

FIRST REGULAR SESSION  
[ P E R F E C T E D ]  
SENATE SUBSTITUTE FOR

# SENATE BILL NO. 303

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR LOUDON.

Offered April 10, 2007.

Senate Substitute adopted, April 10, 2007.

Taken up for Perfection April 17, 2007. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

1258S.04P

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### AN ACT

To repeal sections 334.010, 334.120, and 334.260, RSMo, and to enact in lieu thereof eight new sections relating to the practice of midwifery, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 334.010, 334.120, and 334.260, RSMo, are repealed  
2 and eight new sections enacted in lieu thereof, to be known as sections 324.1230,  
3 324.1233, 324.1236, 324.1239, 324.1242, 324.1245, 334.010, and 334.120 to read  
4 as follows:

**324.1230. 1. As used in sections 324.1230 to 324.1245, the**  
2 **following terms shall mean:**

3 (1) "Antepartum", before birth;

4 (2) "Board", the board of direct-entry midwives;

5 (3) "Client", a person who retains the services of a direct-entry  
6 midwife;

7 (4) "Direct-entry midwife", any person who is certified by the  
8 North American Registry of Midwives (NARM) as a certified  
9 professional midwife (CPM) and provides for compensation those skills  
10 relevant to the care of women and infants in the antepartum,  
11 intrapartum, and postpartum period;

12 (5) "Division", the division of professional registration;

13 (6) "Intrapartum", during birth;

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14           **(7) "Postpartum", after birth.**

15           **2. There is hereby created and established within the division of**  
16 **professional registration a "Board of Direct-Entry Midwives".**

17           **3. No later than December 31, 2007, the governor shall appoint**  
18 **members to the board with the advice and consent of the senate. The**  
19 **board shall consist of five members each of whom is a United States**  
20 **citizen and who has been a resident of this state for at least one year**  
21 **immediately preceding their appointment. Of these five members, one**  
22 **member shall be a physician licensed under chapter 334, RSMo, who**  
23 **has provided out-of-hospital birth services, one member shall be a**  
24 **public member, three members shall be licensed direct-entry midwives**  
25 **who attend births in homes or other out-of-hospital settings, provided**  
26 **that the first midwife members appointed need not be licensed at the**  
27 **time of appointment if they are actively working toward licensure**  
28 **under the provisions of sections 324.1230 to 324.1245.**

29           **4. The initial appointments to the board shall be one member for**  
30 **a term of one year, one member for a term of two years, one member for**  
31 **a term of three years, one member for a term of four years and one**  
32 **member for a term of five years. After the initial terms, each member**  
33 **shall serve a five-year term. No member of the board shall serve more**  
34 **than two consecutive five-year terms. The organization of the board**  
35 **shall be established by members of the board. Upon the death,**  
36 **resignation, or removal from office of any member of the board, the**  
37 **appointment to fill the vacancy shall be for the unexpired portion of**  
38 **the term so vacated and shall be made within sixty days after the**  
39 **vacancy occurs.**

40           **5. The public member shall not be a member of any profession**  
41 **regulated by chapter 334 or 335, RSMo, or under sections 324.1230 to**  
42 **324.1245, or the spouse of such person. The public member is subject**  
43 **to the provisions of section 620.132, RSMo.**

44           **6. The board may sue and be sued in its own name and its**  
45 **members need not be named parties. Members of the board shall not**  
46 **be personally liable, either jointly or severally, for any act or acts**  
47 **committed in the performance of their official duties as board**  
48 **members. No board member shall be personally liable for any court**  
49 **costs which accrue in any action by or against the board.**

50           **7. Notwithstanding any other provision of law to the contrary,**

51 any appointed member of the board shall receive as compensation an  
52 amount established by the director of the division of professional  
53 registration not to exceed fifty dollars per day for board business plus  
54 actual and necessary expenses. The director of the division of  
55 professional registration shall establish by rule the guidelines for  
56 payment.

57 8. The board shall employ administrative and clerical personnel  
58 necessary to enforce the provisions of sections 324.1230 to 324.1245.

59 9. The board shall hold an annual meeting at which time it shall  
60 elect from its membership a chairman and secretary. The board may  
61 hold such additional meetings as may be required in the performance  
62 of its duties, provided that notice of every meeting shall be given to  
63 each member at least ten days prior to the date of the meeting. A  
64 quorum of the board shall consist of a majority of its members.

65 10. No licensing activity or other statutory requirements shall  
66 become effective until expenditures or personnel are specifically  
67 appropriated for the purpose of conducting the business as required to  
68 administer the provisions of sections 324.1230 to 324.1245 and the  
69 initial rules filed have become effective.

324.1233. 1. The board shall issue licenses to applicants who:

2 (1) Present evidence of current certification by the North  
3 American Registry of Midwives (NARM) as a certified professional  
4 midwife (CPM);

5 (2) Present evidence of current certification in basic life support  
6 (BLS) for healthcare providers, and either infant cardiopulmonary  
7 resuscitation (CPR) or neonatal resuscitation;

8 (3) Pay a licensure fee set by the board; and

9 (4) Comply with the written disclosure requirement under  
10 subsection 1 of section 324.1239.

11 2. The board shall renew licenses to applicants who:

12 (1) Present evidence of attendance at a minimum of ten hours  
13 per year of continuing education in midwifery or related fields;

14 (2) Present evidence of attendance at a minimum of three hours  
15 per year of peer review;

16 (3) Present evidence of current certification in basic life support  
17 (BLS) for healthcare providers, and either infant cardiopulmonary  
18 resuscitation (CPR) or neonatal resuscitation; and

19           **(4) Pay a renewal fee set by the board.**

20           **3. Any license issued under sections 324.1230 to 324.1245 shall**  
21 **expire three years after the date of its issuance. The board may refuse**  
22 **to issue or renew any certificate of registration or authority, permit, or**  
23 **license required pursuant to this chapter for one or any combination**  
24 **of causes stated in subsection 4 of this section. The board shall notify**  
25 **the applicant in writing of the reasons for the refusal and shall advise**  
26 **the applicant of the applicant's right to file a complaint with the**  
27 **administrative hearing commission as provided by chapter 621, RSMo.**  
28 **As an alternative to a refusal to issue or renew any certificate,**  
29 **registration, or authority, the board may, at its discretion, issue a**  
30 **license which is subject to probation, restriction, or limitation to an**  
31 **applicant for licensure for any one or any combination of causes stated**  
32 **in subsection 4 of this section. The board's order of probation,**  
33 **limitation, or restriction shall contain a statement of the discipline**  
34 **imposed, the basis therefor, the date such action shall become effective,**  
35 **and a statement that the applicant has thirty days to request in writing**  
36 **a hearing before the administrative hearing commission. If the board**  
37 **issues a probationary, limited, or restricted license to an applicant for**  
38 **licensure, either party may file a written petition with the**  
39 **administrative hearing commission within thirty days of the effective**  
40 **date of the probationary, limited, or restricted license seeking review**  
41 **of the board's determination. If no written request for a hearing is**  
42 **received by the administrative hearing commission within the**  
43 **thirty-day period, the right to seek review of the board's decision shall**  
44 **be considered as waived.**

45           **4. The board may cause a complaint to be filed with the**  
46 **administrative hearing commission as provided by chapter 621, RSMo,**  
47 **against any holder of any certificate of registration or authority,**  
48 **permit, or license required by this chapter or any person who has**  
49 **failed to renew or has surrendered the person's certificate of**  
50 **registration or authority, permit, or license for any one or any**  
51 **combination of the following causes:**

52           **(1) Violates any provision of sections 324.1230 to 324.1245 or the**  
53 **rules adopted thereafter;**

54           **(2) Engages in conduct detrimental to the health or safety of**  
55 **either the mother or infant, or both, as determined by the board; or**

56           **(3) Has an unpaid judgment resulting from providing direct-**  
57 **entry midwifery services.**

58           **5. After the filing of such complaint before the administrative**  
59 **hearing commission, the proceedings shall be conducted in accordance**  
60 **with the provisions of chapter 621, RSMo. Upon a finding by the**  
61 **administrative hearing commission that the grounds, provided in**  
62 **subsection 4 of this section, for disciplinary action are met, the board**  
63 **may, singly or in combination, warn, censure, or place the person**  
64 **named in the complaint on probation on such terms and conditions as**  
65 **the board deems appropriate for a period not to exceed ten years, or**  
66 **may suspend the person's license, certificate, or permit for a period not**  
67 **to exceed three years, or restrict or limit the person's license,**  
68 **certificate, or permit for an indefinite period of time, or revoke the**  
69 **person's license, certificate, or permit, or administer a public or private**  
70 **reprimand, or deny the person's application for a license, or**  
71 **permanently withhold issuance of a license or require the person to**  
72 **submit to the care, counseling, or treatment of physicians designated**  
73 **by the board at the expense of the individual to be examined, or**  
74 **require the person to attend such continuing educational courses and**  
75 **pass such examinations as the board may direct.**

76           **6. The division may promulgate rules necessary to implement the**  
77 **administration of the licensure system established under sections**  
78 **324.1230 to 324.1245. Any rule or portion of a rule, as that term is**  
79 **defined in section 536.010, RSMo, that is created under the authority**  
80 **delegated in this section shall become effective only if it complies with**  
81 **and is subject to all of the provisions of chapter 536, RSMo, and, if**  
82 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo,**  
83 **are nonseverable and if any of the powers vested with the general**  
84 **assembly pursuant to chapter 536, RSMo, to review, to delay the**  
85 **effective date, or to disapprove and annul a rule are subsequently held**  
86 **unconstitutional, then the grant of rulemaking authority and any rule**  
87 **proposed or adopted after August 28, 2007, shall be invalid and void.**

**324.1236. 1. There is hereby established in the treasury a fund**  
2 **to be known as the "Board of Direct-Entry Midwives Fund". All fees of**  
3 **any kind and character authorized to be charged by the board shall be**  
4 **collected by the director of the division of professional registration and**  
5 **shall be transmitted to the department of revenue for deposit in the**

6 state treasury for credit to this fund, to be disbursed only in payment  
7 of expenses of maintaining the board and for the enforcement of the  
8 provisions of law concerning professions regulated by the board; and  
9 no other money shall be paid out of the state treasury for carrying out  
10 these provisions. Warrants shall be issued on the state treasurer for  
11 payment out of said fund.

12 2. The state treasurer shall be custodian of the fund. In  
13 accordance with sections 30.170 and 30.180, RSMo, the state treasurer  
14 may approve disbursements. Upon appropriation, money in the fund  
15 shall be used solely for the administration of sections 324.1230 to  
16 324.1245. Notwithstanding the provisions of section 33.080, RSMo, to  
17 the contrary, any moneys remaining in the fund at the end of the  
18 biennium shall not revert to the credit of the general revenue  
19 fund. The state treasurer shall invest moneys in the fund in the same  
20 manner as other funds are invested. Any interest and moneys earned  
21 on such investments shall be credited to the fund.

324.1239. 1. Every licensed direct-entry midwife shall present a  
2 written disclosure statement to each client, which shall include but not  
3 be limited to, the following:

- 4 (1) A description of direct-entry midwifery education and related  
5 training;
- 6 (2) Licensure as a direct-entry midwife, including the effective  
7 dates of the licensure;
- 8 (3) The benefits and risks associated with childbirth in the  
9 setting selected by the client;
- 10 (4) A statement concerning the licensed direct-entry midwife's  
11 malpractice or liability insurance coverage; and
- 12 (5) A plan, specific to the client, for transfer to medical care, if  
13 needed.

14 2. Notwithstanding any other provision of the law, a licensed  
15 direct-entry midwife providing a service of direct-entry midwifery shall  
16 not be deemed to be engaged in the practice of medicine, nursing,  
17 nurse-midwifery, or any other medical or healing practice.

18 3. Nothing in sections 324.1230 to 324.1245 shall be construed to  
19 apply to a person who provides information and support in preparation  
20 for labor and delivery and assists in the delivery of an infant if that  
21 person does not do the following:

- 22           (1) Advertise as a midwife or as a provider of midwife services;  
23           (2) Assist, as primary attendant, in more than six births a year;  
24           (3) Accept any form of compensation for midwife services; and  
25           (4) Use any words, letters, signs, or figures to indicate that the  
26 person is a midwife.

27           4. A person who is a member of a recognized religious sect or  
28 division, as defined in 26 U.S.C. 1402(g), by reason of which they are  
29 conscientiously opposed to acceptance of benefits of any public or  
30 private insurance which makes payments in the event of death,  
31 disability, old age, or retirement or makes payments toward the cost of,  
32 or provides services for, medical bills, including benefits of any  
33 insurance system established under the Federal Social Security Act, 42  
34 U.S.C. 301 to 42 U.S.C. 1397jj, shall not be subject to the provisions of  
35 sections 324.1230 to 324.1245.

36           5. A person shall not be subject to the licensure provisions of  
37 section 324.1233 if said person:

- 38           (1) Is a resident of this state;  
39           (2) Is at least twenty-one years of age;  
40           (3) Has passed the North American Registry of Midwives Skills  
41 Assessment;  
42           (4) Has provided a service of midwifery for at least twenty of the  
43 last thirty years before August 28, 2007;  
44           (5) Presents evidence of current certification in basic life  
45 support (BLS) for healthcare providers, and either infant  
46 cardiopulmonary resuscitation (CPR) or neonatal resuscitation;  
47           (6) Presents a written disclosure statement to each client as  
48 provided under subsection 1 of this section, except such person shall  
49 disclose evidence of the licensure exemption from the board required  
50 under subdivision (7) of this subsection; and  
51           (7) Has requested and received an exemption from the Board of  
52 Direct-Entry Midwives.

53           6. No person other than the licensed direct-entry midwife who  
54 provided care to the client shall be liable for the direct-entry midwife's  
55 negligent or willful and wanton acts or omissions. Except as otherwise  
56 provided by law, no other licensed physician, licensed doctor of  
57 osteopathy, certified nurse midwife, licensed nurse, hospital,  
58 emergency medical technicians licensed under chapter 190, RSMo, or

59 agents thereof, shall be exempt from liability for their own subsequent  
60 and independent negligent, grossly negligent, or willful and wanton  
61 acts or omissions.

62 7. The provisions of sections 324.1230 to 324.1245 shall be  
63 remedial and curative in nature.

64 8. Nothing in sections 324.1230 to 324.1245 shall be construed to  
65 prohibit the attendance at birth of the mother's choice of family,  
66 friends, or other uncompensated labor support attendants.

324.1242. No licensed direct-entry midwife shall be permitted to:

- 2 (1) Prescribe drugs or medications;
- 3 (2) Perform medical inductions or cesarean sections during the  
4 delivery of an infant;
- 5 (3) Use forceps during the delivery of an infant; or
- 6 (4) Perform vacuum delivery of an infant.

324.1245. Any person who violates the provisions of sections  
2 324.1230 to 324.1245, or any rule or order made under sections 324.1230  
3 to 324.1245 is guilty of a class A misdemeanor.

334.010. 1. It shall be unlawful for any person not now a registered  
2 physician within the meaning of the law to practice medicine or surgery in any  
3 of its departments, to engage in the practice of medicine across state lines or to  
4 profess to cure and attempt to treat the sick and others afflicted with bodily or  
5 mental infirmities, [or engage in the practice of midwifery in this state,] except  
6 as herein provided.

7 2. For the purposes of this chapter, the "practice of medicine across state  
8 lines" shall mean:

9 (1) The rendering of a written or otherwise documented medical opinion  
10 concerning the diagnosis or treatment of a patient within this state by a  
11 physician located outside this state as a result of transmission of individual  
12 patient data by electronic or other means from within this state to such physician  
13 or physician's agent; or

14 (2) The rendering of treatment to a patient within this state by a  
15 physician located outside this state as a result of transmission of individual  
16 patient data by electronic or other means from within this state to such physician  
17 or physician's agent.

18 3. A physician located outside of this state shall not be required to obtain  
19 a license when:



20 (1) In consultation with a physician licensed to practice medicine in this  
21 state; and

22 (2) The physician licensed in this state retains ultimate authority and  
23 responsibility for the diagnosis or diagnoses and treatment in the care of the  
24 patient located within this state; or

25 (3) Evaluating a patient or rendering an oral, written or otherwise  
26 documented medical opinion, or when providing testimony or records for the  
27 purpose of any civil or criminal action before any judicial or administrative  
28 proceeding of this state or other forum in this state; or

29 (4) Participating in a utilization review pursuant to section 376.1350,  
30 RSMo.

334.120. 1. There is hereby created and established a board to be known  
2 as "The State Board of Registration for the Healing Arts" for the purpose of  
3 registering, licensing and supervising all physicians and surgeons[, and  
4 midwives] in this state. The board shall consist of nine members, including one  
5 voting public member, to be appointed by the governor by and with the advice and  
6 consent of the senate, five of whom shall be graduates of professional schools  
7 approved and accredited as reputable by the American Medical Association or the  
8 Liaison Committee on Medical Education and two of whom shall be graduates of  
9 professional schools approved and accredited as reputable by the American  
10 Osteopathic Association, and all of whom, except the public member, shall be duly  
11 licensed and registered as physicians and surgeons pursuant to the laws of this  
12 state. Each member must be a citizen of the United States and must have been  
13 a resident of this state for a period of at least one year next preceding his or her  
14 appointment and shall have been actively engaged in the lawful and ethical  
15 practice of the profession of physician and surgeon for at least five years next  
16 preceding his or her appointment. Not more than four members shall be  
17 affiliated with the same political party. All members shall be appointed for a  
18 term of four years. Each member of the board shall receive as compensation an  
19 amount set by the board not to exceed fifty dollars for each day devoted to the  
20 affairs of the board, and shall be entitled to reimbursement of his or her expenses  
21 necessarily incurred in the discharge of his or her official duties. The president  
22 of the Missouri State Medical Association, for all medical physician appointments,  
23 or the president of the Missouri Association of Osteopathic Physicians and  
24 Surgeons, for all osteopathic physician appointments, in office at the time shall,  
25 at least ninety days prior to the expiration of the term of the respective board

26 member, other than the public member, or as soon as feasible after the  
27 appropriate vacancy on the board otherwise occurs, submit to the director of the  
28 division of professional registration a list of five physicians and surgeons  
29 qualified and willing to fill the vacancy in question, with the request and  
30 recommendation that the governor appoint one of the five persons so listed, and  
31 with the list so submitted, the president of the Missouri State Medical  
32 Association or the Missouri Association of Osteopathic Physicians and Surgeons,  
33 as appropriate, shall include in his or her letter of transmittal a description of the  
34 method by which the names were chosen by that association.

35         2. The public member shall be at the time of his or her appointment a  
36 citizen of the United States; a resident of this state for a period of one year and  
37 a registered voter; a person who is not and never was a member of any profession  
38 licensed or regulated pursuant to this chapter or the spouse of such person; and  
39 a person who does not have and never has had a material, financial interest in  
40 either the providing of the professional services regulated by this chapter, or an  
41 activity or organization directly related to any profession licensed or regulated  
42 pursuant to this chapter. All members, including public members, shall be  
43 chosen from lists submitted by the director of the division of professional  
44 registration. The duties of the public member shall not include the determination  
45 of the technical requirements to be met for licensure or whether any person meets  
46 such technical requirements or of the technical competence or technical judgment  
47 of a licensee or a candidate for licensure.

                  [334.260. On August 29, 1959, all persons licensed under  
2           the provisions of chapter 334, RSMo 1949, as midwives shall be  
3           deemed to be licensed as midwives under this chapter and subject  
4           to all the provisions of this chapter.]

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