

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Kay Khan**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to a board of registration in midwifery.

PETITION OF:

NAME:

Kay Khan

DISTRICT/ADDRESS:

11th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 2142 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT RELATIVE TO A BOARD OF REGISTRATION IN MIDWIFERY.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 13 of the General Laws is hereby amended by adding the following  
2 section:-

3 Section 101: (a) There shall be, within the department of public health, a board of  
4 registration in midwifery, which shall consist of 11 members each of whom shall be a resident of  
5 the commonwealth, to be appointed by the governor, 3 of whom shall be licensed midwives or  
6 licensed nurse midwives, 3 of whom shall be licensed professional midwives, 1 of whom shall be  
7 a licensed physician in the commonwealth with experience collaborating with midwives, 1 of  
8 whom shall be a nurse who is not a midwife and 3 of whom shall be parents with at least 1 child  
9 born with the assistance of a midwife licensed by the board but who have never been midwives  
10 and who have no financial interest in the practice of midwifery or in any health care facility,  
11 agency or insurer.

12 (b)Members shall be appointed for terms of 3 years. No member shall be appointed for  
13 more than 2 consecutive terms, provided, however, that a member appointed for less than a full  
14 term may serve 2 full terms in addition to that part of a full term, and a former member shall  
15 again be eligible for appointment after a lapse of at least 1 year.

16 (c) A member of the board may be removed by the governor for neglect of duty,  
17 misconduct, malfeasance or misfeasance in office after being given a written statement of the  
18 charges against him and sufficient opportunity to be heard. Upon the death or removal for cause  
19 of a member of the board, the governor shall fill the vacancy for the remainder of that member's  
20 term.

21 (d) The board shall, at its first meeting and annually thereafter, elect from among its  
22 members a chairperson, a vice-chairperson and a secretary who shall each serve for 1 year and  
23 until a successor is appointed and qualified. The board shall meet at the call of the chairperson or  
24 upon the request of at least 5 members. The board shall meet at least 4 times annually. The  
25 board shall adopt such rules and regulations as it deems necessary to carry out this section. Five  
26 members of the board shall constitute a quorum for the transaction of business. Board members  
27 shall serve without compensation but shall be reimbursed for actual and reasonable expenses  
28 incurred in the performance of their duties.

29 SECTION 2. Section 7 of chapter 94C of the General Laws is hereby amended by adding the  
30 following subsection:-

31 (i) The commissioner shall adopt regulations which provide for the registration of  
32 licensed midwives and licensed nurse-midwives, as provided in section 237 of chapter 112, to

33 issue written prescriptions for patients in accordance with regulations approved by the board of  
34 registration in midwifery and the department of public health. Prior to adopting such regulations,  
35 the commissioner shall consult with the board of registration in midwifery with regard to those  
36 schedules of controlled substances for which licensed midwives and licensed nurse-midwives  
37 may be registered.

38 SECTION 3. Chapter 112 of the General Laws is hereby amended by adding the following 15  
39 sections:-

40 Section 236. The following words as used in this section and sections 237 to 250,  
41 inclusive, shall have the following meanings, unless the context requires otherwise:-

42 "Board", the board of registration of midwifery established in section 101 of chapter 13.

43 "Licensed midwife", a person who has been licensed by the board to practice midwifery.

44 "Licensed nurse-midwife", a person who has been licensed by the board to practice  
45 midwifery.

46 "Licensed professional midwife", a person who has been licensed by the board to practice  
47 midwifery.

48 "Midwifery", the provision of necessary care and education to women during pregnancy,  
49 labor and the interconceptional and postpartum periods; provided, however, that midwifery shall  
50 include conducting deliveries on one's own responsibility and caring for the newborn infant.

51 Section 237. The board shall:

52 (1) adopt rules and regulations providing for the licensing of midwives for the practice of  
53 midwifery in accordance with sections 236 to 250, inclusive;

54 (2) grant licenses for midwives, nurse-midwives or professional midwives;

55 (3) establish administrative procedures for processing applications for licenses and  
56 renewal thereof and to hire or appoint agents for processing applications for licenses and license  
57 renewals;

58 (4) establish license criteria for midwives, nurse-midwives and professional midwives;

59 (5) retain records of its actions and proceedings in accordance with chapter 66;

60 (6) by regulation, define the appropriate standards for education, including, but not  
61 limited to, continuing professional education requirements for licensed midwives, licensed nurse-  
62 midwife and licensed professional midwives and for the conduct and ethics which shall govern  
63 the practice of midwifery; and

64 (8) adopt regulations, in consultation with the department of public health regarding the  
65 authority of a licensed midwife and licensed-nurse midwife to issue written prescriptions under  
66 of paragraph (i) of section 7 of chapter 94C.

67 (9) adopt regulations in consultation with the department of public health regarding the  
68 authority of a licensed professional midwife to obtain and administer medications and  
69 therapeutics and to order and interpret tests relevant to the practice of midwifery.

70 (10) perform such other functions and duties as may be required to carry sections 236 to  
71 250, inclusive.

72 Section 238. The board shall examine applicants for licensure in each of the fields it  
73 supervises at least twice in each calendar year at such times and places it deems necessary. The  
74 board shall establish examination and testing requirements to ascertain the competency of a  
75 person applying for a license to practice as a midwife, nurse-midwife or professional midwife.  
76 The testing requirements shall include proof that the applicant has passed either: (a) an  
77 examination administered by the board; or (b) a national midwifery examination approved by the  
78 board. The board may require an applicant to pass any supplemental examinations as it deems  
79 necessary to test the applicant's knowledge of basic and clinical sciences as they relate to the  
80 practice of midwifery and other subjects as the board may deem useful to determine the  
81 applicant's fitness for licensure.

82 The board shall establish standards for reexamination for those applicants who fail the  
83 board-approved exam; provided, however, that the standards shall clearly establish a limit on the  
84 number of times an applicant may retake the exam.

85 An application for a license, which shall be furnished by the board, shall be signed and  
86 sworn to by the applicants. An applicant who furnishes satisfactory proof that he is at least 18  
87 years old, of good moral character and has met the requirements for examination, and the  
88 educational and clinical practice requirements set forth in section 241 to 243, inclusive, shall,  
89 upon payment of a fee determined by the secretary of administration and finance under section  
90 3B of chapter 7 of the General Laws, be licensed to practice as a midwife, nurse-midwife or  
91 professional midwife.

92 Licenses shall be valid for 2 years and shall expire on the birth of the licensee. Licensees  
93 shall pay to the board a renewal fee which shall be determined by the secretary of administration  
94 and finance pursuant to section 3B of said chapter 7. A person seeking a license or a renewal  
95 thereof shall provide evidence of the completing such continuing education as the board shall  
96 require. The board may provide for the late renewal of a license that has lapsed.

97 Upon the issuance of a license or a renewal thereof, the board shall issue to each  
98 individual a certificate that clearly designates that the holder is licensed to practice as a midwife,  
99 nurse-midwife or professional midwife. The board may also indicate on the certificate other  
100 professional certifications held by the holder if it deems those certifications appropriate to the  
101 practice of midwifery; and provided, however, that the licensee shall furnish the board with  
102 satisfactory proof of those certifications.

103 Section 239. (a) The board shall develop a process by which it approves programs for the  
104 education and training of individuals to practice as midwives and nurse-midwives; provided,  
105 however, that those programs shall develop standards which shall be no less stringent than those  
106 set by a nationally-recognized nurse-midwifery education program accrediting organization.

107 (b) The board shall adopt rules and regulations for continuing education requirements for  
108 licensed midwives and licensed nurse-midwives including the scope and number of hours for  
109 such continuing education required for re-licensure. Such requirements shall be at least as  
110 stringent as the continuing education requirements for re-certification by a nationally-recognized  
111 nurse-midwifery certifying organization.

112 Section 240. (a) The board shall develop a process by which it approves programs for the  
113 education and training of individuals to practice as professional midwives; provided, however,  
114 that those programs shall develop standards which shall be no less stringent than those set by a  
115 nationally-recognized professional midwifery education accrediting organization; and, provided  
116 further, that said standards shall allow for education and training as an individual to practice as a  
117 professional midwife through an apprenticeship program.

118 (b)The board shall adopt rules and regulations for continuing education requirements for  
119 licensed professional midwives including the scope and number of hours for such continuing  
120 education required for re-licensure.

121 Section 241. Requirements for licensure as a midwife shall include:

122 (1) completion of the program required in section 239;

123 (2) completion of a post-baccalaureate education program in midwifery approved by the  
124 board under section 240;

125 (3) passage of an examination approved by the board for licensure as a midwife;

126 (4) completion of appropriate pharmacology education as determined by the board; and

127 (5) any additional information as requested by the board, including information necessary  
128 to ensure that the applicant is able to practice with reasonable skill and safety to the public.

129 Section 242. Requirements for licensure as a nurse-midwife shall include:

130 (1) eligibility for registration as a nurse under section 74 of chapter 112;



131 (2) completion of a post-baccalaureate educational program in nurse-midwifery approved  
132 by the board under section 239;

133 (3) passage of an examination approved by the board for licensure as a nurse-midwife;

134 (4) completion of appropriate pharmacology education as determined by the board; and

135 (5) any additional information as requested by the board, including information necessary  
136 to ensure that the applicant is able to practice with reasonable skill and safety to the public.

137 Section 243. Requirements for licensure as a professional midwife shall include:

138 (1) completion of an educational program or apprenticeship program in professional  
139 midwifery approved by the board under section 240;

140 (2) passage of an examination approved by the board for licensure as a professional  
141 midwife;

142 (3) completion of appropriate pharmacology education as determined by the board; and

143 (4) any additional information as requested by the board, including information necessary  
144 to ensure that the applicant is able to practice with reasonable skill and safety to the public.

145 Section 244. The board shall adopt regulations relative to the scope of practice of  
146 licensed midwives. The scope of practice shall include, but not be limited to, the following:

147 (1) providing the necessary supervision, care and advice to women during pregnancy,  
148 labor, the postpartum and interconceptional periods;

149 (2) conducting vaginal deliveries on the midwife's own responsibility and caring for the  
150 newborn and the infant; provided, however, that the care to mother and child include preventive  
151 measures, the detection of abnormal conditions, the procurement of medical assistance and the  
152 execution of emergency measures in the absence of medical help; and

153 (3) additional related health care services, including gynecological services, as defined by  
154 the board.

155 A licensed midwife may order and administer medications and therapeutics and order and  
156 interpret tests relevant to the practice of midwifery in accordance with regulations promulgated  
157 by the board, in consultation with the department of public health, and issue written prescriptions  
158 subject to subsection (i) of section 7 of chapter 94C.

159 The board shall also adopt regulations relative to the requirements and standards for  
160 clinical practice, including informed consent for midwifery care and consultation and referral  
161 within the system of health care.

162 Section 245. The board shall adopt regulations relative to the scope of practice of  
163 licensed nurse-midwives. The scope of practice shall include, but not be limited to, the  
164 following:

165 (1) providing the necessary supervision, care and advice to women during pregnancy,  
166 labor and the interconceptional and postpartum periods;

167 (2) conducting vaginal deliveries on the midwife's own responsibility and caring for the  
168 newborn and the infant; provide, however, that the care to mother and child may include

169 preventive measures, the detection of abnormal conditions, the procurement of medical  
170 assistance and the execution of emergency measures in the absence of medical help; and

171 (3) additional related health care services including, gynecological services, as defined by  
172 the board.

173 A licensed nurse-midwife may order and administer medications and therapeutics and  
174 order and interpret tests relevant to the practice of midwifery in accordance with regulations  
175 promulgated by the board in consultation with the department of public health and issue written  
176 prescriptions subject to subsection (i) of section 7 of chapter 94C.

177 The board shall also adopt regulations relative to the requirements and standards for  
178 clinical practice, including informed consent for midwifery care and consultation and referral  
179 within the system of health care.

180 Section 246. The board shall adopt regulations relative to the scope of practice of  
181 licensed professional midwives. The scope of practice shall include, but not be limited to, the  
182 following:

183 (1) providing the necessary supervision, care and advice to women during pregnancy,  
184 labor and the interconceptional and postpartum periods; and

185 (2) conducting vaginal deliveries on the midwife's own responsibility, and caring for the  
186 newborn and the infant; provide, however, that the care to the mother and child may include  
187 preventive measures, the detection of abnormal conditions, the procurement of medical  
188 assistance and the execution of emergency measures in the absence of medical help.

189           A licensed professional midwife may obtain and administer medications and therapeutics  
190 and order and interpret tests relevant to the practice of midwifery in accordance with regulations  
191 adopted by the board, in consultation with the department of public health.

192           The board shall also adopt regulations relative to the requirements and standards for  
193 clinical practice, including informed consent for midwifery care and consultation and referral  
194 within the system of health care.

195           Section 247. The board may, without examination and upon payment of a fee determined  
196 annually by the secretary of administration and finance under section 3B of chapter 7, register  
197 and issue a license to, a midwife who has been lawfully in practice in another state for the  
198 preceding 5 years, if the midwife presents to the board a certificate of registration and duration of  
199 practice from the board of midwifery or other like board of that state, provided, however, that the  
200 other state shall require a degree of competency equal to that required of applicants in the  
201 commonwealth.

202           Section 248. The board shall keep a record of its proceedings and a roster of all persons  
203 licensed by it under sections 236 to 250, inclusive. The roster shall include the licensee's name,  
204 last known business and residential addresses, date of licensure and license number.

205           Section 249. Nothing in sections 236 to 250, inclusive, shall be construed to authorize a  
206 midwife to practice medicine or any other form or method of healing not specified in said  
207 sections 236 to 250, inclusive.

208           A person shall not hold himself out as a midwife or as being licensed to practice  
209 midwifery in the commonwealth unless he is licensed in accordance with sections 236 to 250,

210 inclusive. A person who is not so licensed shall not use any words or abbreviations indicating he  
211 is a licensed midwife, licensed nurse-midwife or licensed professional midwife.

212           Nothing in this section shall be construed to prevent or restrict the practice, service or  
213 activities of:

214           (1) any person licensed in the commonwealth from engaging in activities within the  
215 scope of practice of the profession or occupation for which he is licensed, provided that he does  
216 not represent to the public, directly or indirectly, that he is licensed under sections 236 to 250,  
217 inclusive, and that he does not use any name, title or designation indicating he is licensed under  
218 said sections 236 to 250, inclusive;

219           (2) any person employed as a midwife by the federal government or an agency thereof if  
220 that person provides midwifery services solely under the direction and control of the  
221 organization by which he is employed;

222           (3) the performance of midwifery services of any student engaged in an education  
223 program approved in accordance with sections 240 or 241 if midwifery services performed by  
224 the student are an integral part of the student's course of study and are performed under the direct  
225 supervision of a licensed midwife assigned to supervise the student; and

226           (4) any person who attends births without being a licensed midwife, licensed nurse-  
227 midwife or licensed professional midwife, if that person receives no compensation for his  
228 services and does not assume any of the responsibilities of a midwife licensed under sections 236  
229 to 250, inclusive.

230 Section 250. The board may deny a issue a license, refuse to renew a license or, after a  
231 hearing pursuant to chapter 30A, revoke, suspend or cancel the license or place on probation,  
232 reprimand, censure or otherwise discipline a licensee upon proof satisfactory to a majority of the  
233 board that the person:

234 (1) has obtained or attempted to obtain a license by fraud or deception;

235 (2) has been convicted of a felony under state or federal law;

236 (3) has been adjudged mentally ill or incompetent by a court of competent jurisdiction;

237 (4) has used drugs or intoxicating liquors to the extent which adversely affects his  
238 practice;

239 (5) has engaged in unethical or unprofessional conduct including, but not limited to,  
240 willful acts, negligence or incompetence in the course of professional practice;

241 (6) has violated any lawful order, rule or regulation rendered or adopted by the board;

242 (7) has been disciplined in connection with a midwifery license issued by any other state  
243 or country;

244 (8) used or attempted to use a license that has been suspended or revoked; or

245 (9) knowingly concealed information relating to the enforcement of this chapter or rules  
246 adopted pursuant thereto.

247 SECTION 4. Section 80C of chapter 112 is hereby repealed.

248 SECTION 5. The board shall adopt rules and regulations pursuant to section 237 of chapter 112  
249 of the General Laws within 180 days after the effective date of this act. Within 180 days after the  
250 board adopts the rules and regulations pursuant to said section 237 of said chapter 112, the board  
251 may commence the issuing of licenses.

252 SECTION 6. Nothing in this act shall preclude any person who was practicing midwifery before  
253 the effective date of this act from practicing midwifery in the commonwealth until the board  
254 establishes procedures for the licensure of midwives pursuant to sections 237 to 250, inclusive,  
255 of chapter 112 of the General Laws.

256 SECTION 7. Notwithstanding section 101 of chapter 13 of the General Laws, 6 midwives to be  
257 appointed to the midwifery board shall be initially appointed as follows: 3 shall be midwives or  
258 nurse midwives certified by a nationally-recognized midwife certification board and 3 shall be  
259 professional midwives certified by a nationally-recognized midwife certification board who shall  
260 serve for terms of 3 years pursuant to said section 101 of said chapter 13.

261 SECTION 8. The board of registry of midwifery, established pursuant to section 101 of chapter  
262 13 of the General Laws, shall establish regulations for the licensure of individuals practicing  
263 midwifery prior to the date on which the board commences issuing licenses, provided that the  
264 individuals shall have 2 years from the date on which the board commences issuing licenses to  
265 provide proof of passage of a licensing examination recognized by the board and proof of  
266 completion of any continuing education requirements necessary for re-licensure.