

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

HOUSE BILL 1814

By: Representatives Sabin, Ballinger

## For An Act To Be Entitled

AN ACT TO AMEND AND UPDATE THE LICENSED LAY MIDWIFE ACT; TO CHANGE THE TERM "LICENSED LAY MIDWIFE" TO "LICENSED MIDWIFE"; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND AND UPDATE THE LICENSED LAY MIDWIFE ACT; AND TO CHANGE THE TERM "LICENSED LAY MIDWIFE" TO "LICENSED MIDWIFE".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 17, Chapter 85, is amended to read as follows:

### Chapter 85 - ~~Lay~~ Midwives

17-85-101. Short title.

This chapter shall be known as the "Licensed ~~Lay~~ Midwife Act".

17-85-102. Purpose.

(a)(1) It is the purpose and intent of this chapter to grant the State Board of Health the authority to license ~~lay~~ midwives statewide.

(2) It is furthermore the intent of this chapter to supersede Acts 1983, No. 838 and Acts 1987, No. 481.

(3) This chapter is to be the sole authority of the board to license midwives.

(b) Furthermore, it is the intent of this chapter that the board



continue ~~its present lay~~ the statewide midwife licensure program, ~~but expand that program to be applicable statewide.~~

(c) The State of Arkansas recognizes the following rights of Arkansas citizens:

(1) The right to give birth in the manner and location of choice and to decide who will be present;

(2) The right to informed consent and informed refusal of medical tests, procedures, treatments, and consultations;

(3) The right to choose and retain a practitioner of his or her choice; and

(4) The right to privacy guaranteed by Arkansas Constitution.

17-85-103. Definition.

As used in this chapter a "~~lay~~ midwife" is any person other than a physician, a nurse-midwife, or a licensed nurse practicing within the scope of ~~the Arkansas Nurse Practice Act, § 17-87-101 et seq.,~~ who performs for compensation those skills relevant to the management of women in the antepartum, intrapartum, and postpartum period of the maternity cycle and her newborn in the postpartum period.

17-85-104. Construction.

Neither the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., nor ~~the Arkansas Nurse Midwifery Act, § 17-87-501 et seq. [repealed],~~ Acts 2013, No. 604, regarding advanced practice registered nurses, shall be construed as prohibiting the practice of midwifery by persons licensed under this chapter.

17-85-105. Unlawful actions – Exception.

(a) It is unlawful for any person not licensed as a ~~lay~~ midwife by the State Board of Health, excluding licensed nurse-midwives and physicians licensed by the State Medical Board, to:

(1) Receive compensation for attending birth as a ~~lay~~ midwife;

or

(2) Indicate by any means that the person is licensed to practice ~~lay~~ midwifery in Arkansas.

(b) This chapter ~~shall~~ does not prohibit the attendance at birth of

the mother's choice of family, friends, or other ~~uncompensated~~ labor support attendants.

17-85-106. Penalty – Injunctions.

(a) ~~Anyone~~ A person who is unlawfully practicing ~~lay~~ midwifery without a license ~~shall be deemed guilty of~~ commits a misdemeanor ~~and upon conviction thereof, shall be punished~~ punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for a period of not less than one (1) week nor more than six (6) months, or by ~~fine and imprisonment~~ both.

(b)(1) The courts of this state ~~having general equity jurisdiction~~ are vested with jurisdiction and power to enjoin the unlawful practice of midwifery in a proceeding by the State Board of Health or any member ~~thereof,~~ of the board or by any citizen of this state in the county in which the alleged unlawful practice occurred, ~~or~~ in which the defendant resides, or in Pulaski County.

(2) The issuance of an injunction shall not relieve a person from criminal prosecution for violation of the provisions of this chapter, but remedy of the injunction shall be in addition to liability to criminal prosecution.

17-85-107. ~~Power to license~~ Powers and duties.

(a) The State Board of Health ~~is empowered to~~ may license ~~lay~~ midwives in this state ~~pursuant to regulations~~ under rules established by the ~~board~~ State Board of Health to include, ~~but not be limited to~~ without limitation:

- (1) The qualifications for licensure;
- (2) Standards of practice for prenatal, intrapartum, and postpartum care of mother and baby;
- (3) ~~Physician supervision, physician consultation, licensed nurse-midwife supervision or consultation, or physician and hospital backup;~~
- ~~(4)~~ Grievance procedures; and
- ~~(5)~~(4) Recordkeeping and reporting.

~~(b) The lawful practice of lay midwifery shall be under the supervision of a physician licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq.,~~

~~(c)~~(b) The ~~board~~ State Board of Health may suspend or revoke any

licenses issued under this chapter for violations of this chapter or ~~regulations~~ rules promulgated under this chapter.

17-85-108. Certificates of birth.

(a) When a birth occurs without a physician in attendance at or immediately after the birth but with a licensed midwife in attendance at or immediately after the birth, it shall then be the responsibility of the midwife to prepare the certificate of birth required by the Vital Statistics Act, § 20-18-101 et seq., and to file the certificate of birth with the Division of Vital Records of the Department of Health in the manner and within the time prescribed by the Vital Statistics Act, § 20-18-101 et seq.

(b) ~~The failure~~ Failure of the midwife to prepare and file the certificate of birth shall, in addition to the penalties prescribed by § 20-18-105, constitute grounds for the suspension or revocation of the license granted under this chapter.

SECTION 2. Uncodified Section 4 of Act 481 of 1987 is amended to read as follows:

SECTION 4. Any person who has been licensed or is presently licensed as a lay midwife under ~~Act 838 of 1983, as well as any person who has met eligibility for licensure with the exception of county of practice,~~ Act 481 of 1987 shall be entitled to licensure under this Act.

SECTION 3. Uncodified language within Section 5 of Act 481 of 1987 is repealed.

~~Provided however, currently practicing lay midwives may be issued a temporary permit to practice, which shall expire six months from the date of issuance, provided that they are otherwise in compliance with the rules and regulations.~~