

By: Ordaz

H.B. No. 4553

A BILL TO BE ENTITLED

AN ACT

relating to the mandatory reporting of birth outcomes by licensed midwives in the State of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as Malik's Law.

SECTION 2. Section 203.154(b), Occupations Code, is amended to read as follows:

SUBCHAPTER H. PRACTICE BY MIDWIFE

Sec. 203.351. INFORMED CHOICE AND DISCLOSURE REQUIREMENTS.

(a) A midwife shall disclose in oral and written form to a prospective client the limitations of the skills and practices of a midwife.

(b) The department shall prescribe the form of the informed choice and disclosure statement required to be used by a midwife under this chapter. The form must include:

(1) statistics of the midwife's experience as a midwife;

(2) the date of the midwife's original licensure and date of expiration;

(3) the date the midwife's cardiopulmonary resuscitation certification expires;

(4) the midwife's compliance with continuing education requirements;

(5) intermittent auscultation certification if

1 applicable

2 (6) a description of medical backup arrangements; and

3 (7) the legal responsibilities of a midwife, including  
4 statements concerning newborn blood screening, ophthalmia  
5 neonatorum prevention, and prohibited acts under Sections  
6 203.401-203.403.

7 (c) The informed choice statement must include a statement  
8 that state law requires a newborn child to be tested for certain  
9 heritable diseases and hypothyroidism. The midwife shall disclose  
10 to a client whether the midwife is approved to collect blood  
11 specimens to be used to perform the tests. If the midwife is not  
12 approved to collect the blood specimens, the disclosure must inform  
13 the client of the midwife's duty to refer the client to an  
14 appropriate health care facility or physician for the collection of  
15 the specimens.

16 (d) The disclosure of legal requirements required by this  
17 section may not exceed 500 words and must be in English and Spanish.

18 (e) A midwife shall disclose to a prospective or actual  
19 client the procedure for reporting complaints to the department.

20 (f) a midwife shall disclose if they are under active  
21 investigation by the department before client consents to care.

22

23 Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended  
24 by:

25 Acts 2005, 79th Leg., Ch. 1240 (H.B. 1535), Sec. 40, eff.  
26 September 1, 2005.

27 Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.027,

eff. September 1, 2015.

Sec. 203.352. PRENATAL AND CERTAIN MEDICAL CARE ENCOURAGED.

A midwife shall encourage a client to seek:

(1) prenatal care; and

(2) medical care through consultation or referral, as specified by commission rules, if the midwife determines that the pregnancy, labor, delivery, postpartum period, or newborn period of a woman or newborn may not be classified as normal for purposes of this chapter.

(3) Medical terms and practices addressed in this chapter pertaining to maternal and neonatal health will reflect definitions and practice standards as defined by the American College of Obstetrics and Gynecology as well as the International Confederation of Midwives, the American Academy of Pediatrics and CDC guidelines.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.028, eff. September 1, 2015.

Sec. 203.353. PREVENTION OF OPHTHALMIA NEONATORUM. (a)

Subject to Subsection (b), unless the newborn child is immediately transferred to a hospital because of an emergency, a midwife who attends the birth of the child shall comply with Section [81.091](#),

1 Health and Safety Code.

2 (b) A midwife in attendance at childbirth who is unable to  
3 apply prophylaxis as required by Section 81.091, Health and Safety  
4 Code, due to the objection of the parent, managing conservator, or  
5 guardian of the newborn child does not commit an offense under that  
6 section and is not subject to any criminal, civil, or  
7 administrative liability or any professional disciplinary action  
8 for failure to administer the prophylaxis. The midwife in  
9 attendance at childbirth shall ensure that the objection of the  
10 parent, managing conservator, or guardian is entered into the  
11 medical record of the child.

12  
13  
14 Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

15 Amended by:

16 Acts 2017, 85th Leg., R.S., Ch. 1105 (H.B. 4007), Sec. 1.002,  
17 eff. September 1, 2017.

18  
19  
20 Sec. 203.354. NEWBORN SCREENING. (a) Each midwife who  
21 attends the birth of a child shall cause the newborn screening tests  
22 to be performed on blood specimens taken from the child as required  
23 by Chapter 33, Health and Safety Code.

24 (b) A midwife may collect blood specimens for the newborn  
25 screening tests if the midwife has been approved by the department  
26 to collect the specimen. The commission shall adopt rules  
27 establishing the standards for approval. The standards must

1 recognize completion of a course of instruction that includes the  
2 blood specimen collection procedure or verification by  
3 appropriately trained health care providers that the midwife has  
4 been instructed in the blood collection procedures.

5 (c) A midwife who is not approved to collect blood specimens  
6 for newborn screening tests shall refer a client and her newborn to  
7 an appropriate health care facility or physician for the collection  
8 of the blood specimen and submission of the specimen to the  
9 department.

10 (d) If the midwife has been approved by the department to  
11 collect blood specimens under this section, the collection by the  
12 midwife of blood specimens for the required newborn screening tests  
13 does not constitute the practice of medicine as defined by  
14 Subtitle B.

15  
16  
17 Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

18 Amended by:

19 Acts 2005, 79th Leg., Ch. 1240 (H.B. 1535), Sec. 41, eff.  
20 September 1, 2005.

21 Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.029,  
22 eff. September 1, 2015.

23  
24 Sec. 203.355. SUPPORT SERVICES. (a) In this section:

25 (1) "Clinical services" include prenatal, postpartum,  
26 child health, and family planning services.

27 (2) "Local health unit" means a division of a

1 municipal or county government that provides limited public health  
2 services under Section 121.004, Health and Safety Code.

3 (3) "Public health district" means a district created  
4 under Subchapter E, Chapter 121, Health and Safety Code.

5 (b) The Department of State Health Services and a local  
6 health department, a public health district, or a local health unit  
7 shall provide clinical and laboratory support services to a  
8 pregnant woman or a newborn who is a client of a midwife if the  
9 midwife is required to provide the services under this chapter.

10 (c) The laboratory services must include the performance of  
11 the standard serological tests for syphilis and the collection of  
12 blood specimens for newborn screening tests for phenylketonuria,  
13 hypothyroidism, and other heritable diseases as required by law.

14 (d) The provider may charge a reasonable fee for the  
15 services. A person may not be denied the services because of  
16 inability to pay.

17 (e) If available, appropriately trained personnel from  
18 local health departments, public health districts, and local health  
19 units shall instruct licensed midwives in the approved techniques  
20 for collecting blood specimens to be used to perform newborn  
21 screening tests.

22  
23  
24 Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

25 Amended by:

26 Acts 2005, 79th Leg., Ch. 1240 (H.B. 1535), Sec. 42, eff.  
27 September 1, 2005.

1        Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.030,  
2    eff. September 1, 2015.

3  
4        Sec. 203.356. IMMUNITY. (a) A physician, a registered  
5    nurse, or other person who, on the order of a physician, instructs a  
6    midwife in the approved techniques for collecting blood specimens  
7    to be used for newborn screening tests is immune from liability  
8    arising out of the failure or refusal of the midwife to:

- 9            (1) collect the specimens in the approved manner; or  
10           (2) submit the specimens to the Department of State  
11    Health Services in a timely manner.

12        (b) A physician who issues an order directing or instructing  
13    a midwife is immune from liability arising out of the failure or  
14    refusal of the midwife to comply with the order if, before the  
15    issuance of the order, the midwife provided the physician with  
16    evidence satisfactory to the department of compliance with this  
17    chapter.

18  
19  
20    Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

21    Amended by:

22        Acts 2005, 79th Leg., Ch. 1240 (H.B. 1535), Sec. 43, eff.  
23    September 1, 2005.

24        Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.031,  
25    eff. September 1, 2015.

26  
27        Sec. 203.357. ADDITIONAL INFORMATION REQUIRED. (a) The

department may require information in addition to that required by Section 203.253 if it determines the additional information is necessary and appropriate to ascertain the nature and extent of midwifery in this state. The department may not require information regarding any act that is prohibited under this chapter.

(b) The department shall prescribe forms for the additional information and shall distribute those forms directly to each midwife. Each midwife must complete and return the forms to the department as requested.

(c) Information received under this section may not be made public in a manner that discloses the identity of any person to whom the information relates. The information is not public information as defined by Chapter 552, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.032, eff. September 1, 2015.

Sec. 203.358. MANDATORY REPORTING OF BIRTH OUTCOMES.

(a) Reporting Requirement.

(1) A licensed midwife shall submit a Birth & Outcomes Report to the Department of State Health Services (DSHS) Vital Statistics and Texas Department of Licensing and Regulation within 10 days of attending any birth in a home, birthing center, or other non-hospital setting.

(2) The report shall be mandatory for every birth attended by a

midwife, regardless of whether:

- a. The newborn or mother survives;
- b. The newborn or mother is transferred to a hospital;
- c. The midwife was the primary or assisting provider
- d. Intrapartum death; or
- e. The complications leading to a poor outcome were deemed  
"unforeseen medical circumstances."

(3) If a midwife is involved in a birth, but another midwife files the report, all midwives present must co-sign and verify the report. A failure to do so constitutes a violation under this section.

(b) Required Report Contents. Each report must include:

1. Midwife Information:

- a. Full name and Texas midwifery license number of the attending midwife(s).

2. Birth Details:

- a. The planned and actual location of the birth,
- b. The gestational age at birth,
- c. The type of birth vaginal, assisted vaginal, cesarean after transfer,
- d. The APGAR scores at one, five, and ten minutes,
- e. The birth weight,
- f. Whether the birth was an attempted vaginal delivery after cesarean, including how many previous cesareans the client had prior to attempting VBAC and the incision type(s),
- g. How many gestation single, twin, or multiples, and

1           h. Breech positioning.

2       3. Complications & Interventions:

3           a. Any neonatal resuscitation performed, and fetal  
4           complications including:

- 5               1. Presence of meconium,
- 6               2. Ruptured membranes up to and including five hours,  
7               more than 10 hours and more than 20hrs,
- 8               3. Length of time and number of any fetal  
9               decelerations incidents occurring less than 110  
10              beats per minute,
- 11              4. History of decreased growth during pregnancy,
- 12              5. Shoulder Dystocia,
- 13              6. Meconium Aspiration Syndrome,
- 14              7. Hypoxic-Ischemic Encephalopathy, and
- 15              8. Sepsis.

16          b. Any maternal complications, including:

- 17              1. Postpartum hemorrhage (>1,000 mL),
- 18              2. Hypertensive crisis/eclampsia,
- 19              3. Infection/sepsis,
- 20              4. Retained placenta,
- 21              5. Uterine rupture,
- 22              6. Abnormal labor patterns/stalling of labor, or
- 23              7. Any other significant maternal morbidities.

24       4. Hospital Transfers:

25           a. If the mother or newborn was transferred to a  
26           hospital:

- 27               1. The time elapsed from birth to transfer,

1                   2. The name of the receiving hospital, and

2                   3. The reason for transfer.

3       5. Survival Status:

4       Status shall be reported regardless of where the demise  
5       occurred and shall include intrapartum death

6           a. Whether the newborn survived, and if not, the date of  
7           death, and

8           b. Whether the mother survived, and if not, the date of  
9           death.

10      6. Verification & Accountability:

11           a. If more than one midwife attended, all must sign and  
12           verify the report.

13      (c) Data Verification and Audits.

14      (1) Texas Department of Licensing and Regulation shall conduct  
15      random audits of Birth & Outcomes Reports to ensure compliance and  
16      accuracy.

17      (2) Hospitals shall be required to report all deaths and  
18      morbidities linked to midwife-attended births to DSHS Vital  
19      Statistics, which shall cross-check the data with  
20      midwife-submitted reports. Any missing reports will trigger an  
21      investigation.

22      (3) A failure to report a transfer resulting in death or severe  
23      morbidity shall be treated as a violation under this section.

24      (d) Enforcement and Penalties.

25      (1) Failure to Report:

26      A midwife who fails to submit a report within the required 10-day  
27      period shall be subject to:

- 1       a. First offense: Written warning and remedial training in  
2       reporting and medical recording provided by Texas  
3       Department of Licensing and Regulation.
- 4       b. Second offense: A fine of up to \$1,000 per day for each day  
5       the report is overdue enforced by Texas Department of  
6       Licensing and Regulation, and
- 7       c. Third offense: License suspension to be enforced by Texas  
8       Department of Licensing and Regulation.

9   (2) False or Incomplete Reporting:

10 A midwife who knowingly submits false or incomplete information  
11 shall be subject to:

- 12       a. A fine of up to \$5,000 per violation.
- 13       b. A mandatory review of all past reports submitted by the  
14       midwife, and
- 15       c. License revocation for repeated violations without  
16       renewal.

17 (3) Avoidance of Accountability:

- 18       a. If a midwife surrenders their license while under  
19       investigation, they shall remain subject to enforcement  
20       actions, including fines, civil, and criminal penalties,  
21       for two years following license surrender.

22 (e) Rulemaking Authority.

23 The Executive Commissioner of Texas Department of Licensing and  
24 Regulation and the Department of State Health Services Vital  
25 Statistics shall adopt rules necessary to implement this section,  
26 including:

- 27       a. Including data of out of hospital Birth & Outcomes Reports

1       with yearly infant and maternal mortality statistics  
2       separate from hospital statistics.

3       b. Defining protocols for investigating noncompliance with  
4       this section, and

5       c. Publicly displaying de-identified statistics on maternal  
6       and neonatal outcomes from midwife-attended births in  
7       Texas.

8       SECTION 3. This Act takes effect September 1, 2025.