

HOUSE SUBSTITUTE AMENDMENT NO. ____

TO

HOUSE AMENDMENT NO. ____

Offered By

1 AMEND House Committee Substitute for House Bill No. 732, Page 10, Section 334.001, Line 36,
2 by inserting immediately after said line the following:

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

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

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

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

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

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

- 1 (2) The physician licensed in this state retains ultimate authority and responsibility for the
- 2 diagnosis or diagnoses and treatment in the care of the patient located within this state; or
- 3 (3) Evaluating a patient or rendering an oral, written or otherwise documented medical
- 4 opinion, or when providing testimony or records for the purpose of any civil or criminal action
- 5 before any judicial or administrative proceeding of this state or other forum in this state; or
- 6 (4) Participating in a utilization review pursuant to section 376.1350.”; and

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8 Further amend said substitute, Page 28, Section 334.715, Line 63, by inserting immediately after
9 said line the following:

10 “334.1200. 1. As used in sections 334.1200 to 334.1224, the following terms shall mean:

- 11 (1) "Antepartum", before birth;
- 12 (2) "Board", state board of registration for the healing arts;
- 13 (3) "Client", a person who retains the services of a registered midwife;
- 14 (4) "Consultation", communication between a registered midwife and a licensed physician
- 15 for the purpose of receiving and implementing advice regarding the care of a pregnant woman or
- 16 infant;
- 17 (5) "Committee", the advisory committee for registered midwives;
- 18 (6) "Intrapartum", during birth;
- 19 (7) "Midwife services", the management and care of women in the antepartum,
- 20 intrapartum, and postpartum period of the maternity cycle;
- 21 (8) "Postpartum", after birth, but no longer than one hundred twenty days after birth;
- 22 (9) "Protocol", a defined response to a specific clinical situation providing suggested
- 23 pathways to be followed by the registered midwife for managing a particular issue or
- 24 complication;
- 25 (10) "Referral", the process by which a registered midwife directs a client to a licensed
- 26 physician. The client and the physician shall determine whether subsequent care shall be provided

1 by the physician, the midwife, or by both the physician and the midwife;

2 (11) "Registered midwife", any person who is registered with the state board of healing
3 arts to provide midwife services;

4 (12) "Transfer of care", the transfer of care of the client to a medical facility or a licensed
5 physician who then assumes the responsibility for the direct care of the client.

6 334.1202. 1. There is hereby established under the state board of registration for the
7 healing arts the "Advisory Committee for Registered Midwives", which shall guide, advise, make
8 recommendations to, and assist the board in carrying out the provisions of sections 334.1200 to
9 334.1224.

10 2. No later than December 31, 2010, the governor shall appoint members to the
11 committee with the advice and consent of the senate. The committee shall consist of five
12 members, each of whom are United States citizens and who have been residents of this state for at
13 least one year immediately preceding their appointment. One of the members shall be a public
14 member and four members shall be registered midwives who attend births in homes or other out-
15 of-hospital settings; provided that, the first midwife members appointed need not be registered at
16 the time of appointment if they become registered in accordance with the requirements of sections
17 334.1200 to 334.1224.

18 3. The initial appointments to the committee shall be one member for a term of one year,
19 two members for a term of two years, and two members for a term of three years. After the initial
20 terms, each member shall serve a three-year term. No member of the committee shall serve more
21 than two consecutive three-year terms. The organization of the committee shall be established by
22 members of the committee. Upon the death, resignation, or removal from office of any member
23 of the committee, the appointment to fill the vacancy shall be for the unexpired portion of the term
24 so vacated and shall be made within sixty days after the vacancy occurs.

25 4. The public member of the committee shall not be a member of any profession regulated
26 by this chapter or chapter 335 or the spouse of any such person. The public member is subject to

1 the provisions of section 620.132.

2 5. Members of the committee shall not be personally liable, either jointly or severally, for
3 any act or acts committed in the performance of their official duties as committee members. No
4 committee member shall be personally liable for any court costs which accrue in any action by or
5 against the committee.

6 6. Notwithstanding any other provision of law to the contrary, any appointed member of
7 the committee shall receive as compensation an amount established by the director of the division
8 of professional registration not to exceed fifty dollars per day for committee business plus actual
9 and necessary expenses. The director of the division of professional registration shall establish by
10 rule guidelines for payment. All staff for the committee shall be provided by the board.

11 7. The committee shall hold an open annual meeting at which time it shall elect from its
12 membership a chair and secretary. The committee may hold such additional meetings as may be
13 required in the performance of its duties, provided that notice of every meeting shall be given to
14 each member at least ten days prior to the date of the meeting. A quorum of the committee shall
15 consist of a majority of its members.

16 8. The committee shall develop and recommend midwifery practice guidelines and
17 protocols, including but not limited to:

18 (1) Identification of which categories of clients are and are not appropriate for home
19 delivery;

20 (2) Which management techniques and interventions are appropriate for a delivery in an
21 out-of-hospital setting.

22 9. No registration activity or other statutory requirements shall become effective until
23 expenditures or personnel are specifically appropriated for the purpose of conducting the business
24 as required to administer sections 334.1200 to 334.1224, and the initial rules have become
25 effective.

26 334.1204. 1. No person shall hold himself or herself out as a midwife in this state unless

1 such person is registered under sections 334.1200 to 334.1224.

2 2. Nothing in sections 334.1200 to 334.1224 shall be construed to prohibit physicians
3 licensed under this chapter or certified nurse midwives licensed under chapter 335 from providing
4 midwife services, so long as such services are lawfully performed under such individual's scope of
5 practice as authorized by law and regulation.

6 334.1206. 1. The board shall issue certificates of registration to applicants who:

7 (1) Present documentation verifying that the applicant has the practical midwifery services
8 experience through an apprenticeship or other supervisory setting;

9 (2) Present evidence of current certification in adult and neonatal cardiopulmonary
10 resuscitation;

11 (3) Agree to comply with the informed consent requirement under subsection 1 of section
12 334.1216; and

13 (4) Pay a registration fee set by the board.

14 2. The board shall renew certificates of registration to applicants who:

15 (1) Present evidence of current certification in adult and neonatal cardiopulmonary
16 resuscitation;

17 (2) Pay a renewal fee set by the board not to exceed fifty dollars; and

18 (3) Submit the following data on a form to be promulgated by rule and made available by
19 the board:

20 (a) The number of women to whom care was provided since the date of the previously
21 issued certificate of registration;

22 (b) The number of deliveries performed;

23 (c) The number of perinatal transfers;

24 (d) The number of transfers during labor, delivery, and immediately following birth; and

25 (e) The number of perinatal deaths.

26 3. Any certificate of registration issued under sections 334.1200 to 334.1224 shall expire

1 one year after the date of its issuance. The board may refuse to issue or renew any certificate of
2 registration under sections 334.1200 to 334.1224 for one or any combination of causes stated in
3 subsection 2 of section 334.1210. The board shall notify the applicant in writing of the reasons
4 for the refusal and shall advise the applicant of the applicant's right to file a complaint with the
5 administrative hearing commission as provided by chapter 621.

6 334.1208. Any complaint received by the board concerning a person who is registered
7 under sections 334.1200 to 334.1224 shall be recorded as received and the date received. The
8 board shall investigate all complaints concerning alleged violations of sections 334.1200 to
9 334.1224 or if there are grounds for the suspension, revocation, or refusal to issue a certificate of
10 registration. The board may employ investigators who shall investigate complaints and make
11 inspections and any inquiries as, in the judgment of the board, are appropriate to enforce sections
12 334.1200 to 334.1224.

13 334.1210. 1. The board may refuse to issue or renew any certificate of registration
14 required under sections 334.1200 to 334.1224 for one or any combination of causes stated in
15 subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the
16 refusal and shall advise the applicant of his or her right to file a complaint with the administrative
17 hearing commission as provided by chapter 621.

18 2. The board may cause a complaint to be filed with the administrative hearing
19 commission as provided by chapter 621 against any holder of a certificate of registration required
20 by sections 334.1200 to 334.1224, or any person who has failed to renew or has surrendered his or
21 her certificate of registration for any one or any combination of the following causes:

22 (1) Use or unlawful possession of any controlled substance, as defined in chapter 195, or
23 alcoholic beverage to an extent that such use impairs a person's ability to perform midwife
24 services, or any violation of the drug laws or regulations of this state, any other state, or the
25 federal government;

26 (2) The person has been finally adjudicated and found guilty or entered a plea of guilty or

1 nolo contendere in a criminal prosecution under the laws of any state or of the United States for
2 any offense reasonably related to the qualifications, functions, or duties of a registered midwife,
3 for any offense an essential element is fraud, dishonesty, or an act of violence, or for any offense
4 involving moral turpitude, whether or not sentence is imposed;

5 (3) Use of fraud, deception, misrepresentation, or bribery in securing a certificate of
6 registration issued under sections 334.1200 to 334.1224;

7 (4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by
8 fraud, deception, or misrepresentation;

9 (5) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty
10 in the performance of the functions and duties of a registered midwife;

11 (6) Violation of or assisting or enabling any person to violate any provision of sections
12 334.1200 to 334.1224 or any lawful regulation adopted under sections 334.1200 to 334.1224;

13 (7) Impersonation of any person holding a certificate of registration or allowing any
14 person to use his or her certificate of registration;

15 (8) Disciplinary action against the holder of a certificate of registration granted by another
16 state, territory, federal agency, or country upon grounds for which revocation or suspension is
17 authorized in this state;

18 (9) The person has been adjudged insane or incompetent by a court of competent
19 jurisdiction;

20 (10) Assisting or enabling any person to practice or offer to practice as a registered
21 midwife who is not registered under sections 334.1200 to 334.1224;

22 (11) Issuance of a certificate of registration based upon a material mistake of fact;

23 (12) Violation of any professional trust or confidence;

24 (13) Use of any advertisement or solicitation which is false, misleading, or deceptive to
25 the general public or persons to whom the advertisement or solicitation is primarily directed;

26 (14) Committing unethical conduct as defined by the board; or

1 (15) Engaging in conduct detrimental to the health or safety of either the mother or infant,
2 or both, as determined by the board.

3 3. After the filing of such complaint before the administrative hearing commission, the
4 proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding
5 by the administrative hearing commission that the grounds provided in subsection 2 of this section
6 for disciplinary action are met, the board may, singly or in combination:

7 (1) Warn, censure, or place the person named in the complaint on probation on such terms
8 and conditions as the board deems appropriate for a period not to exceed ten years;

9 (2) Suspend the person's certificate of registration for a period not to exceed three years;

10 (3) Revoke the person's certificate of registration;

11 (4) Deny the person's application for a certificate of registration; or

12 (5) Permanently withhold issuance of a certificate of registration.

13 4. An individual whose certificate of registration has been revoked shall wait at least one
14 year from the date of revocation to apply for renewal of the certificate of registration. Renewal
15 shall be at the discretion of the board after compliance with all requirements of sections 334.1200
16 to 334.1224 relative to the registration of the applicant for the first time.

17 334.1212. The board may promulgate rules necessary to implement and administer the
18 provisions of sections 334.1200 to 334.1224. Any rule or portion of a rule, as that term is defined
19 in section 536.010, that is created under the authority delegated in this section shall become
20 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
21 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
22 powers vested with the general assembly under chapter 536 to review, to delay the effective date,
23 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
24 rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and
25 void.

26 334.1214. 1. All fees payable under sections 334.1200 to 334.1224 shall be set by the

1 board at a level to produce revenue sufficient to cover but not substantially exceed the cost and
2 expense of administering sections 334.1200 to 334.1224. All such fees shall be collected by the
3 division of professional registration, which shall transmit them to the department of revenue for
4 deposit in the state treasury to the credit of the board of registration for the healing arts fund.

5 2. Upon appropriation by the general assembly, the money in the fund shall be used to
6 administer the provisions of sections 334.1200 to 334.1224.

7 334.1216. 1. Every registered midwife shall present an informed consent document to
8 each client, which shall include but not be limited to, the following:

9 (1) A statement specifying whether malpractice or other similar liability insurance is
10 maintained by the registered midwife and if maintained, a description of the liability conditions
11 and limits of such insurance, and a description of the limitation on liability by a health care
12 professional under subsection 3 of this section if a transfer to a health care facility becomes
13 necessary;

14 (2) A description of the particular registered midwife's education, training, and
15 qualifications, including but not limited to any high school, university, other postsecondary, or
16 advanced degrees or diplomas;

17 (3) Registration as a registered midwife, including the effective dates of the certificate of
18 registration;

19 (4) (a) The benefits and risks associated with childbirth in the setting selected by the
20 client for clients in general and for the specific client based on her particular situation, history, and
21 examination;

22 (b) A health history sheet for the particular client, to include past medical, surgical, and
23 obstetrical history, and physical examination, nutritional status, and a written assessment of risk
24 factors;

25 (c) A report of the statewide statistics regarding midwife-attended home or out-of-hospital
26 births, including the rates of transfer and reasons for such transfers, complications, maternal or

1 fetal deaths, fatal death rates, cesarean sections, and comparable statistics for similar health care
2 facility births; and

3 (d) A statement that the client understands that a transfer to a health care facility may be
4 necessary and that the health care professionals listed in subsection 3 of this section are held
5 harmless in the event of such transfer and subsequent care is provided by such health care
6 professional;

7 (6) A statement notifying the client of complications that would require transfer of the
8 client's care to a licensed physician;

9 (7) A statement advising the client to see a licensed physician for the purpose of prenatal
10 testing;

11 (8) A written care plan specific to the client to ensure the continuity of care throughout the
12 antepartum, intrapartum, and postpartum periods. The written care plan shall incorporate the
13 conditions under which consultation, including the transfer of care or transport of the client, may
14 be implemented;

15 (9) (a) Documentation of the health care facility to which the client has selected to be
16 transferred in the event transfer is deemed necessary and documentation of a transfer agreement
17 with such facility; and

18 (b) Documentation of the mode of transfer selected by the client in the event transfer is
19 deemed necessary and documentation of the agreement by the entity chosen to provide such
20 transfer on an urgent basis;

21
22 The registered midwife shall notify any health care facility selected by a client of the client's
23 selection of such facility and the client's estimated date of delivery within one week of
24 determination of the estimated date of confinement (EDC). In addition, the registered midwife
25 shall notify the selected health care facility and the entity selected for transfer on an urgent basis
26 of the commencement of labor by a client; and

1 (10) If telephone communication by land line or reliable cellular source is not available at
2 the proposed birthing site, the consent shall list such fact as an additional risk factor.

3 2. The informed consent document shall be signed and dated by the client, as evidence
4 that the document has been received and explained, and kept by the midwife in the client's
5 records.

6 3. Nothing in sections 334.1200 to 334.1224 shall be construed to apply to a person who
7 provides information and support in preparation for labor and delivery and assists in the delivery
8 of an infant if that person does not do the following:

9 (1) Advertise as a midwife or as a provider of midwife services;

10 (2) Accept any form of compensation for midwife services; and

11 (3) Use any words, letters, signs, or figures to indicate that the person is a midwife.

12 4. No physician, nurse, emergency medical technician, hospital, or agents thereof
13 providing emergency medical and obstetrical care or treatment for a woman or infant arising
14 during childbirth as a consequence of the care received by a registered midwife shall be liable for
15 any civil damages for any act or omission resulting from the rendering of such services unless
16 such act or omission was the result of gross negligence or willful misconduct on the part of the
17 physician, nurse, emergency medical technician, hospital, or agents thereof.

18 5. Nothing in sections 334.1200 to 334.1224 shall be construed to prohibit the attendance
19 at birth of the mother's choice of family, friends, or other uncompensated labor support attendants.

20 334.1218. No registered midwife shall be permitted to:

21 (1) Prescribe drugs or medications;

22 (2) Perform any surgical procedures;

23 (3) Perform medical inductions or cesarean sections during the delivery of an infant;

24 (4) Use forceps during the delivery of an infant;

25 (5) Perform sonograms;

26 (6) Perform vacuum delivery of an infant; or

1 (7) Perform or induce an abortion;

2 (8) Provide midwife services for multiple births and other high-risk pregnancies, as
3 defined by the state board of healing arts.

4 334.1220. 1. Every registered midwife shall keep a record of each client served which
5 shall contain:

6 (1) Name, address and telephone number of client;

7 (2) Informed consent document signed and dated by client and the registered midwife; and

8 (3) Documentation of all consultations, referrals, transfer of care, and emergency transport
9 and care rendered, and all subsequent updates.

10 2. When a birth or stillbirth occurs without a physician in attendance at or immediately
11 after the birth but with a registered midwife in attendance at or immediately after the birth, it shall
12 be the responsibility of the registered midwife to fulfill the reporting requirements of section
13 210.050, and to prepare and file the certificate of birth as required by section 193.085.

14 3. Every registered midwife shall submit a client summary report for each client to the
15 board. Such summary reports shall be submitted on a biannual basis.

16 334.1222. Every registered midwife who provides midwife services for any client shall
17 file with the board a notice of home delivery within thirty days of the birth of the child. The
18 forms for filing the notice of home delivery shall be promulgated by rule and shall include
19 information on the birth and delivery, including but not limited to, whether the delivery resulted
20 in:

21 (1) A live birth;

22 (2) A perinatal transfer during labor, delivery, or immediately following birth; or

23 (3) A perinatal death.

24 334.1224. Any person who violates the provisions of sections 334.1200 to 334.1224, or
25 any rule or order under sections 334.1200 to 334.1224 is guilty of a class A misdemeanor.”; and

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Further amend said substitute, Page 37, Section 621.110, Line 22, by inserting immediately after said line the following:

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

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.