

**HOUSE** \_\_\_\_\_ **AMENDMENT NO.** \_\_\_\_\_

**Offered By**

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 754,  
2 Page 61, Section 332.011, Line 22 by inserting after all of said line the following:

3  
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

20 (2) The physician licensed in this state retains ultimate authority and responsibility for the  
21 diagnosis or diagnoses and treatment in the care of the patient located within this state; or

22 (3) Evaluating a patient or rendering an oral, written or otherwise documented medical  
23 opinion, or when providing testimony or records for the purpose of any civil or criminal action  
24 before any judicial or administrative proceeding of this state or other forum in this state; or

25 (4) Participating in a utilization review pursuant to section 376.1350, RSMo.”; and

26  
27 Further amend said bill, Page 81, Section 334.735, Line 174, by inserting after all of said line the  
28 following:

1 “334.1200. 1. As used in sections 334.1200 to 334.1230, the following terms shall mean:

2 (1) "Antepartum", before birth;

3 (2) "Board", state board of registration for the healing arts;

4 (3) "Certified professional midwife", any person who is certified by the North American  
5 Registry of Midwives as a certified professional midwife and licensed under this chapter to  
6 provide midwife services;

7 (4) "Client", a person who retains the services of a licensed certified professional  
8 midwife;

9 (5) "Consultation", communication between a licensed certified professional midwife and  
10 a licensed physician for the purpose of receiving and implementing advice regarding the care of a  
11 pregnant woman or infant;

12 (6) "Committee", the advisory committee for certified midwives;

13 (7) "Intrapartum", during birth;

14 (8) "Midwife services", the management and care of women in the antepartum,  
15 intrapartum, and postpartum period of the maternity cycle;

16 (9) "Postpartum", after birth, but no longer than one hundred twenty days after birth;

17 (10) "Protocol", a defined response to a specific clinical situation providing suggested  
18 pathways to be followed by the licensed certified professional midwife for managing a particular  
19 issue or complication. The protocol shall be developed collaboratively by the licensed certified  
20 professional midwife and a physician licensed under this chapter, and shall be written, signed, and  
21 dated by the physician prior to its implementation;

22 (11) "Referral", the process by which the licensed certified professional midwife directs  
23 the client to a licensed physician. The client and the physician shall determine whether  
24 subsequent care shall be provided by the physician, the midwife, or through a collaboration  
25 between the physician and the midwife;

26 (12) "Transfer of care", the transfer of care of the client to a medical facility or a physician  
27 who then assumes the responsibility for the direct care of the client;

28 (13) "Written collaboration agreement", a written jointly agreed upon plan of care  
29 whereby a physician delegates professional responsibilities to a licensed certified professional  
30 midwife who is qualified by training, competency, experience, or licensure to perform such  
31 responsibilities.

32 334.1202. 1. There is hereby established under the state board of registration for the  
33 healing arts the "Advisory Committee for Certified Professional Midwives", which shall guide,  
34 advise, make recommendations to, and assist the board in carrying out the provisions of sections  
35 334.1200 to 334.1230.

36 2. No later than December 31, 2010, the governor shall appoint members to the

1 committee with the advice and consent of the senate. The committee shall consist of five  
2 members, each of whom are United States citizens and who have been residents of this state for at  
3 least one year immediately preceding their appointment. Of these five members, one member  
4 shall be a public member and four members shall be licensed certified midwives who attend births  
5 in homes or other out-of-hospital settings; provided that the first midwife members appointed  
6 need not be licensed at the time of appointment if they are actively working toward licensure  
7 under sections 334.1200 to 334.1230.

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

15 4. The public member of the committee shall not be a member of any profession regulated  
16 by chapter 334 or 335 or the spouse of any such person. The public member is subject to the  
17 provisions of section 620.132.

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

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

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

32 8. No licensing activity or other statutory requirements shall become effective until  
33 expenditures or personnel are specifically appropriated for the purpose of conducting the business  
34 as required to administer sections 334.1200 to 334.1230, and the initial rules have become  
35 effective.

36 334.1204. 1. No person shall hold himself or herself out as a midwife or certified

1 professional midwife in this state unless such person is licensed under sections 334.1200 to  
2 334.1230.

3 2. Nothing in sections 334.1200 to 334.1230 shall be construed to prohibit physicians  
4 licensed under this chapter or certified nurse midwives licensed under chapter 335 from providing  
5 midwife services, so long as such services are lawfully performed under such individual's scope of  
6 practice as authorized by law and regulation.

7 334.1206. 1. The board shall issue licenses to applicants who:

8 (1) Present evidence of current certification by the North American Registry of Midwives  
9 as a certified professional midwife;

10 (2) Present documentation verifying that the applicant has the following practical  
11 experience through an apprenticeship or other supervisory setting:

12 (a) The provision of seventy-five prenatal examinations, including twenty initial  
13 examinations;

14 (b) Supervised participation as a primary caregiver in at least fifty births, at least twenty of  
15 which shall be in a home setting;

16 (c) Twenty newborn examinations; and

17 (d) Thirty postpartum examinations;

18 (3) Present evidence of current certification in adult and neonatal cardiopulmonary  
19 resuscitation;

20 (4) Agree to comply with the informed consent requirement under subsection 1 of section  
21 334.1220;

22 (5) Pay a licensure fee set by the board; and

23 (6) Meet other requirements established by the board.

24 2. The board shall renew licenses to applicants who:

25 (1) Present evidence of the continuing education required in section 334.1214;

26 (2) Present evidence of attendance at a minimum of three hours per year of peer review;

27 (3) Present evidence of current certification in adult and neonatal cardiopulmonary  
28 resuscitation;

29 (4) Present evidence of a written collaboration agreement;

30 (5) Pay a renewal fee set by the board; and

31 (6) Submit the following data on a form to be promulgated by rule and made available by  
32 the department of health and senior services:

33 (a) The number of women to whom care was provided since the date of the previously  
34 issued license;

35 (b) The number of deliveries performed;

36 (c) The number of perinatal transfers;

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

2 (e) The number of perinatal deaths.

3 3. Any license issued under sections 334.1200 to 334.1230 shall expire one year after the  
4 date of its issuance. The board may refuse to issue or renew any license under this chapter for one  
5 or any combination of causes stated in subsection 2 of section 334.1210. The board shall notify  
6 the applicant in writing of the reasons for the refusal and shall advise the applicant of the  
7 applicant's right to file a complaint with the administrative hearing commission as provided by  
8 chapter 621. As an alternative to a refusal to issue or renew any license, the board may, at its  
9 discretion, issue a license which is subject to probation, restriction, or limitation to an applicant  
10 for licensure for any one or any combination of causes stated in subsection 2 of section 334.1210.  
11 The board's order of probation, limitation, or restriction shall contain a statement of the discipline  
12 imposed, the basis therefore, the date such action shall become effective, and a statement that the  
13 applicant has thirty days to request in writing a hearing before the administrative hearing  
14 commission. If the board issues a probationary, limited, or restricted license to an applicant for  
15 licensure, either party may file a written petition with the administrative hearing commission  
16 within thirty days of the effective date of the probationary, limited, or restricted license seeking  
17 review of the board's determination. If no written request for a hearing is received by the  
18 administrative hearing commission within the thirty-day period, the right to seek review of the  
19 board's decision shall be considered waived.

20 334.1208. Any complaint received by the board concerning a person who is licensed  
21 under sections 334.1200 to 334.1230 shall be recorded as received and the date received. The  
22 board:

23 (1) Shall investigate all complaints concerning alleged violations of sections 334.1200 to  
24 334.1230 or if there are grounds for the suspension, revocation, or refusal to issue a license. The  
25 board may employ investigators who shall investigate complaints and make inspections and any  
26 inquiries as, in the judgment of the board, are appropriate to enforce sections 334.1200 to  
27 334.1230;

28 (2) May issue subpoenas and subpoena duces tecum in order to cause any licensee or any  
29 other person to produce records or to appear as a witness under any investigation or proceeding  
30 conducted under sections 334.1200 to 334.1230;

31 (3) May, in lieu of or in addition to any remedy provided in this section, file a petition in  
32 the name of the state asking a court to issue a restraining order, an injunction or a writ of  
33 mandamus against any person who is or has been violating any of the provisions of sections  
34 334.1200 to 334.1230 or any lawful rule, order or subpoena of the board; and

35 (4) May, if the evidence supports such action, cause a complaint to be filed with the  
36 administrative hearing commission as provided in chapter 621 against any holder of any license

1 issued under sections 334.1200 to 334.1230.

2 334.1210. 1. The board may refuse to issue or renew any license required under sections  
3 334.1200 to 334.1230 for one or any combination of causes stated in subsection 2 of this section.  
4 The board shall notify the applicant in writing of the reasons for the refusal and shall advise the  
5 applicant of his or her right to file a complaint with the administrative hearing commission as  
6 provided by chapter 621.

7 2. The board may cause a complaint to be filed with the administrative hearing  
8 commission as provided by chapter 621 against any holder of a license required by sections  
9 334.1200 to 334.1230, or any person who has failed to renew or has surrendered his or her license  
10 for any one or any combination of the following causes:

11 (1) Use or unlawful possession of any controlled substance, as defined in chapter 195, or  
12 alcoholic beverage to an extent that such use impairs a person's ability to perform midwife  
13 services;

14 (2) The person has been finally adjudicated and found guilty or entered a plea of guilty or  
15 nolo contendere in a criminal prosecution under the laws of any state or of the United States for  
16 any offense reasonably related to the qualifications, functions, or duties of a certified professional  
17 midwife, for any offense an essential element is fraud, dishonesty, or an act of violence, or for any  
18 offense involving moral turpitude, whether or not sentence is imposed;

19 (3) Use of fraud, deception, misrepresentation, or bribery in securing a license issued  
20 under sections 334.1200 to 334.1230;

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

23 (5) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty  
24 in the performance of the functions and duties of a certified professional midwife;

25 (6) Violation of or assisting or enabling any person to violate any provision of sections  
26 334.1200 to 334.1230 or any lawful regulation adopted under sections 334.1200 to 334.1230;

27 (7) Impersonation of any person holding a license or allowing any person to use his or her  
28 license;

29 (8) Disciplinary action against the holder of a license granted by another state, territory,  
30 federal agency, or country upon grounds for which revocation or suspension is authorized in this  
31 state;

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

34 (10) Assisting or enabling any person to practice or offer to practice as a certified  
35 professional midwife who is not licensed and currently eligible to practice under sections  
36 334.1200 to 334.1230;

- (11) Issuance of a license based upon a material mistake of fact;
- (12) Violation of any professional trust or confidence;
- (13) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;
- (14) Committing unethical conduct as defined by the board;
- (15) Engaging in conduct detrimental to the health or safety of either the mother or infant, or both, as determined by the board; or
- (16) Violation of the drug laws or regulations of this state, any other state, or the federal government.

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

- (1) Warn, censure, or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years;
- (2) Suspend the person's license for a period not to exceed three years;
- (3) Restrict or limit the person's license for an indefinite period of time;
- (4) Revoke the person's license;
- (5) Administer a public or private reprimand;
- (6) Deny the person's application for a license;
- (7) Permanently withhold issuance of a license; or
- (8) Require the person to attend such continuing educational courses and pass such examinations as the board may direct.

4. An individual whose license has been revoked shall wait at least one year from the date of revocation to apply for renewal of the license. Renewal shall be at the discretion of the board after compliance with all requirements of sections 334.1200 to 334.1230 relative to the licensing of the applicant for the first time.

334.1212. The board may promulgate rules necessary to implement and administer the provisions of sections 334.1200 to 334.1230. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

1 334.1214. 1. All fees payable under sections 334.1200 to 334.1230 shall be set by the  
2 board at a level to produce revenue sufficient to cover but not substantially exceed the cost and  
3 expense of administering said sections. All such fees shall be collected by the division of  
4 professional registration, which shall transmit them to the department of revenue for deposit in the  
5 state treasury to the credit of the board of registration for the healing arts fund.

6 2. Upon appropriation by the general assembly, the money in the fund shall be used to  
7 administer the provisions of sections 334.1200 to 334.1230.

8 334.1216. 1. Each person licensed under sections 334.1200 to 334.1230 shall accumulate  
9 thirty hours of continuing education every two years to be eligible for renewal of the license, as  
10 follows:

11 (1) Continuing education shall be obtained through courses recommended by the  
12 committee and approved by the board;

13 (2) Adherence to the continuing education requirement shall be reviewed for licensure  
14 renewal in each even-numbered year and shall include all approved continuing education courses  
15 taken during the previous two years.

16 334.1218. Any person licensed as a certified professional midwife and providing midwife  
17 services shall, as a condition of licensure, furnish satisfactory evidence of a malpractice insurance  
18 policy of at least five hundred thousand dollars.

19 334.1220. 1. Every licensed certified professional midwife shall present an informed  
20 consent document to each client, which shall include but not be limited to, the following:

21 (1) A description of the licensed certified professional midwife's education, training, and  
22 qualifications;

23 (2) Licensure as a certified professional midwife, including the effective dates of the  
24 license;

25 (3) The benefits and risks associated with childbirth in the setting selected by the client;

26 (4) The name, address, and telephone number of the physician who is collaborating with  
27 the licensed certified professional midwife;

28 (5) A health history sheet including preexisting conditions or surgeries, previous  
29 pregnancies, physical examination, nutritional status, and a written assessment of risk factors;

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

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

34 (8) A statement concerning the licensed certified professional midwife's malpractice or  
35 liability insurance coverage; and

36 (9) A written care plan specific to the client to ensure the continuity of care throughout the



1 antepartum, intrapartum, and postpartum periods. The written care plan must incorporate the  
2 conditions under which consultation, including the transfer of care or transport of the client, may  
3 be implemented.

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

7 3. Nothing in sections 334.1200 to 334.1230 shall be construed to apply to a person who  
8 provides information and support in preparation for labor and delivery and assists in the delivery  
9 of an infant if that person does not do the following:

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

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

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

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

19 4. Nothing in sections 334.1200 to 334.1230 shall be construed to prohibit the attendance  
20 at birth of the mother's choice of family, friends, or other uncompensated labor support attendants.

21 334.1222. 1. Licensed certified professional midwives shall practice only under a written  
22 collaboration agreement with a physician who is licensed under this chapter and who has  
23 obstetrical privileges at a nearby hospital. The written collaboration agreement shall include  
24 appropriate protocols for consultation, referral, and transfer, and shall specify the steps or actions  
25 that will be taken to ensure full compliance with the testing and reporting requirements set forth in  
26 sections 191.331, 191.332, 191.925, 193.085, 210.050, 210.070, and 210.080.

27 2. The collaborating physician shall be immediately available for consultation to the  
28 licensed certified professional midwife at all times.

29 3. No physician shall enter into a collaboration agreement with more than three licensed  
30 certified professional midwives at any given time.

31 4. To facilitate the management of a mother or baby needing unexpected emergency care,  
32 a licensed certified professional midwife shall, for every client, have a written emergency  
33 transport arrangement with the nearest hospital capable of handling obstetrical emergencies. In  
34 the event an emergency transport is needed, the licensed certified professional midwife shall  
35 notify the hospital emergency department as soon as possible and provide a copy of the medical  
36 record to the receiving physician.

1 334.1224. No licensed certified professional midwife shall be permitted to:

2 (1) Prescribe drugs or medications;

3 (2) Perform any surgical procedures;

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

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

6 (5) Perform sonograms;

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

8 (7) Perform or induce an abortion.

9 334.1226. 1. Every licensed certified professional midwife shall keep a record of each  
10 client served for a minimum of seven years after delivery. Such record shall contain:

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

12 (2) Informed consent document signed and dated by client and the licensed certified  
13 professional midwife; and

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

16 2. When a birth or stillbirth occurs without a physician in attendance at or immediately  
17 after the birth but with a licensed certified professional midwife in attendance at or immediately  
18 after the birth, it shall be the responsibility of the licensed certified professional midwife to fulfill  
19 the reporting requirements of section 210.050, and to prepare and file the certificate of birth as  
20 required by section 193.085.

21 3. Every licensed certified professional midwife shall submit a client summary report for  
22 each client to the department. Such summary reports shall be submitted on a biannual basis.

23 334.1228. Every licensed certified professional midwife who intends to provide midwife  
24 services for any client shall, within ten days of entering into any agreement to provide such  
25 services, file with the department of health and senior services a notice of intent to home deliver.  
26 The forms for filing the notice of intent to home deliver shall be promulgated by rule and made  
27 available by the department of health and senior services. The department shall maintain a  
28 permanent database, which shall be made available to the public, of all home deliveries done  
29 under the care of a licensed certified professional midwife.

30 334.1230. Any person who violates the provisions of sections 334.1200 to 334.1230, or  
31 any rule or order under sections 334.1200 to 334.1230 is guilty of a class A misdemeanor.”; and

32  
33 Further amend said bill, Page 125, Section 1, Line 39, by inserting after all of said line the  
34 following:

35 “[334.260. On August 29, 1959, all persons licensed under the provisions of  
36 chapter 334, RSMo 1949, as midwives shall be deemed to be licensed as midwives

1           under this chapter and subject to all the provisions of this chapter.]”; and  
2  
3 Further amend said bill by amending the title, enacting clause, and intersectional references  
4 accordingly.