Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JANE DOE #1, JANE DOE #2, JANE DOE #3, and JOHN DOE #1,	:	
Petitioners,	:	**No. ____ M.D. 2026**
v.	:	**(Original Jurisdiction)**
PENNSYLVANIA DEPARTMENT OF HEALTH and DEBRA L. BOGEN, M.D., FAAP, in her official capacity as SECRETARY OF THE PENNSYLVANIA DEPARTMENT OF HEALTH,	:	**VERIFIED PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT IN MANDAMUS, FOR DECLARATORY JUDGMENT, AND FOR ADDITIONAL AND FURTHER RELIEF**
PENNSYLVANIA DEPARTMENT OF STATE and AL SCHMIDT, in his official capacity of SECRETARY OF THE COMMONWEALTH,	:	
PENNSYLVANIA STATE BOARD OF MEDICINE and DONALD M. YEALY, M.D., in his official capacity CHAIR OF THE PENNSYLVANIA STATE BOARD OF MEDICINE, and	:	
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS and ARION CLAGGETT, in his official capacity as ACTING COMMISSIONER OF THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS,	:	
Respondents.	:	

NOTICE TO PLEAD

TO: PENNSYLVANIA DEPARTMENT OF HEALTH and DEBRA L. BOGEN, M.D., FAAP, in her official capacity as SECRETARY OF THE DEPARTMENT OF HEALTH; PENNSYLVANIA DEPARTMENT OF STATE and AL SCHMIDT, in his official capacity as SECRETARY OF THE COMMONWEALTH; PENNSYLVANIA STATE BOARD OF MEDICINE and DONALD M. YEALY, M.D., in his official capacity as CHAIR OF THE PENNSYLVANIA STATE BOARD OF MEDICINE; and BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS and ARION CLAGGETT, in his official capacity as COMMISSIONER OF THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS:

You are hereby notified to file a written response to the enclosed petition for review within thirty (30) days from service hereof or a judgment may be entered against you.

Dated: July 2, 2026

Jonathan Scott Goldman
Pa. Attorney I.D. No. 93909
Goldman Law, PLLC
t/a the Goldman Law Team
500 Office Center Dr., Suite 400
Fort Washington, PA 19034
215-770-6376
Jonathan@GoldmanLawTeam.com

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JANE DOE #1, JANE DOE #2, JANE DOE #3, and JOHN DOE #1,	:	
Petitioners,	:	**No. ____ M.D. 2026**
v.	:	**(Original Jurisdiction)**
PENNSYLVANIA DEPARTMENT OF HEALTH and DEBRA L. BOGEN, M.D., FAAP, in her official capacity as SECRETARY OF THE PENNSYLVANIA DEPARTMENT OF HEALTH,	:	**VERIFIED PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT IN MANDAMUS, FOR DECLARATORY JUDGMENT, AND FOR ADDITIONAL AND FURTHER RELIEF**
PENNSYLVANIA DEPARTMENT OF STATE and AL SCHMIDT, in his official capacity of SECRETARY OF THE COMMONWEALTH,	:	
PENNSYLVANIA STATE BOARD OF MEDICINE and DONALD M. YEALY, M.D., in his official capacity CHAIR OF THE PENNSYLVANIA STATE BOARD OF MEDICINE, and	:	
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS and ARION CLAGGETT, in his official capacity as ACTING COMMISSIONER OF THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS,	:	
Respondents.	:	

VERIFIED PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT IN MANDAMUS, FOR DECLARATORY JUDGMENT, AND FOR ADDITIONAL AND FURTHER RELIEF

Petitioners, Jane Doe #1, Jane Doe #2, Jane Doe #3 (together, "Traditional Midwife Petitioners,") and John Doe #1[1] ("Amish Family Client Petitioners")(collectively, "Petitioners,")[2] by and through their undersigned counsel,

[1] It is typical in the Amish community for the man to speak for the family. Respecting this religious and cultural tradition, and with the understanding and agreement of his wife, John Doe #1 files as a petitioner and signs the verification, speaking also for his wife and their family. Accordingly, they will be defined as the "Amish Family Client Petitioners".

[2] Pending further order of this Court, Traditional Midwife Petitioners file under the pseudonym "Jane Doe" to protect them from the reasonable risk of severe retaliation from the Commonwealth of Pennsylvania, Office of Attorney General, various district attorneys, and others – including the risk of criminal charges. *See* Motion to Proceed Anonymously, filed contemporaneously herewith and incorporated by reference. Pennsylvania law states that "it *shall be unlawful* for any person" other than a licensed physician or osteopath "to practice midwifery in this Commonwealth, ***before receiving a certificate from the [State Board of Medicine]*** of the Commonwealth of Pennsylvania authorizing such person or persons so to do" Midwife Regulation Law, Act of 1929, No. 155 at § 4. Petitioners file this suit, however, because Respondents are and have been refusing to follow the 1929 Law and issue the required certificates – not just to them, but to anyone.

In exercising their rights to seek civil justice and challenge the unlawful actions and inactions of Respondents, Petitioners should not be made to incriminate themselves under the law. This is especially true where, as here, the laws challenged relate to something so deeply personal, intimate and fundamental, as the right of Pennsylvanians to give birth in their own homes with the assistance of a traditional midwife, and the rights of traditional midwives to pursue their livelihoods by engaging in this holy work. These issues go to the core of our humanity, date back to biblical times, and strike at our most fundamental religious, personal and constitutional freedoms.

Because Respondents are government entities and public persons sued in their capacities as leaders of those entities, Respondents will suffer little, if any, prejudice or unfairness by not knowing Petitioners' names. Comparatively speaking, however, disclosure of Petitioners' names, as set forth above, could likely cause them to face immense public backlash, including direct government retaliation and potential criminal prosecution.

Even compelling Petitioners to proceed under their initials, rather than with the full protection of a pseudonym, would be insufficient to protect them here. Given the extensive information provided about Petitioners' personal qualifications, forcing Petitioners to additionally provide their initials would allow Respondents and the public to determine the identities of Petitioners. This is especially true within the intimate community of traditional

hereby file this Verified Petition for Review in the Nature of a Complaint in Mandamus, for Declaratory Judgment, and for Additional and Further Relief (the "Verified Petition") pursuant to Pa.R.A.P. 1501 et seq., 42 Pa.C.S. § 761(a)(1), and the Declaratory Judgments Act, 42 Pa.C.S. § 7531 et seq., against Respondents Pennsylvania Department of Health and Debra L. Bogen, M.D., FAAP, in her official capacity as Secretary of the Department of Health (together, "Department of Health"); Pennsylvania Department of State and Al Schmidt, in his official capacity as Secretary of the Commonwealth (together, "Department of State"); Pennsylvania State Board of Medicine and Donald M. Yealy, M.D., in his official capacity as Chair of the Pennsylvania State Board of Medicine (together, "State Board of Medicine"); and Bureau of Professional and Occupational Affairs and Arion Claggett, in his official capacity as Commissioner of the Bureau of Professional and Occupational Affairs (together, "Bureau of Professional and Occupational

---

midwives and their clients, particularly those in more insular religious communities where home deliveries by traditional midwives are an expression of their fundamental and strongly held religious beliefs. In standing up to challenge Respondents' failure to follow the law, Petitioners are upsetting others in the traditional midwifery community who prefer to keep their heads down and not risk upsetting the *status quo*. Forcing Petitioners to publicly disclose their true identities, further exposes them to the risk of severe retaliation and potentially physical harm.

This extensive and compelling legal rationale for proceeding under a pseudonym is separate from and in addition to the severe ostracization and economic harm Petitioners risk by filing this lawsuit and challenging Respondents' failure to follow the law. Given the intense and protective community of traditional midwives, the risks to Petitioners of severe economic harm and damage to business reputation are far greater than in an ordinary lawsuit. While typical risks of economic harm and damage to business reputation are generally, alone, not sufficient to permit use of a pseudonym, in this case those risks are anything but standard. Layered atop the extraordinary risks of severe retaliation and criminal prosecution set forth above, Petitioners should be permitted to proceed anonymously. We hope Respondents and this Court will agree.

Affairs")(all collectively, "Respondents"), and in support thereof aver as follows:

INTRODUCTION

This civil action in the nature of mandamus seeks to compel the Commonwealth of Pennsylvania and its administrative agencies to follow their own laws. For nearly a century, the Midwife Regulation Law of 1929[3] has governed the practice of traditional midwifery in the Commonwealth, expressly mandating that the State Board of Medicine examine and issue certificates to qualified traditional, non-nurse midwives. Yet, Respondents have effectively and unlawfully suspended this statute through bureaucratic inaction, wholly refusing to create any administrative pathway or mechanism to issue the statutorily required certificates.

Because Respondents will not issue the required certificates, traditional midwives cannot get them. Therefore, they cannot practice lawfully. As such, the Amish and others cannot have their children delivered (1) in their homes and (2) with the assistance of lawfully-certified, traditional midwives as required by their sincerely held religious beliefs and spiritual practices.

Petitioners include highly qualified, apprentice-trained traditional midwives who have dedicated their lives and careers to safely attending home births, as well as expectant parents from Pennsylvania's Amish community. For these families, and

[3] Midwife Regulation Law of 1929, Act of April 4, 1929, P.L. 160, No. 155, 63 P.S. §§ 171–176 (the "Midwife Regulation Law" or "1929 Law")

others across the Commonwealth, utilizing a traditional midwife for a home birth is not merely a healthcare preference; it is a deeply held religious conviction, spiritual practice, and cultural tradition protected by the Pennsylvania Constitution.

Despite repeated demands and the tender of statutorily prescribed application fees, Respondents have stonewalled Petitioners. By providing no mechanism through the Pennsylvania Licensing System (PALS) or otherwise for traditional midwives to obtain the legally mandated certificate, Respondents have forced these dedicated practitioners into an untenable legal gray area. This systemic inaction leaves traditional midwives vulnerable to arbitrary investigations, criminal prosecutions, and the destruction of their livelihoods. Simultaneously, it actively deprives Pennsylvania families of their constitutional rights to direct their healthcare and freely exercise their religion.

Respondents' refusal to issue these certificates is particularly egregious given that the Commonwealth already recognizes the existence and necessity of traditional midwives through other official channels. The Commonwealth routinely directs traditional midwives to order mandatory state newborn screening materials from its contracted suppliers and utilizes federal grant funds to purchase costly medical screening equipment for their use. It is not only a plain violation of the law, but it is unjust for the Commonwealth to rely on traditional midwives to perform vital public health functions while simultaneously refusing to issue the certificates required to

legalize their practice. On this basis, Respondents should be compelled to immediately issue certificates to the Traditional Midwife Petitioners and others so-recognized by the Commonwealth.

Accordingly, Petitioners seek a writ of mandamus to compel Respondents to fulfill their clear, mandatory, and non-discretionary statutory duties under the Midwife Regulation Law of 1929. Petitioners also seek declaratory relief to affirm that the 1929 Law remains in full force and effect, and that Respondents' ongoing refusal to establish a certification process, promulgate necessary regulations, and issue certificates to qualified practitioners violates Petitioners' constitutional rights to due process, equal protection, and the separation of powers.

PARTIES

1. Petitioner Jane Doe #1 is an adult individual and a traditional midwife who resides in and practices the profession of midwifery within the Commonwealth of Pennsylvania.

    a. In her more than thirty (30) years of home birth experience, Jane Doe #1 has "caught" more than 1,500 babies.

    b. Jane Doe #1 has served as a traditional midwife in multiple states and held midwifery licenses in California, Washington, and Texas, where such licenses are offered, and she has been asked to promulgate rules for newly passed midwifery legislation in another state, and has served on the faculty of two midwifery schools.

    c. Jane Doe #1 first sat for an examination with the North American Registry of Midwives (NARM) in or around 1992 and thereafter held its Certified Professional Midwife (CPM) credential for approximately

a decade. Her NARM continuing education is current.[4]

d. Jane Doe #1 holds a Bachelor of Science degree with a major in Maternal and Infant Health, and a Master's Degree in Clinical Mental Health.

e. Jane Doe #1 is also a traditional midwife client who delivered her own child at home and with the assistance of a traditional midwife.

2. Petitioner Jane Doe #2 is an adult individual and a traditional midwife who resides in and practices the profession of midwifery within the Commonwealth of Pennsylvania.

a. Jane Doe #2 began practicing traditional midwifery in 1979, after serving as an apprentice to a doctor, and has been engaged in in the profession of midwifery for more than forty-five (45) years. She is also a registered nurse and a nurse midwife.

b. Jane Doe #2 has "caught" more than 1,200 babies, roughly 70% at in-home deliveries, and 30% in hospitals and birthing center settings. She prefers to assist clients with their deliveries in their homes, including in homes in the Mennonite community, of which Jane Doe #2 is a member.

c. After practicing traditional midwifery exclusively for almost two decades, Jane Doe #2: enrolled in a diploma program and became a registered nurse or RN; achieved a Bachelor of Science degree in nursing; obtained a certificate in midwifery through a program accredited by the Accreditation Commission for Midwifery Education (ACME); and earned a Master of Science degree with a concentration in midwifery – all while maintaining her practice of traditional midwifery exclusively at home deliveries.

d. In approximately 2001, Jane Doe #2 began working outside of clients' homes for the first time, at a birth center and hospital and, after that, at

[4] Jane Doe #1 allowed her CPM certification to lapse, administratively, while pursuing a graduate degree; but her NARM continuing education is current and, upon successful completion of a further examination, she will again be eligible to hold and use the CPM designation.

multiple hospitals in the Commonwealth, over the next 25 years.

e. Jane Doe #2 also has taught midwifery, both in apprenticeship and academic models, serving as adjunct faculty at multiple educational institutions across the Commonwealth, teaching both traditional in-home midwifery and in-hospital midwifery, assisting with those schools' clinical training models, and helping students achieve the clinical hours required for their respective programs.

f. In her capacity as nurse midwife, Jane Doe #2, currently has a collaborative agreement with a physician. But that collaborative agreement runs out in December 2026. In order to renew the collaborative agreement, the physician and hospital where they have clinical privileges told Jane Doe #2 that she may no longer assist clients with home deliveries and, instead, must focus on in-hospital births only. This requirement would prevent Jane Doe #2 from attending to religious and other clients who require or simply prefer a traditional home birth. Because Jane Doe #2 prefers home deliveries, she sought collaborative agreements with other physicians in the area – but none will permit her to assist clients with home deliveries.[5]

g. Jane Doe #2 seeks an additional certification as a traditional midwife under the 1929 Law because, by virtue of the collaborative agreement required to practice as a certified nurse midwife, she will soon be prevented from assisting with home deliveries.

3. Petitioner Jane Doe #3 is an adult individual and a traditional midwife who resides in and practices the profession of midwifery within the Commonwealth of Pennsylvania.

a. Jane Doe #3 is an apprentice-trained midwife, immersed in the traditional midwifery community, who opened her own practice in late 2018 and has been practicing traditional midwifery in the

[5] On information and belief, this is not an isolated or geographically-limited occurrence, but a trend across the Commonwealth: The physician groups are owned by hospitals, and the hospitals will not permit midwives with whom they have collaborative agreements to assist with home deliveries under a nurse-midwife license due to their business model, which prioritizes insurance-based, in-hospital care and the procedures and profits that go along with it.

Commonwealth for almost a decade.

b. In the past year, Jane Doe #3 has participated in 40-50 home deliveries, and, throughout career, has attended more than 500 births, most of them home deliveries.

c. Jane Doe #3 began her training in 2009, after delivering her own baby at home with the assistance of a renowned Pennsylvania traditional midwife; prior to that, she had delivered her first four children in hospital settings.

d. As such, Jane Doe #3 is a mother and consumer of traditional midwifery services. Indeed, it is her hope and plan to deliver all future children she is blessed enough to have at her home and with the assistance of a traditional midwife, and never at a hospital or birthing center.

e. Jane Doe #3 trained as a traditional midwife for almost another decade before opening her own practice, participating in approximately 150 deliveries during that time; in addition she took courses, became certified, and/or had other training in the following areas: neonatal resuscitation; basic lifesaving, including adult, child, infant, and newborn CPR; fetal suturing; breech delivery; fetal heart tones; and midwifery wisdom.

f. Jane Doe #3 also had apprenticeships with two different, experienced Pennsylvania midwives, one of whom was a Certified Professional Midwife (CPM) who required use of the Portfolio Evaluation Process (PEP) Program, an alternative, competency-based certification pathway designed and administered by NARM specifically for traditional, community-trained, or apprentice-trained midwives to earn a CPM credential without necessarily graduating from a formal, accredited midwifery school. This program requires apprentices to successfully fulfill hundreds of core competencies across three clinical phases prior to becoming a full midwife.

g. In 2013, Jane Doe #3 received training and became certified as a doula, a trained professional who provides continuous physical, emotional, and informational support, during, and shortly after childbirth. As part of this certification, she was taught, specifically, how to work in the delivery unit of a hospital. She continues to use these skills as a doula to assist and advocate for clients – both in hospitals and in home

deliveries – and, in this capacity, has participated in the births of multiple sets of twins. Prior to opening her own practice as a traditional midwife, Jane Doe #3 had participated in well over 100 births as a doula.

h. Before beginning her study of traditional midwifery, Jane Doe #3 worked directly with the Head of Dermatology at a top Pennsylvania hospital for almost a decade. She started in high school and worked with him for 9 years, both in the hospital and in his private practice. During this time, Jane Doe #3 shadowed the doctor, participating in nursing duties, patient care, and practice management, and assisting him with out-patient surgeries, wound care, and removal of sutures.

i. Jane Doe #3 attended a progressive Pennsylvania private school for middle and high school that embraced experiential education and ultimately graduated in 2002 from a top-ranked Pennsylvania public school that has been recognized nationally as a Blue Ribbon School of Excellence by the United Stated Department of Education.

j. Jane Doe #3 also has run programs in doula training and placenta training for over a decade and has taught traditional midwifery, training two students who completed their full apprenticeship and presently teaching 1 fulltime student and 2 part-time traditional midwifery students.

4. The Amish Family Client Petitioners reside within the Commonwealth of Pennsylvania. They are practicing Amish and, absent extraordinary circumstances, are compelled by their sincerely held religious beliefs and spiritual practices to have their children delivered with the help of a traditional midwife at their home only – and never at a hospital or birthing center.

a. As of this filing, the Amish Family Client Petitioners have 4 children.

b. Each of their children was delivered *at home* and *with the assistance of a traditional midwife*.

c. In fact, Traditional Midwife Petitioner Jane Doe #1 assisted with the

delivery of 1 of their children.

d. With G-d's help and blessings, the Amish Family Client Petitioners hope and plan to have more children.

e. Specifically, they hope to have these children delivered *at their home* and *with the assistance of Traditional Midwife Petitioner Jane Doe #1*.

f. Absent extraordinary circumstances, the religious beliefs and spiritual practices of the Amish Family Client Petitioners do not permit them to have their children delivered in hospitals or birthing centers, where modern medicines and modern surgical interventions are required and used as a matter of course.

5. Respondent Debra L. Bogen, M.D., FAAP, sued in her official capacity, is the Secretary of Respondent Pennsylvania Department of Health. She has an office located at the Health and Welfare Building, 625 Forster Street, 8th Floor West Harrisburg, PA 17120 and is responsible for enforcing the Midwife Regulation Law of 1929, which states at § 4 that "[t]he provisions of this act shall be enforced by the Secretary of Health".

6. Respondent Pennsylvania Department of Health is the Commonwealth Agency is the agency responsible for the safe delivery of quality healthcare for all people of Pennsylvania, including the responsibility to enforce the Midwife Regulation Law, which states at § 4 ("The provisions of this act shall be enforced by the Secretary of Health"

7. Respondent Al Schmidt, sued in his official capacity, is the Secretary of the Commonwealth and leads Respondent Pennsylvania Department of State. He

has an office located at 302 North Office Building, 401 North Street, Harrisburg, Pennsylvania 17120.

8. Respondent Pennsylvania Department of State is the Commonwealth department within which the Bureau of Professional and Occupational Affairs (BPOA) and the State Board of Medicine operate, and which controls and operates the Pennsylvania Licensing System (PALS) portal and other mechanisms through which applications for professional licenses and certificates in Pennsylvania, (presumably including the certificates required under the Midwife Regulation Law,) are required to be submitted and administratively processed. The Pennsylvania Department of State has a principal office located at 401 North Street, Harrisburg, Pennsylvania 17120.

9. Respondent Arion Claggett, sued in his official capacity, is the Commissioner BPOA and the Commonwealth officer responsible for administering and providing staff, licensing infrastructure, and procedural support to Respondent State Board of Medicine, including, but not limited to, the PALS portal and the Bureau of Enforcement and Investigation, through which investigators and counsel investigate, charge, and prosecute individuals for practicing a profession in the Commonwealth without the proper professional licenses and certificates and related offenses. He is a member of the State Board of Medicine and has an office located at 2601 North Third Street, Harrisburg,

Pennsylvania 17110.

10. Respondent BPOA is the Commonwealth bureau responsible for administering and providing staff, licensing infrastructure, and procedural support to Respondent State Board of Medicine, including, but not limited to, the PALS portal and the Bureau of Enforcement and Investigation, through which investigators and counsel investigate, charge, and prosecute individuals for practicing a profession in the Commonwealth without the proper professional licenses and certificates and related offenses. BOPA is located at 2601 North Third Street, Harrisburg, Pennsylvania 17110.

11. Respondent Donald M. Yealy, M.D., is Chair of Respondent Pennsylvania State Board of Medicine, the Commonwealth agency vested by the Midwife Regulation Law with the duty to examine and certify qualified traditional midwives, with offices located at 2601 North Third Street, Harrisburg, Pennsylvania 17110.

12. Respondent Pennsylvania State Board of Medicine, formerly the State Board of Medical Education and Licensure,[6] is the Commonwealth agency vested by the Midwife Regulation Law with the duty to examine and certify qualified

[6] *See* Act of Apr. 4, 1929, P.L. 160, No. 155 (the "Midwife Regulation Law") and Medical Practice Act of 1985, Act of Dec. 20, 1985, P.L. 457, No. 112, codified at 63 P.S. § 422.1 et seq. (the "Medical Practice Act" or "1985 Act"), *preamble* ("reestablishing the State Board of Medical Education and Licensure as the State Board of Medicine").

traditional midwives. It has offices located at 2601 North Third Street, Harrisburg, Pennsylvania 17110.

JURISDICTION AND VENUE

13. This Court has original jurisdiction over this action pursuant to 42 Pa.C.S. § 761(a)(1), which vests the Commonwealth Court with original jurisdiction over civil actions against the Commonwealth government, including its officers and agencies acting in their official capacities, and pursuant to Pa.R.A.P. 1501, governing petitions for review addressed to a government unit's original jurisdiction.

14. This Court additionally has jurisdiction to grant declaratory relief pursuant to the Declaratory Judgments Act, 42 Pa.C.S. § 7531 et seq., which empowers courts of record within their respective jurisdictions to declare rights, status, and other legal relations, including the construction of statutes, whether or not further relief is or could be claimed.

15. Venue is proper in this Court because Respondents are Commonwealth agencies and officers whose principal offices are located in Harrisburg, Dauphin County, Pennsylvania, within the Commonwealth of Pennsylvania, and because the conduct giving rise to this action occurred in connection with Respondents' performance (or non-performance) of statutory duties owed to residents of the Commonwealth, including Petitioners.

LEGAL BACKGROUND

A. *The Midwife Regulation Law of 1929 Governs Traditional Midwifery in Pennsylvania.*

16. Traditional midwifery in the Commonwealth of Pennsylvania is governed by the 1929 Law.

17. The Secretary of Health is in charge of enforcing this law, *id.* at § 4 ("The provisions of this act shall be enforced by the Secretary of Health,") and is instructed to appoint "*not more than five physicians*," to "maintain close supervision over, and control and instruct such midwives, in accordance with [her] directions and suggestions." *Id.* (emphasis added).

18. The Midwife Regulation Law states that "it shall be unlawful for any person [other than a licensed physician or osteopath] to practice midwifery … *before receiving a certificate from the State Board of Medical Education and Licensure* … authorizing such person … and having said certificate registered in the office of the State Board of Medical Education and Licensure at Harrisburg, Pennsylvania." Midwife Regulation Law § 1 (emphasis added).

19. To accomplish this, however, the law first requires that the State Board of Medical Education and Licensure "shall formulate and issue such rules and regulations … as may be necessary for the examination, licensing, and proper conduct of the practice of midwifery by midwives," *id.* at § 2.

20. Then, "upon recommendation of the Secretary of Health," the Board

"shall issue certificates to midwives" who have fulfilled them. *Id.*

21. Otherwise, the law states only that the Board "may refuse to grant a certificate" to a midwife who is "addicted to … alcohol or narcotic[s]" or "guilty of a crime [of] moral turpitude." *Id.*

22. Once granted, the board only may revoke a certificate upon proof that the midwife has violated its or the Department of Health's rules and regulations or the Midwife Regulation Law, or that the midwife is addicted to alcohol or narcotics, or guilty of a crime of moral turpitude. *Id.*

23. To apply for a certificate to practice midwifery, the law simply requires a ten dollar application fee to be paid to the Board and then transmitted to the Treasurer of the Commonwealth. *Id.* at § 3.

24. If a person is convicted of practicing midwifery as a profession or advertising herself as a midwife without first obtaining a certificate or otherwise holding a license to do, they must pay a fine to the county of between ten and one hundred dollars. *Id.* at § 5.

B. *The Medical Practice Act of 1985 Governs Licensed Nurse-Midwives Only, Requiring Them to Have "Collaborative Agreements" with Doctors Who Have "Hospital Clinical Privileges" in Obstetrics and Gynecology – But It Does Not Impact Traditional Midwives.*

25. In 1985, Pennsylvania's legislature passed the Medical Practice Act of 1985, a broad law "relating to the right to practice medicine and surgery … and medically related acts". *Id., preamble*.

26. In § 422.35 of the 1985 Act, entitled *Nurse-midwife license*, the legislature created a new license category for one of the many types of midwives.

27. To get a "Nurse-midwife license," a nurse-midwife must, among other things:

a. be a "registered nurse licensed in this Commonwealth";

b. "complete[] an academic and clinical program of study in midwifery" approved or recognized by the State Board of Medicine; and

c. have "a collaborative agreement with a physician".

63 P.S. § 422.35. *Nurse-midwife license*. (b) *Requirements*. (c)(1) *Authorization*.

28. Regarding the requirement of a "collaborative agreement," the legislature specified that "[t]he physician with whom a nurse-midwife has a collaborative agreement shall have hospital clinical privileges *in the specialty area of the care for which the physician is providing collaborative services*." 63 P.S. § 422.35. *Nurse-midwife license*. (d) *Collaborative Agreements.* (Emphasis added).

29. Therefore, in order to receive a ***nurse-midwife*** license under 63 P.S. § 422.35, a nurse who wants to work delivering babies must have a "collaborative agreement" with an ***obstetrician*** or ***gynecologist*** who "***shall have hospital clinical privileges*** in the specialty area of" ***obstetrics and gynecology.*** *Id.* (Emphasis added).

30. With respect to "Midwifery," generally, however, the 1985 Act is

clear that other types of midwifery, including traditional midwives – which have existed since biblical times and were already addressed in the 1929 Law – remain permitted.

31. Indeed, a separate, earlier section of the 1985 Act, section 422.12, addresses the profession of "Midwifery" generally. It states that any "midwife who has been licensed previously by the board may continue to practice midwifery" and "use the title midwife" – and that "***[n]othing*** [in that law or related regulations] ***shall be construed to prohibit a midwife who is licensed or certified*** to practice another profession by a Commonwealth agency or board ***from practicing within the scope of that license or certificate or as otherwise authorized by law***." 63 P.S. Professions and Occupations (State Licensed) § 422.12. *Midwifery*. (Emphasis added).

32. Put simply, consistent with the Commonwealth Court's 2008 decision in *Goslin*, 949 A.2d 372, the 1985 Act created a new category of licensed nurse-midwife but expressly did ***not*** prohibit midwives from practicing traditional midwifery or from becoming certified under the 1929 Law.

C. *Because the State Board Medicine and Those It Represents Compete Directly With Traditional Midwives in the Marketplace to Deliver Babies, Entrusting the Board with the Power to Regulate and Duty Certify its Competitors, Traditional Midwives, Violates the Law.*

33. In addition to Respondents the Secretary of Health and Commissioner of BPOA, or their designees, the 1985 Act requires that the State Board of

Medicine consist of two members appointed by the Governor meant to represent the public at large and nine additional members appointed by the Governor. *See* 63 P.S. Ch. 12, § 422.3. Of them, seven (7) must be "*medical doctors* with unrestricted licenses to practice *medicine and surgery* in this Commonwealth", one (1) must be a "*physician assistant*," and one (1) must be a Pennsylvania-licensed "***nurse midwife***,[7] respiratory therapist, licensed athletic trainer or perfusionist. *See* 63 P.S. Ch. 12, § 422.3 (emphasis added).

34. Unlike traditional midwives, who are permitted to perform only in-home deliveries, nurse-midwives are registered nurses who help obstetricians, gynecologists and other doctors deliver babies by performing "collaborative services" with these doctors in hospitals and birthing centers pursuant to mandatory legal agreements.

35. As of this filing, the members of the State Board of Medicine are:

1. Respondent Secretary of Health, Dr. Debra Bogen, M.D., FAAP (*Designee*);

2. Respondent Acting Commissioner of BPOA, Arion Claggett (*Designee*);

3. Respondent Donald M. Yealy, M.D. (*Board Chair*), Senior Vice President and Chief Medical Officer of the Health Services Division at the University of Pittsburgh

[7] As set forth above, unlike ***traditional midwives***, who are permitted to perform only in-home deliveries, ***nurse-midwives*** must be (1) Pennsylvania-licensed "registered nurse[s]" who (2) have a "collaborative agreement[s]" with "physician[s]" who (3) "have hospital clinical privileges in the specialty area of" obstetrics and gynecology.

Medical Center (UPMC) and Professor and Chair of the Department of Emergency Medicine at the University of Pittsburgh School of Medicine;

4. Dr. Michael R. Ripchinski, M.D., MBA, CPE, FAAFP (*Board Vice Chair*), Chief Clinical Officer at Penn Medicine Lancaster[8] General Health;

5. Dr. Mark B. Woodland, M.S., M.D., FACOG (*Chair Committee on Legislation / Policy Development and Review*), Chair of the Department of Obstetrics & Gynecology at Reading Hospital-Tower Health, Fellow of the American College of Obstetricians and Gynecologists, and past long-term Chair of the State Board of Medicine;

6. Adanma Okereh, CNM, CRNP (*Co-Chair, Committee on Legislation / Policy Development and Review*), Certified Nurse Midwife and Certified Registered Nurse Practitioner practicing in York, PA;

7. Dr. John D. Six, M.D., CPE, Executive Vice President and Chief Operating Officer (COO) of UPMC Washington Hospital and UPMC Greene Hospital;

8. Dr. John Kutz, M.D., F.A.C.S., board-certified vascular surgeon affiliated with Geisinger Community Medical

---

[8] The largest concentration of the Amish in Pennsylvania is in Lancaster County, which is home to about 43,500 Amish residents. The Amish population in Lancaster more than doubled the past 20 years due, in large part, to Amish nuclear families having 5 or more children. https://www.discoverlancaster.com/amish/history-beliefs/#:~:text=The%20Pennsylvania%20Amish%20community%20in,in%20the%20past%2020%20years and Amish Population Profile 2025 – Amish Studies). (Last visited, June 27, 2026). Absent extraordinary circumstances, the Amish are compelled by their sincerely held religious beliefs and spiritual practices to have their children delivered with the help of a traditional midwife at their home only – and never at a hospital or birthing center. In Pennsylvania, "out-of-hospital births … increased approximately 31% from 2015 to 2021" from 4,496 to 5,907 births. *See Early Hearing Detection and Intervention Program Report on Screening and Follow-up for 2021 Births* (November 2023), Report of the Pennsylvania Department of Health submitted to the General Assembly in fulfillment of the reporting requirements found in Section 5(d)(4) of the IHEARR Act at 3 and 6, *available at: 2024-03-26_021839__Early Hearing Detection and Intervention Program Report 2023 Follow-up.pdf*. (Last visited June 28, 2026).

Center;

9. Dr. Taliba Foster, M.D., Child, Adolescent, and Adult Psychiatry, affiliated with Hospital of the University of Pennsylvania and Children's Hospital of Philadelphia; and

10. Gerard F. Dillon, Ph.D (*Chair, Committee on Licensure Qualifications; Public Member*).

36. Under the 1929 Law, the "State Board of Medical Education and Licensure" was tasked with the power to regulate and the duty to certify traditional midwives.

37. The 1985 Act, however, renamed the "State Board of Medical Education and Licensure" as the "State Board of Medicine" and established its makeup as set forth above. *See* 63 P.S. preamble and § 422.3.

38. The composition of the State Board of Medicine, as established in § 422.3 of the 1985 Act, however, places full power over the regulation and certification of traditional midwives in the hands of physicians (including but not limited to obstetricians and gynecologists) and ***certified nurse-***midwives who, by virtue of both their medical specialties and their leadership roles and other affiliations with hospitals that deliver babies, compete in the marketplace with traditional midwives to deliver babies. *See* 63 P.S. § 422.3.

39. This is type of unfair competition, especially where, as here, it is sanctioned by the government, is unjust and violates the law.

D. *The Commonwealth Court Has Expressly Confirmed That the 1929 Law and the 1985 Act Are Different Laws That Apply to Different Types of Midwives.*

40. In, in 2008, the Commonwealth Court of Pennsylvania found that the Midwife Regulation Law of 1929 and the Medical Practice Act of 1985 are different laws that apply to different types of midwives. *Goslin v. State Board of Medicine*, 949 A.2d 372 (Pa. Cmwlth. 2008).

41. Specifically, the Commonwealth Court stated: "[T]he 1985 Act and the 1929 Law do not relate to the same class of persons. Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to *other persons who attend women in childbirth*." *Goslin*, 949 A.2d 372, 377 n.11 (emphasis added).

E. *Act 14 of 2026 Will Amend the 1985 Act Only – Not the 1929 Law – and Should Have No Effect on the Law Governing Traditional Midwifery.*

42. The Medical Practice Act of 1985 was recently amended by Act of May 6, 2026, P.L. 196, No. 14, ("Act 14,") "AN ACT Amending the [1985 Act]".

43. According to Act 14, its amendments are not scheduled take effect until "60 days" from the Governor's May 6, 2026 signature, or July 6, 2026.[9]

[9] 60 Days from May 6, 2026, falls on Sunday, July 5, 2026. Because the 60th day falls on a Sunday, however, Act 14 will take effect beginning on that Monday, July 6. *See* 1 Pa.C.S. § 1908 (Computation of time) ("When any period of time is referred to in any statute, such period in all cases [...] shall be so computed as to exclude the first and include the last day of such period. *Whenever the last day of any such period shall fall on Saturday or Sunday*, or on any day made a

44. Therefore Act 14 was not in effect at the time Petitioners took the efforts described below to get certificates from the Commonwealth and Respondents, and were denied the certificates without due process.

45. And Act 14 is not in effect at the time Petitioners are filing this Verified Petition.

46. If and when Act 14 takes effect, it will add an additional category of midwives to the 1985 Act: "certified midwives".

47. To get a "Certified midwife license," under § 35.1 of Act 14, a midwife must, among other things:

a. "complete[] an academic and clinical program of study in midwifery" approved or recognized by the State Board of Medicine; and

b. have "a collaborative agreement with a physician of physician group".

Act 14 of 2026 § 35.1. *Certified midwife license*. (b) *Requirements*. (c)(1) *Authorization*.

48. Regarding the requirement of a "collaborative agreement," the legislature specified that "[t]he physician or physician group with whom a certified midwife has a collaborative agreement shall have hospital clinical privileges *in the*

---

legal holiday by the laws of this Commonwealth or of the United States, *such day shall be omitted from the computation*")(emphasis added) and *Ford v. Commonwealth*, 776 A.2d 318 (Pa. Cmwlth. 2001)(The Section 1908 time computation rule applies to the strict passage of time in "any statute" and in "all cases," just as it does to active filing deadlines; there is no "distinction in calculating a period of time when an act is to be done as opposed to when the passage of time is the only requirement").

specialty area of the care for which the physician or physician group is providing collaborative services." Act 14 § 35.1. *Certified midwife license*. (d) *Collaborative Agreements.* (Emphasis added).[10]

49. Therefore, in order to receive a ***certified midwife*** license under Act 14 § 35.1, certified midwife who wants to work delivering babies must have a "collaborative agreement" with an ***obstetrician*** or ***gynecologist*** or an ***obstetrician*** and ***gynecologist group*** who "***shall have hospital clinical privileges*** in the specialty area of" ***obstetrics and gynecology.*** *Id.* (Emphasis added).

50. Traditional midwives like Traditional Midwife Petitioners, who are and remain governed solely by the 1929 Law, are not, have never been, and will not be required to satisfy the specific criteria for nurse midwives, under the 1985 Act, or the specific criteria for certified midwives, the 1985 Act, once Act 14's amendments to the 1985 Act take effect.

51. Put simply, Act 14 amends the 1985 Act only – and not the 1929 Law.

52. Therefore, even if and after Act 14 takes effect, it can have no effect on Petitioners' claims.

FACTUAL BACKGROUND

A. *Absent Extraordinary Circumstances, the Amish are Compelled by their*

[10] Act 14 also amends the language of the 1985 Act requiring nurse-midwives to have a collaborative agreement with a "physician" to the requirement of having a collaborative agreement with a physician "or physician group". Act 14 § 35 *Nurse-midwife license*. (c) *Authorization.*

Sincerely Held Religious Beliefs and Spiritual Practices to Have Their Children Delivered at Home and with the Help of a Traditional Midwife – and Not at Hospitals or Birthing Centers.

53. Religiously, Amish life is tethered to a traditionalist Christian church fellowship with roots in the 17th-century European Anabaptist movement.[11] Because the Amish have lived in tightly closed communities for over 300 years and exclusively marry other Amish people, however, they have evolved into a unique *ethnoreligious* group – meaning that their religious beliefs and ethnic/cultural identity are so tightly intertwined that they cannot be separated.[12]

54. As of 2025, there were approximately 95,500 Amish living in Pennsylvania, more than any other state in the country.[13] The population is spread across 636 church districts (local congregations) and roughly 63 distinct geographic settlements throughout the Commonwealth, with the largest concentration in Lancaster County, which is home to about 43,500 Amish residents. The Amish population in Pennsylvania doubles in Pennsylvania roughly every 20 years and has more than doubled in Lancaster County the past 20 years due, in large part, to Amish nuclear families having 5 or more children, on

---

[11] https://en.wikipedia.org/wiki/Amish#:~:text=The%20Amish%20(%2F%CB%88%C9%91%CB%90m,with%20Swiss%20and%20Alsatian%20origins. (Last visited, June 27, 2026).

[12] *See* https://en.wikipedia.org/wiki/Amish. (Last visited, June 27, 2026).

[13] *See* https://en.wikipedia.org/wiki/List_of_U.S._states_by_Amish_population#:~:text=state%20and%20year-,State (Last visited, June 27, 2026).

average.[14]

55. The Amish practice their faith through several core religious beliefs and spiritual practices:

a. *Gelassenheit*, or *submission*, often translated as *yielding* or *letting go*, means completely submitting your personal ego, desires, and ambitions to the will of G-d and the needs of the community;[15]

b. *Demut*, or *humility* is essential because pride and individual vanity are seen as destructive forces; this is why Amish wear "plain dress," including solid-colored clothes, bonnets for women, and beards without mustaches for married men, and no jewelry, makeup, or flashy clothing is permitted;[16] and

c. *Adult Baptism* through which adherents must choose to join the church as an adult, usually between ages 18 and 22, and make a lifetime commitment to the community's rules.[17]

---

[14] *Id.*; *see also* https://www.discoverlancaster.com/amish/history-beliefs/#:~:text=The%20Pennsylvania%20Amish%20community%20in,in%20the%20past%2020%20years and Amish Population Profile 2025 – Amish Studies). (Last visited, June 27, 2026).

[15] *See* https://groups.etown.edu/amishstudies/social-organization/communal-values/#:~:text=The%20core%20value%20of%20Amish,themselves%20up%E2%80%9D%20to%20the%20church. (Last visited, June 27, 2026).

[16] *See* https://www.amishfurniturefactory.com/amishblog/how-hochmut-and-demut-help-to-guide-amish-lifestyle/#:~:text=While%20humility%20is%20a%20shared,principles%20central%20to%20everyday%20life. (Last visited, June 27, 2026).

[17] *See* https://groups.etown.edu/amishstudies/religion/religious-rituals/?doing_wp_cron=1782610575.7995009422302246093750. (Last visited, June 27, 2026).

56. There is no single religious or other authority governing all Amish. Instead, the Amish live in small local districts, each of which is governed by its own *ordnung*, an unwritten set of rules and guidelines for daily life passed down through generations. Because each district has its own *ordnung*, religious, spiritual, and cultural practices can differ somewhat among Amish communities.[18]

57. At home and among themselves, Amish speak a dialect of German known as Pennsylvania Dutch (or Pennsylvania German); high German is used for church services, and English is learned in school to communicate with the outside world.[19]

58. Being Amish is a deeply spiritual, community-focused way of life, that calls for deliberate separation from the modern world, an emphasis on humility and community, and a rejection of many modern technologies.[20]

59. With respect to delivering their children at home, as opposed to in hospitals, the Amish have a strong preference for having home births with the

---

[18] *See* https://en.wikipedia.org/wiki/Ordnung#:~:text=Because%20the%20Amish%20have%20no,community%20administers%20its%20own%20guidelines and https://groups.etown.edu/amishstudies/cultural-practices/regulations/#:~:text=Biblical%20principles%20are%20applied%20in,by%20practice%20and%20oral%20tradition. (Last visited, June 27, 2026).

[19] *See* Hasan Sağlamel, *What Language Change Tells Us: The Amish Case*, Narrative and Language Studies, A Biannual Journal, Vol. I, Issue 1 (December 2013) at 4, *available at*: *https://dergipark.org.tr/en/download/article-file/207882*. (Last visited, June 27, 2026).

[20] *See https://www.pbs.org/wgbh/americanexperience/features/amish-in-america/* and Lindsay Ems, *Exploring ethnographic techniques for ICT non-use research: An Amish case study*, First Monday, Vol. 20, Number 11 (November 2, 2015) available at https://firstmonday.org/ojs/index.php/fm/article/view/6312/5139.

assistance of traditional midwives like the Traditional Midwife Petitioners. This preference is deeply ingrained in their religious beliefs and spiritual practice. While there are times when the Amish may go to a hospital in connection with childbirth, for example, when there is a serious medical complication with labor or delivery, this is only as a last resort.

60. These religious beliefs and spiritual practices, which call for the Amish to avoid delivery of their children in hospitals and birthing centers and, instead, deliver their children (1) *at home* and (2) *with the assistance of a traditional midwife*, are adhered to among the Amish across the Commonwealth of Pennsylvania.

B. *Respondents Must Issue Certificates to Traditional Midwives, Including Traditional Midwife Petitioners, Under the 1929 Law.*

61. Traditional Midwife Petitioners seek certificates allowing them to perform traditional midwifery under the Midwife Regulation Act – and under the law, Respondents are required to issue them.

62. Traditional Midwife Petitioners are experienced and well-qualified traditional midwives who assist mothers and families with deliveries of their children at home.

63. In addition to being an experienced and well-qualified traditional midwife, Jane Doe #2 is separately qualified as a certified nurse-midwife under Section 35 of 1985 Act. Because the collaborative agreement she is required to

have under the 1985 Act will prevent her from assisting with at home deliveries, however, she would like a certificate under the 1929 Law as a traditional midwife.

64. As this Court has held, however, the 1929 Law and the 1985 Act govern different types of midwives. *Goslin*, 949 A.2d 372, 377 n.11 (Pa. Cmwlth. 2008)("Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to other persons who attend women in childbirth [including traditional midwives].").

65. Each of the Traditional Midwife Petitioners have assisted with at home deliveries for Amish (and Mennonite) religious clients like the Client Petitioners who require at home deliveries with the assistance of traditional midwives.

66. Jane Doe #1 has, in fact, assisted Client Petitioners with an at-home delivery.

67. Client Petitioners are religious and law-abiding Pennsylvanians who want to be assured that the traditional midwives assisting them with home deliveries have the certificates that Respondents are required to use under the law.

68. As set forth more fully below and attached hereto, each traditional midwife Petitioner has sought from the Commonwealth of Pennsylvania "State Board of Medical Education and Licensure," and continues to seek, the

"certificate" that the Board "shall issue … to midwives" under the 1929 Law.

69. Each has paid the statutorily-required application fee. *See* June 25, 2026 Letter and Enclosure Email from Petitioners to all Respondents Enclosing Applications Fees and Letters of May 1, 2026 and June 16, 2026 (the "June 25 Letter"), a true and correct copy of which is attached hereto as **Exhibit A**.

70. Due to fear of retaliation by the Commonwealth, including but not limited to criminal prosecution, Petitioners have largely exercised their legal rights to seek these certificates through counsel.

71. Based on their efforts, which are described more fully below and attached, Petitioners have come to believe that Respondents and the Commonwealth have no existing mechanism through which traditional midwives can obtain the certificates required under the 1929 Law because the Commonwealth simply has failed to follow the Midwife Regulation Act – and Respondents refuse to create the required mechanism as outlined in the 1929 Law or otherwise issue the certificates to Traditional Midwife Petitioners as Respondents are required to do under the law.

72. Indeed, though the Legislature gave the Commonwealth two years to promulgate regulations through the 1929 Law, on information and belief, Respondents have promulgated no such regulations, and none presently exist or are being followed by Respondents.

73. Traditional Midwife Petitioners have a property interest in their careers. Respondents cannot take this from them by failing to promulgate regulations and/or otherwise refusing to issue certificates that traditional midwives must hold under the law.

74. Respondents' refusal to issue certificates under the Midwife Regulation Law violates the legal rights of Traditional Midwife Petitioners, as well as the rights of the many traditional midwives and others "who attend women in childbirth" throughout the Commonwealth, diligently, competently and faithfully serving women and their families.

75. The Respondents' actions and inactions also violate the rights of the Client Petitioners and others including, but certainly not limited to, those in Pennsylvania's proud Amish and Mennonite communities, for whom, the ability to deliver children in their homes and among their communities – and not in a hospital or "birth center" – is an essential part of their strongly held and constitutionally-protected religious traditions and practice.

76. And Respondents' further actions also violate the rights of Pennsylvanians who simply desire to have home deliveries of their children with the assistance of traditional midwives who are properly credentialed under the law.

77. Indeed, on information and belief, other Pennsylvanians, who are not religious at all, are increasingly learning about and seeking out the assistance of

traditional midwives. The Pennsylvania Department of Health has reported to the General Assembly, for example, that "out-of-hospital births … increased approximately 31% from 2015 to 2021" from 4,496 to 5,907 births.[21]

78. This interest in traditional midwifery cuts across all educational, socio-economic, and geographic strata, for reasons including the desire to better control the birthing process in the comfort of their own home; the economic cost of delivering a baby in a hospital; and the way institutional hospitals make some people feel mentally and emotionally, as well as physically, due to modern medicines and some modern surgical interventions.

79. Further, on information and belief, peer-reviewed research, supports the safety of midwife-attended home birth, particularly for low-risk pregnancies where transfer to higher-level care remains available if needed.

C. *The Problem of Collaborative Agreements for At-Home Deliveries.*

80. In addition to traditional midwives, some nurse-midwives, like Petitioner Jane Doe #2, also seek certificates to perform traditional midwifery under the 1929 Law because, as a practical matter, a requirement in the 1985 Act that nurse-midwives practice "pursuant to a collaborative agreement with a

[21] *See Early Hearing Detection and Intervention Program Report on Screening and Follow-up for 2021 Births* (November 2023), Report of the Pennsylvania Department of Health submitted to the General Assembly in fulfillment of the reporting requirements found in Section 5(d)(4) of the IHEARR Act at 3 and 6, *available at: 2024-03-26_021839__Early Hearing Detection and Intervention Program Report 2023 Follow-up.pdf*. (Last visited June 28, 2026).

physician" who "shall have hospital clinical privileges in the specialty area of the care for which the physician is providing collaborative services" already does and/or will soon and increasingly prevent them from assisting with home deliveries – in their capacities as licensed nurse-midwives. *See* 1985 Act, §35(c)(1).

81. When Act 14 of 2026 takes effect on July 6, 2026 and amends the 1985 Act, it will slightly amend this language to require a collaborative agreement with "a physician ***or physician group***." See, e.g., Act 14 § 35(c)(1)(emphasis added). This would not solve the problem for Jane Doe #2 and, worse, would expand the requirements of a collaborative agreement to a new and even larger group of midwives, "certified midwives".

82. Though it is plain that the 1985 Act does not regulate traditional midwifery, Petitioners are not waiting for the new law and any confusion it may bring and respectfully request that the Board issue certificates now.

83. Where the collaborative agreements that the 1985 Act requires of licensed nurse-midwives (and soon certified midwives) limit the availability of home deliveries in the Commonwealth – and, in some areas effectively prohibit them – it is even more essential that traditional midwives be issued the certificates required under the 1929 Law.

84. Traditional midwives must be permitted to practice their professions lawfully, as the legislature intended, and Pennsylvanians who desire to deliver their

children at home, whether out of a strongly-held religious belief or simply a personal, maternal, or familial preference, are not deprived of their rights to do so.

D. *The Commonwealth, Through Respondents, Has Refused to Issue Traditional Midwife Petitioners the Midwifery Certificates as Required Under the 1929 Law.*

85. It has long been a common understanding among traditional midwives that, though the 1929 Law has never been repealed and, on information and belief, every court that has addressed the 1929 Law has found it governs traditional midwives and remains good law, the Commonwealth of Pennsylvania though Respondents simply refuse to follow it.

86. This creates a strange and ongoing sense of "confusion" and "uncertainty" among traditional midwives and their clients. Linda Levinson, *Solving the Modern Midwife Problem: The Case for Non-Nurse Midwifery Legislation in Pennsylvania*, 91 Temp. L. Rev. 139, 154 (2018) ("[C]onfusion surrounding the legal status of home birth and non-nurse midwives[22] [*i.e.*, traditional midwives] in Pennsylvania abounds… [T]he practical effect of the current legal status on non-nurse midwives is that they practice in a state of uncertainty.").

87. "The Midwife Regulation Law prohibits the practice of midwifery

[22] *Non-nurse midwives*, as that phrase is used in this article, refers to all midwives governed by Act 1929 *except for* "nurse midwives" (and soon "certified midwives") who are governed *separately* by the 1985 Act (as amended by Act 14, after it soon takes effect).

without a certificate from the State Board of Medical Education and Licensure (now the State Board of Medicine). The State Board of Medicine currently does not provide a path to licensure for non-nurse midwives [*i.e.*, traditional midwives]. Therefore, there are no regulations in place dictating their practice—essentially leaving them unregulated." *Id.* (citations omitted).

88. "This confusion helps neither advocates nor opponents of non-nurse midwifery [*i.e.*, traditional midwifery] practice. Non-nurse midwives in Pennsylvania *and their clients* live in a state of uncertainty, never knowing when the state may decide to enforce the Midwife Regulation Law. For opponents, allowing non-nurse midwives to practice by failing to enforce the prohibition "undermines respect for state authority." The detriments of the failure to address this problem are compounded by Pennsylvania's relatively high home-birth rate, especially in its Plain communities."[23] *Id.* at 155-56 (emphasis added).

89. Each of Traditional Midwife Petitioners has independently attempted to "receiv[e] a certificate" from the State Board of Medicine and the other Respondents, including by visiting the PALS portal, through which professional licenses and certificates are administratively processed.

90. No certificate for traditional midwives, as required under Act 1929, is

[23] "Plain" is a generic term used to describe a wide variety of Anabaptists communities, such as the Amish, Mennonites, and Brethren. *Id.* at 148.

offered on PALS.

91. Because Pennsylvania law states that "it *shall be unlawful* for any person" other than a licensed physician or osteopath "to practice midwifery in this Commonwealth, ***before receiving a certificate from the [State Board of Medicine]*** of the Commonwealth of Pennsylvania authorizing such person or persons so to do," Midwife Regulation Law, Act of 1929, No. 155 at § 4, and Traditional Midwife Petitioners are not able to follow this requirement because Respondents are refusing to issue the required certificates under Act 1929, Petitioners have felt uncomfortable and feared retaliation, including potential criminal prosecution, if they were to inquire further *directly*.

92. Instead, they have authorized their undersigned counsel to do so on their behalf, so they may remain anonymous.

E. ***Despite Refusing to Issue Certificates to Traditional Midwifes Under the 1929 Law, the Commonwealth Has Been Recognizing the Proper Legal Status of Traditional Midwives, Including Petitioners, For Decades.***

93. Though Respondents refuse to issue certificates to the Traditional Midwife Petitioners and other traditional midwives – as they are required to do under the 1929 Law – the Respondents *do* recognize traditional midwives in other ways. And they use Commonwealth resources to do so.

Respondents' Recognition of Traditional Midwives Through Official Forms and Requirements.

94. For example only, the Respondents require and accept official

Commonwealth documentation from traditional midwives related to births and newborns in the Commonwealth of Pennsylvania.

95. These documents include an In-State Home Birth Registration Packet containing Form HD01258F, verification sheets, and witness affidavits – a specialized, fraud-sensitive paper packet, that must be accessed or requested directly from the Department of Health through official state public health portals. A true and correct copy of select paper forms requested and received directly from Respondents are attached hereto, as redacted, as **Exhibit B.**

96. The documents also include birth certificates, fetal demise certificates, and other forms from Respondent Department of Health's Division of Newborn Screening and Genetics such as a newborn screening status report, refusal of newborn screening form, and various specific newborn screenings, such as dried blood spot (DBS) screen, a critical congenital heart defect screen (CCHD), and a hearing screen, all of which should be performed when babies are 24 to 48 hours old.

97. Respondent Department of Health references these newborn screening acts and regulations in its official website, stating: "*If the baby was born **at home** … the **midwife** …* attending the birth will provide information as to what steps

need to be taken to have the newborn screening tests completed."[24] (Emphasis added).

98. Respondent Department of Health's Division of Newborn Screening and Genetics (DNSG) issues a number of forms and other information that directly address and/or are followed and meant to be followed by traditional midwives, including Traditional Midwife Petitioners. These include the following:

a. "Newborn Screening Status Report Form".[25]

i. This form is to be completed and returned by facsimile to the Department of Health. *Id.* ("Please complete the following information and fax the report to Pennsylvania Department of Health, Newborn Screening and Follow-up Program (NFSP), at 717-724-6995.").

ii. The first line on the form asks for the name of the "***Midwife***/Birth Center/Birthing Hospital". *Id.* (emphasis added).

iii. The second line requests the "Sender[']s name," *i.e.*, the name of the person faxing the form to Respondent Department of Health.

iv. On information and belief, Traditional Midwife Petitioners and other traditional midwives across the Commonwealth routinely fill out these forms and return them by facsimile to Respondent Department of Health following home births.

[24] https://www.pa.gov/agencies/health/programs/maternal-health-and-infant-care/newborn-screening/acts-regulations. (Last visited June 28, 2026).
[25] https://www.pa.gov/content/dam/copapwp-pagov/en/health/documents/topics/documents/programs/infant-and-children-health/CCHD%20Screening%20Information%20for%20Submitters.pdf, at 7 (Revised March 2025).

b. “Refusal of Newborn Screening Form”[26]

i. Where parents refuse the newborn screening, this form must be submitted.

ii. As Respondent Department of Health acknowledges on the form, “As a parent or guardian, you can refuse any of these screenings ***if they are against your religious beliefs or practices***.”

iii. On information and belief it is not uncommon for Amish, Old Order Mennonites and other parents to refuse this type of screening due to their religious beliefs and spiritual practices.

iv. Among other information, the form requires a “Witness Signature,” “Printed Name,” “Submitter name,” and a “Submitter Code”. *Id.*

v. A “a signed copy of this form” must be returned to Respondent Department of Health “within seven days of the refusal by fax … or mail”. *Id.*

vi. On information and belief, following home births, Traditional Midwife Petitioners and other traditional midwives across the Commonwealth periodically assist their clients in filling out these forms, often providing their own signatures and names as witnesses and their own submitter names and codes before returning the forms by facsimile or U.S. mail to Respondent Department of Health, Division of Newborn Screening and Genetics.

vii. It is more common for Traditional Midwife Petitioners and other traditional midwives to use this Commonwealth form when servicing clients who are Amish and Old Order Mennonite, due to their religious beliefs and spiritual practices.

[26] https://www.pa.gov/content/dam/copapwp-pagov/en/health/documents/topics/documents/programs/infant-and-children-health/Newborn%20Screening%20Parent%20Refusal.pdf. (Last visited June 28, 2026).

c. "Critical Congenital Heart Defect (CCHD) Screening Information for Submitters".[27]

i. On this document, Respondent Department of Health defines the "Submitters" responsible for submitting the form as "Hospitals, Birthing Centers ***and Midwives***". *Id.* (emphasis added).

d. "Hearing Screening Instructions for Submitters".[28]

i. On this document, Respondent Department of Health defines the "Submitters" responsible for submitting the form as "Hospitals, Birthing Centers ***and Midwives***". *Id.* (emphasis added).

ii. Regarding the timing of the newborn's hearing screening, the document expressly references "Midwives," stating: "***Midwives*** without hearing screening equipment *should refer the family to* ***another midwife*** or screening provider to have the screening completed between 24-48 hours after birth…." *Id.* at 1 (emphasis added).

iii. As set forth below, on information and belief, Respondents actually spend tens of thousands of dollars purchasing this hearing screening equipment for traditional midwives.

iv. Regarding reporting requirements, the document expressly references "Midwives," stating: "***Midwives*** *without internet access must* ***notify the [Respondent Department of Health's Department of Newborn Screening and Genetics] DNSG, in writing***, ***to receive an exemption*** from iCMS reporting *and* ***permission*** *to report all results via paper form.*" *Id.* at 2

[27] https://www.pa.gov/content/dam/copapwp-pagov/en/health/documents/topics/documents/programs/infant-and-children-health/CCHD%20Screening%20Information%20for%20Submitters.pdf. (Last visited June 28, 2026).

[28] https://www.pa.gov/content/dam/copapwp-pagov/en/health/documents/topics/documents/programs/infant-and-children-health/Hearing%20Screening%20Instructions%20for%20Submitters.pdf. (Last visited June 28, 2026).

(emphasis added).

v. On information and belief, Traditional Midwife Petitioners and other traditional midwives have, in fact, notified Respondent Department of Health in writing, and received exemptions from reporting and permission forms Respondent Department of Health to report hearing screening results in paper form.

e. "Filter Paper Completion Guidelines"[29]

i. These guidelines relate to completion and testing of the filter paper specimen and, again, refer to the "submitter" of the information collected, which often include traditional midwives and Traditional Midwife Petitioners. *Id* at 2.

ii. The guidelines state that the "submitter information [is] collected" and instruct the professional to "[i]dentify the name of the … ***out-of-hospital provider*** *responsible for the birth of the newborn*," "us[ing] the submitter code if possible." *Id.* (emphasis added).

iii. They also instruct the professional to "[i]dentify the name of the … ***out-of-hospital provider*** *submitting the filter paper specimen*," "us[ing] the submitter code if possible." *Id.* (emphasis added).

iv. If the submitter code is not used, the guidelines instruct that the "submitter address must be entered." *Id.*

v. On information and belief, Traditional Midwife Petitioners and other traditional midwives routinely submit the newborn screen filter paper, identifying themselves as the "out-of-hospital provider responsible for the birth of the newborn" and the "out-of-hospital provider submitting the filter paper specimen". Traditional midwives often have and use their own Commonwealth "submitter codes" and, where they do not, they enter their addresses, as instructed by Respondent Department

[29] https://www.pa.gov/content/dam/copapwp-pagov/en/health/documents/topics/documents/programs/infant-and-children-health/Completing%20filter%20paper.pdf. (Last visited June 28, 2026).

of Health.

f. "Revvity Omics, Inc. Supply Ordering"[30]

i. On information and belief, Traditional Midwife Petitioners and other traditional midwives are instructed by Respondents to order and reorder supplies, specific to the Commonwealth of Pennsylvania, from the Commonwealth's own contracted supplier, Revvity Omics, Inc. *Id.*

ii. These items, which are related to and required to be used by traditional midwives in connection with home deliveries in Pennsylvania, include: PA Filter Papers; PA DOH Brochures; StepOne Newborn Screening Brochures; PA USPS Reply Mailing Envelopes; and various shipping supplies such as UPS Next Day Air Medical Envelopes & Clear Sleeves, UPS Preprinted Shipping Labels, UPS Next Day Air Envelopes, and UPS Saturday Delivery Stickers (Neon Orange). *Id.*

iii. On information and belief, Respondents pay for these items for Traditional Midwife Petitioners and other traditional midwives with Commonwealth funds.

99. On information and belief, Respondents are aware that Traditional Midwife Petitioners and other traditional midwives routinely submit these and other official forms required by the Respondents and the Commonwealth in connection with home deliveries of newborns in the Commonwealth, and perform the required tasks documented by them; indeed, there is direct interaction between Respondent Department of Health and traditional midwives about such issues.

Respondents' Recognition of Traditional Midwives Through

[30] https://www.pa.gov/content/dam/copapwp-pagov/en/health/documents/topics/documents/programs/infant-and-children-health/Supply%20Reordering_PA%20Submitters.pdf. (Last visited June 28, 2026).

Expenditure of Funds.

100. Respondents also recognize traditional midwives by using federal grant funds to purchase costly medical equipment for traditional midwives to use in connection with home deliveries, including hearing screening equipment consistent with Pennsylvania's Infant Hearing Education, Assessment, Reporting and Referral (IHEARR) Act, Act 89 of 2001.

101. According to a November 2023 Report of the Pennsylvania Department of Health submitted to the General Assembly, "out-of-hospital births … increased approximately 31% from 2015 to 2021" from 4,496 to 5,907 births.[31]

102. "To screen this growing population, portable hearing screening machines were purchased by the Department [of Health] using federal grant funds and provided to birthing centers and [separately to] *midwives* statewide in areas with the highest geographic concentrations of out-of-hospital births." *Id.* at 6 (emphasis added).

103. "As of September 2023, 68 birth centers *and midwives* ha[d] received portable hearing screening equipment" and the Department of Health planned "to distribute approximately 10 additional pieces of equipment" before the end of that

[31] *See Early Hearing Detection and Intervention Program Report on Screening and Follow-up for 2021 Births* (November 2023), Report of the Pennsylvania Department of Health submitted to the General Assembly in fulfillment of the reporting requirements found in Section 5(d)(4) of the IHEARR Act at 3 and 6, *available at: 2024-03-26_021839__Early Hearing Detection and Intervention Program Report 2023 Follow-up.pdf*. (Last visited June 28, 2026).

program year." *Id.* (Emphasis added).

104. "Representatives from the manufacturer of the portable hearing screening equipment and program staff *provide hands-on training to* ***midwife screeners***[, and ***e]ach midwife*** signs an equipment agreement indicating they: 1) have been trained on the use of the equipment; 2) will use the equipment only for newborn hearing screening; 3) agree to report data to the program; and 4) agree to share the equipment (if applicable) ***with nearby midwives***." (Emphasis added).

105. "***Midwives*** without equipment can refer newborns to local midwives with hearing screening equipment to receive an inpatient hearing screening as well as an outpatient hearing screening, if needed." (Emphasis added).

106. For midwives to get on a waiting list to receive newborn hearing screening equipment from the Commonwealth when it receives funding to purchase additional machines, there is a special form designed by Respondent Pennsylvania Department of Health, the *Hearing Screening Equipment Application for Midwives.* A true and correct copy of this Commonwealth form is attached hereto as **Exhibit C**.

107. On information and belief true and correct photographs of the hearing screening equipment provided to traditional midwives by the Commonwealth are attached hereto as **Exhibit D.**

F. ***Petitioners Speak with Counsel for the Board of Medicine.***

108. On or about March 10, 2026, counsel for Petitioners spoke by telephone with Board Counsel for Respondent State Board of Medicine regarding the efforts of traditional midwives (including the Traditional Midwife Petitioners) to obtain the certificates required under the Midwife Regulation Law of 1929.

109. During that call, Board Counsel expressly acknowledged that traditional midwives (including the Traditional Midwife Petitioners) *could not apply* for certificates through the Pennsylvania Licensing System (PALS), the online portal through which all professional licenses and certificates are administratively processed by the Commonwealth, *because PALS did not offer an option to apply for certificates under the 1929 Law*.

110. Board Counsel further, directly acknowledged that there *was no mechanism whatsoever* through which any traditional midwives (including the Traditional Midwife Petitioners) could apply for the certificates required for traditional midwives to lawfully practice in Pennsylvania under the 1929 Law because the Commonwealth simply did not offer or issue the required certificates through PALS or any other way.

111. Instead, Board counsel acknowledged that the Board and the Commonwealth only issue credentials to "nurse midwives" authorized under the 1985 Act.

112. Among other things, Counsel for Petitioners explained to Board

Counsel that:

a. the Midwife Regulation Law of 1929 required the Commonwealth to issue certificates to traditional midwives, and the requirements placed upon the Commonwealth by the legislature were mandatory, not discretionary;

b. the Medical Practice Act of 1985, which, among other things, created a new and licensed professional designation for "nurse-midwives," did not, in any way, limit the requirements placed upon the Commonwealth in the Midwife Regulation Law of 1929; and

c. this Court had found in 2008, in *Goslin*, that the 1929 Law and the 1985 Act are both valid laws of the Commonwealth that govern different types of midwives, with the 1985 Act relating to licensing of registered nurses as nurse-midwives, and the 1929 Law relating to all other persons who attend women in childbirth, including traditional midwives.

113. At the conclusion of the call, Board Counsel agreed to investigate the matter further, and Petitioners agreed to follow up in writing.

G. *Petitioners Reiterate Concerns in Writing to Board Counsel and Others, Set Forth Qualifications of Jane Doe #1, and Demand that the Commonwealth Issue Jane Doe #1 a Certificate Under the 1929 Law.*

114. Petitioners followed up in writing with Board Counsel by letter and

email enclosure dated May 1, 2026 (together, the "May 1 Letter"). A true and correct copy of the May 1 Letter and email enclosure is attached hereto together as **Exhibit E** and incorporated by reference.

115. Among other things, the May 1 Letter: memorialized the substance of the parties' March 10 call; set forth Petitioner Jane Doe #1's qualifications as a traditional midwife; and demanded that, in light of these qualifications, the Commonwealth promptly issue a certificate to Jane Doe #1 under the Midwife Regulation Law of 1929. *See Id.*

116. Petitioners directed the May 1 Letter to Board Counsel for the State Board of Medicine by PDF email and U.S. mail, with email copies to Chief Counsel for the Department of State, General Counsel and the Secretary of Policy and Planning for the Governor. Later that day, Petitioners forwarded the May 1 Letter to the Deputy General Counsel to the Governor. *See Id.*

117. In the email enclosure to the May 1 Letter, counsel for Petitioners explained, "[M]y client needs the certificate the Board is required to issue under the Midwife Regulation Law of 1929. It seems the Commonwealth is not issuing them, but if I am wrong — and I hope I am — please advise how she can get one or, otherwise, confirm. Time is of the essence." *Id.*

118. Counsel for Petitioners further explained that, while the bill that ultimately became Act 14 is "not directly related" to Jane Doe #1's request for a

traditional midwifery certificate under the 1929 Law, its passage "may inject significant legal confusion and uncertainty for the status of lay/traditional midwives in the Commonwealth." *Id.*

119. Counsel for Petitioners proposed that the Board and the Department of State "can act proactively, here, to stave off confusion by issuing the certificates required under the Midwife Regulation Law of 1929, hopefully, starting with my client." *Id.*

H. ***Having Received No Acknowledgment or Response, Petitioners Follow Up by Email One Week Later, Sharing Jane Doe #2's Qualifications and Requesting Certificates for Jane Does #1 and #2 Under 1929 Law.***

120. Not having received any meaningful response or sense of any process or timeline in which to expect one, one week later, on Friday, May 8, 2026, counsel for Petitioners emailed, "[c]ircling back on how my clients can get a midwife certificate under the [1929 Law]," asking when Petitioners could "expect to receive an answer," and requesting that "[i]f the Commonwealth will not issue such a certificate regardless of my clients' qualifications[], and you know that, [to] please advise promptly." A true and correct copy of the May 8 email is attached hereto as **Exhibit F** and incorporated by reference.

121. In the May 8 email, counsel for Petitioners also shared information about Petitioner Jane Doe #2, who was also seeking a certificate under the 1929 Law, stating that "one of my clients is also a certified nurse midwife [but the 1985

Act's] requirement of a collaborative agreement with a hospital or medical provider … is effectively prohibiting her from assisting in *home births* for her clients." *Id.*

122. Counsel for Petitioners explained that it is Jane Doe #2's "preference," to assist clients with home deliveries, rather than in-hospital deliveries, "and some of her clients require home births for religious reasons." *Id.*

123. Counsel further set forth Jane Doe #2's qualifications for a certificate to practice traditional midwifery under the 1929 Law, stating that she "has been practicing midwifery since 1979 and … has a diploma from a nursing school, a bachelors degree in nursing, a certificate in midwifery, and a masters in science with a concentration in midwifery, all from accredited medical institutions;" and Jane Doe #2 also "has taught midwifery as adjunct faculty at an accredited university and taught and mentored students at various schools in Pennsylvania as part of their clinical training models, helping students receive their clinical training hours." *Id.*

124. Recognizing the lack of response from the Commonwealth since the initial March 10 call, and knowing how busy counsel for the Commonwealth are and the weight and care typically taken in a written response, Counsel for Petitioners offered that "If you are unable to email, I would be grateful to at least receive an update by phone" and asked whether they might find time that day or

Monday. *Id.*

I. *Chief Counsel for Respondent Department of State Tells Petitioners She and Board Counsel "Will Get Back to [Plaintiffs] Shortly" – But Still Has Not.*

125. Not having received a response by late Monday Morning, counsel for Petitioners emailed, reminding the Commonwealth of Petitioners' request for a brief telephone update. A true and correct copy of this May 11, 2026 morning email is attached hereto as **Exhibit G** and incorporated by reference.

126. Chief Counsel for the Department of State responded later than afternoon, indicating by email: "I know this is very important to you. As I'm sure you can appreciate, I have some other items on my calendar, but [Board Counsel] and I will get back to you shortly." A true and correct copy of this May 11, 2026 afternoon email is attached hereto as **Exhibit H** and incorporated by reference.

127. Petitioners received that email *almost 8 weeks ago*; as of the date of this filing, Petitioners have received no response from the Board, nor the Department of State, nor any person representing Respondents or the Commonwealth regarding this matter.

J. *Petitioners Send Letter to Respondents State Medical Board, Department of State, and Others, Setting Forth Qualifications of Jane Doe #2 and Demanding the Commonwealth Issue Certificates to Jane Does #1 and #2.*

128. On Tuesday, June 16, 2026, counsel for Petitioners sent another letter and email enclosure to the Board and Department of State, following up on

Petitioners' pending requests for certificates under the 1929 Law and setting forth, more formally, the qualifications of Jane Doe #2 and her request for a certificate under the 1929 Law, (together, the "June 16 Letter"). A true and correct copy of the June 16 Letter and enclosure email is attached hereto together as **Exhibit I** and incorporated by reference.

129. Counsel clearly explained that Jane Doe #2 was seeking a certificate to practice traditional midwifery under the 1929 Law, even though she was separately a licensed certified nurse-midwife, because the 1985 Act's requirement that nurse-midwives have a "collaborative agreement with a physician" who "shall have hospital clinical privileges," would soon prevent her (and other certified nurse-midwives) from participating in home deliveries in their capacity as certified nurse-midwives because none of the physicians in the area and the hospitals at which they have clinical privileges would permit her to perform home deliveries:

> Because of the 1985 Act's requirement that nurse-midwives practice "pursuant to a collaborative agreement with a physician" who "shall have hospital clinical privileges," however, our client will soon be prevented from assisting with home deliveries. Her collaborative agreement runs out this December and, in seeking to renew it, the physician and hospital will no longer let her assist clients with home deliveries. She has sought collaborative agreements with other physicians in the area but *none* will permit home deliveries because all of them are owned by hospitals with business models that prioritize insurance-based, in-hospital care and the procedures and profits that go along with it.

Id., enclosure email (emphasis in original).

130. As counsel explained, "This is a concern both for all Pennsylvanians who require home deliveries for constitutionally-protected, religious reasons, and those who simply prefer to deliver their children at home with the assistance of a traditional midwife." *Id*.

131. Once again, counsel for Petitioners beseeched the Commonwealth to "[p]lease advise how my client may receive a certificate under the 1929 Law so she may practice traditional midwifery in compliance with the law" and asked that "[i]f you have a different understanding of Pennsylvania law on this issue, please advise what that is." He explained that "[w]e would very much like to work with the Commonwealth on this issue, and we await your response on this time-sensitive matter," again, offering that "[i]f at least a preliminary discussion would be easier than crafting an email or some other formal writing," the Commonwealth should "please do not hesitate to call" his cell phone. *Id*.

K. *Petitioners Send Letter to All Respondents Setting Forth Qualifications of Jane Does #1, #2, and #3, Enclosing Application Fees for All Traditional Midwife Petitioners, and Demanding the Commonwealth Issue Certificates to Each Applicant Under the 1929 Law.*

132. On June 25, 2026, having received no acknowledgment or response to the June 16 Letter from the Board, nor the Department of State, nor any person representing Respondents or the Commonwealth, Petitioners sent a letter to each of the Respondents: (1) Debra L. Bogen, M.D., Secretary of Health, at the

Pennsylvania Department of Health; (2) Al Schmidt, Secretary of the Commonwealth, at the Pennsylvania Department of State; (3) Arion Claggett, Commissioner, at the Bureau of Professional and Occupational Affairs; and (4) Donald M. Yealy, M.D., Chair, at the Pennsylvania State Board of Medicine. See Ex. A.

133. In addition to enclosing copies of the May 1 Letter and June 16 Letter, with the June 25 Letter, Petitioners enclosed three signed checks – one on behalf of each Petitioner. *Id.*

134. Each check was in the amount of $10.00 – the application fee prescribed by the 1929 Law for the certificates that Respondents are required to issue thereunder. *Id.*; Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155 § 3 ("Each and every applicant for a certificate to practice midwifery shall pay to the said Board of Medical Education and Licensure the sum of ten dollars ($10.00) at the time of making such application.").

135. The original June 25 Letter, with the original, signed checks, was sent by Federal Express Overnight Mail to the State Board of Medicine; other recipients received copies by U.S. mail and PDF email. Ex. A.

136. Board Counsel, Chief Counsel for the Department of State, General Counsel and the Secretary of Policy and Planning for the Commonwealth, each of whom was copied on the June 25 Letter, as they had been recipients of the May 1

Letter and June 16 Letters, received copies by PDF email only. *Id.*

137. In addition to referencing and incorporating the exceptional qualifications of Jane Doe #1 and Jane Doe #2 to receive certificates as traditional midwives under the 1929 Law – which were set forth at length in the enclosed May 1 Letter and June 16 Letter, respectively – Petitioners set forth in detail the similarly exceptional qualifications of Jane Doe #3 to receive a certificate to practice traditional midwifery under the 1929 Law. *Id.*

138. On this basis, Petitioners stated, "***we respectfully demand that the Commonwealth promptly issue my clients the certifications they seek under the Midwife Regulation Law of 1929.***" *Id.* (emphasis in original).

139. As of the date of this filing, the Commonwealth has failed to issue certificates to the Traditional Midwife Petitioners under the 1929 Law or otherwise substantively respond, in any way, to their requests.

140. Respondents' ongoing failure to issue certificates under the Midwife Regulation Law affects not only Petitioners but other similarly situated traditional midwives throughout the Commonwealth, including those who serve Pennsylvania's Amish and Mennonite communities, for whom home birth attended by a traditional midwife is an aspect of sacred religious practice and tradition.

141. And it also affects Clients Petitioners and other clients who require home births with traditional midwives.

L. ***If Respondents Are Permitted to Continue Violating the 1929 Law By Refusing to Issue Certificates to Traditional Midwives, the Implementation of Act 14 Will Create Widespread Confusion Among Law Enforcement Because It Is Unconstitutionally Void for Vagueness on Its Face.***

142. Act 14 has an impending effective date of Monday, July 6, 2026, "60 days" after the Governor's May 6, 2026 signature.

143. Act 14 is unconstitutionally void for vagueness on its face. *See* Pa. Const. art. I §§ 1 and 11.

144. Act 14 does not amend the 1929 Law and creates no new prohibition or licensure requirement applicable to traditional midwives.

145. Even so, Act 14's pending effective date heightens the urgency of Petitioners' demand that Respondents follow the 1929 Law and issue the certificates as the Commonwealth is required to under the law.

146. If Respondents are permitted to continue violating the 1929 Law by refusing to issue certificates to traditional midwives, the implementation of Act 14 will create widespread confusion among law enforcement, traditional midwives and others. Act 14 expressly states that it is "AN ACT Amending the act of December 20, 1985 (P.L.457, No.112)," i.e., ***the 1985 Act***, and states in section 1 that, "[t]he definitions of "medical training facility" and "midwife or nurse-midwife" in section 2 of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, are amended and the section is amended…."

147. Act 14 resulted from the passage of Senate Bill 507, which was then

referred to as the Midwifery Modernization Act.

148. The sponsorship memo for Senate Bill 507 circulated by Sen. Rosemary Brown on December 4, 2024, expressly states: "This bill *impacts* ***only*** those ***midwives*** *that are* ***licensed to practice*** *in Pennsylvania* ***under the Medical Practice Act of 1985***" and confirms that "This legislation is not a replacement of current practice." **Exhibit J.** (Emphasis added).

149. Indeed, prior to the passage of Senate Bill 507, traditional midwives met with Sen. Rosemary Brown to express concerns as to what effect, if any, her proposed bill would have on the legal status of traditional midwives and the 1929 Law.

150. They were assured that Senate Bill 507 would have no effect whatsoever on the legal status of traditional midwifery in the Commonwealth.

151. As an assurance of this commitment, an additional section, Section 4 was added to the bill; it remains present in Act 14.

152. On information and belief, traditional midwives spoke with other senators, as well, raising their concerns that the legal status of traditional midwifery and home birth in Pennsylvania not be changed.

153. All assured the traditional midwives – as the senators, themselves, had been assured – that Act 14 would in no way alter the legal status of traditional midwives in Pennsylvania, and that this protection was guaranteed by the addition

of Section 4.

154. Indeed, after Act 14 passed, the Pennsylvania General Assembly updated its Chronological Table of Statutes Affected by Laws of 2026 and by Decisions and Rules of Court, noting that Act 14 ("By Law, Decision or Rule" … "May 6, No. 14") *did*, in fact, amend the 1985 Act, and *did* ***not*** amend the 1929 Law. *See* p. 1-2 of the Chronological Table, a true and correct copy of a printout of which is attached hereto as **Exhibit K**.

155. Even so, Act 14's passage – and, in particular, the language of Section 4 of Act 14 stating that traditional midwives "shall not be considered licensed or regulated by the Commonwealth" is so unconstitutionally vague on its face, that it may be misconstrued by law enforcement, from Pennsylvania's Attorney General to the district attorneys in any of Pennsylvania's 67 counties, to Commonwealth agencies, hospitals, or others as eliminating or calling into question the continuing requirements of the 1929 Law absent clarification from this Court.

156. This, of course, is the exact opposite of its intention or purpose.

157. The unconstitutional vagueness, in particular, centers around the language stating that traditional (or "lay") midwives "who do not hold a license under this act shall not be considered licensed or regulated by the Commonwealth". Act 14, §4. In context, section 4 of Act 14 states in full:

> Nothing in this act shall be construed to authorize or prohibit the practice of lay midwives, direct-entry

> midwives or other unlicensed birth workers who do not hold a license under this act. A lay midwife, direct-entry midwife or other unlicensed birth worker who does not hold a license under this act shall not be considered licensed or regulated by the Commonwealth.

158. On information and belief, Act 14 was lobbied for by the American College of Obstetricians and Gynecologists (ACOG) and the American College of Nurse Midwives (ACNM) as part of a national state-by-state strategy to outlaw traditional midwifery and home births, instead compelling all births to be performed though "collaborative agreements" with physicians or physician groups in hospitals or birthing centers. *See* Ex. J.

159. Indeed, as stated in Senator Brown's sponsorship memo for Senate Bill 507, "Current *cooperative working relationships* exist *between* the professional associations of the *American College of Nurse-Midwives (ACNM)* and the *American College of Obstetricians and Gynecologists (ACOG)*, leading to integration of midwifery providers into the education of resident physicians and midwifery staffing ***of labor and delivery units [in hospitals]*** *and* ***birth centers*** across the entire state.") Ex. J. (Emphasis added).

160. On information and belief, those who wish to stifle or outlaw traditional midwifery and home births in the Commonwealth may plan to take advantage of the unconstitutional vagueness of Act 14, and particularly section 4,

in an attempt to do so.[32]

CLAIMS FOR RELIEF

COUNT I – MANDAMUS

161. Petitioners incorporate by reference the allegations set forth in the foregoing paragraphs as if fully set forth herein.

162. Mandamus is an extraordinary remedy available to compel official performance of a ministerial act or mandatory duty where the petitioner demonstrates: (a) a clear legal right in the petitioner; (b) a corresponding duty in the respondent; and (c) want of any other adequate and appropriate remedy. *See, e.g.*, *Africa v. Horn*, 701 A.2d 273 (Pa. Cmwlth. 1997) *Pa. Dep't of Corr. v. Hill*, 2026 LX 142686, at *8-9 (Pa. Cmwlth. Apr. 13, 2026)(citing *Africa v. Horn*); *Tindell v. Dep't of Corr.*, 87 A.3d 1029, 1034 (Pa. Cmwlth. 2014) (*citing Danysh v. Wetzel*, 49 A.3d 1, 2 (Pa. Cmwlth. 2012))("A writ of mandamus is an extraordinary remedy used to compel official performance of a ministerial act when a petitioner establishes a clear legal right, the respondent has a corresponding duty, and the petitioner has no other adequate remedy at law.").

163. "A ministerial act is one which a public officer is 'required to perform upon a given state of facts and in a prescribed manner in obedience to the mandate

[32] If and when this is permitted to occur, Petitioners intend to amend their Verified Petition with an additional count that Act 14 is *unconstitutionally vague* ***as applied***.

of legal authority.'" *Philadelphia Firefighters' Union v. Philadelphia*, 119 A.3d 296, 303 (Pa. 2015) (quoting *County of 12 Allegheny Deputy Sheriff's Assn v. County of Allegheny*, 730 A.2d 1065, 1067-68 (Pa. Cmwlth. 1999)).

164. "A clear legal right to relief is shown where the right to require performance of the act is clear, and a corresponding duty is shown where the governing law contains directory language, requiring that an act shall be done." *Philadelphia Firefighters' Union*, 119 A.3d at 303 (quoting *Shroyer v. Thomas*, 81 A.2d 435, 436 (Pa. 1951), and *Stork v. Sommers*, 630 A.2d 984, 986-87 (Pa. Cmwlth. 1993)).

165. "A want of any other adequate remedy is established where there is no alternative form of relief." *Philadelphia Firefighters' Union*, 119 A.3d at 304 (*quoting Styers v. Wade*, 372 A.2d 1236, 1238 (Pa. Cmwlth. 1977)).

166. Even after decades, mandamus will lie to compel an agency to act, whether its inaction is formally pronounced, or the agency instead is "sitting on its hands." *See Chanceford Aviation Props, LLC v. Chanceford Twp. Bd. of Supervisors*, 923 A.2d 1099, 1108 (Pa. 2007)("Thus, in this case, common sense dictates that the Township's failure to comply with the AZA's requirements, of which it was on notice for two decades, in the face of appellants' repeated requests, is a clear indication of the Township's refusal to comply with its duty.").

167. Here, Petitioners' right to relief is clear because they possess a clear

legal right under the Midwife Regulation Law to apply for and, upon a showing of qualification, to receive a certificate to practice as a traditional midwife in the Commonwealth. *See Goslin*, 937 A.2d at 536 (holding that Midwife Regulation Law of 1929 governs the issuance of certificates to lay midwives who are not registered nurses, and remains valid and enforceable independent of the Medical Practice Act of 1985), and no provision of law permits Respondents to ignore their legal non-discretionary obligations.

168. Respondents owe a corresponding, non-discretionary, ministerial duty under the 1929 Law to establish a process for receiving applications, to evaluate Traditional Midwife Petitioners' qualifications, and to issue a certificate to Traditional Midwife Petitioners upon a showing of qualification and payment of the statutory fee.

169. Respondents have failed to and refused to perform that duty.

170. Respondents have provided no application process through PALS or otherwise, and have admitted they have none.

171. Respondents have refused to evaluate the qualifications of Traditional Midwife Petitioners, have refused to issue Traditional Midwife Petitioners a certificate, and have failed to respond substantively to Petitioners' written demands.

172. Petitioners have no other adequate or appropriate remedy at law.

Traditional Midwife Petitioners cannot obtain the certificates to which they are entitled through any administrative appeal, as Respondents have identified no administrative process, decision, or order from which an appeal could be taken. Indeed, Respondents have refused to issue any decision or order from which the Petitioners could even appeal.

173. Mandamus is therefore the only adequate remedy available to Petitioners.

174. As a direct and proximate result of Respondents' failure to perform their statutory duty under the 1929 Law, Traditional Midwife Petitioners have been and continue to be denied the certificates which they required to have under that same law, and have been denied the ability to practice with the legal recognition to which qualified traditional midwives are entitled under Pennsylvania law.

175. Petitioners continue to suffer harm with no adequate remedy other than this action.

COUNT II – DECLARATORY RELIEF

176. Petitioners incorporate by reference the allegations set forth in the foregoing paragraphs as if fully set forth herein.

177. Pursuant to the Declaratory Judgments Act, 42 Pa.C.S. § 7531 *et seq.*, this Court may declare rights, status, and other legal relations, including the proper construction of a statute, where doing so will terminate the uncertainty or

controversy giving rise to the proceeding.

178. An actual and present controversy exists regarding whether the State Board of Medicine (the "Board") and the Pennsylvania Department of Health (the "Department") are statutorily required, under the Midwife Regulation Law of 1929 to issue certificates to traditional/lay midwives who satisfy the qualifications established by that Act.

179. Petitioners seek a declaration pursuant to 42 Pa.C.S. § 7531 et seq. that the Board and the Department are obligated by the express terms of the 1929 Law to establish a certification process and to issue certificates to qualified traditional midwives, and that their failure to issue certificates to Traditional Midwife Petitioners so is unlawful.

A. *The 1929 Law Establishes an Affirmative Certification Scheme Applicable to Traditional Midwives.*

180. Section 1 of the 1929 Law provides that "it shall be unlawful for any person or persons to practice midwifery before receiving a certificate authorizing such person or persons so to do," and defines a "midwife" as "[a]ny person or persons who shall attend a woman in childbirth for hire, or who shall make a practice of attending women in childbirth gratuitously or for hire."

181. Section 1 of the 1929 Law has nothing to do with nurse-midwives or nurse-midwife licenses; rather, it regulates, through the issuance of certificates, persons who are not registered nurses with nurse-midwife licenses but who make a

practice of attending women in childbirth gratuitously or for hire.

182. The 1929 Law was expressly enacted "[t]o provide for the better protection of the lives, bodies and health of new born children and parturient women, by providing for the licensing and the revocation of licenses of midwives; regulating the practice of midwifery; [and] directing the State Board of Medical Education and Licensure to make such rules and regulations therefor as it deems advisable." 63 P.S.§§ 171-176, preamble.

183. Under the 1929 Law, a person needs only a certificate to practice midwifery; the 1929 Law does not mandate that applicants for midwife certificates be registered nurses.

184. The statute thus provides that traditional midwives – persons who are not registered nurses – are authorized to obtain certificates and to practice lawfully upon doing so.

185. Section 2 of the 1929 Law vests in the Board (successor to the State Board of Medical Education and Licensure) the authority and duty to receive applications, examine applicants, and issue certificates to those who satisfy the statutory qualifications.

186. This grant of authority is mandatory in character: It was enacted to give effect to the legislature's intent to regulate – not eliminate – the practice of traditional midwifery.

187. Section 5 of the 1929 Law, 63 P.S. § 175, makes it unlawful to practice midwifery as a profession without first obtaining the certificate, and imposes penalties upon conviction.

188. This enforcement mechanism presupposes that certificates are, in fact, available to be obtained. A penal statute that prohibits practice without a certificate that the responsible agency refuses to issue would operate as an unconstitutional, absolute ban on the practice of traditional midwifery – a result the legislature did not intend and the Constitution does not permit.

B. *The Board and Department Have Unlawfully Refused to Issue Certificates Under the 1929 Law.*

189. The Board will not issue certificates under the 1929 Law. Neither the Board nor the Department has promulgated any alternative process by which a traditional midwife may obtain a certificate, demonstrate qualifications, or otherwise seek lawful authorization to practice under the 1929 Law.

190. No act of the General Assembly has repealed the 1929 Law with respect to traditional midwives.

191. Although the Medical Practice Act of 1985 and the 1929 Law both relate to midwifery, it is plain that they do not relate to the same class of persons. Indeed, the Commonwealth Court has found this is so.

192. The 1985 Act relates to the licensing of registered nurses as nurse-midwives, while the 1929 Law relates to the granting of certificates to other

persons who attend women in childbirth.

193. The 1929 Law therefore remains in full force and effect as to traditional midwives, and Respondents' administrative decision to refuse to issue certificates does not and cannot repeal it.

194. Where the legislature has preserved the certification pathway for traditional midwives and directed Respondents to follow that pathway as set out in the law, Respondents may not unilaterally close that pathway by administrative inaction; the executive branch may not, in effect, repeal laws passed by the legislature by simply refusing to follow them.

195. Respondents' failure to issue certificates under the 1929 Law places traditional midwives in an impossible position: They are subject to civil and criminal penalties for practicing without a certificate that the responsible agencies refuse to issue. This result is contrary to the express terms, structure, and purpose of the 1929 Law, and cannot stand.

C. *The Secretary of Health's Supervisory and Instructional Duties.*

196. The 1929 Law further directs the Secretary of Health to supervise, control, and instruct midwives in the performance of their duties and to enforce the provisions of the Act. *See* 63 P.S. § 174.

197. This supervisory mandate presupposes a class of certificated traditional midwives over which such supervision may be exercised.

198. Respondents' failure to participate in administering the certification scheme renders the Department unable to fulfill these statutory obligations and further confirms that the 1929 Law contemplates an active, functioning regulatory relationship with traditional midwives – not their wholesale exclusion from lawful practice.

COUNT III – ACT 14 UNCONSTITUTIONALY VOID FOR VAGUENESS ON ITS FACE

199. Petitioners hereby reallege and incorporate by reference the allegations contained in all preceding paragraphs of this Verified Petition as though fully set forth herein.

200. Act 14's pending effective date of Monday, July 6, 2026, "60 days" after the Governor's May 6, 2026, signature heightens the urgency of Petitioners' demand that Respondents follow the 1929 Law and issue the certificates as the Commonwealth is required to under the law, including issuing certificates to Traditional Midwife Petitioners immediately.

201. Act 14 is unconstitutionally void for vagueness on its face. *See* Pa. Const. art. I §§ 1 and 11.

202. Because of this, if Respondents are permitted to continue violating the 1929 Law by refusing to issue certificates to traditional midwives, the implementation of Act 14 will create widespread confusion among law

enforcement, traditional midwives and others.

203. Act 14 does not amend the 1929 Law and creates no new prohibition or licensure requirement applicable to traditional midwives.

204. Indeed, Act 14 expressly states that it is "AN ACT Amending the [1985 A]ct."

205. Act 14 § 1 states that, "[t]he definitions of "medical training facility" and "midwife or nurse-midwife" in section 2 of the [1985 Act] are amended and the section is amended…."

206. Act 14 resulted from the passage of Senate Bill 507, then referred to as the Midwifery Modernization Act, and the sponsorship memo circulated by Sen. Rosemary Brown expressly states: "This bill *impacts* ***only*** those ***midwives*** *that are* ***licensed to practice*** *in Pennsylvania* ***under the Medical Practice Act of 1985***" and confirms that "This legislation is not a replacement of current practice." Ex. J. (Emphasis added).

207. Indeed, on information and belief, prior to the passage of Senate Bill 507, traditional midwives met with Sen. Rosemary Brown to express concerns as to what effect, if any, her proposed bill would have on the legal status of traditional midwives and the 1929 Law.

208. They were assured that Senate Bill 507 would have no effect whatsoever on the legal status of traditional midwifery in the Commonwealth.

209. To assume them of this commitment, an additional section, Section 4 was added to the bill; it remains present in Act 14.

210. On information and belief, traditional midwives spoke with other senators, as well, to make sure that the legal status of traditional midwifery and home birth in Pennsylvania would not be changed by Act 14.

211. All assured the traditional midwives – as the senators, themselves, had been assured – that Act 14 would in no way alter the legal status of traditional midwives in Pennsylvania and, specifically, that this protection was guaranteed by the addition of Section 4 that had been added to Act 14 for that purpose.

212. After Act 14 passed, the Pennsylvania General Assembly updated its Chronological Table of Statutes Affected by Laws of 2026 to affirm that Act 14 ("By Law, Decision or Rule" … "May 6, No. 14") *did* amend the 1985 Act *only*, and, in fact, *did* ***not*** amend the 1929 Law. Ex. K.

213. The unconstitutional vagueness, in particular, centers around the language stating that traditional (or "lay") midwives "who do not hold a license under this act shall not be considered licensed or regulated by the Commonwealth". Act 14, §4. In context, section 4 of Act 14 states in full:

> Nothing in this act shall be construed to authorize or prohibit the practice of lay midwives, direct-entry midwives or other unlicensed birth workers who do not hold a license under this act. A lay midwife, direct-entry midwife or other unlicensed birth worker who does not hold a license under this act shall not be considered

licensed or regulated by the Commonwealth.

214. Absent clarification from this Court, this language is so unconstitutionally vague on its face, that it could likely be misconstrued – by law enforcement from anywhere within the Commonwealth – or by hospitals or others who would bring it to their attention, expressly for investigation and prosecution.

215. They could argue that Act 14 eliminated or called into question the continuing requirements of the 1929 Law; this, of course, is the exact *opposite* of the intention and purpose of both Act 14, generally, and specifically, its section 4.

216. Heightening Petitioners' concern, on information and belief, Act 14 was lobbied for by the American College of Obstetricians and Gynecologists (ACOG) and the American College of Nurse Midwives (ACNM) as part of a national state-by-state strategy to outlaw traditional midwifery and home births, instead compelling all births to be performed though "collaborative agreements" with physicians or physician groups in hospitals or birthing centers.

217. Indeed, Senator Brown highlighted in her sponsorship memo for Senate Bill 507, that the "[c]urrent *cooperative working relationships … between …* the *American College of Nurse-Midwives (ACNM)* and the *American College of Obstetricians and Gynecologists (ACOG)* [were]" focused on the "staffing ***of labor and delivery units [in hospitals]*** *and* ***birth centers*** across the entire state.") Ex. J. (Emphasis added).

218. The doctors represented by ACOG and the hospitals where they work compete directly with traditional midwives in the marketplace to deliver babies.

219. The licensed nurse midwives represented by ACNM are not traditional midwives. They are governed by the 1985 Act and not the 1929 Law. While, at the state lever, these nurse-midwives and the traditional midwives generally get along well – indeed, Jane Doe #2 is, herself at licensed nurse-midwife – like the doctors, these nurses also work in hospitals and compete with traditional midwives in the marketplace.

220. On information and belief, those who wish to stifle or outlaw traditional midwifery and home births in the Commonwealth, whether for competitive business reasons or ideological ones, may plan to take advantage of the facially unconstitutional vagueness of Act 14, and particularly section 4, in an attempt to do so.

COUNT IV – DUE PROCESS – RIGHT TO PRACTICE ONE'S CHOSEN PROFESSION AND PARENTAL AUTONOMY

221. Petitioners hereby reallege and incorporate by reference the allegations contained in all preceding paragraphs of this Verified Petition as though fully set forth herein.

222. Traditional midwifery has been around since the dawn of time and is a lawful profession in Pennsylvania, recognized by statute since at least 1929. *See* 63 P.S. §§ 171-176.

223. Traditional Midwife Petitioners are traditional midwives who have devoted their professional lives to attending women in childbirth, regularly serving populations, including Amish and Mennonite communities, with no alternative access to maternity care due to personal and religious beliefs.

224. Article I, Section 1, of the Pennsylvania Constitution provides, "All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness. Pa. Const. art. I § 1.

225. Article I, Section 9 provides further protection against the deprivation of "life, liberty, [and] property." Pa. Const. art. I § 9.

226. Furthermore, the Fourteenth Amendment to the United States Constitution provides, "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

227. While the legislature may exercise police power for the purpose of preserving the public health, safety and morals, that power is not unrestricted; "its exercise, like that of all other governmental powers, is subject to constitutional limitations and judicial review." *Gambone v. Commonwealth*, 101 A.2d 634, 636 (1954).

228. The constitutional limitations that govern the General Assembly's exercise of police power apply with equal force when that power is delegated to administrative agencies and boards.

229. The legislature cannot confer upon an agency authority that it does not itself possess, nor authority to act in ways that the Constitution forbids. *Secretary of Revenue v. John's Vending Corporation*, 309 A.2d 358 (Pa. 1973).

230. While the Commonwealth has a legitimate interest in regulating public health and safety, Respondents' *elimination of any viable pathway* for Traditional Midwife Petitioners to practice their profession lawfully through its failure to enact regulations and issue certificates – while continuing to prohibit their practice – violates Traditional Midwife Petitioners' constitutional rights. *See Ladd v. Real Estate Comm'n*, 230 A.3d 1096 (Pa. 2020).

231. Respondents' failure to enact regulations and issue certificates – effectively barring a cadre of trained practitioners from practicing their chosen profession, without providing any lawful pathway to compliance – is precisely the kind of arbitrary interference with the "undeniably important" right to practice one's chosen occupation the Pennsylvania Constitution forbids. *See Ladd*, 230 A.3d at 1108, 1110.

232. Furthermore, this "regulatory trap" – where Respondents prohibit practice without a certificate that Respondents refuse to issue – is arbitrary and

irrational, lacking a real and substantial relation to any legitimate public health interest, in violation the Constitution which protects the right to pursue a chosen, lawful occupation (traditional midwifery) free from arbitrary government interference.

233. As a direct and proximate result of the unconstitutional action (or inaction) described herein, Traditional Midwife Petitioners have been and continue to be deprived of their rights under Article I, Section 1 of the Pennsylvania Constitution and Section 1 of Amendment 14 to the United States Constitution, to pursue their chosen, lawful profession of traditional midwifery.

234. This causes Petitioners irreparable harm for which there is no adequate remedy at law.

COUNT V – EQUAL PROTECTION

235. Petitioners hereby reallege and incorporate by reference the allegations contained in all preceding paragraphs of this Verified Petition as though fully set forth herein.

236. Pennsylvania's equal protection guarantee is found in Article I, Section 26 of the Pennsylvania Constitution, which provides: "Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right."

237. The United States Constitution also provides that a state actor shall not "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

238. Traditional midwifery is a longstanding profession in the Commonwealth of Pennsylvania.

239. Traditional midwifery is also a heritage practice, handed down through generations of experience and training women to attend women in homebirths, and of particular legal and constitutional importance to the robust Amish and Mennonite communities (and others) throughout the Commonwealth and beyond.

240. As part of their religious practices, many of both traditional midwives and their clients believe in giving birth as they believe G-d intended, and as is described throughout the Bible.

241. Amish and Mennonite religious beliefs and spiritual practices strongly counsel women in these communities to avoid hospitals and deliver at home, with the assistance of a trained traditional midwife.

242. The legislature, through the 1929 Law and the 1985 Act, created two classifications of lawfully practicing midwives in the Commonwealth at present: certified traditional midwives, under the 1929 Law and certified nurse-midwives, under the 1885 Act.

243. Respondents, by their refusal to act, have denied the first classification entirely, forcing traditional midwives to remain uncertified in violation of the law.

244. This is plainly not what the legislature intended, and it cannot pass scrutiny.

245. By contrast, the Board regularly issues licenses and certifications to *certified nurse-midwives* in the Commonwealth pursuant to its statutorily prescribed obligations to do so. *See* 1985 Act, § 35.1.

246. The Board also has "promulgate[d] regulations" as may be "necessary . . . for the licensure" of *certified nurse-midwives*. *See* 1985 Act, §35.1; 49 Pa. Code §§ 18.1 – 18.8.

247. In contrast, on information and belief, the Board has never issued a certification to a traditional midwife in the Commonwealth, notwithstanding that the legislature has chosen to certify qualified traditional midwives – including Traditional Midwife Petitioners – under the 1929 Law.

248. Nor has the Board "formulate[d] and issue[d] such rules and regulations . . . as may be necessary for the . . . licensing . . . of the practice of midwifery by [traditional] midwives." *See* 1929 Law, § 2.

249. There is no conceivable justification for the irrational classification (licensed/certified vs. uncertifiable) created by Respondents' inaction. *See Curtis v. Kline*, 666 A.2d 265 (Pa. 1995).

250. The Pennsylvania Constitution and the Fourteenth Amendment to the United States Constitution protect the fundamental right of parents to make intimate decisions regarding childbirth, including the choice of birth attendant and setting, as a protected liberty interest. The resulting classification – uncertifiable traditional midwives – bears no rational, real, or substantial connection to public health, safety, or welfare.

251. Furthermore, this legal limbo selectively burdens traditional midwives, who disproportionately serve religious communities, for whom the ability to attend to Amish and Mennonite women, among other religious traditions, during their home births, is an essential part of their constitutionally-protected religious tradition and practice.

252. For Jane Doe #2, limiting her ability to practice midwifery to hospitals as a certified nurse-midwife – and depriving her of the ability to practice traditional midwifery by attending home births – burdens the exercise of her religious liberty because of her and her clients' sincerely held religious beliefs.

253. There can be no conceivable justification that would pass the heightened standard applicable to Respondent Jane Doe #2's important right to practice traditional midwifery in accordance with the strongly held beliefs of her Mennonite religious tradition, and to serve members of her religious community who share those same beliefs. *See Allegheny Reprod. Health Ctr. v. Pa. Dep't of*

Hum. Servs., 309 A.3d 808, 855 (Pa. 2024); *Commonwealth v. Swartzentruber*, (Pa. Super. October 23, 2003) at 28-29 (unpublished) (Attached hereto as **Exhibit L**)[33] (applying heightened scrutiny to Older Order Amish community's sincerely held religious beliefs).

254. So, too, for the Amish Family Client Petitioners and others of faith who, in accordance with their deeply held religious beliefs and spiritual practices, have a constitutional right to deliver their babies at home and with assistance of traditional midwives who are properly and legally credentialed to do so under the law.

255. Respondents' inaction creates a coercive impact for the Amish Family Client Petitioners – in addition to other Amish and Mennonite families – forcing them to choose between following their sincerely held religious beliefs (home birth with traditional midwives) or complying with a law that effectively eliminates that choice.

256. As a direct and proximate result of the unconstitutional action (or inaction) described herein, Traditional Midwife Petitioners have been and continue to be deprived of their right to practice traditional midwifery exclusively and disproportionately to persons whose sincere religious beliefs require home birth

[33] Also available at https://www.aclu.org/sites/default/files/FilesPDFs/swartzentruber_decision.pdf (last visited June 23, 2026).

attendance, without any legitimate governmental justification, in violation of Article I, Sections 1, 3, and 26 of the Pennsylvania Constitution, causing Petitioners irreparable harm for which there is no adequate remedy at law.

257. Furthermore, as a direct and proximate result of the unconstitutional action (or inaction) described herein, Amish Family Client Petitioners are deprived of their right to freely exercise their religion, without any legitimate governmental justification, in violation of the constitution, causing Petitioners irreparable harm for which there is no adequate remedy at law.

COUNT VI – UNFAIR COMPETITION

258. Petitioners hereby reallege and incorporate by reference the allegations contained in all preceding paragraphs of this Verified Petition as though fully set forth herein.

259. The 1929 Law governs the licensure and regulation of traditional midwives within the Commonwealth. 63 P.S. §§ 171-176.

260. Section 2 of the 1929 Law charges the Board with "formulating and issuing rules and regulations . . . for the . . . licensing . . . of the practice of midwifery by midwives," and grants the Board plenary authority to issue, deny, suspend, or revoke certificates of licensure authorizing the practice of midwifery. 63 P.S. § 172.

261. By statute, this Board "shall consist of" seven (7) licensed medical

doctors, and only one (1) *optional* nurse midwife. 63 P.S. § 422.3(a). This statutorily mandated composition structurally and necessarily places the power over traditional midwifery licensure in the hands of physicians.

262. Medical doctors licensed and practicing in Pennsylvania, including physician members of the Board, provide obstetric, maternal, and neonatal care services that place them in direct economic and professional competition with traditional midwives.

263. This structural arrangement is the precise evil identified in *Gibson v. Berryhill*, 411 U.S. 564, 578–79 (1973), in which the Supreme Court held that a state licensing board composed entirely of practitioners who were in direct competition with the applicants before it "was incompatible with the requirements of due process."

264. The Board's failure to issue *any* certificates to qualified traditional midwives amounts to total suppression of lawful traditional midwifery practice in Pennsylvania – in contravention of the legislature's intent in the 1929 Law – and inuring directly and materially to the financial benefit of physician practitioners by channeling obstetric and birthing care predominantly into hospital and physician-controlled settings.

265. Where state-conferred regulatory authority is wielded by competitors to achieve anticompetitive ends, such conduct constitutes unfair competition

actionable in law and equity. *See Gibson v. Berryhill*, 411 U.S. 564 (1973).

266. In reviewing *Gibson*, this Court found that "the action of the Alabama Optometry Board in revoking the licenses of *nearly half of the optometrists in the state* would clearly have resulted in some personal benefit for all other optometrists in private practice and possibly for the members of the Board." *Reisinger v. Commonwealth, State Board of Medical Education & Licensure*, 399 A.2d 1160, 1164 (Pa. Commw. 1977) (emphasis added).

267. The outright refusal to license traditional midwifery goes beyond the showing in *Gibson*; the Board here is refusing to certify *100% of the traditional midwives in the state*, and that business will necessarily inure to physicians or licensed nurse-midwives.

268. Zero licensed traditional midwives means fewer home births, more hospital deliveries, and greater revenue for physician-controlled obstetric practice.

269. This arrangement constitutes a per se violation of the constitutional guarantee of a neutral decision-maker in administrative proceedings and constitutes unconstitutional unfair competition.

COUNT VII – SEPARATION OF POWERS

270. Petitioners hereby reallege and incorporate by reference the allegations contained in all preceding paragraphs of this Verified Petition as though fully set forth herein.

271. Article I, Section 12 of the Pennsylvania Constitution dictates: "No power of suspending laws shall be exercised unless by the Legislature or by its authority." *See also Lehman v. Pa. State Police*, 839 A.2d 265, 274 (Pa. 2003)("To allow administrative agencies to invalidate their organic statute would be tantamount to allowing them to repeal the statute or judge its constitutionality, functions vested in the General Assembly and the courts, respectively. The non-delegation doctrine preserves the separation of powers and circumscribes the jurisdiction of administrative agencies.")

272. Respondents have – without the any authority to do so – effectively repealed the 1929 Law by refusing to act as directed by the legislature.

273. Administrative agencies may not nullify legislative mandates through inaction. *See* Pa. Const. art. I, § 12; *Lehman*, 839 A.2d at 274.

274. Accordingly, Respondents' inaction amounts to suspension of the 1929 Law in violation of the Pennsylvania Constitution and the requirement of separation of powers.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully that this Court enter an Order granting the following relief:

1. Declaring that the Midwife Regulation Law of 1929, 63 P.S. §§ 171–176, remains in full force and effect with respect to traditional midwives and

has not been repealed, expressly or by implication, by the Medical Practice Act of 1985 or any other statute;

2. Enjoining the implementation of Act 14 pursuant to Petitioners' separately-filed motion until such time as this Court can make a declaration that Act 14 has no impact whatsoever on traditional midwives.
3. Declaring that Act 14, which amends only the 1985 Act, has no impact whatsoever on traditional midwives, which are governed by the 1929 Law.
4. Compelling Respondents under the 1929 Law to immediately issue certificates to each of the Traditional Midwife Petitioners without further delay;
5. Declaring that Respondents' prior refusal to issue certificates under the 1929 Law was unlawful and of no legal effect insofar as it purported to extinguish the right of qualified traditional midwives to obtain certification and practice lawfully;
6. Ordering Respondents to immediately implement and follow all aspects of the 1929 Law, including its requirement to accept applications for and grant of certificates to traditional midwives consistent with that law – with the exception of the aspects of that law giving the State Medical Board oversight over traditional midwives;
7. Finding that the provisions of the 1929 Law giving the State Medical

Board oversight over traditional midwives are unconstitutional and violate the law because, as defined in the 1985 Act, the membership of the State Medical Board and the people, professions, organizations and hospitals they represent and work for, are in direct economic competition with traditional midwives in the marketplace;

8. Declaring that the provisions of the 1929 Law giving the State Medical Board oversight over traditional midwives are void, as a matter of law;
9. Ordering Respondents to promptly constitute a new and different "State Traditional Midwifery Board," comprised primarily of experts in traditional midwifery and home delivery (and excluding those adverse to it), to have oversight over traditional midwifery pursuant to the 1929 Law in place of the State Board of Medicine;
10. Ordering Respondents and the new State Traditional Midwifery Board, once constituted, to promptly formulate and issue such rules and regulations, pursuant to the 1929 Act, as may be necessary for the examination, licensing, and proper conduct of the practice of traditional midwifery by midwives; and
11. Awarding attorneys' fees and costs, and all such additional and further relief that is just, appropriate, and permissible under the law, including but not limited to under 42 U.S.C. § 1988 for violations of Petitioners' federal

civil rights.

Respectfully submitted,

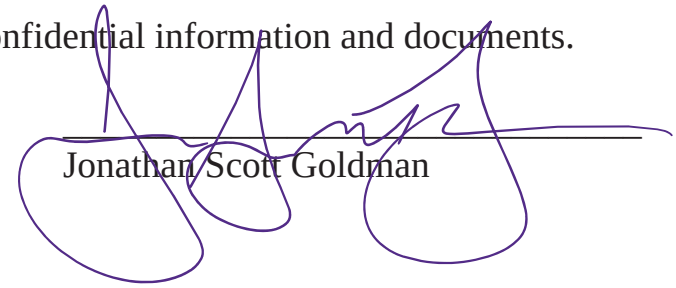
July 2, 2026

Jonathan Scott Goldman
Pa. Attorney I.D. No. 93909
Goldman Law, PLLC
t/a the Goldman Law Team
500 Office Center Dr., Suite 400
Fort Washington, PA 19034
215-770-6376
Jonathan@GoldmanLawTeam.com

Counsel for Petitioners

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.



Jonathan Scott Goldman

CERTIFICATE OF SERVICE

I, Jonathan Scott Goldman, hereby certify that, consistent with Pa. R.A.P. 1514(c), Pa. R.C.P. 422(a), and 42 Pa. C.S. § 8523, on the date below, I caused a true and correct copy of the foregoing Petition for Review in the Nature of a Complaint in Mandamus, for Declaratory Judgment, and for Additional and Further Relief, together with all Exhibits thereto, to be filed electronically with the Court and served upon the following parties, by Certified Mail, Return Receipt Requested and electronic mail as indicated:

Ron Eisenberg
Executive Deputy Attorney General,
Civil Law Division
Office of Attorney General
Commonwealth of Pennsylvania
Strawberry Square
Harrisburg, PA 17120

reisenberg@attorneygeneral.gov

Arion Claggett
Acting Commissioner
Bureau of Professional and
Occupational Affairs
2601 North Third Street
Harrisburg, PA 17110

ArClaggett@pa.gov
cdelaurent@pa.gov

Al Schmidt
Secretary of the Commonwealth
Pennsylvania Department of State
401 North Street
Harrisburg, PA 17120

Al.Schmidt@pa.gov
cdelaurent@pa.gov

Debra L. Bogen, M.D., FAAP
Pennsylvania Department of Health
Office of Legal Counsel
Health and Welfare Building,
8th Floor West
625 Forster Street
Harrisburg, PA 17120

dbogen@pa.gov

Donald M. Yealy, M.D.
Pennsylvania State Board of Medicine
2601 North Third Street
Harrisburg, PA 17110

St-medicine@pa.gov
danaarcher@pa.gov

cc:

Governor's Office of General Counsel
Jennifer Selber, Chief Counsel
jselber@pa.gov

Laurie Malone, Deputy Chief Counsel
lamalone@pa.gov

I further certify that this Certificate of Service is filed in compliance with the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania and constitutes proper service upon the government units and officers whose duties are sought to be compelled, and upon the Office of Attorney General of the Commonwealth of Pennsylvania, as required by Pa. R.A.P. 1514(c) and Pa. R.C.P. 422(a).

Dated: July 2, 2026

Jonathan Scott Goldman

VERIFICATION

I, Jane Doe #1, hereby verify that the statements made in the foregoing Petition for Review in the Nature of a Complaint in Mandamus are true and correct to the best of my knowledge, information, and belief. I understand that intentionally false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: 7/1/26

Jane Doe #1

Jane Doe #1

Scanned with CamScanner

VERIFICATION

I, Jane Doe #2, hereby verify that the statements made in the foregoing Petition for Review in the Nature of a Complaint in Mandamus are true and correct to the best of my knowledge, information, and belief. I understand that intentionally false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: July 1, 2026

Jane Doe #2

VERIFICATION

I, Jane Doe #3, hereby verify that the statements made in the foregoing Petition for Review in the Nature of a Complaint in Mandamus are true and correct to the best of my knowledge, information, and belief. I understand that intentionally false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

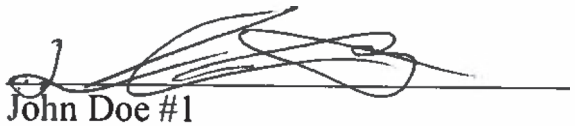
Date: __07/01/2026_____ _____

Jane Doe #3

VERIFICATION

I, John Doe #1, hereby verify that the statements made in the foregoing Petition for Review in the Nature of a Complaint in Mandamus are true and correct to the best of my knowledge, information, and belief. I understand that intentionally false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: 7-2-26



John Doe #1

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

Outlook

Application Fees for Certification for Lay/Traditional Midwives Pursuant to Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155

From Jonathan Goldman <jonathan@goldmanlawteam.com>

Date Thu 6/25/2026 4:23 PM

To dbogen@pa.gov <dbogen@pa.gov>; al.schmidt@pa.gov <al.schmidt@pa.gov>; ArClaggett@pa.gov <ArClaggett@pa.gov>; st-medicine@pa.gov <st-medicine@pa.gov>

Cc Archer, Dana <danaarcher@pa.gov>; Carolyn DeLaurentis <cdelaurent@pa.gov>; Selber, Jennifer (GC) <jselber@pa.gov>; Akbar Hossain <akhossain@pa.gov>; Malone, Laurie (GC) <lamalone@pa.gov>

1 attachment (3 MB)

Letter to State Medical Board w All Enclosures (6-25-26).pdf;

Dear Secretaries Bogen and Schmidt, Commissioner Claggett, and Dr. Yealy,

Please see attached. I am hopeful each of you will promptly take appropriate action, as required under Pennsylvania's Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155, to cause certificates to be issued to my experienced and well-qualified traditional midwife clients.

Thank you for your assistance and please LMK if you have questions or concerns,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

GOLDMAN
— LAW TEAM —

GOLDMAN
— LAW TEAM —

Jonathan Scott Goldman
Jonathan@GoldmanLawTeam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

Goldman Law, PLLC
500 Office Center Dr., Suite 400
Fort Washington, PA 19034

June 25, 2026

VIA OVERNIGHT MAIL
State Board of Medicine
2601 North Third Street
Harrisburg, PA 17110

Original with checks

VIA U.S. MAIL
State Board of Medicine
P.O. Box 2649
Harrisburg, PA 17105-2649

VIA U.S. MAIL AND PDF EMAIL
Debra L. Bogen, M.D.
Secretary of Health
Pennsylvania Department of Health
Health and Welfare Building
625 Forster Street, 8th Floor West
Harrisburg, PA 17120

dbogen@pa.gov

VIA U.S. MAIL AND PDF EMAIL
Donald M. Yealy, M.D., Chair
Pennsylvania State Board of Medicine
P.O. Box 2649
Harrisburg, PA 17105-2649

st-medicine@pa.gov

VIA U.S. MAIL AND PDF EMAIL
Al Schmidt
Secretary of the Commonwealth
Pennsylvania Department of State
302 North Office Building
401 North Street
Harrisburg, PA 17120

al.schmidt@pa.gov

VIA U.S. MAIL AND PDF EMAIL
Arion Claggett, Commissioner
Bureau of Professional and
Occupational Affairs
P.O. Box 2649
Harrisburg, PA 17105-2649

ArClaggett@pa.gov

Re: Application Fees for Certification for Lay/Traditional Midwives
Pursuant to Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155

Dear Sir or Madam,

I represent several clients who have been seeking certifications to practice traditional midwifery pursuant to Pennsylvania's Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155 (the "Midwife Regulation Law"). I enclose herewith three

separate law firm checks made out to the Pennsylvania State Board of Medicine – one for each client's application fee in the amount of $10, as prescribed by law. *Id.*, § 3 ("Each and every applicant for a certificate to practice midwifery shall pay to the said Board of Medical Education and Licensure the sum of ten dollars ($10.00) at the time of making such application.").[1] As explained below, my clients prefer to remain anonymous at this time but will, of course, share their names, as appropriate, when the Board is ready to issue their certificates.

My clients are ***traditional midwives***, governed by the Midwife Regulation Law, and ***not*** *nurse-midwives*, who are, instead, governed by the Medical Practice Act of 1985, Act No. 112 of 1985. Both of these valid laws of the Commonwealth are different and apply to different types of midwives. See *Goslin v. State Board of Medicine*, 949 A.2d 372, n. 11 (Pa. Cmwlth. 2008) ("[T]he 1985 Act and the 1929 Law do not relate to the same class of persons. Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to other persons who attend women in childbirth.").

We have visited the Department of State's online Pennsylvania Licensing System (PALS) portal multiple times to apply for certificates under the Midwife Regulation Law, but there appears to be no way to do so. I initially spoke with Dana Archer, Counsel for the State Board of Medicine, on March 10, 2026. She both confirmed that my clients *could* ***not*** apply for a certificate through PALS – and stated that the State Board of Medicine ***does not issue certifications*** under the Midwife Regulation Law ***at all***.

We do not understand why or on what basis the Commonwealth (including but not limited to the Secretary of Health, the State Board of Medicine, the Bureau of Professional and Occupational Affairs (BPOA) and the Department of State) has seemingly seen fit to disregard the law in this way. We have requested an explanation multiple times through that initial call and other written communications but, as of this time, have received none. Regardless, ***we respectfully demand that the Commonwealth promptly issue my clients the certifications they seek under the Midwife Regulation Law of 1929.***

Given the Commonwealth's apparent wholesale failure to follow the Midwife Regulation Law, and its failure to timely respond to our multiple requests for

[1] *See* Medical Practice Act of 1985, Act of Dec. 20, 1985, P.L. 457, No. 112 preamble ("reestablishing the State Board of Medical Education and Licensure as the State Board of Medicine").

certificates under that law and/or an explanation as to why it is not being followed, my clients have a reasonable fear of retaliation if they were to disclose their names without further guidance and representations from the Commonwealth. Furthermore, because there is no application form on PALS or otherwise that requires such disclosure, and no one from the Commonwealth has directed us to one, my clients prefer to remain anonymous at this time. When the Commonwealth is prepared to issue the certificates and confirms that it will not retaliate against my clients for failing to have them sooner, we will, of course, disclose their names, as needed, at that time.

Please be assured that each of my clients is a highly qualified traditional midwife – and each deserves the "certificate" that the Board "shall issue … to midwives" under the Midwife Regulation Law. I have disclosed detailed summaries of the qualifications of two of my clients in my letters to the Commonwealth of May 1, 2026 and June 16, 2026, respectively. I incorporate those details herein and enclose copies for you reference.

A description of my third referenced client is as follows:

- She is an apprentice-trained midwife, immersed in the community, who opened her own practice in late 2018 and has been practicing traditional midwifery in the Commonwealth in that capacity for almost a decade.

- Before opening her own practice in 2018, she trained as a traditional midwife for almost another decade through an apprenticeship model, participating in approximately 150 deliveries.

- She began her training in 2009, after delivering her own baby at home with the assistance of a renowned Pennsylvania traditional midwife; prior to that, she had delivered her first four children in hospital settings.

- In addition to attending and assisting with dozens of home deliveries during her near-decade of training prior to opening her own practice, she took courses, became certified, and/or had other training in the following areas: neonatal resuscitation; basic lifesaving, including adult, child, infant, and newborn CPR; fetal suturing; breech delivery; fetal heart tones; and midwifery wisdom.

- In 2013, she received training and became certified as a *doula*, a trained professional who provides continuous physical, emotional, and informational support to a person before, during, and shortly after childbirth. As part of this certification, she was taught, specifically, how to work in the delivery unit of a hospital. She continues to use these skills as a doula to assist and advocate for clients – both in hospitals and in home deliveries – and has participated in this capacity in the births of multiple sets of twins. Prior to opening her own practice as a traditional midwife, she had participated in well over 100 births as a doula.

- Prior to opening her own practice as a traditional midwife, she also had apprenticeships with two different, experienced Pennsylvania midwives. One was a Certified Professional Midwife (CPM) who required use of the Portfolio Evaluation Process (PEP) Program, an alternative, competency-based certification pathway designed and administered by the North American Registry of Midwives (NARM) specifically for traditional, community-trained, or apprentice-trained midwives to earn a CPM credential without necessarily graduating from a formal, accredited midwifery school. This program requires the apprentice to successfully fulfill hundreds of core competencies across three clinical phases prior to becoming a full midwife.[2]

- Before beginning her study of traditional midwifery, she worked directly with the Head of Dermatology at one of the top hospitals in Montgomery County for almost a decade. She started working with this doctor in high school and worked with him for 9 years, both in the hospital and in his private practice. During this time, she shadowed the doctor, participating in nursing duties, patient care, and practice management. Among other things, she assisted the doctor with out-patient surgeries, wound care, and removal of sutures.

[2] Instead of classroom transcripts, PEP relies on a comprehensive, highly detailed "checklist" of documented clinical skills and hands-on experience verified by a NARM-Registered Preceptor. The checklist includes hundreds of core competencies across areas such as general healthcare skills; maternal health assessment; labor, birth, and immediate postpartum; postpartum and well-baby care; and emergency & pharmacology; and is broken up into three clinical phases: births as an observer; assistant under supervision; and primary under supervision. Each phase has clear requirements and metrics for passage into the next. *See* Download the PEP Application – North American Registry of Midwives.

- She attended a progressive private school for middle and high school that embraced experiential education, ultimately graduating in 2002 from a top-ranked Pennsylvania public school that has been recognized nationally as a Blue Ribbon School of Excellence by the United Stated Department of Education.

- She also has run programs in doula training and placenta training for over a decade and, since becoming a full traditional midwife, she has served as a teacher, training others in traditional midwifery. Specifically, she has served as the teacher to two students who have completed their full apprenticeship training with her. She is presently teaching 1 fulltime student and 2 part-time students in traditional midwifery.

- In the past year, she has participated in 40-50 home deliveries, and throughout her experience with traditional midwifery, she has attended more than 500 births, most of them home deliveries.

There remain many more traditional midwives in this Commonwealth who are similarly qualified to receive certificates under the Midwife Regulation Law. The Commonwealth's failure to issue these certificates presents a problem, not only for my clients, but for many other lay/traditional midwives throughout the Commonwealth who diligently, competently and faithfully serve women and their families, many training through a traditional apprenticeship model, different from the requirements of the Medical Practice Act of 1985.[3]

---

[3] Traditional midwives serve families throughout Pennsylvania, including but not limited to, those in Pennsylvania's proud Amish and Mennonite communities, for whom, the ability to give birth in their homes is an essential part of their constitutionally-protected religious tradition and practice.

Indeed, traditional midwifery is of particular legal and constitutional importance to these robust communities (and others) throughout the Commonwealth of Pennsylvania. As part of their religious practices, these groups believe in giving birth without extensive medical intervention, as they believe G-d intended, and as is described throughout the Bible. Accordingly, the religious practice for these communities requires them to give birth *with the assistance of midwives* and ***in their homes***. For many, giving birth in a hospital and taking advantage of what most Pennsylvanians may think of as the "benefits" of modern medicine would be considered a violation of their religious beliefs and constitutional freedom of religion.

Of course others, who are not religious at all, are increasingly learning about and seeking out the assistance of lay/traditional midwives. This interest cuts across all educational, socio-economic, and geographic strata. Reasons for this include the desire to better control the birthing process in the comfort of their own homes; the economic cost of delivering a baby in a hospital; and the way institutional hospitals make some people feel mentally and emotionally, as well as physically, due to modern medicines and some modern surgical interventions.

If you have questions or need further information, please contact me at Jonathan@GoldmanLawTeam.com or 215-770-5434. Otherwise, kindly issue the certificates promptly and send them to my attention at: Goldman Law, PLLC, 500 Office Center Dr., Suite 400, Fort Washington, PA 19034. If you are unable to issue the certifications to my clients, we would be grateful for an explanation why.

Respectfully, Thank you.

Jonathan Scott Goldman

Enclosures:

Letters of May 1, 2026 and June 16, 2026
3 checks for application fees of $10/each

Cc: Dana Archer, Board Counsel, State Board of Medicine (via PDF email only)
Carolyn DeLaurentis, Chief Counsel, Department of State (via PDF email only)
Jennifer Selber, General Counsel, Office of the Governor (via PDF email only)
Akbar Hossain, Secretary of Policy and Planning (via PDF email only)

As a result, particularly in some areas of the country and the Commonwealth, hospitals are increasingly seeing traditional/lay midwives as an *economic threat* to the bottom line of their obstetrician and gynecological "businesses". Some have threatened lay/traditional midwives, sought to have them investigated by civil and criminal law enforcement, and tried to force them to affiliate with licensed doctors or nurses (including, in Pennsylvania, through required "collaborative agreements,") in part, so these practices of licensed professionals can control traditional/lay midwives, allowing hospitals and medical practices to add midwifery services to their offerings and enhance their bottom lines.

For all of these reasons, we respectfully request that the Commonwealth act promptly to issue certificates to my clients under the Midwife Regulation Law, and to others who will come after them.

1002

GOLDMAN LAW, PLLC
500 W OFFICE CENTER DR STE 400 OFFICE 4068
FORT WASHINGTON, PA 19034

DATE 6/25/26 3-7615/350

PAY TO THE ORDER OF Pennsylvania State Board of Medicine $ 10 00/xx

Jan and 00/xx DOLLARS

Citizens

FOR Traditional Midwife Certificate Under 1929 Law R

⑈001002⑈ ⑆036076150⑆ 6321004158⑈

1003

GOLDMAN LAW, PLLC
500 W OFFICE CENTER DR STE 400 OFFICE 4068
FORT WASHINGTON, PA 19034

DATE 6/25/26 3-7615/360

PAY TO THE ORDER OF Pennsylvania State Board of Medicine $ 10 00/100

Jen ad DOLLARS

Citizens

FOR Traditional Midwife Certificate under 1929 Law

⑈001003⑈ ⑆036076150⑆ 6321004158⑈

1004

GOLDMAN LAW, PLLC
500 W OFFICE CENTER DR STE 400 OFFICE 4068
FORT WASHINGTON, PA 19034

3-7615/360

DATE 6/25/26

PAY TO THE ORDER OF Pennsylvania State Board of Medicine $ 10 00/xx

Jan and xxxx

GOLDMAN
— LAW TEAM —

Jonathan Scott Goldman
Jonathan@GoldmanLawTeam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

Goldman Law, PLLC
500 Office Center Dr., Suite 400
Fort Washington, PA 19034

May 1, 2026

VIA PDF EMAIL AND U.S. MAIL

Dana Archer, Esquire
Board Counsel, State Board of Medicine
Governor's Office of General Counsel
Department of State, Office of Chief Counsel
401 North Street, Room 306
Harrisburg, PA 17120-0500

danaarcher@pa.gov

Re: Certification for Lay/Traditional Midwives Pursuant to Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155

Dear Attorney Archer,

I write in follow up to our call on March 10, seeking a certification for a client pursuant to the Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155 (the "Midwife Regulation Law"). As set forth below, time is of the essence. As a reminder, my client is a ***lay/traditional midwife*** under the Midwife Regulation Law and ***not*** a *nurse-midwife*, under the Medical Practice Act of 1985, Act No. 112 of 1985 (the "Medical Practice Act").[1] Both of these are valid laws of the Commonwealth, but they are different and apply to different types of midwives. See *Goslin v. State Board of Medicine*, 949 A.2d 372 (Pa. Cmwlth. 2008).

My client, who is an experienced and well-qualified lay/traditional midwife – but not a nurse – has sought and continues to seek from the "State Board of Medical Education and Licensure" the "certificate" that the Board "shall issue … to midwives"

[1] Nurse-midwives are subject to regulation and oversight pursuant to the Medical Practice Act, which requires applicants for a certified nurse midwife license, among other things, to be registered nurses and practice under a collaborative agreement with a physician. Senate Bill 507, PN 1158, seeks to amend the Medical Practice Act of 1985 but, importantly, *not* the Midwife Regulation Law of 1929.

under the Midwife Regulation Law. We do not understand why she has not been able to receive the certificate that the Board is required to issue under the law. But there can be no doubt that she is qualified.

My client has an undergraduate Bachelor of Science degree with a major in Maternal and Infant Health, and a Master's Degree in Clinical Mental Health. In her more than 30 years of home birth experience, she has "caught" more than 1,500 babies. Among other credentials which demonstrate her lifetime of deep experience in this area, my client has served as a lay/traditional midwife in multiple states and held midwifery licenses in California, Washington, and Texas, where such licenses are offered. She has been asked to promulgate rules for newly passed midwifery legislation in another state, and has served on the faculty of two midwifery schools.

My client also has a long affiliation with North American Registry of Midwives (NARM) which, among other things, issues a Certified Professional Midwife (CPM) credential, accredited by the National Commission for Certifying Agencies (NCCA). Her affiliation with NARM began when she took her first NARM exam, around 1992, before NARM issued a formal "CPM" certification. After NARM began issuing this designation, my client was fully certified by NARM as a CPM and used that designation with her name for about a decade.[2]

My client has a legal right to apply for this certificate and is happy to pay the ten-dollar application fee prescribed by the law. Indeed, she has tried to do so. As you acknowledged in our call, however, she ***cannot*** *apply* through the Department of State's online Pennsylvania Licensing System (PALS) portal because the State Board of Medicine ***does not issue*** *certifications* under the Midwife Regulation Law. We do not understand why or on what basis the Commonwealth (including but not limited to the Medical Board and the Department of State) has seemingly seen fit to disregard the law in this way. ***Regardless, we respectfully demand that the Commonwealth promptly issue my client the certification she seeks under the Midwife Regulation Law of 1929.***

[2] When she went to obtain a master's degree, my client accidentally allowed her official CPM certification to lapse rather than designating her status as "retired" or "dormant". As a result, she is not presently entitled to use the CPM designation and does not do so. That said, all of her NARM classes are currently up-to-date; once she takes her exam, my client will again be fully certified and permitted to use the CPM designation, as in the past.

When we spoke by phone, we discussed Senate Bill 507, PN 1158. I wanted to acknowledge that, since our conversation, just this week, that bill passed the Pennsylvania House of Representatives on its third consideration. To be clear, SB507 amends *only* the Medical Practice Act of 1985. It does *not* impact the Midwife Regulation Law of 1929, under which I make this request. Indeed, the language of the SB507 specifically states that: "Nothing in this act shall be construed to … prohibit the practice of lay midwives." Even so, should Governor Shapiro allow this bill to pass into law – *and he should* ***not*** – we expect its implementation may inject significant legal confusion and uncertainty for the status of lay/traditional midwives in the Commonwealth among state agencies, law enforcement, and lay/traditional midwives, themselves, not to mention meaningful legal and constitutional challenges.

This legislative backdrop adds significant urgency to our request. The Commonwealth, and specifically the Medical Board and Department of State, have the opportunity to act proactively to stave off such confusion by issuing the certificates required under the Midwife Regulation Law of 1929. This should start promptly, as soon as possible, with my client. Please let me know how I can be of assistance.

The Commonwealth's apparent failure to issue these certificates under the Midwife Regulation Law of 1929 presents a problem, not only for my client, but for the many other lay/traditional midwives throughout the Commonwealth who diligently, competently and faithfully serve women and their families, training through a traditional apprenticeship model, different from the requirements of the Medical Practice Act of 1985. These families include, but certainly are not limited to, those in Pennsylvania's proud Amish and Mennonite communities, for whom, the ability to give birth in their homes is an essential part of their constitutionally-protected religious tradition and practice.

Indeed, Lay/traditional midwifery is of particular legal and constitutional importance to the robust Amish and Mennonite communities (and others) throughout the Commonwealth of Pennsylvania and beyond. As part of their religious practices, these groups believe in giving birth "the old-fashioned way," as they believe G-d intended, and as is described throughout the Bible. Accordingly, the religious practice for these communities requires them to give birth *with the assistance of lay/traditional midwives* and ***in their homes***. For many, giving birth in a hospital and taking advantage of what most Pennsylvanians may think of as the "benefits" of modern medicine would be considered a violation of their religious beliefs and constitutional freedom of religion.

Of course others, who are not religious at all, are increasingly learning about and seeking out the assistance of lay/traditional midwives. This interest cuts across all educational, socio-economic, and geographic strata. Reasons for this include the desire to better control the birthing process in the comfort of their own home; the economic cost of delivering a baby in a hospital; and the way institutional hospitals make some people feel mentally and emotionally, as well as physically, due to modern medicines and some modern surgical interventions.

As a result, particularly in some areas of the country and the Commonwealth, hospitals are increasingly seeing traditional/lay midwives as an *economic threat* to the bottom line of their obstetrician and gynecological "businesses". Some have threatened lay/traditional midwives, sought to have them investigated by civil and criminal law enforcement, and tried to force them to affiliate with licensed doctors or nurses, in part, so these practices of licensed professionals can control traditional/lay midwives, allowing hospitals and medical practices to add midwifery services to their offerings and enhance their bottom lines.

We do not know what role, if any, these concerns played in the motivation of the American College of Obstetricians and Gynecologists (ACOG), which lobbied heavily for SB 507. But we do know that the Midwife Regulation Law of 1929 continues to protect the practice of law/traditional midwifery throughout the Commonwealth. For all of these reasons, we respectfully request that the Commonwealth act promptly to issue a certificate to my client thereunder, and to others who will come after her.

While I appreciate, from experience, that the Commonwealth cannot always act quickly, time is of the essence. Kindly get back to me as soon as you are able. I would be happy to listen and share thoughts even on an interim basis, and will assist the Commonwealth however I am able. My cell is 267-992-1453.

Respectfully,

Jonathan Scott Goldman

Cc: Carolyn DeLaurentis, Chief Counsel, Department of State (via PDF email only)
Jennifer Selber, General Counsel, Office of the Governor (via PDF email only)
Akbar Hossain, Secretary of Policy and Planning (via PDF email only)

GOLDMAN
— LAW TEAM —

Jonathan Scott Goldman
Jonathan@GoldmanLawTeam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

Goldman Law, PLLC
500 Office Center Dr., Suite 400
Fort Washington, PA 19034

June 16, 2026

VIA PDF EMAIL AND U.S. MAIL

Carolyn DeLaurentis, Esquire
Chief Counsel, Department of State
Governor's Office of General Counsel
Pennsylvania Department of State
Office of Chief Counsel
306 North Office Building
401 North Street
Harrisburg, PA 17120-0500

cdelaurent@pa.gov

Dana Archer, Esquire
Board Counsel, State Board of Medicine
Governor's Office of General Counsel
Pennsylvania Department of State
Office of Chief Counsel
306 North Office Building
401 North Street
Harrisburg, PA 17120-0500

danaarcher@pa.gov

Re: Certification for Lay/Traditional Midwives Pursuant to Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155

Dear Attorneys DeLaurentis and Archer,

I write both in follow up to my May 1, 2026 letter, seeking a certification for a client pursuant to the Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155 (the "Midwife Regulation Law") – and to seek a certification under that law *for a* ***different client***, who also prefers to remain anonymous at this time for fear of retaliation. Unlike the prior client, this client ***is a nurse-midwife***, under the Medical Practice Act of 1985, Act No. 112 of 1985 (the "Medical Practice Act").[1]

[1] As previously asserted and discussed, both the Midwife Regulation Law and the Medical Practice Act are valid laws of the Commonwealth – but they are different and apply to different types of midwives. See *Goslin v. State Board of Medicine*, 949 A.2d 372, n. 11 (Pa. Cmwlth. 2008)("[T]he 1985 Act and the 1929 Law do not relate to the same class of persons. Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to other persons who attend women in childbirth."). My client has sought and continues to seek from the "State Board of Medical Education and Licensure" the "certificate" that the Board "shall issue … to midwives" under the Midwife Regulation Law. We do not understand why she has not been able to receive the certificate that the Commonwealth is required to issue under the law.

As a registered nurse and a nurse midwife under the Medical Practice Act, there can be no question that my client is also qualified to practice traditional midwifery in the Commonwealth. This client seeks an ***additional certification*** under the Midwife Regulation Law, however, because she prefers to assist in ***home deliveries***. As a practical matter, the requirement in the Medical Practice Act that nurse-midwives practice "pursuant to a collaborative agreement with a physician" who "shall have hospital clinical privileges in the specialty area of the care for which the physician is providing collaborative services" ***will soon prevent her from assisting with home deliveries***. Medical Practice Act of 1985, Act No. 112 of 1985, Section 35.(c)(1) and (d).[2]

My client's collaborative agreement runs out in December 2026, however, and, in seeking to renew that agreement, the physician and hospital where they have clinical privileges told my client that she ***may no longer assist clients with home deliveries***; instead, she must focus on hospital births only. With this requirement, my client is prevented from attending to religious and other clients who require or simply prefer a traditional home birth. This is not an isolated or geographically-limited occurrence, but a trend across the Commonwealth.

Though my client has sought collaborative agreements with other physicians in the area, none will permit her to assist clients with home deliveries. All of the physician groups are owned by hospitals, and the hospitals will not permit my client to assist with home deliveries under a nurse-midwife license due to their business model, which prioritizes insurance-based, in-hospital care and the procedures and profits that go along with it. This is not only a problem for my client. Rather, it is a concern for all Pennsylvanians who require home deliveries for constitutionally-protected, religious reasons, as well as those who simply prefer to deliver their children at home with the assistance of a traditional midwife.

My client started practicing her profession of midwifery as *a* ***traditional*** *midwife* in 1979, after serving as an apprentice to a doctor. She has been engaged in midwifery for more than 45 years. During this time, she has historically assisted clients with their births *both* in hospitals and in their homes. My client has "caught" more than 1,200 babies, roughly 70% at home deliveries, and 30% in hospitals and birthing center settings.

---

[2] This legal requirement for nurse midwives is unnecessary for traditional midwives who, with the informed consent of their homebirth clients, follow a recognized practice of "transporting" clients to the nearest medical hospital in the relatively rare instance when such a need arises.

My client is eminently qualified to receive a certificate under the Midwife Regulation Law of 1929. After practicing traditional midwifery exclusively for almost two decades, she enrolled in a diploma program at Bucks County Community College, one of the top community colleges in the Commonwealth (and in the United States) for nursing, and became a registered nurse or RN. Thereafter, my client achieved a Bachelor of Science degree in nursing from Drexel Medical College & Hospital. She, next, achieved a certificate in midwifery from the former University of Medicine and Dentistry of New Jersey, now Rutgers School of Nursing, through a program accredited by the Accreditation Commission for Midwifery Education (ACME). My client, then, earned a Master of Science degree with a concentration in midwifery from the Philadelphia College of Textiles & Science, now Philadelphia University. Throughout this time, she maintained her practice of midwifery exclusively at *home deliveries*.

In approximately 2001, following her achievement of the above educational milestones, my client began working outside of clients' homes for the first time. She, first, worked at a birth center and Jeanes Hospital. Thereafter, over the next approximately 25 years, my client worked as a midwife at multiple hospitals in the Commonwealth.

My client also taught midwifery, both in apprenticeship and academic models. For example, she served as adjunct faculty at multiple educational institutions across the Commonwealth. There, she taught *both* traditional *in-home* midwifery *and* *in-hospital* midwifery, and assisted with those schools' clinical training models, helping students achieve the clinical hours required for their respective programs.

My client has a legal right to apply for a certificate under the Midwife Regulation Law and is happy to pay the prescribed ten-dollar application fee. Indeed, she has tried to do so. As you have acknowledged, however, neither she nor any Pennsylvania midwife can apply through the Department of State's online Pennsylvania Licensing System (PALS) portal or otherwise because the State Board of Medicine and the Commonwealth ***do not issue*** *certifications* under the Midwife Regulation Law of 1929. We do not understand why or on what basis the Commonwealth (including but not limited to the Medical Board and the Department of State) has seemingly seen fit to disregard the law in this way. ***Regardless, we respectfully demand that the Commonwealth promptly issue my client the certification she seeks under the Midwife Regulation Law of 1929.***[3]

[3] The Commonwealth's failure to issue these certificates under the Midwife Regulation Law of 1929 presents a problem, not only for my clients, but for many other lay/traditional midwives throughout

While I appreciate, from experience, that the Commonwealth cannot always act quickly, time is of the essence. Our initial call about this issue took place on March 10, 2026 – more than 3 months ago. That is too long. Kindly provide an update as soon as possible. My cell is 267-992-1453.

Respectfully,

Jonathan Scott Goldman

Cc: Jennifer Selber, General Counsel, Office of the Governor (via PDF email only)
Akbar Hossain, Secretary of Policy and Planning (via PDF email only)

---

the Commonwealth who diligently, competently and faithfully serve women and their families, many training through a traditional apprenticeship model, different from the requirements of the Medical Practice Act of 1985. These families include, but certainly are not limited to, those in Pennsylvania's proud Amish, Mennonite and some Orthodox Jewish communities, for whom, the ability to give birth in their homes is an essential part of their constitutionally-protected religious tradition and practice.

Indeed, Lay/traditional midwifery is of particular legal and constitutional importance to these robust communities (and others) throughout the Commonwealth of Pennsylvania. As part of their religious practices, these groups believe in giving birth without extensive medical intervention, as they believe G-d intended, and as is described throughout the Bible. Accordingly, the religious practice for these communities requires them to give birth *with the assistance of midwives* and ***in their homes***. For many, giving birth in a hospital and taking advantage of what most Pennsylvanians may think of as the "benefits" of modern medicine would be considered a violation of their religious beliefs and constitutional freedom of religion.

Of course others, who are not religious at all, are increasingly learning about and seeking out the assistance of lay/traditional midwives. This interest cuts across all educational, socio-economic, and geographic strata. Reasons for this include the desire to better control the birthing process in the comfort of their own home; the economic cost of delivering a baby in a hospital; and the way institutional hospitals make some people feel mentally and emotionally, as well as physically, due to modern medicines and some modern surgical interventions.

As a result, particularly in some areas of the country and the Commonwealth, hospitals are increasingly seeing traditional/lay midwives as an *economic threat* to the bottom line of their obstetrician and gynecological "businesses". Some have threatened lay/traditional midwives, sought to have them investigated by civil and criminal law enforcement, and tried to force them to affiliate with licensed doctors or nurses, in part, so these practices of licensed professionals can control traditional/lay midwives, allowing hospitals and medical practices to add midwifery services to their offerings and enhance their bottom lines.

For all of these reasons, we respectfully request that the Commonwealth act promptly to issue a certificate to my client thereunder, and to others who will come after her.

PENNSYLVANIA DEPT. OF HEALTH Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

Pennsylvania Department of Health TOP COPY FOR LAB; SUBMITTER MAY KEEP YELLOW COPY
Newborn Screening Specimen
Phone: (717) 783-8143 • TTY: (717) 783-6514

☐ Monitor for _____

SN PA [redacted]

☐ Initial Specimen ☐ Repeat Specimen → Initial FP#

Birth Facility/Out-of-hospital Provider Name | Code

Submitter Name | Code

Address if no CODE given

BABY'S Name (Last) | BABY'S Name (First)

Baby's Last Name at Discharge | Baby's First Name at Discharge

MOTHER'S Name (Last) | MOTHER'S Name (First, MI)

Street (PO Box)

City | State | Zip

Mother's E-mail

Emergency Contact | Emergency Contact # ( ) -

Parent consent to receiving DOH notifications via text: ☐ Yes ☐ No

Mother's Date of Birth ___/___/___ | Mother's Phone # ( ) -

Medical Assistance: ☐ Yes ☐ No

Mother's Primary Language if not English:

AFFIX ACCESSION LABEL HERE

☐ Female ☐ Male ☐ Unknown

☐ Single Birth ☐ Multiple Birth → If Multiple ☐ A ☐ B ☐ C ☐ Other: _____

Birth Date ___/___/___ Time (Military) ___:___ Birth Wt.: _____ grams

Current Wt.: _____ grams

Collection Date ___/___/___ Time (Military) ___:___ Drawn By: _____

Weeks Gest.: | Medical Record #:

Transfusion Type: PRBC Date: ___/___/___ Time (Military) ___:___

Transfusion Type: FFP Date ___/___/___ Time (Military) ___:___

Transfusion Type: PLT Date: ___/___/___ Time (Military) ___:___

☐ Parenteral Nutrition ☐ Carnitine ☐ NICU ☐ Meconium ileus

Race (check all that apply): Hispanic?: ☐ Yes ☐ No

☐ White ☐ Black ☐ Pac. Isl. ☐ Asian ☐ Am. Ind. ☐ Other

Newborn PCP / Practice Name

Street (PO Box)

City | State | Zip

PCP Phone Number ( ) -

Pulse ox: ☐ passed ☐ failed

Date: ___/___/___

Time (Military) ___:___

If not performed √ reason

☐ refused ☐ prenatal diagnosis of CCHD ☐ oxygen therapy

☐ birth weight <1500 grams ☐ postnatal echocardiogram performed

GIVE TO PARENT / LEGAL GUARDIAN

FOLD BACK DURING DRYING BUT **DO NOT REMOVE** THIS COVER FLAP. IT IS FOR THE PROTECTION OF THE SPECIMEN HANDLERS.

PLEASE MAKE SURE THAT THE BLOOD SPOTS ARE COMPLETELY DRY

AND PROTECTIVE FLAP IS IN PLACE BEFORE SUBMITTING SPECIMEN

BIOHAZARD

pennsylvania

REPORT OF LIVE BIRTH

Type/print in permanent black ink

STATE FILE NUMBER

NEWBORN

1 NEWBORN'S NAME (first, middle, last, suffix)

2 TIME OF BIRTH ____ AM / PM

3 SEX

4 DATE OF BIRTH ____/____/____ MM DD YYYY

5 PLACE WHERE BIRTH OCCURRED (check one)

- ☐ Clinic/Doctor's office
- ☐ Freestanding birthing center
- ☐ Home birth (planned to deliver at home?) ☐ Yes ☐ No
- ☐ Hospital
- ☐ Other (specify) ____

6 FACILITY NAME (if not institution, give street and number)

7 FACILITY ID (NPI)

8 CITY AND ZIP CODE OF LOCATION OF BIRTH

9 COUNTY OF BIRTH

10 SOCIAL SECURITY NUMBER FOR NEWBORN

Does the parent(s) want a social security card issued for their newborn? ☐ Yes ☐ No

If yes, one of the parents must affirm their intent by reading the following statement and signing where indicated

I request that the Social Security Administration assign a social security number to the newborn named on this Report of Live Birth and authorize the Pennsylvania Department of Health to provide the Social Security Administration with the information from this Report of Live Birth which is needed to assign a number and issue a card

Signature of Parent ____ Date ____

ATTENDANT AND CERTIFIER

11 ATTENDANT'S NAME AND TITLE (print)

Name ____

Title ☐ MD ☐ DO ☐ CNM/CM ☐ Lay Midwife ☐ Other (specify) ____

12 CERTIFIER'S NAME AND TITLE (print)

Name ____

Title ☐ MD ☐ DO ☐ CNM/CM ☐ Lay Midwife ☐ Other (specify) ____

13 CERTIFICATION

I certify that this child was born alive at the place and time on the date stated

Signature ____

14 DATE CERTIFIED ____/____/____ MM DD YYYY

BIRTHING PARENT

15 BIRTHING PARENT'S CURRENT LEGAL NAME (first, middle, last, suffix)

16 BIRTHING PARENT'S DATE OF BIRTH ____/____/____ MM DD YYYY

17 BIRTHING PARENT'S NAME PRIOR TO FIRST MARRIAGE (first, middle, last, suffix)

18 BIRTHING PARENT'S BIRTHPLACE (state, U.S. territory, or foreign country)

19 WHERE DOES BIRTHING PARENT ACTUALLY LIVE?

State ____

County ____

Complete street address ____

Zip Code ____

DOES BIRTHING PARENT LIVE IN A TOWNSHIP?

☐ Yes, birthing parent lives in ____ twp

☐ No, birthing parent lives within limits of ____ city/boro

Apartment number ____

If not United States, country ____

20 BIRTHING PARENT'S MAILING ADDRESS

Complete street address ____ Apartment number ____

Mailing city or town ____ State ____ Zip code ____

If not United States, country ____

21 BIRTHING PARENT MARRIED?

☐ Yes – if yes, is the birthing parent married to the other parent of this newborn? ☐ Yes ☐ No

☐ No – if no, has an Acknowledgment of Paternity (Form PA/CS 611) been filed with the Department of Human Services (DHS)? ☐ Yes ☐ No

22 BIRTHING PARENT'S SOCIAL SECURITY NUMBER

☐ None ☐ Unknown

23 BIRTHING PARENT'S LABEL

- ☐ Mother
- ☐ Father
- ☐ Parent

24 EDUCATION (check the box that best describes the highest degree or level of school completed by the birthing parent at time of delivery)

- ☐ 8th grade or less
- ☐ 9th - 12th grade, no diploma
- ☐ High school graduate or GED completed
- ☐ Some college credit, but no degree
- ☐ Associate degree (e.g., AA, AS)
- ☐ Bachelor's degree (e.g., BA, AB, BS)
- ☐ Master's degree (e.g., MA, MS, Meng, Med, MSW, MBA)
- ☐ Doctorate (e.g., PhD, EdD) or professional degree (e.g., MD, DDS, DVM, LLB, JD)

25 HISPANIC ORIGIN (check the box that best describes whether the birthing parent is Spanish/Hispanic/Latino/Latina. Check the "No" box if birthing parent is not Spanish/Hispanic/Latino/Latina.)

- ☐ No, not Spanish/Hispanic/Latino/Latina
- ☐ Yes, Cuban
- ☐ Yes, Mexican/Mexican Amer./Chicano/Chicana
- ☐ Yes, Puerto Rican
- ☐ Yes, other Spanish/Hispanic/Latino/Latina (specify) ____

26 RACE (check ONE OR MORE races to indicate what the other parent considers themself to be)

- ☐ American Indian or Alaska Native (Name of the enrolled or principal tribe) ____
- ☐ Asian Indian
- ☐ Black or African American
- ☐ Chinese
- ☐ Filipino
- ☐ Guamanian or Chamorro
- ☐ Japanese
- ☐ Korean
- ☐ Native Hawaiian
- ☐ Other Asian (Name of the enrolled or principal tribe) ____
- ☐ Other Pacific (Name of the enrolled or principal tribe) ____
- ☐ Islander
- ☐ Samoan
- ☐ Vietnamese
- ☐ White
- ☐ Other (specify) ____
- ☐ Don't know/Not sure
- ☐ Refused

OTHER PARENT

27 OTHER PARENT'S NAME PRIOR TO FIRST MARRIAGE (first, middle, last, suffix)

28 OTHER PARENT'S DATE OF BIRTH ____/____/____ MM DD YYYY

29 OTHER PARENT'S BIRTHPLACE (state, U.S. territory, or foreign country)

30 OTHER PARENT'S SOCIAL SECURITY NUMBER

☐ None ☐ Unknown

31 OTHER PARENT'S LABEL

- ☐ Mother
- ☐ Father
- ☐ Parent

32 EDUCATION (check the box that best describes the highest degree or level of school completed by the other parent at time of delivery)

- ☐ 8th grade or less
- ☐ 9th - 12th grade, no diploma
- ☐ High school graduate or GED completed
- ☐ Some college credit, but no degree
- ☐ Associate degree (e.g., AA, AS)
- ☐ Bachelor's degree (e.g., BA, AB, BS)
- ☐ Master's degree (e.g., MA, MS, Meng, Med, MSW, MBA)
- ☐ Doctorate (e.g., PhD, EdD) or professional degree (e.g., MD, DDS, DVM, LLB, JD)

33 HISPANIC ORIGIN (check the box that best describes whether the other parent is Spanish/Hispanic/Latino/Latina. Check the "No" box if other parent is not Spanish/Hispanic/Latino/Latina.)

- ☐ No, not Spanish/Hispanic/Latino/Latina
- ☐ Yes, Cuban
- ☐ Yes, Mexican/Mexican Amer./Chicano/Chicana
- ☐ Yes, Puerto Rican
- ☐ Yes, other Spanish/Hispanic/Latino/Latina (specify) ____

34 RACE (check ONE OR MORE races to indicate what the other parent considers themself to be)

- ☐ American Indian or Alaska Native (Name of the enrolled or principal tribe) ____
- ☐ Asian Indian
- ☐ Black or African American
- ☐ Chinese
- ☐ Filipino
- ☐ Guamanian or Chamorro
- ☐ Japanese
- ☐ Korean
- ☐ Native Hawaiian
- ☐ Other Asian (Name of the enrolled or principal tribe) ____
- ☐ Other Pacific (Name of the enrolled or principal tribe) ____
- ☐ Islander
- ☐ Samoan
- ☐ Vietnamese
- ☐ White
- ☐ Other (specify) ____
- ☐ Don't know/Not sure
- ☐ Refused

BIRTHING PARENT MEDICAL AND HEALTH INFORMATION

35 BIRTHING PARENT TRANSFERRED FOR MATERNAL OR FETAL INDICATIONS FOR DELIVERY?
☐ Yes ☐ No
If yes, enter name of facility birthing parent transferred from: _____

36 DATE OF FIRST PRENATAL CARE VISIT
___/___/___ MM DD YYYY
☐ No prenatal care

37 TOTAL NUMBER OF PRENATAL VISITS FOR THIS PREGNANCY (If none, enter "0")

38 BIRTHING PARENT'S HEIGHT (in feet/inches)

39 BIRTHING PARENT'S PRE-PREGNANCY WEIGHT (in pounds)

40 BIRTHING PARENT'S WEIGHT AT DELIVERY (in pounds)

41 DID BIRTHING PARENT GET WIC FOOD DURING THIS PREGNANCY?
☐ Yes ☐ No ☐ Don't know/Not sure

42 NUMBER OF PREVIOUS LIVE BIRTHS (complete #42a to #42c. If applicable, do not include this newborn in the numbers.)
42a NOW LIVING
Number _____
☐ None
42b NOW DECEASED
Number _____
☐ None
42c DATE OF LAST LIVE BIRTH
___/___ MM YYYY

43 NUMBER OF OTHER PREGNANCY OUTCOMES (complete #43a and #43b, if applicable, for spontaneous or induced terminations or ectopic pregnancies.)
43a OTHER OUTCOMES
Number _____
☐ None
43b DATE OF LAST OTHER PREGNANCY OUTCOME
___/___ MM YYYY

44 CIGARETTE SMOKING BEFORE AND DURING PREGNANCY
Did birthing parent smoke before and/or during pregnancy?
☐ Yes ☐ No
If yes, enter the average number of cigarettes OR packs of cigarettes birthing parent smoked per day for each time period

	# of Cigarettes		# of Packs
Three months before pregnancy		OR	
First three months of pregnancy		OR	
Second three months of pregnancy		OR	
Third three months of pregnancy		OR	

45 PRINCIPAL SOURCE OF PAYMENT FOR THIS DELIVERY
☐ Private insurance ☐ Medicaid ☐ Self pay ☐ Unknown
☐ Other (specify) _____

46 DATE LAST NORMAL MENSES BEGAN
___/___/___ MM DD YYYY

47 BIRTHING PARENT'S MEDICAL RECORD NUMBER

48 RISK FACTORS FOR THIS PREGNANCY (check all that apply)
Diabetes
☐ Pre-pregnancy (diagnosis prior to this pregnancy)
☐ Gestational (diagnosis in this pregnancy)
Hypertension
☐ Pre-pregnancy (chronic)
☐ Gestational (PIH, pre-eclampsia)
☐ Eclampsia
☐ Birthing parent had a previous cesarean delivery
☐ If true, how many _____
Pregnancy resulted from infertility treatment
☐ Fertility-enhancing drugs, artificial insemination or intrauterine insemination
☐ Assisted reproductive technology (e.g., in vitro fertilization (IVF), gamete intrafallopian transfer (GIFT))
☐ Previous pre-term birth
☐ None of the above

49 INFECTIONS PRESENT AND/OR TREATED DURING THIS PREGNANCY (check all that apply)
☐ Gonorrhea
☐ Syphilis
☐ Chlamydia
☐ Hepatitis B
☐ Hepatitis C
☐ COVID-19 (SARS-CoV-2 – confirmed or presumed)
☐ None of the above

50 OBSTETRICS PROCEDURES (check one)
☐ External Cephalic Version – Successful
☐ External Cephalic Version – Failed
☐ None of the above

51 CHARACTERISTICS OF LABOR AND DELIVERY (check all that apply)
☐ Induction of labor
☐ Augmentation of labor
☐ Steroids (glucorticoids) for fetal lung maturation received by the mother prior to delivery
☐ Antibiotics received by the birthing mother during labor
☐ Clinical chorioamnionitis diagnosed during labor or maternal temperature ≥ 38°C (100.4°F)
☐ Epidural or spinal anesthesia during labor
☐ None of the above

52 METHOD OF DELIVERY
Fetal presentation at birth (check one)
☐ Cephalic
☐ Breech
☐ Other
Final route and method of delivery (check one)
☐ Vaginal/Spontaneous
☐ Vaginal/Forceps
☐ Vaginal/Vacuum
☐ Cesarean
If cesarean, was a trial of labor attempted?
☐ Yes ☐ No

53 MATERNAL MORBIDITY – COMPLICATIONS ASSOCIATED WITH LABOR AND DELIVERY (check all that apply)
☐ Maternal transfusion
☐ Perineal laceration (3rd or 4th degree)
☐ Ruptured uterus
☐ Unplanned hysterectomy
☐ Admission to intensive care unit
☐ None of the above

NEWBORN MEDICAL AND HEALTH INFORMATION

54 NEWBORN MEDICAL RECORD NUMBER

55 BIRTHWEIGHT (grams preferred, specify unit)
_____ ☐ grams ☐ lb/oz

56 OBSTETRIC ESTIMATE OF GESTATION
_____ completed weeks

57 APGAR SCORE
Score at 5 minutes _____
If 5 minute score is less than 6,
Score at 10 minutes _____

58 PLURALITY – single, twin, triplet, etc.
Specify _____

59 IF NOT SINGLE BIRTH – born first, second, third, etc.
Specify _____

60 ABNORMAL CONDITIONS OF THE NEWBORN (check all that apply)
☐ Assisted ventilation required immediately following delivery
☐ Assisted ventilation required for more than six hours
☐ NICU admission
☐ Newborn given surfactant replacement therapy
☐ Antibiotics received by the newborn for suspected neonatal sepsis
☐ Seizure or serious neurologic dysfunction
☐ None of the above

61 CONGENITAL ANOMALIES OF THE NEWBORN (check all that apply)
☐ Anencephaly
☐ Meningomyelocele/Spina bifida
☐ Cyanotic congenital heart disease
☐ Congenital diaphragmatic hernia
☐ Omphalocele
☐ Gastroschisis
☐ Limb reduction defect (excluding congenital amputation and dwarfing syndromes)
☐ Cleft Lip with or without Cleft Palate
☐ Cleft Palate alone
☐ Down Syndrome
  ☐ Karyotype confirmed
  ☐ Karyotype pending
☐ Suspected chromosomal disorder
  ☐ Karyotype confirmed
  ☐ Karyotype pending
☐ Hypospadias
☐ None of the above

62 HEPATITIS B VACCINATION?
Did newborn receive Hepatitis B vaccination? ☐ Yes ☐ No
Vaccine or blood product administered?
☐ Hepatitis B
If yes, date administered ___/___/___ MM DD YYYY
Manufacturer ☐ GSK ☐ Merck
☐ Other (specify) _____
Lot # _____
☐ Hepatitis B Immune Globulin
If yes, date administered ___/___/___ MM DD YYYY
Manufacturer ☐ GSK ☐ Merck
☐ Other (specify) _____
Lot # _____

63 WAS NEWBORN TRANSFERRED WITHIN 24 HOURS OF DELIVERY?
☐ Yes ☐ No
If yes, name of facility newborn transferred to
_____

64 IS NEWBORN LIVING AT TIME OF REPORT?
☐ Yes ☐ No ☐ Newborn transferred, status unknown

65 IS NEWBORN BEING BREASTFED?
☐ Yes ☐ No

66 IS ADOPTION PENDING?
☐ Yes ☐ No

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

pennsylvania
DEPARTMENT OF HEALTH

HEARING SCREENING EQUIPMENT APPLICATION FOR MIDWIVES

If you are interested in receiving equipment, please complete this form and return it to the Program via mail or fax to:

Bureau of Family Health
Division of Newborn Screening and Genetics
625 Forster Street
Harrisburg, PA 17120
(P) 717-783-8143 (F) 717-705-9386

Midwife name or practice name: _____

Contact person: _____ Phone number: _____

Address: _____

Number of births per year: _____

I currently report hearing screening results to the program (Yes or No): _____

I have access to the internet and can report screening results electronically (Yes or No): _____

I am able to share equipment (Yes or No): _____

If you can share equipment with another midwife, please provide the following information on the midwife you plan on sharing the equipment with:

Midwife/Practice Name: _____

Contact Person: _____ Phone Number: _____

Address: _____

_____

Signature and Date

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

MASIMO
100%
5:43 PM
measuring
97
SpO2
%
74
PR
bpm
15
RRp
rpm

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

Outlook

Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

From Jonathan Goldman <jonathan@goldmanlawteam.com>
Date Fri 5/1/2026 10:02 AM
To danaarcher@pa.gov <danaarcher@pa.gov>
Cc Carolyn DeLaurentis <cdelaurent@pa.gov>; akhossain@pa.gov <akhossain@pa.gov>; jselber@pa.gov <jselber@pa.gov>

1 attachment (161 KB)
D. Archer - Demand for Traditional-Lay Midwife Certificate under 1929 Law (5-1-26).pdf;

We spoke about this in March, Dana, and I attach the formal follow up discussed. As a reminder, my client needs the certificate the Board is required to issue under the Midwife Regulation Law of 1929. It seems the Commonwealth is not issuing them, but if I am wrong — and I hope I am — please advise how she can get one or, otherwise, confirm. Time is of the essence.

Though not directly related, if the Governor allows Senate Bill 507, PN 1158, to pass into law (which he should *not* as written) it may inject significant legal confusion and uncertainty for the status of lay/traditional midwives in the Commonwealth. The Board and State can act proactively, here, to stave off confusion by issuing the certificates required under the Midwife Regulation Law of 1929, hopefully, starting with my client.

My cell is 267-992-1453, and I am here to help.

Thank you,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400

Fort Washington, PA 19034

GOLDMAN
— LAW TEAM —

Jonathan Scott Goldman
Jonathan@GoldmanLawTeam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

Goldman Law, PLLC
500 Office Center Dr., Suite 400
Fort Washington, PA 19034

May 1, 2026

VIA PDF EMAIL AND U.S. MAIL

Dana Archer, Esquire
Board Counsel, State Board of Medicine
Governor's Office of General Counsel
Department of State, Office of Chief Counsel
401 North Street, Room 306
Harrisburg, PA 17120-0500

danaarcher@pa.gov

Re: Certification for Lay/Traditional Midwives Pursuant to Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155

Dear Attorney Archer,

I write in follow up to our call on March 10, seeking a certification for a client pursuant to the Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155 (the "Midwife Regulation Law"). As set forth below, time is of the essence. As a reminder, my client is a ***lay/traditional midwife*** under the Midwife Regulation Law and ***not*** a *nurse-midwife*, under the Medical Practice Act of 1985, Act No. 112 of 1985 (the "Medical Practice Act").[1] Both of these are valid laws of the Commonwealth, but they are different and apply to different types of midwives. See *Goslin v. State Board of Medicine*, 949 A.2d 372 (Pa. Cmwlth. 2008).

My client, who is an experienced and well-qualified lay/traditional midwife – but not a nurse – has sought and continues to seek from the "State Board of Medical Education and Licensure" the "certificate" that the Board "shall issue … to midwives"

[1] Nurse-midwives are subject to regulation and oversight pursuant to the Medical Practice Act, which requires applicants for a certified nurse midwife license, among other things, to be registered nurses and practice under a collaborative agreement with a physician. Senate Bill 507, PN 1158, seeks to amend the Medical Practice Act of 1985 but, importantly, *not* the Midwife Regulation Law of 1929.

under the Midwife Regulation Law. We do not understand why she has not been able to receive the certificate that the Board is required to issue under the law. But there can be no doubt that she is qualified.

My client has an undergraduate Bachelor of Science degree with a major in Maternal and Infant Health, and a Master's Degree in Clinical Mental Health. In her more than 30 years of home birth experience, she has "caught" more than 1,500 babies. Among other credentials which demonstrate her lifetime of deep experience in this area, my client has served as a lay/traditional midwife in multiple states and held midwifery licenses in California, Washington, and Texas, where such licenses are offered. She has been asked to promulgate rules for newly passed midwifery legislation in another state, and has served on the faculty of two midwifery schools.

My client also has a long affiliation with North American Registry of Midwives (NARM) which, among other things, issues a Certified Professional Midwife (CPM) credential, accredited by the National Commission for Certifying Agencies (NCCA). Her affiliation with NARM began when she took her first NARM exam, around 1992, before NARM issued a formal "CPM" certification. After NARM began issuing this designation, my client was fully certified by NARM as a CPM and used that designation with her name for about a decade.[2]

My client has a legal right to apply for this certificate and is happy to pay the ten-dollar application fee prescribed by the law. Indeed, she has tried to do so. As you acknowledged in our call, however, she ***cannot*** *apply* through the Department of State's online Pennsylvania Licensing System (PALS) portal because the State Board of Medicine ***does not issue*** *certifications* under the Midwife Regulation Law. We do not understand why or on what basis the Commonwealth (including but not limited to the Medical Board and the Department of State) has seemingly seen fit to disregard the law in this way. ***Regardless, we respectfully demand that the Commonwealth promptly issue my client the certification she seeks under the Midwife Regulation Law of 1929.***

[2] When she went to obtain a master's degree, my client accidentally allowed her official CPM certification to lapse rather than designating her status as "retired" or "dormant". As a result, she is not presently entitled to use the CPM designation and does not do so. That said, all of her NARM classes are currently up-to-date; once she takes her exam, my client will again be fully certified and permitted to use the CPM designation, as in the past.

When we spoke by phone, we discussed Senate Bill 507, PN 1158. I wanted to acknowledge that, since our conversation, just this week, that bill passed the Pennsylvania House of Representatives on its third consideration. To be clear, SB507 amends *only* the Medical Practice Act of 1985. It does *not* impact the Midwife Regulation Law of 1929, under which I make this request. Indeed, the language of the SB507 specifically states that: "Nothing in this act shall be construed to … prohibit the practice of lay midwives." Even so, should Governor Shapiro allow this bill to pass into law – *and he should* ***not*** – we expect its implementation may inject significant legal confusion and uncertainty for the status of lay/traditional midwives in the Commonwealth among state agencies, law enforcement, and lay/traditional midwives, themselves, not to mention meaningful legal and constitutional challenges.

This legislative backdrop adds significant urgency to our request. The Commonwealth, and specifically the Medical Board and Department of State, have the opportunity to act proactively to stave off such confusion by issuing the certificates required under the Midwife Regulation Law of 1929. This should start promptly, as soon as possible, with my client. Please let me know how I can be of assistance.

The Commonwealth's apparent failure to issue these certificates under the Midwife Regulation Law of 1929 presents a problem, not only for my client, but for the many other lay/traditional midwives throughout the Commonwealth who diligently, competently and faithfully serve women and their families, training through a traditional apprenticeship model, different from the requirements of the Medical Practice Act of 1985. These families include, but certainly are not limited to, those in Pennsylvania's proud Amish and Mennonite communities, for whom, the ability to give birth in their homes is an essential part of their constitutionally-protected religious tradition and practice.

Indeed, Lay/traditional midwifery is of particular legal and constitutional importance to the robust Amish and Mennonite communities (and others) throughout the Commonwealth of Pennsylvania and beyond. As part of their religious practices, these groups believe in giving birth "the old-fashioned way," as they believe G-d intended, and as is described throughout the Bible. Accordingly, the religious practice for these communities requires them to give birth *with the assistance of lay/traditional midwives* and ***in their homes***. For many, giving birth in a hospital and taking advantage of what most Pennsylvanians may think of as the "benefits" of modern medicine would be considered a violation of their religious beliefs and constitutional freedom of religion.

Of course others, who are not religious at all, are increasingly learning about and seeking out the assistance of lay/traditional midwives. This interest cuts across all educational, socio-economic, and geographic strata. Reasons for this include the desire to better control the birthing process in the comfort of their own home; the economic cost of delivering a baby in a hospital; and the way institutional hospitals make some people feel mentally and emotionally, as well as physically, due to modern medicines and some modern surgical interventions.

As a result, particularly in some areas of the country and the Commonwealth, hospitals are increasingly seeing traditional/lay midwives as an *economic threat* to the bottom line of their obstetrician and gynecological "businesses". Some have threatened lay/traditional midwives, sought to have them investigated by civil and criminal law enforcement, and tried to force them to affiliate with licensed doctors or nurses, in part, so these practices of licensed professionals can control traditional/lay midwives, allowing hospitals and medical practices to add midwifery services to their offerings and enhance their bottom lines.

We do not know what role, if any, these concerns played in the motivation of the American College of Obstetricians and Gynecologists (ACOG), which lobbied heavily for SB 507. But we do know that the Midwife Regulation Law of 1929 continues to protect the practice of law/traditional midwifery throughout the Commonwealth. For all of these reasons, we respectfully request that the Commonwealth act promptly to issue a certificate to my client thereunder, and to others who will come after her.

While I appreciate, from experience, that the Commonwealth cannot always act quickly, time is of the essence. Kindly get back to me as soon as you are able. I would be happy to listen and share thoughts even on an interim basis, and will assist the Commonwealth however I am able. My cell is 267-992-1453.

Respectfully,

Jonathan Scott Goldman

Cc: Carolyn DeLaurentis, Chief Counsel, Department of State (via PDF email only)
Jennifer Selber, General Counsel, Office of the Governor (via PDF email only)
Akbar Hossain, Secretary of Policy and Planning (via PDF email only)

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

Outlook

Fw: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

From Jonathan Goldman <jonathan@goldmanlawteam.com>
Date Fri 5/8/2026 2:13 PM
To danaarcher@pa.gov <danaarcher@pa.gov>; Carolyn DeLaurentis <cdelaurent@pa.gov>
Cc Jennifer Selber <jselber@pa.gov>; lamalone@pa.gov <lamalone@pa.gov>

1 attachment (161 KB)
D. Archer - Demand for Traditional-Lay Midwife Certificate under 1929 Law (5-1-26).pdf;

+Malone; Hossain to bcc. Circling back on how my clients can get a midwife certificate under the Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No 155 (the "1929 Law"), Dana (and Carolyn). Please let me know how they can apply and receive one from the Commonwealth — or, if you do not presently know, kindly let me know when we can expect to receive an answer. If the Commonwealth will not issue such a certificate regardless of my clients' qualifications[1], and you know that, please advise promptly — obviously, that is *not* the answer we are looking for, and we do not believe it would be appropriate under the law. ***If you are unable to email, I would be grateful to at least receive an update by phone. Please LMK if you have time today or Monday (and when).***

Thanks,

Jonathan

[1] Notably, one of my clients is also a certified nurse midwife. The requirement of a collaborative agreement with a hospital or medical provider, however, is effectively prohibiting her from assisting in *home births* for her clients. This is her preference, and some of her clients require home births for religious reasons. She has been practicing midwifery since 1979 and, among other qualifications, has a diploma from a nursing school, a bachelors degree in nursing, a certificate in midwifery, and a masters in science with a concentration in midwifery, all from accredited medical institutions; she has taught midwifery as adjunct faculty at an accredited university and taught and mentored students at various schools in Pennsylvania as part of their clinical training models, helping students receive their clinical training hours. Certainly she is qualified to receive a certificate under the 1929 Law.

P.S.: Assume all are aware that the Governor signed SB507 into law as Act No. 14 of 2026, May 6, 2026 (the "2026 Law"), but that does not change the analysis, as the 2026 Law amended only the Medical Practice Act of 1985, Act No. 112 of 1985 (the "1985 Law") and did not, in any way, alter the 1929 Law. As a reminder, the 1929 Law and the 1985 Law (as amended by the 2026 Law) are completely different and apply to different types of midwives. Both are good law. *See Goslin v. State Board of Medicine* (Pa. Cwlth. 2008), n. 11

("We recognize that statutes in pari materia shall be construed together, if possible, as one statute. Section 1932(b) of the Statutory Construction Act of 1972, 1 Pa.C.S. § 1932(b). However, the 1985 Act and the 1929 Law do not relate to the same class of persons. Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to other persons who attend women in childbirth.")

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Friday, May 1, 2026 10:02 AM
To: danaarcher@pa.gov <danaarcher@pa.gov>
Cc: Carolyn DeLaurentis <cdelaurent@pa.gov>; akhossain@pa.gov <akhossain@pa.gov>; jselber@pa.gov <jselber@pa.gov>
Subject: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

We spoke about this in March, Dana, and I attach the formal follow up discussed. As a reminder, my client needs the certificate the Board is required to issue under the Midwife Regulation Law of 1929. It seems the Commonwealth is not issuing them, but if I am wrong — and I hope I am — please advise how she can get one or, otherwise, confirm. Time is of the essence.

Though not directly related, if the Governor allows Senate Bill 507, PN 1158, to pass into law (which he should *not* as written) it may inject significant legal confusion and uncertainty for the status of lay/traditional midwives in the Commonwealth. The Board and State can act proactively, here, to stave off confusion by issuing the certificates required under the Midwife Regulation Law of 1929, hopefully, starting with my client.

My cell is 267-992-1453, and I am here to help.

Thank you,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

Outlook

Fw: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

From Jonathan Goldman <jonathan@goldmanlawteam.com>
Date Mon 5/11/2026 10:56 AM
To Roberta Devers (Other) <deversroberta@gmail.com>

1 attachment (161 KB)
D. Archer - Demand for Traditional-Lay Midwife Certificate under 1929 Law (5-1-26).pdf;

FYI only, checking back with Commonwealth....

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

GOLDMAN
— LAW TEAM —

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Monday, May 11, 2026 10:54 AM
To: danaarcher@pa.gov <danaarcher@pa.gov>; Carolyn DeLaurentis <cdelaurent@pa.gov>
Cc: Jennifer Selber <jselber@pa.gov>; lamalone@pa.gov <lamalone@pa.gov>
Subject: Re: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

When can we discuss, Carolyn and Dana? (Jen and Laurie?) Reattaching original letter for efficiency.

Thanks and have a great week,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

GOLDMAN
— LAW TEAM —

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Friday, May 8, 2026 2:13 PM
To: danaarcher@pa.gov <danaarcher@pa.gov>; Carolyn DeLaurentis <cdelaurent@pa.gov>
Cc: Jennifer Selber <jselber@pa.gov>; lamalone@pa.gov <lamalone@pa.gov>
Subject: Fw: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

+Malone; Hossain to bcc. Circling back on how my clients can get a midwife certificate under the Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No 155 (the "1929 Law"), Dana (and Carolyn). Please let me know how they can apply and receive one from the Commonwealth — or, if you do not presently know, kindly let me know when we can expect to receive an answer. If the Commonwealth will not issue such a certificate regardless of my clients' qualifications[1], and you know that, please advise promptly — obviously, that is *not* the answer we are looking for, and we do not believe it would be appropriate under the law. ***If you are unable to email, I would be grateful to at least receive an update by phone. Please LMK if you have time today or Monday (and when).***

Thanks,

Jonathan

[1] Notably, one of my clients is also a certified nurse midwife. The requirement of a collaborative agreement with a hospital or medical provider, however, is effectively prohibiting her from assisting in *home births* for her clients. This is her preference, and some of her clients require home births for religious reasons. She has been practicing midwifery since 1979 and, among other qualifications, has a diploma from a nursing school, a bachelors degree in nursing, a certificate in midwifery, and a masters in science

with a concentration in midwifery, all from accredited medical institutions; she has taught midwifery as adjunct faculty at an accredited university and taught and mentored students at various schools in Pennsylvania as part of their clinical training models, helping students receive their clinical training hours. Certainly she is qualified to receive a certificate under the 1929 Law.

P.S.: Assume all are aware that the Governor signed SB507 into law as Act No. 14 of 2026, May 6, 2026 (the "2026 Law"), but that does not change the analysis, as the 2026 Law amended only the Medical Practice Act of 1985, Act No. 112 of 1985 (the "1985 Law") and did not, in any way, alter the 1929 Law. As a reminder, the 1929 Law and the 1985 Law (as amended by the 2026 Law) are completely different and apply to different types of midwives. Both are good law. *See Goslin v. State Board of Medicine* (Pa. Cwlth. 2008), n. 11 ("We recognize that statutes in pari materia shall be construed together, if possible, as one statute. Section 1932(b) of the Statutory Construction Act of 1972, 1 Pa.C.S. § 1932(b). However, the 1985 Act and the 1929 Law do not relate to the same class of persons. Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to other persons who attend women in childbirth.")

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Friday, May 1, 2026 10:02 AM
To: danaarcher@pa.gov <danaarcher@pa.gov>
Cc: Carolyn DeLaurentis <cdelaurent@pa.gov>; akhossain@pa.gov <akhossain@pa.gov>; jselber@pa.gov <jselber@pa.gov>
Subject: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

We spoke about this in March, Dana, and I attach the formal follow up discussed. As a reminder, my client needs the certificate the Board is required to issue under the Midwife Regulation Law of 1929. It seems the Commonwealth is not issuing them, but if I am wrong — and I hope I am — please advise how she can get one or, otherwise, confirm. Time is of the essence.

Though not directly related, if the Governor allows Senate Bill 507, PN 1158, to pass into law (which he should *not* as written) it may inject significant legal confusion and uncertainty for the status of lay/traditional midwives in the Commonwealth. The Board and State can act proactively, here, to stave off confusion by issuing the certificates required under the Midwife Regulation Law of 1929, hopefully, starting with my client.

My cell is 267-992-1453, and I am here to help.

Thank you,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

Outlook

RE: [External] Re: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

From DeLaurentis, Carolyn <cdelaurent@pa.gov>
Date Mon 5/11/2026 2:54 PM
To Jonathan Goldman <jonathan@goldmanlawteam.com>; Archer, Dana <danaarcher@pa.gov>
Cc Selber, Jennifer (GC) <jselber@pa.gov>; Malone, Laurie (GC) <lamalone@pa.gov>

Mr. Goldman,

I know this is very important to you. As I'm sure you can appreciate, I have some other items on my calendar, but Dana and I will get back to you shortly.

Thanks,

Carolyn

Chief Counsel
Department of State

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Monday, May 11, 2026 10:55 AM
To: Archer, Dana <danaarcher@pa.gov>; DeLaurentis, Carolyn <cdelaurent@pa.gov>
Cc: Selber, Jennifer (GC) <jselber@pa.gov>; Malone, Laurie (GC) <lamalone@pa.gov>
Subject: [External] Re: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

ATTENTION: *This email message is from an external sender. Do not open attachments or click links from unknown senders. To report suspicious email, use the Report Phish button in Outlook.*

When can we discuss, Carolyn and Dana? (Jen and Laurie?) Reattaching original letter for efficiency.

Thanks and have a great week,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

GOLDMAN
— LAW TEAM —

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Friday, May 8, 2026 2:13 PM
To: danaarcher@pa.gov <danaarcher@pa.gov>; Carolyn DeLaurentis <cdelaurent@pa.gov>
Cc: Jennifer Selber <jselber@pa.gov>; lamalone@pa.gov <lamalone@pa.gov>
Subject: Fw: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

+Malone; Hossain to bcc. Circling back on how my clients can get a midwife certificate under the Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No 155 (the "1929 Law"), Dana (and Carolyn). Please let me know how they can apply and receive one from the Commonwealth — or, if you do not presently know, kindly let me know when we can expect to receive an answer. If the Commonwealth will not issue such a certificate regardless of my clients' qualifications[1], and you know that, please advise promptly — obviously, that is *not* the answer we are looking for, and we do not believe it would be appropriate under the law. ***If you are unable to email, I would be grateful to at least receive an update by phone. Please LMK if you have time today or Monday (and when).***

Thanks,

Jonathan

[1] Notably, one of my clients is also a certified nurse midwife. The requirement of a collaborative agreement with a hospital or medical provider, however, is effectively prohibiting her from assisting in *home births* for her clients. This is her preference, and some of her clients require home births for religious reasons. She has been practicing midwifery since 1979 and, among other qualifications, has a diploma from a nursing school, a bachelors degree in nursing, a certificate in midwifery, and a masters in science with a concentration in midwifery, all from accredited medical institutions; she has taught midwifery as adjunct faculty at an accredited university and taught and mentored students at various schools in Pennsylvania as part of their clinical training models, helping students receive their clinical training hours. Certainly she is qualified to receive a certificate under the 1929 Law.

P.S.: Assume all are aware that the Governor signed SB507 into law as Act No. 14 of 2026, May 6, 2026 (the "2026 Law"), but that does not change the analysis, as the 2026 Law amended only the Medical Practice Act of 1985, Act No. 112 of 1985 (the "1985 Law") and did not, in any way, alter the 1929 Law. As a reminder, the 1929 Law and the 1985 Law (as amended by the 2026 Law) are completely different and apply to different types of midwives. Both are good law. *See Goslin v. State Board of Medicine* (Pa. Cwlth. 2008), n. 11

("We recognize that statutes in pari materia shall be construed together, if possible, as one statute. Section 1932(b) of the Statutory Construction Act of 1972, 1 Pa.C.S. § 1932(b). However, the 1985 Act and the 1929 Law do not relate to the same class of persons. Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to other persons who attend women in childbirth.")

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

GOLDMAN
— LAW TEAM —

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Friday, May 1, 2026 10:02 AM
To: danaarcher@pa.gov <danaarcher@pa.gov>
Cc: Carolyn DeLaurentis <cdelaurent@pa.gov>; akhossain@pa.gov <akhossain@pa.gov>; jselber@pa.gov <jselber@pa.gov>
Subject: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

We spoke about this in March, Dana, and I attach the formal follow up discussed. As a reminder, my client needs the certificate the Board is required to issue under the Midwife Regulation Law of 1929. It seems the Commonwealth is not issuing them, but if I am wrong — and I hope I am — please advise how she can get one or, otherwise, confirm. Time is of the essence.

Though not directly related, if the Governor allows Senate Bill 507, PN 1158, to pass into law (which he should *not* as written) it may inject significant legal confusion and uncertainty for the status of lay/traditional midwives in the Commonwealth. The Board and State can act proactively, here, to stave off confusion by issuing the certificates required under the Midwife Regulation Law of 1929, hopefully, starting with my client.

My cell is 267-992-1453, and I am here to help.

Thank you,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

Outlook

Re: [External] Re: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

From Jonathan Goldman <jonathan@goldmanlawteam.com>
Date Tue 6/16/2026 3:32 PM
To DeLaurentis, Carolyn <cdelaurent@pa.gov>; Archer, Dana <danaarcher@pa.gov>
Cc Selber, Jennifer (GC) <jselber@pa.gov>; Malone, Laurie (GC) <lamalone@pa.gov>; Akbar Hossain <akhossain@pa.gov>

1 attachment (164 KB)

Letter to Carolyn DeLaurentis and Dana Archer Counsel for State and Medical Board demanding 1929 Act Certificate for Licensed Nurse Midwife (6-15-26).pdf;

I hope you are well, Carolyn and Dana. I attach a letter seeking a certificate on behalf of a *different* client who also seeks a midwifery certificate under the Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155. Unlike the client we first discussed on March 10, 2026 (and about whom we still await a response) *this client is presently a* ***licensed nurse midwife*** under the Medical Practice Act of 1985, Act No. 112 of 1985. See *Goslin v. State Board of Medicine*, 949 A.2d 372, n. 11 (Pa. Cmwlth. 2008)("[T]he 1985 Act and the 1929 Law do not relate to the same class of persons. Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to other persons who attend women in childbirth."). Because of the 1985 Act's requirement that nurse-midwives practice "pursuant to a collaborative agreement with a physician" who "shall have hospital clinical privileges," however, our client will soon be prevented from assisting with home deliveries. Her collaborative agreement runs out this December and, in seeking to renew it, the physician and hospital will no longer let her assist clients with home deliveries. She has sought collaborative agreements with other physicians in the area but *none* will permit home deliveries because all of them are owned by hospitals with business models that prioritize insurance-based, in-hospital care and the procedures and profits that go along with it. This is a concern both for all Pennsylvanians who require home deliveries for constitutionally-protected, religious reasons, and those who simply prefer to deliver their children at home with the assistance of a traditional midwife.

The ability to perform home deliveries as a midwife is very important to my client. Pennsylvania law allows this and, as set forth in the attached letter, she is eminently qualified to receive a certificate under the 1929 Law. We believe that, separate from nurse-midwives who are regulated under the 1985 Act, Pennsylvania law requires the Commonwealth to "grant[] certificates to" traditional midwives "who attend women in childbirth". *Goslin*. Despite this, our client cannot apply for such a certificate through Department of State's online Pennsylvania Licensing System (PALS) since none is offered. And there appears to be no other way for her to apply for one.

Please advise how my client may receive a certificate under the 1929 Law so she may practice traditional midwifery in compliance with the law. If you have a different understanding of Pennsylvania law on this issue, please advise what that is. We would very much like to work with the Commonwealth on this issue, and we await your response on this time-sensitive matter.

If at least a preliminary discussion would be easier than crafting an email or some other formal writing, please do not hesitate to call. *My cell is 267-992-1453.*

Respectfully,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

From: DeLaurentis, Carolyn <cdelaurent@pa.gov>
Sent: Monday, May 11, 2026 2:54 PM
To: Jonathan Goldman <jonathan@goldmanlawteam.com>; Archer, Dana <danaarcher@pa.gov>
Cc: Selber, Jennifer (GC) <jselber@pa.gov>; Malone, Laurie (GC) <lamalone@pa.gov>
Subject: RE: [External] Re: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

Mr. Goldman,

I know this is very important to you. As I'm sure you can appreciate, I have some other items on my calendar, but Dana and I will get back to you shortly.

Thanks,

Carolyn

Chief Counsel

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Monday, May 11, 2026 10:55 AM
To: Archer, Dana <danaarcher@pa.gov>; DeLaurentis, Carolyn <cdelaurent@pa.gov>
Cc: Selber, Jennifer (GC) <jselber@pa.gov>; Malone, Laurie (GC) <lamalone@pa.gov>
Subject: [External] Re: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

ATTENTION: *This email message is from an external sender. Do not open attachments or click links from unknown senders. To report suspicious email, use the Report Phish button in Outlook.*
When can we discuss, Carolyn and Dana? (Jen and Laurie?) Reattaching original letter for efficiency.

Thanks and have a great week,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Friday, May 8, 2026 2:13 PM
To: danaarcher@pa.gov <danaarcher@pa.gov>; Carolyn DeLaurentis <cdelaurent@pa.gov>
Cc: Jennifer Selber <jselber@pa.gov>; lamalone@pa.gov <lamalone@pa.gov>
Subject: Fw: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

+Malone; Hossain to bcc. Circling back on how my clients can get a midwife certificate under the Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No 155 (the "1929 Law"), Dana (and Carolyn). Please let me know how they can apply and receive one from the Commonwealth — or, if you do not presently know, kindly let me know when we can expect to receive an answer. If the Commonwealth will not issue such a certificate regardless of my clients' qualifications[1], and you know that, please advise promptly —

obviously, that is *not* the answer we are looking for, and we do not believe it would be appropriate under the law. ***If you are unable to email, I would be grateful to at least receive an update by phone. Please LMK if you have time today or Monday (and when).***

Thanks,

Jonathan

[1] Notably, one of my clients is also a certified nurse midwife. The requirement of a collaborative agreement with a hospital or medical provider, however, is effectively prohibiting her from assisting in *home births* for her clients. This is her preference, and some of her clients require home births for religious reasons. She has been practicing midwifery since 1979 and, among other qualifications, has a diploma from a nursing school, a bachelors degree in nursing, a certificate in midwifery, and a masters in science with a concentration in midwifery, all from accredited medical institutions; she has taught midwifery as adjunct faculty at an accredited university and taught and mentored students at various schools in Pennsylvania as part of their clinical training models, helping students receive their clinical training hours. Certainly she is qualified to receive a certificate under the 1929 Law.

P.S.: Assume all are aware that the Governor signed SB507 into law as Act No. 14 of 2026, May 6, 2026 (the "2026 Law"), but that does not change the analysis, as the 2026 Law amended only the Medical Practice Act of 1985, Act No. 112 of 1985 (the "1985 Law") and did not, in any way, alter the 1929 Law. As a reminder, the 1929 Law and the 1985 Law (as amended by the 2026 Law) are completely different and apply to different types of midwives. Both are good law. *See Goslin v. State Board of Medicine* (Pa. Cwlth. 2008), n. 11 ("We recognize that statutes in pari materia shall be construed together, if possible, as one statute. Section 1932(b) of the Statutory Construction Act of 1972, 1 Pa.C.S. § 1932(b). However, the 1985 Act and the 1929 Law do not relate to the same class of persons. Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to other persons who attend women in childbirth.")

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

GOLDMAN
— LAW TEAM —

From: Jonathan Goldman <jonathan@goldmanlawteam.com>
Sent: Friday, May 1, 2026 10:02 AM
To: danaarcher@pa.gov <danaarcher@pa.gov>
Cc: Carolyn DeLaurentis <cdelaurent@pa.gov>; akhossain@pa.gov <akhossain@pa.gov>; jselber@pa.gov <jselber@pa.gov>
Subject: Need Lay/Traditional Midwife Certificate under Midwife Regulation Law of 1929

We spoke about this in March, Dana, and I attach the formal follow up discussed. As a reminder, my client needs the certificate the Board is required to issue under the Midwife Regulation Law of 1929. It seems the Commonwealth is not issuing them, but if I am wrong — and I hope I am — please advise how she can get one or, otherwise, confirm. Time is of the essence.

Though not directly related, if the Governor allows Senate Bill 507, PN 1158, to pass into law (which he should *not* as written) it may inject significant legal confusion and uncertainty for the status of lay/traditional midwives in the Commonwealth. The Board and State can act proactively, here, to stave off confusion by issuing the certificates required under the Midwife Regulation Law of 1929, hopefully, starting with my client.

My cell is 267-992-1453, and I am here to help.

Thank you,

Jonathan

Jonathan Scott Goldman
Goldman Law, PLLC
t/a The Goldman Law Team
jonathan@goldmanlawteam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

www.GoldmanLawTeam.com

500 Office Center Drive
Suite 400
Fort Washington, PA 19034

GOLDMAN
— LAW TEAM —

GOLDMAN
— LAW TEAM —

Jonathan Scott Goldman
Jonathan@GoldmanLawTeam.com
Main: 215-770-6376
Direct: 215-770-5434
Cell: 267-992-1453

Goldman Law, PLLC
[illegible]
Fort Washington, PA 19034

June 16, 2026

VIA PDF EMAIL AND U.S. MAIL

Carolyn DeLaurentis, Esquire
Chief Counsel, Department of State
Governor's Office of General Counsel
Pennsylvania Department of State
Office of Chief Counsel
306 North Office Building
401 North Street
Harrisburg, PA 17120-0500

cdelaurent@pa.gov

Dana Archer, Esquire
Board Counsel, State Board of Medicine
Governor's Office of General Counsel
Pennsylvania Department of State
Office of Chief Counsel
306 North Office Building
401 North Street
Harrisburg, PA 17120-0500

danaarcher@pa.gov

Re: Certification for Lay/Traditional Midwives Pursuant to Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155

Dear Attorneys DeLaurentis and Archer,

I write both in follow up to my May 1, 2026 letter, seeking a certification for a client pursuant to the Midwife Regulation Law, Act of Apr. 4, 1929, P.L. 160, No. 155 (the "Midwife Regulation Law") – and to seek a certification under that law *for a **different client***, who also prefers to remain anonymous at this time for fear of retaliation. Unlike the prior client, this client ***is a nurse-midwife***, under the Medical Practice Act of 1985, Act No. 112 of 1985 (the "Medical Practice Act").[1]

[1] As previously asserted and discussed, both the Midwife Regulation Law and the Medical Practice Act are valid laws of the Commonwealth – but they are different and apply to different types of midwives. See *Goslin v. State Board of Medicine*, 949 A.2d 372, n. 11 (Pa. Cmwlth. 2008)("[T]he 1985 Act and the 1929 Law do not relate to the same class of persons. Although both relate to midwifery, the 1985 Act relates to the licensing of registered nurses as nurse-midwives and the 1929 Law relates to the granting of certificates to other persons who attend women in childbirth."). My client has sought and continues to seek from the "State Board of Medical Education and Licensure" the "certificate" that the Board "shall issue … to midwives" under the Midwife Regulation Law. We do not understand why she has not been able to receive the certificate that the Commonwealth is required to issue under the law.

As a registered nurse and a nurse midwife under the Medical Practice Act, there can be no question that my client is also qualified to practice traditional midwifery in the Commonwealth. This client seeks an ***additional certification*** under the Midwife Regulation Law, however, because she prefers to assist in ***home deliveries***. As a practical matter, the requirement in the Medical Practice Act that nurse-midwives practice "pursuant to a collaborative agreement with a physician" who "shall have hospital clinical privileges in the specialty area of the care for which the physician is providing collaborative services" ***will soon prevent her from assisting with home deliveries***. Medical Practice Act of 1985, Act No. 112 of 1985, Section 35.(c)(1) and (d).[2]

My client's collaborative agreement runs out in December 2026, however, and, in seeking to renew that agreement, the physician and hospital where they have clinical privileges told my client that she ***may no longer assist clients with home deliveries***; instead, she must focus on hospital births only. With this requirement, my client is prevented from attending to religious and other clients who require or simply prefer a traditional home birth. This is not an isolated or geographically-limited occurrence, but a trend across the Commonwealth.

Though my client has sought collaborative agreements with other physicians in the area, none will permit her to assist clients with home deliveries. All of the physician groups are owned by hospitals, and the hospitals will not permit my client to assist with home deliveries under a nurse-midwife license due to their business model, which prioritizes insurance-based, in-hospital care and the procedures and profits that go along with it. This is not only a problem for my client. Rather, it is a concern for all Pennsylvanians who require home deliveries for constitutionally-protected, religious reasons, as well as those who simply prefer to deliver their children at home with the assistance of a traditional midwife.

My client started practicing her profession of midwifery as *a* ***traditional*** *midwife* in 1979, after serving as an apprentice to a doctor. She has been engaged in midwifery for more than 45 years. During this time, she has historically assisted clients with their births *both* in hospitals and in their homes. My client has "caught" more than 1,200 babies, roughly 70% at home deliveries, and 30% in hospitals and birthing center settings.

[2] This legal requirement for nurse midwives is unnecessary for traditional midwives who, with the informed consent of their homebirth clients, follow a recognized practice of "transporting" clients to the nearest medical hospital in the relatively rare instance when such a need arises.

My client is eminently qualified to receive a certificate under the Midwife Regulation Law of 1929. After practicing traditional midwifery exclusively for almost two decades, she enrolled in a diploma program at Bucks County Community College, one of the top community colleges in the Commonwealth (and in the United States) for nursing, and became a registered nurse or RN. Thereafter, my client achieved a Bachelor of Science degree in nursing from Drexel Medical College & Hospital. She, next, achieved a certificate in midwifery from the former University of Medicine and Dentistry of New Jersey, now Rutgers School of Nursing, through a program accredited by the Accreditation Commission for Midwifery Education (ACME). My client, then, earned a Master of Science degree with a concentration in midwifery from the Philadelphia College of Textiles & Science, now Philadelphia University. Throughout this time, she maintained her practice of midwifery exclusively at *home deliveries*.

In approximately 2001, following her achievement of the above educational milestones, my client began working outside of clients' homes for the first time. She, first, worked at a birth center and Jeanes Hospital. Thereafter, over the next approximately 25 years, my client worked as a midwife at multiple hospitals in the Commonwealth.

My client also taught midwifery, both in apprenticeship and academic models. For example, she served as adjunct faculty at multiple educational institutions across the Commonwealth. There, she taught *both* traditional *in-home* midwifery *and in-hospital* midwifery, and assisted with those schools' clinical training models, helping students achieve the clinical hours required for their respective programs.

My client has a legal right to apply for a certificate under the Midwife Regulation Law and is happy to pay the prescribed ten-dollar application fee. Indeed, she has tried to do so. As you have acknowledged, however, neither she nor any Pennsylvania midwife can apply through the Department of State's online Pennsylvania Licensing System (PALS) portal or otherwise because the State Board of Medicine and the Commonwealth ***do not issue*** *certifications* under the Midwife Regulation Law of 1929. We do not understand why or on what basis the Commonwealth (including but not limited to the Medical Board and the Department of State) has seemingly seen fit to disregard the law in this way. ***Regardless, we respectfully demand that the Commonwealth promptly issue my client the certification she seeks under the Midwife Regulation Law of 1929.***[3]

[3] The Commonwealth's failure to issue these certificates under the Midwife Regulation Law of 1929 presents a problem, not only for my clients, but for many other lay/traditional midwives throughout

While I appreciate, from experience, that the Commonwealth cannot always act quickly, time is of the essence. Our initial call about this issue took place on March 10, 2026 – more than 3 months ago. That is too long. Kindly provide an update as soon as possible. My cell is 267-992-1453.

Respectfully,

Jonathan Scott Goldman

Cc: Jennifer Selber, General Counsel, Office of the Governor (via PDF email only)
Akbar Hossain, Secretary of Policy and Planning (via PDF email only)

---

the Commonwealth who diligently, competently and faithfully serve women and their families, many training through a traditional apprenticeship model, different from the requirements of the Medical Practice Act of 1985. These families include, but certainly are not limited to, those in Pennsylvania's proud Amish, Mennonite and some Orthodox Jewish communities, for whom, the ability to give birth in their homes is an essential part of their constitutionally-protected religious tradition and practice.

Indeed, Lay/traditional midwifery is of particular legal and constitutional importance to these robust communities (and others) throughout the Commonwealth of Pennsylvania. As part of their religious practices, these groups believe in giving birth without extensive medical intervention, as they believe G-d intended, and as is described throughout the Bible. Accordingly, the religious practice for these communities requires them to give birth *with the assistance of midwives* and ***in their homes***. For many, giving birth in a hospital and taking advantage of what most Pennsylvanians may think of as the "benefits" of modern medicine would be considered a violation of their religious beliefs and constitutional freedom of religion.

Of course others, who are not religious at all, are increasingly learning about and seeking out the assistance of lay/traditional midwives. This interest cuts across all educational, socio-economic, and geographic strata. Reasons for this include the desire to better control the birthing process in the comfort of their own home; the economic cost of delivering a baby in a hospital; and the way institutional hospitals make some people feel mentally and emotionally, as well as physically, due to modern medicines and some modern surgical interventions.

As a result, particularly in some areas of the country and the Commonwealth, hospitals are increasingly seeing traditional/lay midwives as an *economic threat* to the bottom line of their obstetrician and gynecological "businesses". Some have threatened lay/traditional midwives, sought to have them investigated by civil and criminal law enforcement, and tried to force them to affiliate with licensed doctors or nurses, in part, so these practices of licensed professionals can control traditional/lay midwives, allowing hospitals and medical practices to add midwifery services to their offerings and enhance their bottom lines.

For all of these reasons, we respectfully request that the Commonwealth act promptly to issue a certificate to my client thereunder, and to others who will come after her.

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Midwifery Modernization in Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

December 4, 2024 03:11 PM to **All Senate Members**

Circulated By BROWN

Memo

In the very near future, I intend to re-introduce legislation similiar to Senate Bill 1262 of 2023-2024 Legislative Session, providing for updates to the practice of midwifery known as the "Midwifery Modernization Act." This bill impacts only those midwives that are licensed to practice in Pennsylvania under the Medical Practice Act of 1985.

A licensed midwife is an integral part of our healthcare provider workforce. Midwives care for individuals during pregnancy, childbirth, postpartum, and the first 28-days of a newborn's life, and many also provide other routine women's reproductive care. Midwives also provide full prenatal care, clinical examinations, and screening. Other responsibilities include:

- identify high-risk pregnancies.
- monitor women and support them during labor and the birthing process.
- teach new and expectant mothers how to care for their babies.

Gaps in maternal health care are one of the most concerning issues for young families. There has been a significant shortage of physicians choosing to be generalist OB-GYNs. There are numerous counties who have no obstetricians or licensed midwives, and struggle to recruit and retain them.

Passage of this legislation would result in expanded access to maternal health care and ensure high quality of care and professionalism within the midwifery practice in the Commonwealth. Board-certified nurse midwives (CNM) are an essential part of the current women's health workforce in Pennsylvania, leading to greater access to care and improved health care outcomes. However, in Pennsylvania the practice needs regulation modernization to fully utilize all midwives, including certified midwives (CM) who may have entered the profession without being a nurse prior. It is important to note that all midwives attend the same schooling and pass the same national exam before becoming certified.

OB-GYNs and midwives work well together and are strong partners in providing maternal care. This legislation is not a replacement of current practice, rather it is building access to high-quality care and the ability to utilize midwives to their potential. Current cooperative working relationships exist between the professional associations of the American College of Nurse-Midwives (ACNM) and the American College of Obstetricians and Gynecologists (ACOG), leading to integration of midwifery providers into the education of resident physicians and midwifery staffing of labor and delivery units and birth centers across the entire state. This legislation

will further integrate midwives into all types of locales and practices in Pennsylvania, not just academic health centers.

Specifically, this legislation amends the Medical Practice Act of 1985 by:

- providing for licensure of certified midwives in Pennsylvania (currently only certified Nurse Midwives can practice),
- allowing midwives to prescribe treatment for opioid use disorder, and
- modernizing the current collaborative agreement structure.

It is important to note that this legislation **only removes a collaborative agreement when a CNM or CM is employed by a multidisciplinary professional group, licensed freestanding birth center or a hospital system. A midwife without those employment parameters would still require a formal collaborative agreement.** Every midwife must have an emergency transfer plan which includes a physician's group or hospital system.

Please join me in sponsoring this important legislation. If you have any questions or suggestions regarding this legislation, please contact Christine Zubeck in my office at 717-787-6123 or czubeck@pasen.gov. Thank you for your consideration.

Document	**Introduced as SB 507**
Last Updated	March 21, 2025 12:28 PM

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

Chronological Table of Statutes

AFFECTED BY LAWS OF 2026 AND BY DECISIONS AND RULES OF COURT

Provision Affected	How Affected	By Law, Decision or Rule
1929		
P.L.177, No.175		
Sec. 451 (b)(1) and (2) amended and (b)(1.1) and (1.2) added	Amended or added	May 6, No.15
1931		
P.L.1206, No.331		
Act	Repealed	Feb. 11, P.L.19, No.7
1933		
P.L.216, No.76		
Sec. 2 defs. of "practice of dentistry" and "restricted faculty license"	Amended	May 6, No.13
Sec. 3 (c), (d) and (d.1)(1) intro. par.	Amended	May 6, No.13
Sec. 10 (g.1)	Amended	May 6, No.13
Sec. 11.11 (a) intro. par. and (3) and (b)	Amended	May 6, No.13
P.L.1050, No.242		
Sec. 9	Amended	May 6, P.L.188, No.11
Sec. 9.2 (b) and (d)	Amended	May 6, P.L.188, No.11
Sec. 9.3 (d)	Amended	May 6, P.L.188, No.11
1949		
30, No.14		

Provision Affected	How Affected	By Law, Decision or Rule
Sec. 1511	Amended	Feb. 11, P.L.3, No.2
Sec. 2001-A def. of "campus police"	Amended	Feb. 11, P.L.10, No.5
Sec. 2009-A (a)(13)	Deleted by amendment	Feb. 11, P.L.10, No.5
1951		
P.L.90, No.21		
Sec. 408.17	Added	Mar. 27, P.L.182, No.8
Sec. 412.1 (c) amended and (c.1) added	Amended or added	Mar. 27, P.L.182, No.8
Sec. 505.4 (a)	Amended	Mar. 27, P.L.182, No.8
1975		
P.L.383, No.110		
Sec. 2 defs. of "physician assistant" amended and "midwife" added	Amended or added	May 6, No.12
Sec. 9 (a)	Amended	May 6, No.12
1980		
P.L.950, No.164		
Sec. 102 def. of "right to access"	Added	Feb. 11, P.L.9, No.4
1985		
P.L.457, No.112		
Sec. 2 defs. of "medical training facility" amended, "midwife" added and "midwife or nurse-midwife" deleted by amendment	Amended, added or deleted by amendment	May 6, No.14
Sec. 12 (b)	Amended	May 6, No.14
Sec. 35 (c)(1), (2)(iii) and (iv) and (3) and (d)	Amended	May 6, No.14
Sec. 35.1	Added	May 6, No.14
1999		

Provision Affected	How Affected	By Law, Decision or Rule
P.L.491, No.45		
Sec. 103 defs. of "accessibility code" and "updated accessibility code sections"	Added	May 6, No.16
Sec. 106 (a)(1) amended and (a)(5) and (d) added	Amended or added	May 6, No.16
Sec. 301 (a)(4)	Amended	May 6, No.16
Sec. 304 (a)(3) and (a.1)	Amended	May 6, No.16
Sec. 703 (b), (c) and (d)(2)	Amended	May 6, No.16

Consolidated Statutes

Provision Affected	How Affected	By Law, Decision or Rule
Title 8		
§ 901 (c) and (d) amended, (a.1) intro. par. and (f) added and (e) deleted by amendment	Amended, added or deleted by amendment	Apr. 1, P.L.185, No.9
Title 42		
§ 3532	Amended	Feb. 4, P.L.1, No.1
§ 3733 (a)(3)	Added	Feb. 4, P.L.1, No.1
§ 4908	Added	Feb. 4, P.L.1, No.1
Title 53		
§ 2168 (f)	Added	Feb. 11, P.L.10, No.5
Title 73		
§ 101 (Reserved) and Pt. I and Ch. 1	Added	Feb. 11, P.L.19, No.7
02	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 103	Added	Feb. 11, P.L.19, No.7
§ 104 (Reserved)	Added	Feb. 11, P.L.19, No.7
§ 105	Added	Feb. 11, P.L.19, No.7
§ 106	Added	Feb. 11, P.L.19, No.7
§ 107	Added	Feb. 11, P.L.19, No.7
§ 108	Added	Feb. 11, P.L.19, No.7
§ 109	Added	Feb. 11, P.L.19, No.7
§ 110	Added	Feb. 11, P.L.19, No.7
§ 111	Added	Feb. 11, P.L.19, No.7
§ 1101 and Pt. II and Ch. 11	Added	Feb. 11, P.L.19, No.7
§ 1102	Added	Feb. 11, P.L.19, No.7
§ 1103	Added	Feb. 11, P.L.19, No.7
§ 1104	Added	Feb. 11, P.L.19, No.7
§ 1105	Added	Feb. 11, P.L.19, No.7
§ 1106	Added	Feb. 11, P.L.19, No.7
§ 1107	Added	Feb. 11, P.L.19, No.7
§ 1108	Added	Feb. 11, P.L.19, No.7
§ 1301 Ch. 13 (Reserved)	Added	Feb. 11, P.L.19, No.7
§ 1501 and Ch. 15	Added	Feb. 11, P.L.19, No.7
§ 1502	Added	Feb. 11, P.L.19, No.7
§ 1503	Added	Feb. 11, P.L.19, No.7
§ 1504	Added	Feb. 11, P.L.19, No.7
§ 1505	Added	Feb. 11, P.L.19, No.7
§ 1506	Added	Feb. 11, P.L.19, No.7
§ 1701 and Ch. 17 and Subch. A	Added	Feb. 11, P.L.19, No.7
§ 1702	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 1703	Added	Feb. 11, P.L.19, No.7
§ 1711 and Subch. B	Added	Feb. 11, P.L.19, No.7
§ 1901 and Ch. 19 and Subch. A	Added	Feb. 11, P.L.19, No.7
§ 1902	Added	Feb. 11, P.L.19, No.7
§ 1903	Added	Feb. 11, P.L.19, No.7
§ 1904	Added	Feb. 11, P.L.19, No.7
§ 1905	Added	Feb. 11, P.L.19, No.7
§ 1911 and Subch. B	Added	Feb. 11, P.L.19, No.7
§ 1912	Added	Feb. 11, P.L.19, No.7
§ 1913	Added	Feb. 11, P.L.19, No.7
§ 1921 and Subch. C	Added	Feb. 11, P.L.19, No.7
§ 1922	Added	Feb. 11, P.L.19, No.7
§ 1923	Added	Feb. 11, P.L.19, No.7
§ 1931 and Subch. D	Added	Feb. 11, P.L.19, No.7
§ 1931.1	Added	Feb. 11, P.L.19, No.7
§ 1932	Added	Feb. 11, P.L.19, No.7
§ 1933	Added	Feb. 11, P.L.19, No.7
§ 1934	Added	Feb. 11, P.L.19, No.7
§ 1935	Added	Feb. 11, P.L.19, No.7
§ 1936	Added	Feb. 11, P.L.19, No.7
§ 1937	Added	Feb. 11, P.L.19, No.7
§ 1938	Added	Feb. 11, P.L.19, No.7
§ 1939	Added	Feb. 11, P.L.19, No.7
§ 1940	Added	Feb. 11, P.L.19, No.7
§ 1941	Added	Feb. 11, P.L.19, No.7
§ 1942	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 1943	Added	Feb. 11, P.L.19, No.7
§ 1944	Added	Feb. 11, P.L.19, No.7
§ 1945	Added	Feb. 11, P.L.19, No.7
§ 1946	Added	Feb. 11, P.L.19, No.7
§ 1947	Added	Feb. 11, P.L.19, No.7
§ 1948	Added	Feb. 11, P.L.19, No.7
§ 1949	Added	Feb. 11, P.L.19, No.7
§ 1950	Added	Feb. 11, P.L.19, No.7
§ 1951	Added	Feb. 11, P.L.19, No.7
§ 1952	Added	Feb. 11, P.L.19, No.7
§ 1953	Added	Feb. 11, P.L.19, No.7
§ 1954	Added	Feb. 11, P.L.19, No.7
§ 2101 and Ch. 21	Added	Feb. 11, P.L.19, No.7
§ 2102	Added	Feb. 11, P.L.19, No.7
§ 2103	Added	Feb. 11, P.L.19, No.7
§ 2104	Added	Feb. 11, P.L.19, No.7
§ 2301 and Ch. 23	Added	Feb. 11, P.L.19, No.7
§ 2302	Added	Feb. 11, P.L.19, No.7
§ 2303	Added	Feb. 11, P.L.19, No.7
§ 2304	Added	Feb. 11, P.L.19, No.7
§ 2305	Added	Feb. 11, P.L.19, No.7
§ 2306	Added	Feb. 11, P.L.19, No.7
§ 2501 and Ch. 25	Added	Feb. 11, P.L.19, No.7
§ 2701 and Ch. 27	Added	Feb. 11, P.L.19, No.7
§ 2702	Added	Feb. 11, P.L.19, No.7
§ 2703	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 2704	Added	Feb. 11, P.L.19, No.7
§ 2901 and Ch. 29 and Subch. A	Added	Feb. 11, P.L.19, No.7
§ 2902	Added	Feb. 11, P.L.19, No.7
§ 2903	Added	Feb. 11, P.L.19, No.7
§ 2904	Added	Feb. 11, P.L.19, No.7
§ 2905	Added	Feb. 11, P.L.19, No.7
§ 2906	Added	Feb. 11, P.L.19, No.7
§ 2907	Added	Feb. 11, P.L.19, No.7
§ 2908	Added	Feb. 11, P.L.19, No.7
§ 2909	Added	Feb. 11, P.L.19, No.7
§ 2910	Added	Feb. 11, P.L.19, No.7
§ 2911	Added	Feb. 11, P.L.19, No.7
§ 2912	Added	Feb. 11, P.L.19, No.7
§ 2913	Added	Feb. 11, P.L.19, No.7
§ 2914	Added	Feb. 11, P.L.19, No.7
§ 2915	Added	Feb. 11, P.L.19, No.7
§ 2916	Added	Feb. 11, P.L.19, No.7
§ 2921 and Subch. B	Added	Feb. 11, P.L.19, No.7
§ 2922	Added	Feb. 11, P.L.19, No.7
§ 2923	Added	Feb. 11, P.L.19, No.7
§ 3101 and Ch. 31	Added	Feb. 11, P.L.19, No.7
§ 3102	Added	Feb. 11, P.L.19, No.7
§ 3103	Added	Feb. 11, P.L.19, No.7
§ 3104	Added	Feb. 11, P.L.19, No.7
§ 3105	Added	Feb. 11, P.L.19, No.7
§ 3106	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 3107	Added	Feb. 11, P.L.19, No.7
§ 3108	Added	Feb. 11, P.L.19, No.7
§ 3109	Added	Feb. 11, P.L.19, No.7
§ 3110	Added	Feb. 11, P.L.19, No.7
§ 3301 and Ch. 33	Added	Feb. 11, P.L.19, No.7
§ 3302	Added	Feb. 11, P.L.19, No.7
§ 3303	Added	Feb. 11, P.L.19, No.7
§ 3501 and Ch. 35	Added	Feb. 11, P.L.19, No.7
§ 3502	Added	Feb. 11, P.L.19, No.7
§ 3503	Added	Feb. 11, P.L.19, No.7
§ 3504	Added	Feb. 11, P.L.19, No.7
§ 3505	Added	Feb. 11, P.L.19, No.7
§ 3701 and Ch. 37	Added	Feb. 11, P.L.19, No.7
§ 3702	Added	Feb. 11, P.L.19, No.7
§ 3703	Added	Feb. 11, P.L.19, No.7
§ 3704	Added	Feb. 11, P.L.19, No.7
§ 3901 and Ch. 39 and Subch. A	Added	Feb. 11, P.L.19, No.7
§ 3902	Added	Feb. 11, P.L.19, No.7
§ 3903	Added	Feb. 11, P.L.19, No.7
§ 3904	Added	Feb. 11, P.L.19, No.7
§ 3911 and Subch. B	Added	Feb. 11, P.L.19, No.7
§ 3912	Added	Feb. 11, P.L.19, No.7
§ 3913	Added	Feb. 11, P.L.19, No.7
§ 3914	Added	Feb. 11, P.L.19, No.7
§ 4101 and Ch. 41	Added	Feb. 11, P.L.19, No.7
§ 4102	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 4103	Added	Feb. 11, P.L.19, No.7
§ 4104	Added	Feb. 11, P.L.19, No.7
§ 4105	Added	Feb. 11, P.L.19, No.7
§ 4106	Added	Feb. 11, P.L.19, No.7
§ 4107	Added	Feb. 11, P.L.19, No.7
§ 4108	Added	Feb. 11, P.L.19, No.7
§ 4109	Added	Feb. 11, P.L.19, No.7
§ 4110	Added	Feb. 11, P.L.19, No.7
§ 4111	Added	Feb. 11, P.L.19, No.7
§ 4301 and Ch. 43	Added	Feb. 11, P.L.19, No.7
§ 4302	Added	Feb. 11, P.L.19, No.7
§ 4303	Added	Feb. 11, P.L.19, No.7
§ 4304	Added	Feb. 11, P.L.19, No.7
§ 4305	Added	Feb. 11, P.L.19, No.7
§ 4306	Added	Feb. 11, P.L.19, No.7
§ 4307	Added	Feb. 11, P.L.19, No.7
§ 4308	Added	Feb. 11, P.L.19, No.7
§ 4309	Added	Feb. 11, P.L.19, No.7
§ 4310	Added	Feb. 11, P.L.19, No.7
§ 4311	Added	Feb. 11, P.L.19, No.7
§ 4312	Added	Feb. 11, P.L.19, No.7
§ 4313	Added	Feb. 11, P.L.19, No.7
§ 4314	Added	Feb. 11, P.L.19, No.7
§ 4315	Added	Feb. 11, P.L.19, No.7
§ 4316	Added	Feb. 11, P.L.19, No.7
§ 4317	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 4318	Added	Feb. 11, P.L.19, No.7
§ 4319	Added	Feb. 11, P.L.19, No.7
§ 4320	Added	Feb. 11, P.L.19, No.7
§ 4321	Added	Feb. 11, P.L.19, No.7
§ 4322	Added	Feb. 11, P.L.19, No.7
§ 4323	Added	Feb. 11, P.L.19, No.7
§ 4324	Added	Feb. 11, P.L.19, No.7
§ 4325	Added	Feb. 11, P.L.19, No.7
§ 4326	Added	Feb. 11, P.L.19, No.7
§ 4327	Added	Feb. 11, P.L.19, No.7
§ 4328	Added	Feb. 11, P.L.19, No.7
§ 4329	Added	Feb. 11, P.L.19, No.7
§ 4330	Added	Feb. 11, P.L.19, No.7
§ 4331	Added	Feb. 11, P.L.19, No.7
§ 4332	Added	Feb. 11, P.L.19, No.7
§ 4333	Added	Feb. 11, P.L.19, No.7
§ 4334	Added	Feb. 11, P.L.19, No.7
§ 4335	Added	Feb. 11, P.L.19, No.7
§ 4336	Added	Feb. 11, P.L.19, No.7
§ 4337	Added	Feb. 11, P.L.19, No.7
§ 4338	Added	Feb. 11, P.L.19, No.7
§ 4339	Added	Feb. 11, P.L.19, No.7
§ 4340	Added	Feb. 11, P.L.19, No.7
§ 4341	Added	Feb. 11, P.L.19, No.7
§ 4342	Added	Feb. 11, P.L.19, No.7
§ 4343	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 4344	Added	Feb. 11, P.L.19, No.7
§ 4345	Added	Feb. 11, P.L.19, No.7
§ 4346	Added	Feb. 11, P.L.19, No.7
§ 4347	Added	Feb. 11, P.L.19, No.7
§ 4348	Added	Feb. 11, P.L.19, No.7
§ 4349	Added	Feb. 11, P.L.19, No.7
§ 4350	Added	Feb. 11, P.L.19, No.7
§ 4351	Added	Feb. 11, P.L.19, No.7
§ 4352	Added	Feb. 11, P.L.19, No.7
§ 4353	Added	Feb. 11, P.L.19, No.7
§ 4354	Added	Feb. 11, P.L.19, No.7
§ 4355	Added	Feb. 11, P.L.19, No.7
§ 4356	Added	Feb. 11, P.L.19, No.7
§ 4357	Added	Feb. 11, P.L.19, No.7
§ 4358	Added	Feb. 11, P.L.19, No.7
§ 4359	Added	Feb. 11, P.L.19, No.7
§ 4360	Added	Feb. 11, P.L.19, No.7
§ 4361	Added	Feb. 11, P.L.19, No.7
§ 4362	Added	Feb. 11, P.L.19, No.7
§ 4363	Added	Feb. 11, P.L.19, No.7
§ 4364	Added	Feb. 11, P.L.19, No.7
§ 4501 and Ch. 45	Added	Feb. 11, P.L.19, No.7
§ 4701 and Ch. 47	Added	Feb. 11, P.L.19, No.7
§ 4702	Added	Feb. 11, P.L.19, No.7
§ 4703	Added	Feb. 11, P.L.19, No.7
§ 4704	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 4705	Added	Feb. 11, P.L.19, No.7
§ 4706	Added	Feb. 11, P.L.19, No.7
§ 4707	Added	Feb. 11, P.L.19, No.7
§ 4708	Added	Feb. 11, P.L.19, No.7
§ 4709	Added	Feb. 11, P.L.19, No.7
§ 4710	Added	Feb. 11, P.L.19, No.7
§ 4711	Added	Feb. 11, P.L.19, No.7
§ 4901 and Ch. 49	Added	Feb. 11, P.L.19, No.7
§ 4902	Added	Feb. 11, P.L.19, No.7
§ 4903	Added	Feb. 11, P.L.19, No.7
§ 4904	Added	Feb. 11, P.L.19, No.7
§ 4905	Added	Feb. 11, P.L.19, No.7
§ 4906	Added	Feb. 11, P.L.19, No.7
§ 4907	Added	Feb. 11, P.L.19, No.7
§ 4908	Added	Feb. 11, P.L.19, No.7
§ 4909	Added	Feb. 11, P.L.19, No.7
§ 4910	Added	Feb. 11, P.L.19, No.7
§ 4911	Added	Feb. 11, P.L.19, No.7
§ 4912	Added	Feb. 11, P.L.19, No.7
§ 4913	Added	Feb. 11, P.L.19, No.7
§ 5101 and Ch. 51	Added	Feb. 11, P.L.19, No.7
§ 5102	Added	Feb. 11, P.L.19, No.7
§ 5103	Added	Feb. 11, P.L.19, No.7
§ 5104	Added	Feb. 11, P.L.19, No.7
§ 5105	Added	Feb. 11, P.L.19, No.7
§ 5106	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 5107	Added	Feb. 11, P.L.19, No.7
§ 5108	Added	Feb. 11, P.L.19, No.7
§ 5301 and Ch. 53	Added	Feb. 11, P.L.19, No.7
§ 5302	Added	Feb. 11, P.L.19, No.7
§ 5303	Added	Feb. 11, P.L.19, No.7
§ 5304	Added	Feb. 11, P.L.19, No.7
§ 5305	Added	Feb. 11, P.L.19, No.7
§ 5501 and Ch. 55	Added	Feb. 11, P.L.19, No.7
§ 5502	Added	Feb. 11, P.L.19, No.7
§ 5503	Added	Feb. 11, P.L.19, No.7
§ 5504	Added	Feb. 11, P.L.19, No.7
§ 5505	Added	Feb. 11, P.L.19, No.7
§ 5506	Added	Feb. 11, P.L.19, No.7
§ 5507	Added	Feb. 11, P.L.19, No.7
§ 5508	Added	Feb. 11, P.L.19, No.7
§ 5509	Added	Feb. 11, P.L.19, No.7
§ 5510	Added	Feb. 11, P.L.19, No.7
§ 5511	Added	Feb. 11, P.L.19, No.7
§ 5512	Added	Feb. 11, P.L.19, No.7
§ 5513	Added	Feb. 11, P.L.19, No.7
§ 5514	Added	Feb. 11, P.L.19, No.7
§ 5515	Added	Feb. 11, P.L.19, No.7
§ 5516	Added	Feb. 11, P.L.19, No.7
§ 5517	Added	Feb. 11, P.L.19, No.7
§ 5518	Added	Feb. 11, P.L.19, No.7
§ 5519	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 5520	Added	Feb. 11, P.L.19, No.7
§ 5521	Added	Feb. 11, P.L.19, No.7
§ 5522	Added	Feb. 11, P.L.19, No.7
§ 5523	Added	Feb. 11, P.L.19, No.7
§ 5524	Added	Feb. 11, P.L.19, No.7
§ 5525	Added	Feb. 11, P.L.19, No.7
§ 5526	Added	Feb. 11, P.L.19, No.7
§ 5527	Added	Feb. 11, P.L.19, No.7
§ 5528	Added	Feb. 11, P.L.19, No.7
§ 5529	Added	Feb. 11, P.L.19, No.7
§ 5530	Added	Feb. 11, P.L.19, No.7
§ 5531	Added	Feb. 11, P.L.19, No.7
§ 5532	Added	Feb. 11, P.L.19, No.7
§ 5533	Added	Feb. 11, P.L.19, No.7
§ 5534	Added	Feb. 11, P.L.19, No.7
§ 5535	Added	Feb. 11, P.L.19, No.7
§ 5701 and Ch. 57	Added	Feb. 11, P.L.19, No.7
§ 5702	Added	Feb. 11, P.L.19, No.7
§ 5703	Added	Feb. 11, P.L.19, No.7
§ 5901 and Ch. 59	Added	Feb. 11, P.L.19, No.7
§ 5902	Added	Feb. 11, P.L.19, No.7
§ 5903	Added	Feb. 11, P.L.19, No.7
§ 5904	Added	Feb. 11, P.L.19, No.7
§ 5905	Added	Feb. 11, P.L.19, No.7
§ 6101 and Ch. 61 and Subch. A	Added	Feb. 11, P.L.19, No.7
§ 6102	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 6103	Added	Feb. 11, P.L.19, No.7
§ 6104	Added	Feb. 11, P.L.19, No.7
§ 6105	Added	Feb. 11, P.L.19, No.7
§ 6106	Added	Feb. 11, P.L.19, No.7
§ 6107	Added	Feb. 11, P.L.19, No.7
§ 6108	Added	Feb. 11, P.L.19, No.7
§ 6111 and Subch. B	Added	Feb. 11, P.L.19, No.7
§ 6121 and Subch. C	Added	Feb. 11, P.L.19, No.7
§ 6131 and Subch. D	Added	Feb. 11, P.L.19, No.7
§ 6141 and Subch. E	Added	Feb. 11, P.L.19, No.7
§ 6151 and Subch. F	Added	Feb. 11, P.L.19, No.7
§ 6161 and Subch. G	Added	Feb. 11, P.L.19, No.7
§ 6301 and Ch. 63	Added	Feb. 11, P.L.19, No.7
§ 6302	Added	Feb. 11, P.L.19, No.7
§ 6303	Added	Feb. 11, P.L.19, No.7
§ 6304	Added	Feb. 11, P.L.19, No.7
§ 6305	Added	Feb. 11, P.L.19, No.7
§ 6306	Added	Feb. 11, P.L.19, No.7
§ 6307	Added	Feb. 11, P.L.19, No.7
§ 6308	Added	Feb. 11, P.L.19, No.7
§ 6309	Added	Feb. 11, P.L.19, No.7
§ 6501 and Ch. 65 and Subch. A	Added	Feb. 11, P.L.19, No.7
§ 6502	Added	Feb. 11, P.L.19, No.7
§ 6503	Added	Feb. 11, P.L.19, No.7
§ 6504	Added	Feb. 11, P.L.19, No.7
§ 6505	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 6506	Added	Feb. 11, P.L.19, No.7
§ 6507	Added	Feb. 11, P.L.19, No.7
§ 6508	Added	Feb. 11, P.L.19, No.7
§ 6509	Added	Feb. 11, P.L.19, No.7
§ 6510	Added	Feb. 11, P.L.19, No.7
§ 6511 and Subch. B	Added	Feb. 11, P.L.19, No.7
§ 6512	Added	Feb. 11, P.L.19, No.7
§ 6513	Added	Feb. 11, P.L.19, No.7
§ 6701 and Ch. 67	Added	Feb. 11, P.L.19, No.7
§ 6702	Added	Feb. 11, P.L.19, No.7
§ 6703	Added	Feb. 11, P.L.19, No.7
§ 6704	Added	Feb. 11, P.L.19, No.7
§ 6705	Added	Feb. 11, P.L.19, No.7
§ 6706	Added	Feb. 11, P.L.19, No.7
§ 6901 and Ch. 69	Added	Feb. 11, P.L.19, No.7
§ 6902	Added	Feb. 11, P.L.19, No.7
§ 6903	Added	Feb. 11, P.L.19, No.7
§ 6904	Added	Feb. 11, P.L.19, No.7
§ 6905	Added	Feb. 11, P.L.19, No.7
§ 6906	Added	Feb. 11, P.L.19, No.7
§ 7101 and Ch. 71 and Subch. A	Added	Feb. 11, P.L.19, No.7
§ 7111 and Subch. B	Added	Feb. 11, P.L.19, No.7
§ 7112	Added	Feb. 11, P.L.19, No.7
§ 7113	Added	Feb. 11, P.L.19, No.7
§ 7301 and Ch. 73 and Subch. A	Added	Feb. 11, P.L.19, No.7
§ 7302	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 7303	Added	Feb. 11, P.L.19, No.7
§ 7304	Added	Feb. 11, P.L.19, No.7
§ 7305	Added	Feb. 11, P.L.19, No.7
§ 7306	Added	Feb. 11, P.L.19, No.7
§ 7307	Added	Feb. 11, P.L.19, No.7
§ 7311 and Subch. B	Added	Feb. 11, P.L.19, No.7
§ 7312	Added	Feb. 11, P.L.19, No.7
§ 7313	Added	Feb. 11, P.L.19, No.7
§ 7314	Added	Feb. 11, P.L.19, No.7
§ 7315	Added	Feb. 11, P.L.19, No.7
§ 7316	Added	Feb. 11, P.L.19, No.7
§ 7317	Added	Feb. 11, P.L.19, No.7
§ 7318	Added	Feb. 11, P.L.19, No.7
§ 7319	Added	Feb. 11, P.L.19, No.7
§ 7320	Added	Feb. 11, P.L.19, No.7
§ 7321	Added	Feb. 11, P.L.19, No.7
§ 7331 and Subch. C	Added	Feb. 11, P.L.19, No.7
§ 7332	Added	Feb. 11, P.L.19, No.7
§ 7333	Added	Feb. 11, P.L.19, No.7
§ 7334	Added	Feb. 11, P.L.19, No.7
§ 7335	Added	Feb. 11, P.L.19, No.7
§ 7336	Added	Feb. 11, P.L.19, No.7
§ 7337	Added	Feb. 11, P.L.19, No.7
§ 7338	Added	Feb. 11, P.L.19, No.7
§ 7341 and Subch. D	Added	Feb. 11, P.L.19, No.7
§ 7501 and Ch. 75	Added	Feb. 11, P.L.19, No.7

Provision Affected	How Affected	By Law, Decision or Rule
§ 7502	Added	Feb. 11, P.L.19, No.7
§ 7503	Added	Feb. 11, P.L.19, No.7
§ 7504	Added	Feb. 11, P.L.19, No.7
§ 7505	Added	Feb. 11, P.L.19, No.7
§ 7506	Added	Feb. 11, P.L.19, No.7
§ 7701 and Ch. 77 and Subch. A	Added	Feb. 11, P.L.19, No.7
§ 7702	Added	Feb. 11, P.L.19, No.7
§ 7703	Added	Feb. 11, P.L.19, No.7
§ 7704	Added	Feb. 11, P.L.19, No.7
§ 7705	Added	Feb. 11, P.L.19, No.7
§ 7706	Added	Feb. 11, P.L.19, No.7
§ 7711 and Subch. B	Added	Feb. 11, P.L.19, No.7
§ 7712	Added	Feb. 11, P.L.19, No.7
§ 7713	Added	Feb. 11, P.L.19, No.7
§ 7901 and Ch. 79	Added	Feb. 11, P.L.19, No.7
§ 8101 and Ch. 81	Added	Feb. 11, P.L.19, No.7
§ 9101 Pt. III (Reserved)	Added	Feb. 11, P.L.19, No.7
Title 75		
§ 1786 (b), (c), (e)(2) and (3) and (g)(1) amended and (i) added	Amended or added	Feb. 11, P.L.4, No.3
§ 1786.1	Added	Feb. 11, P.L.4, No.3
§ 7804 (a) intro. par. and (7) intro. par. amended and (a)(7)(xx) added	Amended or added	Apr. 1, P.L.187, No.10

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

J. A12038/03

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA, Appellee v. JONAS MILLER, ANDY J. MILLER, BEN MILLER, JOHN MILLER, JOHN MILLER, JONAS S.MILLER, EMERY MILLER, JONAS A. SWARTZENTRUBER, ELI A. MILLER, LEVI SWARTZENTRUBER, JOSEPH MILLER, JOSEPH MILLER, ANDY MILLER, DANNIE A. SWARTZENTRUBER, DANIEL A. MILLER, KATIE MILLER, JONAS MILLER, LEVI J. ZOOK, ELI C. ZOOK, JACOB A. MILLER, LEVI MILLER, NOAH YODER, ANDY A.MILLER, LAVINA ZOOK, SAM YODER, JONAS MILLER Appellants	:	IN THE SUPERIOR COURT OF PENNSYLVANIA 1124 WDA 2002

Appeal from the Judgment of Sentence entered June 6, 2002, Court of Common Pleas, Cambria County, Criminal Division at No(s). 2833-2000, 0174-2001, 0175-2001, 0402-2002, 0403-2002, 0624-2002, 0703-2002, 0754-2001, 0755-2001, 0756-2001, 0757-2001, 0758-2001, 1308 & 1312-2002, 1309-2002, 1310-2002, 1313-2002, 1389-2001, 1390-2001, 1391-2001,1392-2001, 1393-2001, 1394-2001, 1836-2001, 2832-2000, 2834-2000, and 2835-2000.

BEFORE: JOHNSON, KLEIN, and POPOVICH, JJ.

MEMORANDUM: Filed: October 20, 2003

Jonas Miller, Andy J. Miller, Ben Miller, John Miller, Emery Miller, Jonas A. Swartzentruber, Eli A. Miller, Levi Swartzentruber, Joseph Miller, Dannie A. Swartzentruber, Daniel A. Miller, Katie Miller, Levi J. Zook, Eli C. Zook, Jacob A. Miller, Levi Miller, Noah Yoder, Andy A. Miller, Lavina Zook and Sam Yoder (collectively "Swartzentruber Amish" or "Swartzentrubers"), appeal multiple judgments of sentence imposed following their respective convictions for failure to affix a traffic warning symbol designated by the Pennsylvania Department of Transportation to the rear of their horse-drawn buggies. The Swartzentruber Amish contend that the display of the symbol violates their religious beliefs and argue that state law compelling its use violates their rights of freedom of religion under the Constitutions of the United States and the Commonwealth of Pennsylvania. They argue, in addition, that the law violates their Constitutional rights of freedom of expression and freedom of association under the Constitution of the United States. We conclude that the law is indeed unconstitutional as applied to the Swartzentruber Amish. Accordingly, we reverse their respective judgments of sentence.

The Amish are members of the Christian faith who adhere to Anabaptist religious teachings. ***See Wisconsin v. Yoder***, 406 U.S. 205, 210 (1972). These teachings pervade and regulate every aspect of Amish life, compelling adherents to live separate from those outside their

communities to witness to the world their commitment to God. ***See id.*** at 216. Accordingly, the Amish as a group lead an insular existence, modest, devout, and unencumbered by material acquisition or display. They shun modern conveniences and do not use automobiles, traveling instead in horse-drawn "buggies." Today, Pennsylvania is home to approximately 300 of the 1300 Amish congregations existing in the United States.

Among the Amish congregations resident in Pennsylvania is one congregation of the Swartzentruber Amish, an Old Order Amish group composed of 65 congregations nationwide, of which the defendants in this case are members. This congregation makes its home in Cambria County, and like other congregations of Old Order Amish, espouses rigorously conservative values "characterized by a fundamental belief that salvation requires life in a church community separate and apart from the world and worldly influence." ***See Yoder***, 406 U.S. at 210. These values, recorded in the "*ordnung*" of each congregation, prohibit the use of bright colors, which the Swartzentruber Amish equate with the sin of vanity, and forbid display of any symbol of the secular world.

Accordingly, the Swartzentruber Amish, unlike members of some other Amish congregations, decline to display on their buggies the traffic warning device prescribed by Pennsylvania law to denote animal-drawn vehicles. They assert that the device, a fluorescent orange triangle outlined in red

reflective tape, displays unwanted color forbidden by their *ordnung*, and constitutes a symbol of the secular world inconsistent with their deeply-held faith in God. In lieu of the symbol, the Swartzentruber Amish hang a red lantern from the left rear corner of their buggies and outline the tailgate with strips of gray reflective tape one inch wide. The tape approximates the shape of the buggy and demonstrates its size to oncoming motorists.

Upon encountering the buggies of the Swartzentruber Amish, police in Cambria County determined that the gray reflective tape did not comport with a controlling provision of Pennsylvania's Motor Vehicle Code, and a Department of Transportation regulation that requires the use of the SMV emblem on the back of all animal-drawn vehicles and certain other vehicles that travel at less than 25 miles per hour. ***See*** 75 Pa.C.S. § 4529 (Slow moving vehicle emblem) ("Section 4529"); 67 Pa. Code § 165.4. The applicable provision of the Motor Vehicle Code provides in pertinent part as follows:

> **§ 4529. Slow moving vehicle emblem**
>
> **(a) General rule.**—All implements of husbandry, commercial implements of husbandry and special mobile equipment designed to operate at 25 miles per hour or less and all animal-drawn vehicles shall, when traveling on a highway, display on the rear of the vehicle a reflective slow moving vehicle emblem as specified in regulations of the department. The use of the slow moving vehicle emblem shall be in addition to any other lighting devices or equipment required by this title.

75 Pa.C.S. § 4529. The "slow moving vehicle emblem" (SMV emblem) the statute requires is described in a Department of Transportation regulation as follows:

> **CHAPTER 165. SLOW-MOVING VEHICLE IDENTIFICATION EMBLEM**
>
> **§ 165.4. Description.**
>
> The identification emblem, Figure 1, shall consist of a fluorescent yellow-orange triangle with a dark, red reflective border. The yellow-orange fluorescent triangle is for daylight identification. The reflective border defines the shape of the fluorescent color in daylight and becomes a hollow red triangle in the path of motor vehicle headlights at night. The emblem may be permanently mounted or portable.

67 Pa.Code 165.4. Ostensibly in accordance with these two sections, the police, on the twenty-seven occasions now before us, cited the Swartzentrubers. Each citation carried a fine and the potential for incarceration of any defendant who failed to pay. At the district justice level, the Swartzentrubers contested the citations; however, the district justice convicted them of the stated violations and imposed fines of $95 each.

On appeal, the Court of Common Pleas of Cambria County convened a *de novo* hearing at which the Swartzentrubers argued that enforcement of the display requirement in Section 4529 violates their rights to religious freedom guaranteed both by the First Amendment of the United States Constitution and Article I, Section 3 of the Constitution of Pennsylvania.

They argued, further, that the right they assert under the U.S. Constitution, is a "hybrid right" implicating First Amendment freedom of expression, as well as freedom of association. ***See Employment Division, Department of Human Resources of Oregon v. Smith***, 494 U.S. 872 (1990) (concluding that Free Exercise claims are subject to heightened scrutiny of compelling state interest test only when they assert violation of a "hybrid right" involving other Constitutional claims).

In support of their claims, the Swartzentrubers presented fact testimony concerning the sincerity of their religious beliefs, as well as expert testimony comparing the physical characteristics of the SMV emblem with those of "less restrictive" alternatives also used to mark buggies. The Commonwealth did not contest the sincerity of the Swartzentrubers' religious beliefs, but did present expert testimony on the relative effectiveness of the SMV emblem and other marking devices. The Commonwealth's expert concluded that the SMV emblem was the most visible form of identification for daytime viewing, but conceded that it was not as effective during nighttime hours as the reflective tape and lantern used by the Swartzentrubers.

The trial court, the Honorable Timothy P. Creany, recognized that the Swartzentrubers' religious beliefs are sincerely held, but determined as well that the Commonwealth had demonstrated that enforcement of the display

provision of section 4529 was necessary to achieve a "compelling state interest." Consequently, the court found the Commonwealth's case sufficient to overcome the Swartzentrubers' religious objections and determined further that the display requirement of the statute is not unconstitutional. The Swartzentrubers then filed this appeal raising the following questions for our review:

> 1. Whether 75 Pa.C.S. § 4529(a) and the attendant regulation, 67 Pa. Code § 165.4, which require horse-drawn buggies to display orange/red truncated triangles, are unconstitutional as applied to people who object on religious grounds to displaying such triangles, where the Commonwealth did not prove either that it has a compelling interest in requiring such people to display such triangles or that this particular device and only this particular device furthers the Commonwealth's interest in saving lives by reducing accidents between horse-drawn buggies and motorized vehicles[?]
>
> 2. Whether an individual who has only minimal specialized knowledge, expertise, and training in the fields of visibility issues as they relate to transportation may nonetheless testify as an expert witness on those subjects, and whether it was proper to admit into evidence, over objection and for the truth of matters contained therein, an out-of-court report prepared by the putative expert that is itself hearsay and that contains multiple levels of hearsay[?]

Brief for Appellants at 3.

Before addressing the merits of the Swartzentrubers' claims, we note that their first question presents the limited issue of the constitutionality of Section 4529 and the attendant section of the Pennsylvania Code as applied

to the Swartzentruber Amish. Although this issue appears central to the disposition of this case, we remain cognizant of the time-honored jurisprudential tenet that all courts must avoid questions of constitutionality if the case may be decided on any other ground. ***See In re Fiori***, 673 A.2d 905, 909 (Pa. 1996) (citing ***Rescue Army v. Municipal Court***, 331 U.S. 549, 568-69 (1947)). Accordingly, we consider the Swartzentrubers' second question first to discern whether the evidentiary issues it raises may resolve this appeal.

The Swartzentrubers' second question raises two issues: the first, whether the trial court erred in qualifying the Commonwealth's expert to testify on the issue of the visibility of reflective traffic-control devices and, the second, whether the trial court erred in admitting the expert's report into evidence. The first issue, concerning qualification of expert witnesses, implicates the discretionary powers of the trial court. Whether a witness is qualified to testify as an expert is a decision committed to the discretion of the trial judge; we will not reverse that decision absent an abuse of discretion. ***See Rittenhouse v. Hanks***, 777 A.2d 1113, 1116 (Pa. Super. 2001).

In this case, the trial court determined that the Commonwealth's expert, Richard W. Varner, was qualified to testify as an expert "[a]nd, particularly, [would be] permitted to express opinions on retroreflectivity

and visual perception." N.T. Summary Appeal Hearing, 5/23/02, at 35. The court reached its conclusion based on Varner's *curriculum vitae* and preliminary testimony that he had attended some coursework that included discussion of retroreflectivity of materials and had co-authored a book on traffic safety that included a chapter on visibility in the context of commercial vehicles. The Swartzentrubers objected, contending that Varner possessed only general knowledge of accident reconstruction. N.T. Summary Appeal Hearing, 5/23/02, at 3. They argue on appeal that Varner "has never been qualified as an expert in visibility, retroreflectivity of materials, or photometrics," and that his experience relating to visibility "is quite limited . . . consisting of very few hours of discussion within larger seminars." Brief for Appellants at 45. Upon review of the record, in conjunction with applicable caselaw, we conclude that the trial court did not err in allowing Varner to testify as an expert witness.

In Pennsylvania, the threshold of expertise necessary to qualify a witness to give expert testimony is relatively modest. ***See Miller v. Brass Rail Tavern***, 664 A.2d 525, 528 (Pa. 1995). The witness must have sufficient skill, knowledge, or expertise in the field at issue "as to make it appear that his opinion or inference will probably aid the trier [of fact] in his search for truth." ***West Philadelphia Therapy Center v. Erie Ins. Group***, 751 A.2d 1166, 1168 (Pa. Super. 2000). Accordingly, the witness

need not possess all of the knowledge in his field of expertise, but need only possess "more knowledge than is otherwise within the ordinary range of training, knowledge, intelligence or experience" of the average juror. ***Miller***, 664 A.2d at 528. ***See also West Philadelphia Therapy Center***, 751 A.2d at 1158. Thus, regardless of the source or character of his expertise, a witness may testify as an expert if he has "**any** reasonable pretension to specialized knowledge on the subject under investigation." ***Id.*** (original emphasis). Provided this standard is met, the weight accorded the witness's testimony is left to the factfinder, which will accept or reject it on grounds of credibility. ***See id.***

In view of these liberal guidelines, we find no error in the trial court's conclusion that Varner was qualified to testify as an expert witness. The record reflects that Varner is program director at the Pennsylvania Traffic Institute for Police Services, where he provides instruction on traffic safety issues to law enforcement officers from across the Commonwealth. N.T. Summary Appeal Hearing, 5/23/02, at 17, 19-20. Varner has conducted several nighttime visibility studies, has co-authored a book, one of the chapters of which concerned visibility of commercial vehicles, and has both taken and taught classes on nighttime and other visibility issues. N.T. Summary Appeal Hearing, 5/23/02, at 23-24. Moreover, he is experienced in the use of the reflectometer, a device used in field testing to measure the

transmission of light from reflective surfaces. N.T. Summary Appeal Hearing, 5/23/02, at 32. Although cross-examination revealed that Varner's primary area of expertise is in accident reconstruction, this concentration of knowledge does not diminish his training and experience in the realm of visual perception of traffic control devices, which both parties agree is at issue here. This case is therefore readily distinguishable from the cases on which the Swartzentrubers rely. ***See e.g. Erschen v. Pennsylvania Independent Oil Co.***, 393 A.2d 924 (Pa. Super. 1978) (finding fire marshal not qualified to testify on origin of gas explosion because he had *no formal instruction or on-the-job training* concerning that issue); ***McDaniel v. Merck, Sharp & Dohme***, 533 A.2d 436, 441-42 (Pa. Super 1987) (finding specialist in pharmacology not qualified to testify concerning drug he had *never studied or researched and with which he had no clinical experience*); ***Dambacher v. Mallis***, 485 A.2d 408 (Pa. Super. 1984) (finding two auto mechanics not qualified to testify concerning effect of mixing radial and non-radial tires because "*nothing in their experience, or in such education as they had had*, enabled them to reason about what that effect would be"). Because Varner's credentials demonstrate knowledge of the visibility of traffic control devices beyond the "ordinary range of training, knowledge, intelligence or experience," he was amply qualified to testify as an expert

witness. ***See Miller***, 664 A.2d at 528. The trial court did not err in admitting his testimony.

The Swartzentrubers contend further that the trial court erred in admitting Varner's expert report into evidence. Brief for Appellants at 46. They assert that the report contains multiple levels of hearsay and may be admitted only if each such level meets an exception to the hearsay rule. Brief for Appellants at 49 (citing ***Pompa v. Hojuncki***, 281 A.2d 886, 888 (Pa. 1971)). We find no merit in the Swartzentrubers' contention, as their argument fails to establish that the court admitted the report for the truth of its contents, or if it did, that the report violated the hearsay rule.

The trial court explained its admission of Varner's report as follows:

> I will admit the report. I believe that [Varner's] testimony was on the basis of his experience, his training, as well as the review of studies and literature normally relied upon by experts of his discipline in formulating opinions. He has outlined[,] in my estimation[,] those opinions and the basis for them, and he is permitted, as he did on his direct and cross, to expand and expound on the reason for his opinions. So I will admit his report as I admitted his testimony.

N.T. Summary Appeal Hearing, 5/23/02, at 100-01. The court's explanation tends to establish that it admitted Varner's report not as substantive evidence bearing on the matter then on trial, but rather to establish the factual basis for Varner's testimony. This practice is not inconsistent with Pennsylvania law. ***See Primavera v. Celotex Corp.***, 608 A.2d 515, 518

(Pa. Super. 1992) (indicating that factfinder must be made aware of the bases for expert's ultimate conclusions, including his partial reliance on indirect sources).

Admission of an expert report under these circumstances differs markedly from the scenario condemned by our Supreme Court in ***Pompa***, the case on which the Swartzentrubers rely. ***See*** 281 A.2d 886. In ***Pompa***, the Supreme Court determined that the report of the plaintiff's expert witness constituted inadmissible hearsay when the plaintiff introduced it for the truth of its contents in lieu of the expert's testimony after the expert had died. ***See*** 281 A.2d at 888. Thus, cross-examination of the author of the report was not possible. ***See id.*** In this case, by contrast, the Swartzentrubers cross-examined Varner extensively concerning the contents of his report and the opinions he derived from the sources he cited.

The Swartzentrubers contend, nevertheless, that such cross-examination could not reach the report's levels of embedded hearsay expressed as opinions of other experts from which Varner drew his conclusions. Brief for Appellant at 50. Our Courts have recognized, of course, that embedded hearsay is not subject to cross-examination. Thus, out of practical necessity, our Supreme Court adopted as the law of Pennsylvania, a rule "which permits an expert witness to rely on, *and disclose* data which is not in evidence in order to form his expert opinions,

assuming the materials relied on are of the type reasonably relied on by experts in their respective fields." ***Primavera***, 608 A.2d at 518 (emphasis added). ***See also*** Pa.R.E. 703 (Bases of opinion testimony by experts). This rule allows a qualified expert to rely on material that might be otherwise classified as inadmissible hearsay subject to no exception. ***See id.*** at 519. "In a sense, the expert synthesizes the primary source material—be it hearsay or not—into properly admissible evidence in opinion form" upon which the expert may then be cross-examined. ***See id.*** at 521 (quoting ***United States v. Sims***, 514 F.2d 147, 149 (9th Cir. 1975)). Provided the factfinder is apprised of the indirect or hearsay sources upon which the expert relied, it is then capable of determining his credibility. ***See id.*** ("[T]he crucial point is that the factfinder be made aware of the bases for the expert's ultimate conclusions, including his partial reliance on indirect sources."). Because such indirect, hearsay sources are therefore properly disclosed to the factfinder to assist in its evaluation of an expert's credibility, the inclusion of such sources in an expert's report cannot render the report inadmissible. Accordingly, we find no merit in the Swartzentrubers' contention that the trial court erred in admitting Varner's report due to its inclusion of multiple hearsay. Because we discern no grounds in the Swartzentrubers' evidentiary claims for a finding of reversible error, we conclude that they are not entitled to relief on the basis of the issues raised

in their second question. Accordingly, we proceed to the assertion of their first question that Section 4529 and its attendant regulation are unconstitutional.

In their extensive discussion of the first question, the Swartzentrubers argue that Section 4529 is infirm under both the Free Exercise Clause of the First Amendment of the United States Constitution and under Article I, Section 3 of the Constitution of Pennsylvania. Brief for Appellant at 30-34, 35-39 (respectively). In addition, several interested third parties have filed *amicus curiae* briefs addressing this question. ***See*** Brief of Amicus Curiae The Becket Fund for Religious Liberty; Brief of Amicus Curiae National Committee for Amish Religious Freedom; Brief of Amicus Curiae Mennonite Central Committee US. We recognize, as these proponents advocate, that the issue presented here may be resolved by reference to our state constitution. ***See Commonwealth v. Edmunds***, 586 A.2d 887, 894 (Pa. 1991) (citing ***PruneYard Shopping Center v. Robins***, 447 U.S. 74,80-82 (1980)). Although the federal constitution establishes a minimum level of protection that must be applied to analogous state provisions, each state is encouraged to interpret and apply its own constitution. ***See Edmunds***, 586 A.2d at 894-95 (citing ***Pruneyard***, 447 U.S. at 80-82). Our own Supreme Court has admonished that "it is both important and necessary that we undertake an independent analysis of the Pennsylvania Constitution, each

time a provision of that fundamental document is implicated." ***See Edmunds***, 586 A.2d at 894-95.

As a general rule, litigants seeking relief under a provision of Pennsylvania's constitution must provide analysis of four factors:

1) text of the Pennsylvania constitutional provision;
2) history of the provision, including Pennsylvania case-law;
3) related case-law from other states;
4) policy considerations, including unique issues of state and local concern, and applicability within modern Pennsylvania jurisprudence

Id. "Depending upon the particular issue presented, an examination of related federal precedent may be useful as part of the state constitutional analysis, not as binding authority, but as one form of guidance." ***Id.*** In this case, the parties have fulfilled these requirements. Accordingly, we focus on the issue of whether, pursuant to Article I, Section 3 of the Constitution of Pennsylvania, Section 4529 and its attendant regulation are unconstitutional as applied to the Swartzentruber Amish. We will discuss the history and application of the First Amendment's Free Exercise clause as necessary to demonstrate the foundation of our own jurisprudence.

The Free Exercise Clause of the First Amendment provides a floor of constitutional protection for religious liberty below which state constitutions may not deviate. That Clause, which appears below following the Establishment Clause, provides as follows:

> **Amendment I. Freedom of Religion**
>
> Congress shall make no law respecting an establishment of religion, *or prohibiting the free exercise thereof*; . . . .

U.S. CONST. Amend. I (emphasis added). The United States Supreme Court has recognized that this provision enunciates a "fundamental right" to unencumbered religious practice, ***see Yoder***, 406 U.S. at 220, which may not be burdened absent a state interest "of the highest order," ***id.*** at 214. Consistent with this standard, the Court expressly rejected application of a rational basis test to issues arising under the Free Exercise Clause:

> It is basic that no showing merely of a rational relationship to some colorable state interest would suffice; in this highly sensitive constitutional area, '(o)nly the gravest abuses, endangering paramount interest, give occasion for permissible limitation'.

Sherbert v. Verner, 374 U.S. 398, 403 (1963) (quoting ***Thomas v. Collins***, 323 U.S. 516, 530 (1945)). The Court held accordingly that even facially neutral laws, if they unduly burden Free Exercise, must be justified by a "'compelling state interest in the regulation of a subject within the State's constitutional power to regulate.'". ***Sherbert***, 374 U.S. at 403 (quoting ***NAACP v. Button***, 371 U.S. 415, 438 (1963)); ***see also Yoder***, 406 U.S. at 219-220. The Court insisted further that government entities seeking enforcement of such laws to the detriment of the religious objector must demonstrate that such enforcement "represents the least restrictive

means" of achieving the compelling state interest at issue. ***Bowen v. Roy***, 106 U.S. 693, 728 (1986). Following this test, the Court rejected even state interests of admittedly high social importance, fettering free exercise only where the objectors' conduct "posed some substantial threat to public safety, peace or order." ***Sherbert***, 374 U.S. at 403 (additional citations omitted).

In 1990, the United States Supreme Court abandoned the compelling state interest standard where the objector's Free Exercise claim arises out of the state's enforcement of a facially neutral law. ***See Employment Division v. Smith***, 494 U.S. at 879 ("[T]he right to free exercise does not relieve an individual of the obligation to comply with a 'valid and neutral law of general applicability'."). Deriding the "compelling state interest" test as "a constitutional anomaly," the High Court concluded that "the sounder approach, and the approach in accord with the vast majority of our precedents, is to hold the test inapplicable . . ." ***Id.*** at 885. The Court continued, sharply criticizing the test, if not the values it would uphold:

> The government's ability to enforce generally applicable prohibitions of socially harmful conduct, like its ability to carry out other aspects of public policy, "cannot depend on measuring the effects of a governmental action on a religious objector's spiritual development." To make an individual's obligation to obey such a law contingent upon the law's coincidence with his religious beliefs, except where the State's interest is "compelling"--permitting him, by virtue of his beliefs, "to become

> a law unto himself," contradicts both constitutional tradition and common sense.

Id. (citations omitted). Accordingly, the Court repudiated the very language it had earlier espoused in ***Yoder***:

> Precisely because "we are a cosmopolitan nation made up of people of almost every conceivable religious preference," and precisely because we value and protect that religious divergence, we cannot afford the luxury of deeming *presumptively invalid,* as applied to the religious objector, every regulation of conduct that does not protect an interest of the highest order.

Compare Smith, 494 U.S. at 888, ***with Yoder***, 406 U.S. at 214 ("The essence of all that has been said and written on the subject is that only those interests of the highest order . . . can overbalance legitimate claims to the free exercise of religion"). The Court sanctioned the continued application of a "compelling state interest" analysis to claims arising from facially neutral laws only where the objector's Free Exercise claim also implicates other constitutional rights. ***See Smith***, 494 U.S. at 881 ("The only decisions in which we have held that the First Amendment bars application of a neutral, generally applicable law to religiously motivated action have involved . . . the Free Exercise Clause in conjunction with other constitutional protections such as freedom of speech and of the press[.]"). In the remainder of cases, the Court would require that the challenged law "must simply be related to a legitimate government end." ***United States v. Hardman***, 297 F.3d 1116, 1126 (10th Cir. 2002).

In direct response to ***Smith***, Congress, in 1993, adopted the Religious Freedom Restoration Act (RFRA). ***See*** 42 U.S.C. § 2000bb. RFRA reinstated the "compelling state interest" test expressly as set forth in ***Sherbert*** and ***Yoder***, to "all cases where free exercise of religion is substantially burdened." ***See*** 42 U.S.C. § 2000bb(b)(1). Subsequently, however, the Supreme Court deemed RFRA unconstitutional, holding that its enactment violated the separation of powers doctrine first enunciated in ***Marbury v. Madison***, 1 Cranch 137 (1803). ***See City of Boerne v. Flores***, 521 U.S. 507, 536 (1997).

This marked departure from the High Court's prior Free Exercise jurisprudence has prompted the appellate courts of 11 states to diverge from federal precedent, giving effect to greater protections afforded by their own constitutions. ***See Humphrey v. Lane***, 728 N.E.2d 1039 (Ohio 2000); ***State v. Bontranger***, 683 N.E.2d 126 (Ohio App. Ct. 1996); ***In re Browning***, 476 S.E.2d 465 (N.C. Ct. App. 1996); ***State v. Miller***, 549 N.W.2d 235 (Wis. 1996); ***Swanner v. Anchorage Equal Rights Comm'n***, 874 P.2d 274 (Alaska 1994); ***Rourke v. N.Y. State Dep't of Corr. Servs.***, 603 N.Y.S.2d 647 (N.Y. Sup. Ct. 1993), *aff'd by* 615 N.Y.S.2d 470 (N.Y. App. Div. 1994); ***Davis v. Church of Jesus Christ of Latter Day Saints***, 852 P.2d 640 (Mont. 1993); ***St. John's Lutheran Church v. State Comp. Ins. Fund***, 830 P.2d 1271 (Mont. 1992); ***First Covenant Church of Seattle v.***

City of Seattle, 840 P.2d 174 (Wash. 1992); ***Rupert v. City of Portland***, 605 A.2d 63 (Me. 1992); ***Society of Jesus of New England v. Boston Landmarks Comm'n***, 564 N.E. 2d 571 (Mass. 1990); ***Attorney Gen. v. Desilets***, 636 N.E.2d 233 (Mass. 1994); ***State v. Evans***, 796 P.2d 178 (Kan. Ct. App. 1990); ***State v. Hershberger***, 462 N.W.2d 393 (Minn. 1990). Eight other states have adopted the "compelling state interest" test by statute and another has amended its constitution to include this protection. ***See*** Gary S. Gildin, *Coda to William Penn's Overture: Safeguarding Non-Mainstream Religious Liberty Under the Pennsylvania Constitution*, 4 U. Penn J. Const. L. 81, 125-26 nn. 212-19. In only two states have appellate courts interpreted their state constitutions to provide the limited protection specified in ***Smith***. ***See Wolf v. Sundquist***, 955 S.W.2d 626 (Tenn. Ct. App. 1997); ***Meltebeke v. Bureau of Labor & Indus.***, 903 P.2d 351 (Or. 1995).

In 1979, the Pennsylvania Supreme Court recognized that the liberties established by Article I, Section 3, were co-extensive with those of the Free Exercise Clause. ***See Springfield School District v. Department of Education***, 397 A.2d 1154, 1170 (Pa. 1979) (opining that religious liberty afforded by Article I, Section 3 of Pennsylvania's Constitution "does not transcend" the protection of the Free Exercise Clause); ***Wiest v. Mt. Lebanon School Dist.***, 320 A.2d 362, 366 (Pa. 1979) (same).

Consequently, the Court declined, in both ***Springfield*** and ***Weist***, to extend protection to religious liberty in Pennsylvania beyond that afforded by the First Amendment. ***See Springfield School Dist.***, 397 A.2d at 1170. However, on the dates of those decisions, First Amendment scrutiny of religious claims challenging application of facially neutral laws was then solidly established by ***Sherbert*** and ***Yoder***, and the floor of First Amendment protection required demonstration of a "compelling state interest."

Our appellate courts have not considered, since ***Smith***, whether the protection afforded religious practice by our state constitution remains co-extensive with that afforded to Free Exercise claims or whether our Constitution requires a higher level of scrutiny. The Swartzentrubers and *amici curiae* contend that both the applicable text of the Pennsylvania Constitution and Pennsylvania's history of religious tolerance require heightened scrutiny of all such claims. Therefore, consistent with our Supreme Court's direction in ***Edmunds***, 586 A.2d at 894-95, we will consider whether the text, history and policy surrounding Article I, Section 3 of the Constitution of Pennsylvania are sufficiently served by the United States Supreme Court's analysis in ***Smith***.

Article I, Section 3 provides an unequivocal foundation for religious liberty in Pennsylvania. Unlike the spare language of the First Amendment,

Pennsylvania's Declaration of Rights offers expansive language respecting both freedom of conscience and religious practice:

> **ARTICLE I.** DECLARATION OF RIGHTS
>
> * * * *
>
> **§ 3. Religious freedom**
>
> All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience, and no preference shall ever be given by law to any religious establishments or modes of worship.

PA. CONST. art. I, § 3. Significantly, the language of this Article recognizes both the inviolate nature of rights of conscience *and* the right of our citizens to practice or refrain from practice as their consciences dictate. ***See Eubanks***, 512 A.2d at 622 ("[O]ur Commonwealth is neutral regarding religion. It neither encourages nor discourages religious belief. It neither favors nor disfavors religious activity."). Indeed, over one-half century ago, this Court determined that Article I, Section 3 safeguards the religious adherent's freedom both "to adopt any creed or hold any opinion whatever on the subject of religion; *and to do or forbear to do, any act, for conscience sake, the doing or forbearing of which is not prejudicial to the public weal.*"

Commonwealth v. Beiler, 79 A.2d 134, 137 (Pa. Super. 1951) (emphasis added).

This level of religious tolerance stands as a founding principle upon which much of the history of this Commonwealth is built. ***See Eubanks***, 512 A.2d at 622 (citing *The Papers of William Penn*, Vol. I (Dunn & Dunn, University of Pennsylvania Press), pp. 51-52, 90-93, 268, 280, 452, 511) ("Pennsylvania, more than any other sovereignty in history, traces its origins directly to the principle that the fundamental right of conscience is inviolate."). Indeed, tolerance for the beliefs and practices of all religious creeds has undergirded civil government in Pennsylvania since the inception of Penn's "holy experiment" over three hundred years ago. ***See Freethought Society v. Chester County***, 194 F. Supp. 2d 437, 441 (2002) (*rev'd on other grounds*, 2003 WL 21468470 (3rd Cir. June 26, 2003)) (noting that Penn's ideal "included tolerance of religious views that was unique in the colonies long before the First Amendment was a gleam in James Madison's eyes"). Consistent with this ideal, the text of Article I, Section 3 first appeared in the Constitution of 1790, to be followed in the Constitution of 1838, and later in the Constitution of 1874. ***See Weist v. Mt. Lebanon School Dist.***, 320 A.2d 362, 366 (Pa. 1974). An antecedent version, substantially similar in character, appeared in the Constitution of 1776. ***See id.***

Following study of the bases for analysis established in ***Edmunds***, we find the protection currently afforded by the Free Exercise Clause of the First Amendment markedly insufficient to sustain freedom of conscience and religious liberty as those terms are intended in Article I, Section 3 of the Constitution of Pennsylvania. The express language of that Article requires that no person shall be compelled to engage in practice or expression antithetical to his rights of conscience and religious scruples. ***See*** PA. CONST., Art. I, § 3 ("[N]o man can of right be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience . . ."). This language, coupled with Pennsylvania's extended history of religious tolerance and our Supreme Court's express stance of neutrality on religious issues, signals a continued need for the protection afforded by the "compelling state interest" analysis. Justice Sandra Day O'Connor, dissenting in ***Smith***, explained the value of that standard as a bulwark of religious liberty:

> The compelling interest test effectuates the First Amendment's command that religious liberty is an independent liberty, that it occupies a preferred position, and that the Court will not permit encroachments upon this liberty, whether direct or indirect, unless required by clear and compelling governmental interests "of the highest order," ***Yoder***, ***supra***, 406 U.S. at 215. "Only an especially important governmental interest pursued by narrowly tailored means can justify exacting a sacrifice of First Amendment freedoms as the price for an equal share of the

> rights, benefits, and privileges enjoyed by other citizens." [***Bowen v.***] ***Roy***, ***supra***, 476 U.S. at 728 (opinion concurring in part and dissenting in part).

Smith, 494 U.S. at 895 (O'Connor, J. Dissenting, joined in Parts I and II by Blackmun, Brennan and Marshall, JJ.) (internal citations reformatted). The Dissent's rationale, although directed to the First Amendment, is equally applicable to Article I, Section 3 of our Pennsylvania Constitution.

We hold accordingly, that once a religious objector has demonstrated that a government regulation or criminal prohibition burdens the free exercise of religion as recognized in Article I, Section 3, the Commonwealth must demonstrate:

> that unbending application of its regulation to the religious objector 'is essential to accomplish an overriding governmental interest,' [***U.S. v.***] ***Lee***, ***supra***, 455 U.S. 252, 257-258, or represents 'the least restrictive means of achieving some compelling state interest,' ***Thomas*** [***v. Collins***], 450 U.S. at 718. ***See***, ***e.g.***, ***Sherbert***, 374 U.S. at 406; ***Yoder***, 406 U.S. at 214-215; ***Roy***, 476 U.S. at 728-732 (opinion concurring in part and dissenting in part) (internal citations reformatted).

Smith, 494 U.S. at 899 (O'Connor, J. Dissenting, joined in Parts I and II by Blackmun, Brennan and Marshall, JJ.). ***See also Bear v. Reformed Mennonite Church***, 341 A.2d 105, 107-08 (Pa. 1975) (quoting ***Sherbert***, 374 U.S. at 406); ***Wikoski v. Wikoski***, 513 A.2d 986, 987, 989 (Pa. Super. 1986) (quoting ***Sherbert***, 374 U.S. at 406).

Our holding applies equally regardless of whether the state law at issue is facially neutral. "A regulation neutral on its face may, in its application, nonetheless offend the constitutional requirement for governmental neutrality if it unduly burdens the free exercise of religion." ***Yoder***, 406 U.S. at 220. Such exercise is burdened "[w]here the state conditions receipt of an important benefit upon conduct proscribed by a religious faith, or where it denies such a benefit because of conduct mandated by religious belief, thereby putting substantial pressure on an adherent to modify his behavior and to violate his beliefs . . . ." ***Id.*** at 897 ((O'Connor, J. Dissenting, joined in Parts I and II by Blackmun, Brennan and Marshall, JJ.) (quoting ***Thomas***, 450 U.S. at 717-718). "A State that makes criminal an individual's religiously motivated conduct burdens that individual's free exercise of religion in the severest manner possible, for it 'results in the choice to the individual of either abandoning his religious principle or facing criminal prosecution.'" ***Id.*** (quoting ***Braunfeld v. Brown***, 366 U.S. 599, 605 (1961)).

Following these precepts, a facially neutral law or regulation is subject to challenge under Article I, Section 3 in accordance with the following procedure. In the first instance, a citizen who objects on religious grounds to compliance with a facially neutral law bears the burden to show that the law to which he objects burdens his exercise of sincerely held religious

beliefs. ***See Yoder***, 406 U.S. 205, 215-26; ***Antrim Faith Baptist Church v. Commonwealth, Dep't of Labor and Indus.***, 460 A.2d 1228, 1230-31 (Pa. Cmwlth.). If he fails to make that showing, the challenged law will be deemed constitutional and the Commonwealth may compel his compliance. ***See id.*** If, however, he makes that showing, the burden then shifts to the Commonwealth to demonstrate that enforcement of the challenged law against that citizen is necessary to achieve a compelling interest that the challenged law advances. ***See Sherbert***, 374 U.S. at 406-07; ***Wikoski***, 513 A.2d at 987 (quoting ***Sherbert***, 374 U.S. at 403). Finally, provided the Commonwealth has shown a compelling state interest in enforcement of the challenged law, it must demonstrate, as well, that the form of regulation the law imposes is the least restrictive means of achieving the state's interest. ***Thomas***, 450 U.S. at 718; ***Cf. Commonwealth ex rel. Specter v. Moak***, 307 A.2d 884, 889 (Pa. 1973).

In this case, the Swartzentrubers challenged Section 4529 and its attendant regulation after the Commonwealth cited them for non-compliance. In accordance with the ***Yoder*** line of cases, the Swartzentrubers argued that the mandate of section 4529 and its attendant regulation, that they display the SMV emblem on their buggies, burdened their exercise of religious liberty because it would require them to display a garishly-colored secular symbol in violation of sincerely held religious beliefs.

Based on the evidence, the trial court recognized that the Swartzentrubers had carried their burden. ***See*** Trial Court Opinion, 6/6/02, at 8 (not numbered). We concur in the court's conclusion. Following that determination, the burden of proof shifted to the Commonwealth to demonstrate that "unbending application" of Section 4529 and its attendant regulation to the Swartzentrubers represents "the least restrictive means of achieving some compelling state interest." ***Thomas***, 450 U.S. at 718; ***see also Specter***, 307 A.2d at 889.

Determination of what constitutes a "compelling state interest" is a matter of law. ***See Hardman***, 297 F. 3d at 1127. At trial, the Commonwealth asserted a compelling interest in saving lives by reducing accidents between Amish buggies and motorized vehicles. ***See*** Trial Court Opinion, 6/6/02, at 8. The trial court recognized that to establish the primacy of this interest over claims of religious infringement, the Commonwealth must demonstrate an evidentiary nexus; i.e., that the religious objectors' conduct poses a demonstrable threat of harm to the state's asserted interest. ***See*** Trial Court Opinion, 6/6/02, at 8 (citing ***City of Richmond v. J.A. Croson Co.***, 488 U.S. 469, 473 (1989)). The court recognized, as well, that provided the Commonwealth establishes such a threat, "[t]he issue then comes down to whether the SMV emblem is the least restrictive means to affect [sic] this legitimate interest, or to state it

differently, whether the state demonstrated that public safety cannot be achieved by proposed alternative means." Trial Court Opinion, 6/6/02, at 9 (citing ***State v. Hershberger***, 444 N.W. 282, 288-89 (Minn. 1990)).

The court properly recognized these rules of law. In order to demonstrate that the asserted interest in traffic safety was "compelling," so as to overcome the Swartzentrubers religious objections, the Commonwealth was required to show that the Swartzentrubers' refusal to comply necessarily compromised traffic safety, i.e., posed a safety hazard. Provided the Commonwealth could show such a hazard, it was then required to show that imposition of the SMV emblem was the least restrictive means of ameliorating or curing that hazard. Unfortunately, the trial court erred in applying these rules to the evidence.

In this case, the trial court concluded that the Commonwealth had demonstrated, first, that the state's interest in public safety is paramount. ***See*** Trial Court Opinion, 6/6/02, at 8. The court reached its conclusion on the basis that "[t]here was no argument by the [Swartzentrubers] that fostering safety by some means is inappropriate. . . . Thus, the [Swartzentrubers] have effectively conceded that a compelling governmental interest is at issue here. If they have not, then this court nonetheless finds that it is so." This conclusion reflects a misapplication of the burden of proof, which as the court itself had earlier recognized, rests on the State.

See Thomas, 450 U.S. at 718. The Commonwealth must establish its interest not merely as an abstract assertion of public policy but rather as an imperative that will suffer specific injury if the objectors' challenge is granted. ***See Yoder***, 406 U.S. at 221. Thus, the Swartzentrubers had no obligation to prove that fostering safety is not appropriate or, for that matter, that the SMV emblem is not an appropriate way to foster safety. ***See id.*** Rather, the Commonwealth was obliged to show that the Swartzentrubers' use of their buggies as marked poses a demonstrable safety hazard and that the imposition of the SMV emblem is the "least restrictive means" by which to ameliorate that hazard. ***See Yoder***, 406 U.S. at 228-29.

Upon consideration of the evidentiary record, we conclude that the Commonwealth has failed to carry its burden. Initially, it produced no evidence to demonstrate the frequency or cause of rear-end collisions between other vehicles and buggies. Thus, it failed to demonstrate that the buggies pose any hazard at all, regardless of the manner in which they are marked. Because the Commonwealth failed, even at this initial stage, to show a threat to the asserted interest of traffic safety, it cannot show that its interest is sufficiently compelling, vis-à-vis the Swartzentrubers, to require them to display the SMV emblem in violation of their sincerely held religious beliefs. ***See People v. Swartzentruber***, 429 N.W.2d 225, 228-29

(Mich. Ct. App. 1988) (finding no compelling state interest under ***Yoder*** where state seeking to require Old Order Amish to display SMV emblem failed to produce evidence showing that fewer accidents resulted among vehicles using emblem than those not using emblem).

Similarly, the Commonwealth failed to produce evidence comparing the number of collisions suffered by buggies marked with the gray reflective tape and red lantern the Swartzentrubers currently use, with those marked with the SMV emblem. Without such comparative evidence the court could not conclude, without speculation, that buggies marked with gray tape and lanterns compromise that interest in traffic safety in any way that those marked with the SMV emblem do not. ***See State v. Hershberger***, 462 N.W. 2d 393, 399 (Minn. 1990) (finding that state failed to demonstrate "compelling state interest" in statute that required display of SMV emblem on buggies of Old Order Amish where state failed to produce evidence that reflective tape and lantern already used by Amish was insufficient means to achieve state's interest). Although we recognize that highway safety, as a general matter, is a significant state interest, because the evidence fails to substantiate a threat posed by the Swartzentrubers' failure to display the SMV emblem we cannot find that interest sufficiently compelling to justify intrusion on the Swartzentrubers' sincerely held religious beliefs. ***Cf. Yoder***, 406 U.S. at 2228-29 (recognizing that even where asserted state interest in

mandatory high school education is valid in generality of cases, it could not be deemed compelling vis-à-vis Old Order Amish where evidence failed to show injury to state in allowing Amish children to leave high school in favor of vocational education aimed at sustaining traditional way of life). The trial court erred in finding to the contrary.

Nevertheless, assuming that the Commonwealth sufficiently demonstrated a compelling state interest, it failed also to demonstrate that its interest could not be met by some less restrictive measure than the SMV emblem. This point too is demonstrated by the Commonwealth's failure to produce comparative studies of the rate of collisions involving buggies marked with gray reflective tape and those marked with the SMV emblem. Without comparative information, a court possesses scant basis on which to conclude that the SMV emblem achieves a decrease in the rate of collisions that the reflective tape cannot achieve. Without this information to establish that the reflective tape and lantern used by the Swartzentrubers is not as effective as the SMV emblem at safeguarding highway safety, the SMV emblem cannot be deemed the least restrictive means to that end. ***See State v. Miller***, 549 N.W.2d 235, 242 (Wisc. 1996) (finding unconstitutional under Wisconsin Constitution state statute that required Old Order Amish to display an SMV emblem where state failed to produce studies comparing frequency of collisions amongst Amish buggies marked with reflective tape

to those marked by SMV emblem. State could not demonstrate that SMV emblem was least restrictive means to achieve "compelling state interest" of highway safety).

Significantly, in the absence of this information, both parties' expert witnesses agreed that the reflective tape the Swartzentrubers now use provides *substantially better* nighttime visibility than the SMV emblem. The trial court concluded, however, that the SMV emblem, due to its color, was more visible during daylight hours and therefore the "least restrictive means" to achieve visibility "over the spectrum of situations." Trial Court Opinion, 6/6/02, at 10. The trial court relied on testimony that revealed that "60.9% of all horse and buggy accidents occurred in daylight, approximately .8% occurred at dawn and 4% occurred at dusk." Trial Court Opinion, 6/6/02, at 10. From these statistics, the court surmised that because "approximately 2/3rds of all horse and buggy accidents occurred during either low light or full daylight conditions," the SMV emblem was necessarily the least restrictive means to achieve traffic safety. Trial Court Opinion, 6/6/02, at 10. We cannot conclude that this data, in itself, supports the court's conclusion. The Commonwealth produced no evidence to disclose the causes of the recorded accidents. Thus, whether any given accident was caused by a deficiency in the visibility of the Amish buggy that could be remedied by an SMV emblem, or any other marking, is a subject of

speculation. In addition, the Commonwealth produced no evidence of whether the buggies involved in the accidents tallied were in fact marked. To the extent that these buggies already carried an SMV emblem, the statistics cannot be read to support the efficacy of such symbols or to demonstrate that they are the least restrictive means to achieve the Commonwealth's asserted interest in traffic safety.

We determine, accordingly, that the record compiled in the trial court fails to establish that the Commonwealth had a compelling state interest in enforcing Section 4529 against the Swartzentrubers. We determine also that, to the extent a compelling state interest appears, the record fails to substantiate that the SMV emblem is the least restrictive means by which to vindicate that interest. Consequently, we are compelled to conclude that, under an independent analysis of Article I, Section 3 of the Pennsylvania Constitution, Section 4529 is unconstitutional as applied to the Swartzentruber Amish. ***See Yoder***, 406 U.S. at 228-29 (recognizing imperative to adjudge constitutionality in relation to specific group effected by challenged law). Therefore, we order their judgments of sentence reversed.

Judgments of sentence **REVERSED**. Case **REMANDED** to the Court of Common Pleas of Cambria County for further proceedings consistent with this Memorandum. Jurisdiction **RELINQUISHED**.

Judge Klein files a Concurring Statement.

Judge Popovich Files a Dissenting Memorandum.

Judgment Entered:

Eleanor R. Valecko

Deputy Prothonotary

Date: October 20, 2003

COMMONWEALTH OF PENNSYLVANIA, Appellee v. JONAS MILLER, ANDY MILLER, BEN MILLER, JOHN MILLER, JOHN MILLER, JONAS S. MILLER, EMERY MILLER, JONAS A. SWARTZENTRUBER, ELI A. MILLER, LEVI SWARTZENTRUBER, JOSEPH MILLER, JOSEPH MILLER, ANDY MILLER, DANNIE A. SWARTZENTRUBER, DANIEL A. MILLER, KATIE MILLER, JONAS MILLER, LEVI J. ZOOK, ELI C. ZOOK, JACOB A. MILLER, LEVI MILLER, NOAH YODER, ANDY MILLER, LAVINA ZOOK, SAM YODER, JONAS MILLER, Appellants	:	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 1124 WDA 2002

Appeal from the Judgment of Sentence entered June 6, 2002, Court of Common Pleas, Cambria County, Criminal Division at No(s). 2833-2000, 0174-2001, 0175-2001, 0402-2002, 0403-2002, 0624-2002, 0703-2002, 0754-2001, 0755-2001, 0756-2001, 0757-2001, 0758-2001, 1308 & 1312-2002, 1309-2002, 1310-2002, 1313-2002, 1389-2001, 1390-2001, 1391-2001,1392-2001, 1393-2001, 1394-2001, 1836-2001, 2832-2000, 2834-2000, and 2835-2000.

BEFORE: JOHNSON, KLEIN, and POPOVICH, JJ.

CONCURRING STATEMENT BY KLEIN, J.:

I fully agree with the majority that the Commonwealth failed to demonstrate that the form of regulation is the least restrictive means of achieving the Commonwealth's interest. The defendants have demonstrated that the use of grey reflective tape would not violate their religious beliefs and would provide an adequate safeguard for motorists.

However, I would rely on the First Amendment of the United States Constitution to reach this result rather than on Article I, Section 3 of the Constitution of Pennsylvania. It is clear from the cases cited by the majority that failing to use the least restrictive means to achieve the Commonwealth's interests while accommodating defendants' religious beliefs violates the First Amendment of the United States Constitution.

I refer to the concurring opinion by Judge James R. Cavanaugh in ***Commonwealth v. Carroll***, 628 A.2d 398 405-6 (Pa. Super 1993), ***rev'd on other grounds sub. nom. Commonwealth v. Matos***, 672 A.2d 769 (Pa. 1996), where he said:

> Our Supreme Court has declared that while we can interpret our own constitution [sic] to afford defendants greater protections than the federal constitution [sic] does ... there should be a *compelling* reason to do so. Thus, while certainly our Constitution may afford greater protections than the U.S. Constitution, I would submit that a party bears a heavy burden of persuasion in convincing a court that our Commonwealth's Constitution differs from the Federal Constitution.
>
> We are not interpreting Constitutions from two alien societies: the intellectual climate when the Pennsylvania Constitution was written is substantially similar to that when the United States Constitution was written. The provisions in our Commonwealth's Constitution are often either identical or very similar to that which appears in our national Constitution. To rule without compelling reason that the two Constitutions differ erodes public confidence in the Rule of Law.

Carroll, 628 A.2d 405-6 (internal quotation marks and citations omitted).

COMMONWEALTH OF PENNSYLVANIA, Appellee v. JONAS MILLER, ANDY MILLER, BEN MILLER, JOHN MILLER, JOHN MILLER, JONAS S. MILLER, EMERY MILLER, JONAS A. SWARTZENTRUBER, ELI A. MILLER, LEVI SWARTZENTRUBER, JOSEPH MILLER, JOSEPH MILLER, ANDY MILLER, DANNIE A. SWARTZENTRUBER, DANIEL A. MILLER, KATIE MILLER, JONAS MILLER, LEVI J. ZOOK, ELI C. ZOOK, JACOB A. MILLER, LEVI MILLER, NOAH YODER, ANDY MILLER, LAVINA ZOOK, SAM YODER, JONAS MILLER, Appellants	:	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 1124 WDA 2002

Appeal from the Judgment of Sentence June 6, 2002,
In the Court of Common Pleas of Cambria County,
Criminal Division at No(s). 2833-2000, 0174-2001, 0175-2001, 0402-2002, 0403-2002, 0624-2002, 0703-2002, 0754-2001, 0755-2001, 0756-2001, 0757-2001, 0758-2001, 1308 & 1312-2002, 1309-2002, 1310-2002, 1313-2002, 1389-2001, 1390-2001, 1391-2001,1392-2001, 1393-2001, 1394-2001, 1836-2001, 2832-2000, 2834-2000, and 2835-2000.

BEFORE: JOHNSON, KLEIN and POPOVICH, JJ.

DISSENTING MEMORANDUM BY POPOVICH, J.:

I agree with the plurality's conclusion that the trial court properly qualified Mr. Varner as an expert to testify on the issue of the visibility of retroreflective traffic-control devices and properly admitted into evidence Mr. Varner's report. I also agree with the plurality's well-reasoned holding

that our State Constitution affords greater protection of the Free Exercise of religion than our Federal Constitution, and, therefore, the Commonwealth must demonstrate a compelling state interest in enforcement of the challenged law. However, I disagree with the plurality's conclusion that the Commonwealth failed to meet its burden. Therefore, I respectfully dissent.

The Swartzentrubers argued that conforming to 75 Pa.C.S.A. § 4529 burdened their Freedom of Exercise of religion because it would require them to display an orange and red secular symbol in violation of their religious beliefs. The Commonwealth did not dispute the sincerity of their beliefs. I agree with the plurality that the Swartzentrubers carried their burden. The plurality then found that the Commonwealth failed to establish a compelling state interest and to demonstrate that the imposition of the SMV emblem was the least restrictive means. I dissent from these findings.

As the plurality held:

> [O]nce a religious objector has demonstrated that a governmental regulation or criminal prohibition burdens that free exercise of religion as recognized in Article I, Section 3, the Commonwealth must demonstrate that unbending application of its regulation to the religious objector is essential to accomplish an overriding governmental interest *or represents the least restrictive means of achieving some compelling state interest.*

Plurality memorandum opinion, at 26 (quotation marks and citations omitted).

The plurality noted that the trial court concluded that the Commonwealth had demonstrated that the state's interest in public safety is

paramount. However, the plurality stated that the trial court reached its conclusion in error. I disagree.

The trial court noted that the Swartzentrubers did not present argument that the Commonwealth had a compelling state interest in requiring SMV emblems on buggies and, thus, effectively conceded this issue. The plurality correctly noted that the Commonwealth, and not the Swartzentrubers, must demonstrate that the state's interest is compelling. The plurality then considered the evidentiary record and found that the Commonwealth failed to carry its burden. However, the trial court further found that the Commonwealth has a compelling state interest. I agree.

I believe that the Commonwealth has paramount concerns regarding the safety of vehicles traveling on the roads within the Commonwealth and the regulation thereof. I disagree with the plurality's conclusion that the Commonwealth failed to carry this burden because it failed to produce evidence demonstrating the frequency or cause of rear-end collisions between other vehicles and buggies and because it failed to demonstrate that the buggies pose any hazard at all. Plurality memorandum opinion, at 31. It is axiomatic that a slow-moving vehicle, buggy or otherwise, poses a traffic hazard. The Commonwealth argued that it has a compelling governmental interest in protecting the safety of the Amish who utilize the roads of the Commonwealth and those who travel on the roads that the Amish utilize. I feel that the Commonwealth carried its burden in showing

that it has a compelling state interest in regulating slow-moving vehicle on Commonwealth roads to ensure the safety of those traveling on the roads.

I also disagree with the plurality's conclusion that the Commonwealth failed to demonstrate that its interest could not be met by some less restrictive measure than the SMV emblem.

Each party presented expert testimony regarding the use of gray retroreflective tape and a red lantern as the Swartzentruber Amish propose. The Swartzentrubers' presented the testimony of Mr. Garvey who, after conducting a field study involving the use of SMV emblem and gray tape on buggies, opined that the use of gray retroreflective tape and a red lantern provided an adequate replacement of the SMV emblem with regard to twilight and nighttime applications and would be more effective than the SMV emblem in providing a sense of shape of the buggy to an on-coming motorist. ***See*** N.T. Suppression Hearing vol. 2, 4/10/2002, at 40-41. However, Mr. Garvey conceded that when an on-coming motorist is in a position to observe color, the SMV emblem is superior. ***See id.***, at 69. Regarding visibility during the daytime, Mr. Garvey testified that the SMV emblem is more visible than gray retroreflective tape and a red lantern. ***See id.***, at 57-58, 69.

The Commonwealth presented the testimony of Mr. Varner who indicated that any reaction to a stimulus in a traffic setting is a four-step process for the on-coming driver, specifically, visibility, identification,

decision and reaction. ***See*** N.T. Suppression Hearing, 5/23/2002, at 42-43. Applying his process, he conceded that the retroreflectivity of the gray reflective tape for nighttime use has equal or superior visibility than that of the SMV emblem. However, he limited his concession to nighttime without adverse weather conditions, *e.g.*, rain or fog. Additionally, he opined that the gray tape and red lantern did not affect the other three steps in the process for the on-coming driver. ***See id.***, at 57. Specifically, Mr. Varner indicated that the gray tape would not aid the driver in identification of the buggy, thus enabling him to make a decision and an appropriate reaction. ***See id.***, at 57. Regarding visibility in daytime and adverse weather conditions, Mr. Varner testified that the SMV emblem provided greater visibility than the gray reflective tape. ***See id.***, at 57. Mr. Varner also provided statistical data regarding the frequency of buggy accidents. ***See id.***, at 56. Nearly two-thirds of all buggy accidents in Pennsylvania and Ohio occurred in low daylight (twilight) or full daylight conditions, and both experts agree that, in twilight and daylight conditions, the SMV emblem provides greater visibility than the gray retroreflective tape, better warns on-coming motorists of the potential hazard a slow-moving buggy presents and enables the motorists to identify the buggy, make a decision and react to the potential hazard. ***See id.***, at 58; ***see also*** N.T. Suppression Hearing vol. 2, at 57-58, 69. After reviewing the testimony of both expert witnesses, the trial court found that the application of gray retroreflective tape and a

red lantern are not as effective as the SMV emblem during the majority of the time that buggies are traveling on the Commonwealth's roads. ***See*** Trial Court Opinion, 6/6/2002, at 10 (unnumbered). I agree with the trial court's conclusion.

On implements of husbandry, which includes a buggy, 75 Pa.C.S.A. § 4529 and 67 Pa. Code § 203.104 requires the use of a SMV emblem as specified by the Department of Transportation. In Chapter 165 of Title 67 of the Pennsylvania Code, the requirements of the SMV emblem are indicated as follows:

> § 165.5. Performance requirements
>
> (a) *Visibility.* The emblem shall be entirely visible in daylight and at night from all distances between 600 feet and 100 feet (182.88 meters to 30.48 meters) from the rear when directly in front of lawful upper beam of headlamps.
>
> (b) *Dimensional requirements.* The size shall be as shown in Figure 1.
>
> <see the book>
>
> Identification Emblem Figure 1 -- IDENTIFICATION EMBLEM
>
> (c) *Color and reflectivity.* Requirements for color and reflectivity are as follows:
>
> (1) The spectrophotometric color values of the yellow-orange fluorescent material shall have a dominant wave length of 590,610 millimicrons and a purity of 98% before test. After durability test, § 165.6(b) (relating to test procedures), the dominant wave length of the fluorescent material shall not change more than 10%.
>
> (2) The reflective material shall have minimum intensity values at each of the angles listed in Table 1. After durability test, § 165.6(b), the minimum reflective

intensity values for the reflective material shall not change more than 20% from the values specified in Table 1.

TABLE 1 -- MINIMUM REFLECTIVE INTENSITY VALUES, R*

Divergence Angle, deg	Incidence Angle, deg	Reflective Intensity, R
0.2	0	10
0.2	15	7
0.2	30	5
0.5	0	5
0.5	15	4
0.5	30	2

*Measurements shall be conducted in accordance with photometric testing procedures for reflex-reflectors as specified in Society of Automotive Engineers Standard, SAE J594, Reflex Reflectors, and using 50, +-- 5 sq. in. (322.6, +-- 32.3 sq. centimeters) of reflective material. The maximum dimension of the test surface shall not be greater than 1.5 times the minimum dimension. The reflective intensity (R) is computed from the equation.

$$R = \frac{(Lr\ (d^2)}{(Ls\ (A)}$$

where

R = reflective intensity, candlepower per incident foot-candle per square foot
Lr = illumination incident upon receiver at observation point, foot-candles
Ls = illumination incident upon a plane perpendicular to the incident ray at the test specimen position, foot-candles
d = distance from test specimen to source of illumination (100 ft. as specified in SAE J594), feet
A = area of test surface, square feet

(d) *Durability*. Requirements for durability shall be as follows:
(1) The reflective and fluorescent materials shall be tough, flexible, and of sufficient thickness and strength to meet the requirements of this section and § 165.6. After the durability test, § 165.6(b), the fluorescent and reflective

> material shall show no appreciable discoloration, cracking, blistering, loss of durable bond or dimensional change.
> (2) Backing material for portable identification emblems shall be equivalent to 0.040 inch (1.02 millimeter) minimum thickness aluminum, 22-gage (0.030 inch or 0.76 millimeter minimum thickness mill -- galvanized or coated sheet steel with the surface clean and receptive to a durable bond. The backing material shall be free of burrs.
> (3) These requirements shall be minimal and shall not preclude the use of materials having superior performance.

67 Pa. Code § 165.5. The Code provides specific dimension and performance requirements of the SMV emblem. ***See*** 67 Pa. Code § 165.5. It is clear that the gray retroreflective tape is not substantially similar to the dimensions and the color performance of the SMV emblem as defined in § 165.5. Accordingly, I would find, as the trial court found, that the Commonwealth's interest in safety in not met by permitting the Swartzentrubers to apply the gray retroreflective tape and red lantern to the buggies because, as the experts agreed and the trial court found, the application of gray retroreflective tape and a red lantern are not as effective as the SMV emblem during the majority of time that buggies are traveling on the Commonwealth's roads.

Additionally, I believe that the appropriate body to permit the substitution of gray reflective tape and a red lantern for the SMV emblem on Amish buggies is the Legislature. The function of the courts is merely to interpret and apply the laws as enacted by the Legislature. ***See Allebach v. Dept. of Fin. & Rev.***, 546 Pa. 146, 683 A.2d 625 (1996). By holding that

gray reflective tape and a red lantern is a functional equivalent of a SMV emblem, I feel that this Court is promulgating legislation, which is authority held solely by the Legislature. In ***Fiore v. White***, 562 Pa. 634, 757 A.2d 842 (2002), our Supreme Court noted that there can be no change to statutory law without an amendment from the Legislature or a prior decision from the Supreme Court and that the Court's role is to interpret the statute as enacted. The SMV emblem statutes and regulations, *i.e.*, 67 Pa. Code §§ 165.1-.7, § 203.104 and 75 Pa.C.S.A. § 4529, as enacted by the Legislature, require that all slow-moving vehicles, which include the Amish buggies, must display a SMV emblem on the rear of the buggy. Because the use of gray retroreflective tape and a red lantern is not the functional equivalent of the use of a SMV emblem, as per visibility and performance, I believe that the plurality memorandum opinion oversteps its bounds and "enacts" legislation that is within the purview of the legislative arm of the government.

Additionally, I feel that the requirement of a SMV emblem on a buggy does not impede the Swartzentrubers from practicing their religious beliefs because they may choose not to be subject to the emblem requirements of the Vehicle Code and the Department of Transportation by simply foregoing the privilege to drive on the Commonwealth roads. ***Compare Kocher v. Bickley***, 722 A.2d 756, 762 (Pa. Cmwlth. 1999) (requirement of providing social security number or obtaining waiver thereof before obtaining driver's

license does not impede practice of religious belief because appellant may forgo privilege to drive).

Accordingly, I would affirm the judgment of sentence of the Court of Common Pleas, Cambria County.

Received 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania

Filed 07/02/2026 09:17 PM Commonwealth Court of Pennsylvania
298 MD 2026

CERTIFICATE OF SERVICE

I, Jonathan Scott Goldman, hereby certify that, consistent with Pa. R.A.P. 1514(c), Pa. R.C.P. 422(a), and 42 Pa. C.S. § 8523, on the date below, I caused a true and correct copy of the foregoing Petition for Review in the Nature of a Complaint in Mandamus, for Declaratory Judgment, and for Additional and Further Relief, together with all Exhibits thereto, to be filed electronically with the Court and served upon the following parties, by Certified Mail, Return Receipt Requested and electronic mail as indicated:

Ron Eisenberg
Executive Deputy Attorney General,
Civil Law Division
Office of Attorney General
Commonwealth of Pennsylvania
Strawberry Square
Harrisburg, PA 17120

reisenberg@attorneygeneral.gov

Arion Claggett
Acting Commissioner
Bureau of Professional and
Occupational Affairs
2601 North Third Street
Harrisburg, PA 17110

ArClaggett@pa.gov
cdelaurent@pa.gov

Al Schmidt
Secretary of the Commonwealth
Pennsylvania Department of State
401 North Street
Harrisburg, PA 17120

Al.Schmidt@pa.gov
cdelaurent@pa.gov

Debra L. Bogen, M.D., FAAP
Pennsylvania Department of Health
Office of Legal Counsel
Health and Welfare Building,
8th Floor West
625 Forster Street
Harrisburg, PA 17120

dbogen@pa.gov

Donald M. Yealy, M.D.
Pennsylvania State Board of Medicine
2601 North Third Street
Harrisburg, PA 17110

St-medicine@pa.gov
danaarcher@pa.gov

cc:

Governor's Office of General Counsel
Jennifer Selber, Chief Counsel
jselber@pa.gov

Laurie Malone, Deputy Chief Counsel
lamalone@pa.gov

I further certify that this Certificate of Service is filed in compliance with the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania and constitutes proper service upon the government units and officers whose duties are sought to be compelled, and upon the Office of Attorney General of the Commonwealth of Pennsylvania, as required by Pa. R.A.P. 1514(c) and Pa. R.C.P. 422(a).

Dated: July 2, 2026

Jonathan Scott Goldman