

8117--B

2009-2010 Regular Sessions

I N A S S E M B L Y

May 5, 2009

Introduced by M. of A. GOTTFRIED, ROSENTHAL, LIFTON, PAULIN, PRETLOW, POWELL, JAFFEE, RUSSELL, LUPARDO, HYER-SPENCER, ENGLEBRIGHT, WEISENBERG, CAHILL, GUNTHER, HOYT, SKARTADOS, RAMOS, SCHROEDER -- Multi-Sponsored by -- M. of A. BRENNAN, CALHOUN, FARRELL, McENENY, MILLMAN, NOLAN, WRIGHT -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the insurance law, in relation to the definition of the practice of midwifery

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 1 and 2 of section 6951 of the education law,
2 subdivision 1 as amended by chapter 328 of the laws of 1992 and subdivi-
3 sion 2 as added by chapter 327 of the laws of 1992, are amended to read
4 as follows:
5 1. The practice of the profession of midwifery is defined as the
6 management of normal pregnancies, child birth and postpartum care as
7 well as primary preventive reproductive health care of essentially heal-
8 thy women [as specified in the written practice agreement], and shall
9 include newborn evaluation, resuscitation and referral for infants.
10 [Midwifery shall be practiced in accordance with a written agreement
11 between the midwife and (i) a licensed physician who is board certified
12 as an obstetrician-gynecologist by a national certifying body or (ii) a
13 licensed physician who practices obstetrics and has obstetric privileges
14 at a general hospital (licensed under article twenty-eight of the public
15 health law) or (iii) a hospital (licensed under article twenty-eight of
16 the public health law) that provides obstetrics through a licensed

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD11636-05-0

1 physician having obstetrical privileges at such institution. The writ-
2 ten agreement shall provide for physician consultation, collaboration,
3 referral and emergency medical obstetrical coverage, and shall include
4 written guidelines and protocols. The written agreement shall provide
5 guidelines for the identification of pregnancies that are not considered
6 normal and address the procedures to be followed. The written agreement
7 shall also provide a mechanism for dispute resolution and shall provide
8 that the judgment of the appropriate physician shall prevail as to
9 whether the pregnancy, childbirth or postpartum care is normal and
10 whether the woman is essentially healthy in the event the practice
11 protocols do not provide otherwise.] A MIDWIFE SHALL HAVE COLLABORATIVE
12 RELATIONSHIPS WITH (I) A LICENSED PHYSICIAN WHO IS BOARD CERTIFIED AS AN
13 OBSTETRICIAN-GYNECOLOGIST BY A NATIONAL CERTIFYING BODY OR (II) A
14 LICENSED PHYSICIAN WHO PRACTICES OBSTETRICS AND HAS OBSTETRIC PRIVILEGES
15 AT A GENERAL HOSPITAL LICENSED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC
16 HEALTH LAW OR (III) A HOSPITAL, LICENSED UNDER ARTICLE TWENTY-EIGHT OF
17 THE PUBLIC HEALTH LAW, THAT PROVIDES OBSTETRICS THROUGH A LICENSED
18 PHYSICIAN HAVING OBSTETRICAL PRIVILEGES AT SUCH INSTITUTION, THAT
19 PROVIDE FOR CONSULTATION, COLLABORATIVE MANAGEMENT AND REFERRAL TO
20 ADDRESS THE HEALTH STATUS AND RISKS OF HIS OR HER PATIENTS AND THAT
21 INCLUDE PLANS FOR EMERGENCY MEDICAL GYNECOLOGICAL AND/OR OBSTETRICAL
22 COVERAGE. A MIDWIFE SHALL MAINTAIN DOCUMENTATION OF SUCH COLLABORATIVE
23 RELATIONSHIPS AND SHALL MAKE INFORMATION ABOUT SUCH COLLABORATIVE
24 RELATIONSHIPS AVAILABLE TO HIS OR HER PATIENTS. FAILURE TO COMPLY WITH
25 THE REQUIREMENTS FOUND IN THIS SUBDIVISION SHALL BE SUBJECT TO PROFES-
26 SIONAL MISCONDUCT PROVISIONS AS SET FORTH IN ARTICLE ONE HUNDRED THIRTY
27 OF THIS TITLE.

28 2. A licensed midwife shall have the authority, as necessary, and
29 limited to the practice of midwifery, [and subject to limitations in the
30 written agreement,] to prescribe and administer drugs, immunizing
31 agents, diagnostic tests and devices, and to order laboratory tests, as
32 established by the board in accordance with the commissioner's regu-
33 lations. A midwife shall obtain a certificate from the department upon
34 successfully completing a program including a pharmacology component, or
35 its equivalent, as established by the commissioner's regulations prior
36 to prescribing under this section.

37 S 2. Item (i) of subparagraph (A) of paragraph 10 of subsection (i) of
38 section 3216 of the insurance law, as amended by chapter 495 of the laws
39 of 1998, is amended to read as follows:

40 (i) Every policy which provides hospital, surgical or medical coverage
41 shall provide coverage for maternity care, including hospital, surgical
42 or medical care to the same extent that hospital, surgical or medical
43 coverage is provided for illness or disease under the policy. Such
44 maternity care coverage, other than coverage for perinatal compli-
45 cations, shall include inpatient hospital coverage for mother and for
46 newborn for at least forty-eight hours after childbirth for any delivery
47 other than a caesarean section, and for at least ninety-six hours after
48 a caesarean section. Such coverage for maternity care shall include the
49 services of a midwife licensed pursuant to article one hundred forty of
50 the education law, practicing consistent with [a written agreement
51 pursuant to]section sixty-nine hundred fifty-one of the education law
52 and affiliated or practicing in conjunction with a facility licensed
53 pursuant to article twenty-eight of the public health law, but no insur-
54 er shall be required to pay for duplicative routine services actually
55 provided by both a licensed midwife and a physician.

1 S 3. Item (i) of subparagraph (A) of paragraph 5 of subsection (k) of
2 section 3221 of the insurance law, as amended by chapter 495 of the laws
3 of 1998, is amended to read as follows:

4 (i) Every group or blanket policy delivered or issued for delivery in
5 this state which provides hospital, surgical or medical coverage shall
6 include coverage for maternity care, including hospital, surgical or
7 medical care to the same extent that coverage is provided for illness or
8 disease under the policy. Such maternity care coverage, other than
9 coverage for perinatal complications, shall include inpatient hospital
10 coverage for mother and newborn for at least forty-eight hours after
11 childbirth for any delivery other than a caesarean section, and for at
12 least ninety-six hours after a caesarean section. Such coverage for
13 maternity care shall include the services of a midwife licensed pursuant
14 to article one hundred forty of the education law, practicing consistent
15 with [a written agreement pursuant to]section sixty-nine hundred
16 fifty-one of the education law and affiliated or practicing in conjunc-
17 tion with a facility licensed pursuant to article twenty-eight of the
18 public health law, but no insurer shall be required to pay for dupli-
19 cative routine services actually provided by both a licensed midwife and a
20 physician.

21 S 4. Subparagraph (A) of paragraph 1 of subsection (c) of section 4303
22 of the insurance law, as amended by chapter 495 of the laws of 1998, is
23 amended to read as follows:

24 (A) Every contract issued by a corporation subject to the provisions
25 of this article which provides hospital service, medical expense indem-
26 nity or both shall provide coverage for maternity care including hospi-
27 tal, surgical or medical care to the same extent that hospital service,
28 medical expense indemnity or both are provided for illness or disease
29 under the contract. Such maternity care coverage, other than coverage
30 for perinatal complications, shall include inpatient hospital coverage
31 for mother and for newborn for at least forty-eight hours after child-
32 birth for any delivery other than a caesarean section, and for at least
33 ninety-six hours following a caesarean section. Such coverage for mater-
34 nity care shall include the services of a midwife licensed pursuant to
35 article one hundred forty of the education law, practicing consistent
36 with [a written agreement pursuant to] section sixty-nine hundred
37 fifty-one of the education law and affiliated or practicing in conjunc-
38 tion with a facility licensed pursuant to article twenty-eight of the
39 public health law, but no insurer shall be required to pay for dupli-
40 cative routine services actually provided by both a licensed midwife and a
41 physician.

42 S 5. This act shall take effect on the ninetieth day after it shall
43 have become a law.