a  
4 practical nurse denied, revoked, limited or suspended, or to have been  
5 publicly or privately censured, by a licensing authority of another state,  
6 agency of the United States government, territory of the United States or  
7 country, or to have other disciplinary action taken against the applicant or  
8 licensee *the holder of an authorization or temporary permit* by a licensing  
9 authority of another state, agency of the United States government,  
10 territory of the United States or country. A certified copy of the record or  
11 order of public or private censure, denial, suspension, limitation,  
12 revocation or other disciplinary action of the licensing authority of another  
13 state, agency of the United States government, territory of the United  
14 States or country shall constitute prima facie evidence of such a fact for  
15 purposes of this paragraph; or

16 (9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its  
17 repeal, or K.S.A. 2017 Supp. 21-5407, and amendments thereto, as  
18 established by any of the following:

19 (A) A copy of the record of criminal conviction or plea of guilty to a  
20 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2017  
21 Supp. 21-5407, and amendments thereto;

22 (B) a copy of the record of a judgment of contempt of court for  
23 violating an injunction issued under K.S.A. 60-4404, and amendments  
24 thereto; or

25 (C) a copy of the record of a judgment assessing damages under  
26 K.S.A. 60-4405, and amendments thereto.

27 (b) No person shall be excused from testifying in any proceedings  
28 before the board under this act or in any civil proceedings under this act  
29 before a court of competent jurisdiction on the ground that such testimony  
30 may incriminate the person testifying, but such testimony shall not be used  
31 against the person for the prosecution of any crime under the laws of this  
32 state, except the crime of perjury as defined in K.S.A. 2017 Supp. 21-  
33 5903, and amendments thereto.

34 (c) As used in this section, "professional incompetency" means:

35 (1) One or more instances involving failure to adhere to the  
36 applicable standard of care to a degree which constitutes gross negligence,  
37 as determined by the board;

38 (2) repeated instances involving failure to adhere to the applicable  
39 standard of care to a degree which constitutes ordinary negligence, as  
40 determined by the board; or

41 (3) a pattern of practice or other behavior which demonstrates a  
42 manifest incapacity or incompetence to engage in the independent practice  
43 of midwifery.

1 (d) The board, upon request, shall receive from the Kansas bureau of  
2 investigation such criminal history record information relating to arrests  
3 and criminal convictions, as necessary, for the purpose of determining  
4 initial and continuing qualifications of ~~licensees~~ *certified nurse midwives*  
5 *authorized to engage in the independent practice of midwifery and persons*  
6 *holding temporary permits to engage in the independent practice of*  
7 *midwifery and applicants for ~~license~~ by the board authorization to*  
8 *engage in the independent practice of midwifery or a temporary permit to*  
9 *engage in the independent practice of midwifery.*

10 (e) ~~The provisions of this section shall become effective on January 1,~~  
11 ~~2017.~~

12 Sec. 8. K.S.A. 2017 Supp. 65-28b09 is hereby amended to read as  
13 follows: 65-28b09. (a) *The nurse-midwives council existing immediately*  
14 *prior to the effective date of this act is hereby abolished, and there is*  
15 *hereby established a nurse-midwives advisory council to advise the board*  
16 *in carrying out the provisions of this act. The council shall consist of seven*  
17 *members, all residents of the state of Kansas appointed as follows: Two*  
18 *members shall be ~~licensees of the board, appointed by the board~~ appointed*  
19 *by the state board of healing arts, who are licensed to practice medicine*  
20 *and surgery and whose specialty and customary practice includes*  
21 *obstetrics; one member shall be the president of the ~~board~~ state board of*  
22 *nursing or a board member designated by the president; and four members*  
23 *shall be ~~licensed~~ certified nurse-midwives authorized to engage in the*  
24 *independent practice of midwifery appointed by the state board of nursing,*  
25 *except for membership on the first appointed nurse-midwives advisory*  
26 *council, the four members appointed the the board shall be person eligible*  
27 *to obtain an authorization from the board to engage in the independent*  
28 *practice of midwifery. Members of the council shall serve at the pleasure*  
29 *of their appointing authority. The chairperson of the council shall be a*  
30 *member of the council designated by the president of the board.*

31 (b) If a vacancy occurs on the *nurse-midwives advisory council*, the  
32 appointing authority of the position which has become vacant shall appoint  
33 a person of like qualifications to fill the vacant position for the unexpired  
34 term, if any.

35 (c) *Members of the nurse-midwives advisory council attending*  
36 *meetings of the council, or attending a subcommittee meeting thereof*  
37 *authorized by the council, shall be paid amounts provided in K.S.A. 75-*  
38 *3223(e), and amendments thereto, from the board of nursing fee fund.*

39 Sec. 9. K.S.A. 2017 Supp. 65-28b02, 65-28b03, 65-28b04, 65-28b05,  
40 65-28b06, 65-28b07, 65-28b08 and 65-28b09 are hereby repealed.

41 Sec. 10. This act shall take effect and be in force from and after its  
42 publication in the statute book.