S T A T E O F N E W Y O R K

5007--A

Cal. No. 900

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sens. DUANE, ADAMS, HASSELL-THOMPSON, HUNTLEY, KRUEGER, MONTGOMERY, OPPENHEIMER, PERALTA, SCHNEIDERMAN, SQUADRON, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

Section 1. Subdivisions 1 and 2 of section 6951 of the education law, subdivision 1 as amended by chapter 328 of the laws of 1992 and subdivision 2 as added by chapter 327 of the laws of 1992, are amended to read as follows:

1. The practice of the profession of midwifery is defined as the management of normal pregnancies, child birth and postpartum care as well as primary preventive reproductive health care of essentially healthy women [as specified in the written practice agreement], and shall include newborn evaluation, resuscitation and referral for infants. [Midwifery shall be practiced in accordance with a written agreement between the midwife and (i) a licensed physician who is board certified as an obstetrician-gynecologist by a national certifying body or (ii) a licensed physician who practices obstetrics and has obstetric privileges at a general hospital (licensed under article twenty-eight of the public health law) or (iii) a hospital (licensed under article twenty-eight of the public health law) that provides obstetrics through a licensed physician having obstetrical privileges at such institution. The written agreement shall provide for physician consultation, collaboration, referral and emergency medical obstetrical coverage, and shall include

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

LBD11636-06-0

written guidelines and protocols. The written agreement shall provide guidelines for the identification of pregnancies that are not considered normal and address the procedures to be followed. The written agreement shall also provide a mechanism for dispute resolution and shall provide that the judgment of the appropriate physician shall prevail as to whether the pregnancy, childbirth or postpartum care is normal and whether the woman is essentially healthy in the event the practice protocols do not provide otherwise.] A MIDWIFE SHALL HAVE COLLABORATIVE RELATIONSHIPS WITH (I) A LICENSED PHYSICIAN WHO IS BOARD CERTIFIED AS AN OBSTETRICIAN-GYNECOLOGIST BY A NATIONAL CERTIFYING BODY OR (II) A LICENSED PHYSICIAN WHO PRACTICES OBSTETRICS AND HAS OBSTETRIC PRIVILEGES AT A GENERAL HOSPITAL LICENSED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW OR (III) A HOSPITAL, LICENSED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, THAT PROVIDES OBSTETRICS THROUGH A LICENSED PHYSICIAN HAVING OBSTETRICAL PRIVILEGES AT SUCH INSTITUTION, THAT PROVIDE FOR CONSULTATION, COLLABORATIVE MANAGEMENT AND REFERRAL TO ADDRESS THE HEALTH STATUS AND RISKS OF HIS OR HER PATIENTS AND THAT INCLUDE PLANS FOR EMERGENCY MEDICAL GYNECOLOGICAL AND/OR OBSTETRICAL COVERAGE. A MIDWIFE SHALL MAINTAIN DOCUMENTATION OF SUCH COLLABORATIVE RELATIONSHIPS AND SHALL MAKE INFORMATION ABOUT SUCH COLLABORATIVE RELATIONSHIPS AVAILABLE TO HIS OR HER PATIENTS. FAILURE TO COMPLY WITH THE REQUIREMENTS FOUND IN THIS SUBDIVISION SHALL BE SUBJECT TO PROFESSIONAL MISCONDUCT PROVISIONS AS SET FORTH IN ARTICLE ONE HUNDRED THIRTY OF THIS TITLE.

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

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

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

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

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

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

(A) Every contract issued by a corporation subject to the provisions of this article which provides hospital service, medical expense indemnity or both shall provide coverage for maternity care including hospital, surgical or medical care to the same extent that hospital service, medical expense indemnity or both are provided for illness or disease under the contract. Such maternity care coverage, other than coverage for perinatal complications, shall include inpatient hospital coverage for mother and for newborn for at least forty-eight hours after childbirth for any delivery other than a caesarean section, and for at least ninety-six hours following a caesarean section. Such coverage for maternity care shall include the services of a midwife licensed pursuant to article one hundred forty of the education law, practicing consistent with [a written agreement pursuant to] section sixty-nine hundred fifty-one of the education law and affiliated or practicing in conjunction with a facility licensed pursuant to article twenty-eight of the public health law, but no insurer shall be required to pay for duplicative routine services actually provided by both a licensed midwife and a physician.

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