

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 338**

Introduced by Smith, 48; Brown, 6; Erdman, 47

Read first time January 11, 2005

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Nebraska Certified Nurse Midwifery  
2 Practice Act; to amend sections 44-513, 71-604, 71-1740,  
3 71-1743, 71-1747, 71-1748, 71-1749, 71-1752, 71-1753,  
4 71-1755, 71-1757, and 71-2048.01, Reissue Revised  
5 Statutes of Nebraska; to provide for independent  
6 practice; to redefine terms and eliminate definitions; to  
7 provide for insurance reimbursement and clinical  
8 privileges; to harmonize provisions; to repeal the  
9 original sections; and to outright repeal sections  
10 71-1746, 71-1750, 71-1751, 71-1754, and 71-1763, Reissue  
11 Revised Statutes of Nebraska.

12 Be it enacted by the people of the State of Nebraska,

1                   Section 1.    Section 44-513, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   44-513.   Whenever any insurer provides by contract,  
4 policy, certificate, or any other means whatsoever for a service,  
5 or for the partial or total reimbursement, payment, or cost of a  
6 service, to or on behalf of any of its policyholders, group  
7 policyholders, subscribers, or group subscribers or any person or  
8 group of persons, which service may be legally performed by a  
9 person licensed in this state for the practice of osteopathic  
10 medicine and surgery, chiropractic, optometry, psychology,  
11 dentistry, podiatry, ~~or~~ mental health practice, or certified nurse  
12 midwifery, the person rendering such service or such policyholder,  
13 subscriber, or other person shall be entitled to such partial or  
14 total reimbursement, payment, or cost of such service, whether the  
15 service is performed by a duly licensed medical doctor, ~~or by a~~  
16 ~~duly licensed~~ osteopathic physician, chiropractor, optometrist,  
17 psychologist, dentist, podiatrist, or mental health practitioner or  
18 by a certified nurse midwife. This section shall not limit the  
19 negotiation of preferred provider policies and contracts under  
20 sections 44-4101 to 44-4113.

21                   Sec. 2.    Section 71-604, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23                   71-604.    (1) A certificate for each live birth which  
24 occurs in the State of Nebraska shall be filed on a standard  
25 Nebraska certificate form. Such certificate shall be filed with  
26 the Department of Health and Human Services Finance and Support  
27 within five business days after the birth.

28                   (2) When a birth occurs in an institution or en route

1 thereto, the person in charge of the institution or his or her  
2 authorized designee shall obtain the personal data, prepare the  
3 certificate which shall include the name, title, and address of the  
4 attendant, certify that the child was born alive at the place and  
5 time and on the date stated either by standard procedure or by an  
6 approved electronic process, and file the certificate. The  
7 physician or other person in attendance shall provide the medical  
8 information required for the certificate within seventy-two hours  
9 after the birth.

10 (3) When a birth occurs outside an institution, the  
11 certificate of birth shall be prepared and filed by one of the  
12 following:

13 (a) The physician in attendance at or immediately after  
14 the birth;

15 (b) The certified nurse midwife in attendance at or  
16 immediately after the birth;

17 (c) The father, the mother, or, in the absence of the  
18 father and the inability of the mother, the person in charge of the  
19 premises where the birth occurred; or

20 ~~(e)~~ (d) Any other person in attendance at or immediately  
21 after the birth.

22 Sec. 3. Section 71-1740, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 71-1740. For purposes of the Nebraska Certified Nurse  
25 Midwifery Practice Act, unless the context otherwise requires, the  
26 definitions found in sections 71-1743 to ~~71-1751~~ 71-1749 shall  
27 apply.

28 Sec. 4. Section 71-1743, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-1743. ~~Boards~~ Board shall mean ~~both~~ the Board of  
3 Nursing. ~~and the Board of Medicine and Surgery.~~

4 Sec. 5. Section 71-1747, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 71-1747. Collaboration shall mean a process and  
7 relationship in which a certified nurse midwife works together,  
8 under the terms of a practice agreement, with a licensed  
9 practitioner, and may include work with other health professionals,  
10 to deliver health care within the scope of practice of certified  
11 nurse midwifery as provided in the Nebraska Certified Nurse  
12 Midwifery Practice Act. ~~The collaborative relationship between the~~  
13 ~~physician and the nurse midwife shall be subject to the joint~~  
14 ~~control and regulation of the boards.~~

15 Sec. 6. Section 71-1748, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 71-1748. Certified nurse midwife shall mean a person  
18 certified to practice midwifery by the American College of  
19 Nurse-Midwives Certification Council or the American College of  
20 Nurse-Midwives and certified under the Nebraska Certified Nurse  
21 Midwifery Practice Act to independently practice certified nurse  
22 midwifery in the State of Nebraska. Nothing in the act is intended  
23 to restrict the practice of registered nurses.

24 Sec. 7. Section 71-1749, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 71-1749. Approved certified nurse midwifery education  
27 program shall mean a certified nurse midwifery education program  
28 approved by the ~~boards~~ board. The ~~boards~~ board may allow such

1 program to be accredited by the American College of Nurse-Midwives.

2           Sec. 8.     Section 71-1752, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           71-1752.   The certificate to practice certified nurse  
5 midwifery shall authorize the holder, ~~under the provisions of a~~  
6 ~~practice agreement,~~ to (1) attend cases of normal childbirth, (2)  
7 provide prenatal, intrapartum, and postpartum care, (3) provide  
8 normal obstetrical and gynecological services for women, and  
9 midwifery, gynecological, and primary care services for women, (4)  
10 provide care for ~~the newborn immediately following birth.~~ The  
11 conditions under which a certified nurse midwife shall refer cases  
12 to a collaborating licensed practitioner shall be specified in the  
13 practice agreement newborns up to one year of age, and (5)  
14 prescribe as appropriate for authorized activities.

15           Sec. 9.     Section 71-1753, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-1753.   (1) The specific ~~medical~~ health care functions  
18 to be performed by a certified nurse midwife within the scope of  
19 permitted practice defined by section 71-1752 ~~shall be described in~~  
20 ~~the practice agreement which shall be reviewed and approved by the~~  
21 ~~boards. A quorum shall be required of each board in order to~~  
22 ~~transact any business. For purposes of the Nebraska Certified~~  
23 ~~Nurse Midwifery Practice Act, a majority vote of each respective~~  
24 ~~board shall be required for taking any action and any action shall~~  
25 ~~require the concurrence of both boards. A copy of the agreement~~  
26 ~~shall be maintained on file with the boards as a condition of~~  
27 ~~lawful practice under the act.~~

28           ~~(2) A certified nurse midwife shall perform the functions~~

1 detailed in the practice agreement only under the supervision of  
 2 the licensed practitioner responsible for the medical care of the  
 3 patients described in the practice agreement. If the collaborating  
 4 licensed practitioner named in the practice agreement becomes  
 5 temporarily unavailable, the certified nurse midwife may perform  
 6 the authorized medical functions only under the supervision of  
 7 another licensed practitioner designated as a temporary substitute  
 8 for that purpose by the collaborating licensed practitioner.

9 ~~(3)~~ A certified nurse midwife may perform authorized  
 10 medical functions only may be performed in the following settings:

11 (a) In a licensed or certified health care facility; as  
 12 an employee or as a person granted privileges by the facility;

13 (b) In the primary office of a licensed practitioner or  
 14 in any setting authorized by the collaborating licensed  
 15 practitioner, except that a certified nurse midwife shall not  
 16 attend a home delivery; or In the residence, office, or clinic of a  
 17 certified nurse midwife, group of certified nurse midwives, or  
 18 group of practitioners credentialed under the Uniform Licensing Law  
 19 or any distinct part of such residence, office, or clinic;

20 (c) At the home of a consumer of midwifery care;

21 ~~(e)~~ (d) Within an organized public health agency; or

22 (e) At any other site approved by the board.

23 ~~(4)~~ (2) A certified nurse midwife shall have a written,  
 24 identified means of consultation or transfer of care when medically  
 25 appropriate.

26 (3) The department shall, after consultations with the  
 27 ~~boards~~ board, adopt and promulgate rules and regulations to carry  
 28 out the Nebraska Certified Nurse Midwifery Practice Act.

1                   Sec. 10.     Section 71-1755, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   71-1755.   (1) An applicant for certification as a nurse  
4 midwife shall submit to the ~~boards~~ board a written application,  
5 which includes the applicant's social security number, and such  
6 evidence as the ~~boards~~ board shall require showing that the  
7 applicant is currently licensed as a registered nurse by the state,  
8 has successfully completed an approved certified nurse midwifery  
9 education program, and has passed a nationally recognized nurse  
10 midwifery examination adopted by the ~~boards~~ board.

11                   (2) The department may, with the approval of the ~~boards~~  
12 board, grant temporary certification as a nurse midwife upon  
13 application (a) to graduates of an approved nurse midwifery program  
14 pending results of the first certifying examination following  
15 graduation and (b) for one hundred twenty days to nurse midwives  
16 currently licensed in another state pending completion of the  
17 application for Nebraska certification. A temporary permit issued  
18 pursuant to this section may be extended for up to one year with  
19 the approval of the ~~boards~~ board.

20                   (3) The ~~boards~~ board shall adopt an examination to be  
21 used pursuant to subsection (1) of this section.

22                   (4) If more than five years have elapsed since the  
23 completion of the nurse midwifery program or since the applicant  
24 has practiced as a nurse midwife, the applicant shall meet the  
25 requirements in subsection (1) of this section and provide evidence  
26 of continuing competency, as may be determined by the ~~boards~~ board,  
27 either by means of a reentry program, references, supervised  
28 practice, examination, or one or more of the continuing competency

1 activities listed in section 71-161.09.

2 Sec. 11. Section 71-1757, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4 71-1757. (1) The certificate of each person certified  
5 under the Nebraska Certified Nurse Midwifery Practice Act shall be  
6 renewed at the same time and in the same manner as renewal of a  
7 license for a registered nurse. Renewal of such a certificate  
8 shall require that (a) the applicant have a license as a registered  
9 nurse issued by the state and (b) documentation of continuing  
10 competency, either by reference, peer review, examination, or one  
11 or more of the continuing competency activities listed in section  
12 71-161.09, as established by the ~~boards~~ board in rules and  
13 regulations approved by the ~~boards~~ board and adopted and  
14 promulgated by the department.

15 (2) The department shall establish and collect fees as  
16 provided in section 71-162.

17 Sec. 12. Section 71-2048.01, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 71-2048.01. Any hospital required to be licensed under  
20 the Health Care Facility Licensure Act shall not deny clinical  
21 privileges to physicians and surgeons, podiatrists, osteopathic  
22 physicians, osteopathic physicians and surgeons, licensed  
23 psychologists, certified nurse midwives, or dentists solely by  
24 reason of the ~~license~~ credential held by the practitioner. Each  
25 such hospital shall establish reasonable standards and procedures  
26 to be applied when considering and acting upon an application for  
27 medical staff membership and privileges. Once an application is  
28 determined to be complete by the hospital and is verified in

1 accordance with such standards and procedures, the hospital shall  
2 notify the applicant of its initial recommendation regarding  
3 membership and privileges within one hundred twenty days.

4           Sec. 13. Original sections 44-513, 71-604, 71-1740,  
5 71-1743, 71-1747, 71-1748, 71-1749, 71-1752, 71-1753, 71-1755,  
6 71-1757, and 71-2048.01, Reissue Revised Statutes of Nebraska, are  
7 repealed.

8           Sec. 14. The following sections are outright repealed:  
9 Sections 71-1746, 71-1750, 71-1751, 71-1754, and 71-1763, Reissue  
10 Revised Statutes of Nebraska.