

House Bill 1550

By: Representatives Mobley of the 58th, Benfield of the 56th, Post 1, Dooley of the 33rd, Post 3, Brooks of the 47th, Orrock of the 51st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 9-11-9.1 of the Official Code of Georgia Annotated, relating to
2 affidavits to accompany a charge of professional malpractice, so as to provide for midwives;
3 to amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
4 provide for state licensure of certified professional midwives; to provide for a short title; to
5 provide for legislative findings and expressions of intent; to provide for definitions; to
6 provide that only licensed midwives shall have the right to use certain designations; to
7 provide that the practice of midwifery by licensed midwives will not constitute the practice
8 of certain other professions; to establish the Georgia Board of Certified Professional
9 Midwives and its membership and duties; to provide for the establishment of rules and
10 regulations relating to the licensing of midwives; to provide for licensing and renewal
11 criteria; to provide for disciplinary proceedings by the board; to provide for informed
12 consent; to provide for written plans for client care; to provide for the filing of birth
13 certificates; to provide for relationships among midwives, clients of midwives, and
14 physicians; to establish standards of liability for physicians and other health care providers
15 rendering birth related services to clients of Georgia licensed midwives; to provide for
16 nonapplicability to persons participating in midwife training programs; to provide for
17 parents' rights regarding birth places and attendants; to provide that violations shall
18 constitute misdemeanors; to provide for an effective date; to repeal conflicting laws; and for
19 other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 Code Section 9-11-9.1 of the Official Code of Georgia Annotated, relating to an affidavit to
23 accompany a charge of professional malpractice, is amended by striking subsection (f) in its
24 entirety and inserting in lieu thereof the following:

25 "(f) The professions to which this Code section applies are:

26 (1) Architects;

- 1 (2) Attorneys at law;
- 2 (3) Certified public accountants;
- 3 (4) Chiropractors;
- 4 (5) Clinical social workers;
- 5 (6) Dentists;
- 6 (7) Dietitians;
- 7 (8) Land surveyors;
- 8 (9) Medical doctors;
- 9 (10) Marriage and family therapists;
- 10 (10.1) Midwives;
- 11 (11) Nurses;
- 12 (12) Occupational therapists;
- 13 (13) Optometrists;
- 14 (14) Osteopathic physicians;
- 15 (15) Pharmacists;
- 16 (16) Physical therapists;
- 17 (17) Physicians' assistants;
- 18 (18) Professional counselors;
- 19 (19) Professional engineers;
- 20 (20) Podiatrists;
- 21 (21) Psychologists;
- 22 (22) Radiological technicians;
- 23 (23) Respiratory therapists; or
- 24 (24) Veterinarians."

25 **SECTION 2.**

26 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by striking
27 Chapter 26, relating to midwifery, in its entirety and inserting in its place the following:

28 "CHAPTER 26

29 31-26-1.

30 This chapter shall be known and may be cited as the 'Georgia Certified Professional
31 Midwifery Act.'

1 31-26-2.

2 The General Assembly recognizes the need for a person to have the freedom to choose the
3 manner, cost, and setting for giving birth and that, for personal and economic reasons,
4 women and families will give birth at home. The General Assembly also recognizes the
5 need for the safe and effective delivery of newborn babies and the health, safety, and
6 welfare of their mothers in the delivery process. The General Assembly, in the interest of
7 public health, promotes the regulation of the practice of midwifery in this state for the
8 purpose of protecting the health and welfare of women and infants and for increasing the
9 availability of midwives to provide maternity care in out-of-hospital settings. The General
10 Assembly recognizes that childbirth is a culmination of pregnancy and is a natural process,
11 not a disease. The General Assembly recognizes that midwifery is a profession in its own
12 right and that midwifery is not the practice of medicine. The General Assembly finds that
13 access to prenatal care and delivery services is limited by the inadequate number of
14 providers of such services and that the practice of midwifery may help to reduce this
15 shortage. It is the intent of the General Assembly to encourage the regulated practice of
16 midwifery based on widely recognized core competencies for midwifery that represent
17 national standards for direct-entry midwives.

18 31-26-3.

19 The purpose of this chapter is to protect, promote, and preserve the public health, safety,
20 and welfare through regulation of certified professional midwives. This chapter ensures
21 that any person practicing or offering to practice midwifery or using the title 'licensed
22 midwife,' as defined in this chapter, within the State of Georgia shall be licensed as
23 provided in this chapter.

24 31-26-4.

25 As used in this chapter, the term:

26 (1) 'Board' means the Georgia Board of Certified Professional Midwives as described in
27 this chapter.

28 (2) 'Consumer member' means a United States citizen and Georgia resident who does not
29 derive primary livelihood from the provision of any aspect of maternity care and who has
30 first-hand experience with out-of-hospital birth.

31 (3) 'License' means a current document, issued by the board, permitting a person to
32 practice midwifery as a licensed midwife.

33 (4) 'Licensed midwife (LM)' means a midwife who has met all the requirements for
34 certification as a Certified Professional Midwife as established by the North American
35 Registry of Midwives or its successor organization, who has met the eligibility criteria

1 and licensing requirements set forth in this chapter, and who has been duly licensed by
2 the board as described in this chapter.

3 (5) 'Licensure' means the bestowing of a current license by the board permitting a person
4 to practice midwifery as a licensed midwife.

5 (6) 'Midwife' means a person who is trained to give the necessary care and advice to
6 women during pregnancy, labor, and the postpartum period; to conduct normal deliveries
7 on the midwife's own responsibility; and to care for the newly born infant. The midwife
8 is able to recognize warning signs of abnormal conditions requiring referral to or
9 collaboration with a physician.

10 (7) 'Midwifery' means the provision of care, support, and education to healthy women
11 during the childbearing cycle, including normal pregnancy, labor, childbirth, and the
12 postpartum period. Such care can occur in collaboration and consultation with other
13 health care providers and can appropriately occur at home, in birthing centers, or in
14 medical facilities. Such care, support, and education may relate to:

15 (A) Appropriate measures that promote and maintain the health of the mother and
16 baby;

17 (B) The availability of birthing alternatives;

18 (C) The prevention or reduction of risk to the mother and baby;

19 (D) The detection of abnormal conditions;

20 (E) The procurement of appropriate medical assistance;

21 (F) The execution of emergency measures;

22 (G) The provision of newborn care and appropriate screening; and

23 (H) The provision of well woman health care.

24 31-26-5.

25 Any person who is licensed as a licensed midwife under this chapter shall have the right
26 to use the title 'licensed midwife' and the abbreviation 'LM.' No other person shall assume
27 such title or use such abbreviation or any other words, letters, signs, or symbols to indicate
28 that such person is a licensed midwife in Georgia.

29 31-26-6.

30 (a) The Georgia Board of Certified Professional Midwives shall consist of five members
31 to be appointed by the Governor. Members shall be appointed for four-year terms and until
32 their successors are duly appointed and qualified. No member shall be appointed for more
33 than two consecutive terms and, for the purpose of this limitation, an appointment to fill
34 a vacancy for an unexpired term which exceeds two full years shall constitute an
35 appointment for a full term. All members of the board shall have been citizens of the

1 United States and residents of Georgia for at least five years preceding appointment and
2 shall include:

- 3 (1) Three certified professional midwives eligible for licensure under this chapter, who
4 have each attended at least 50 deliveries as midwives, who shall remain on the board
5 contingent upon being licensed by the board. After the initial board appointments,
6 midwives will be required to be licensed midwives to be eligible to serve on the board;
7 (2) One consumer member; and
8 (3) One certified nurse-midwife or licensed physician who has first-hand experience with
9 out-of-hospital birth.

10 The initial appointments made under this subsection are as follows: the Governor shall
11 appoint two certified professional midwives to serve for four years and one to serve for two
12 years, the Governor shall appoint one consumer member who shall serve for two years, and
13 the Governor shall appoint one certified nurse-midwife or licensed physician to serve for
14 four years; thereafter, all terms shall be for four years.

15 (b) A vacancy on the board for any reason other than expiration of the term shall be filled
16 for the remainder of the unexpired term by appointment of the Governor. Vacancies shall
17 be filled in a timely manner.

18 (c) The board members shall elect annually from their membership a chairperson and a
19 vice chairperson.

20 (d) The board shall meet a minimum of once a year and may have called meetings and
21 emergency meetings upon notice to all members issued by its chairperson.

22 (e) Four members of the board shall constitute a quorum.

23 (f) Members appointed to the board shall serve without compensation.

24 31-26-7.

25 The board shall:

- 26 (1) Promulgate regulations governing the practice of licensed midwifery within 280 days
27 following the initial appointment of the members of the board;
28 (2) Be responsible for the enforcement of the provisions of this chapter and shall be
29 specifically granted all of the necessary duties, powers, and authority to carry out this
30 responsibility;
31 (3) Be authorized to draft, adopt, amend, repeal, and enforce such rules as it deems
32 necessary for the administration and enforcement of this chapter in the protection of the
33 public health, safety, and welfare. Such regulations shall:
34 (A) Address the requirements of this chapter;
35 (B) Be consistent with the current job analysis for the profession;
36 (C) Be consistent with certified professional midwife requirements;

1 (D) Be consistent with the available evidence regarding specific practices;

2 (E) Ensure professional autonomy;

3 (F) Provide for an appropriate licensure fee; and

4 (G) Include requirements for licensure renewal and continuing education.

5 Such regulations shall not require any agreement, written or otherwise, with another
6 health care professional or require the assessment of a woman who is seeking midwifery
7 services by another health care professional;

8 (4) Establish a formulary of legend drugs for administrative use only, appropriate or
9 necessary for safe midwifery care or for compliance with state mandates. The formulary
10 shall include but is not limited to: oxygen, one or more anti-hemorrhagic drugs, Rhogam,
11 Vitamin K, prophylactic eye medication, local anesthetics for suturing, and such other
12 legend drugs as may be mandated by the state or are determined to be needed for safe
13 midwifery practice according to certified professional midwifery requirements and
14 available scientific evidence. A licensed midwife shall not be authorized to prescribe
15 medication, but may administer medications pursuant to the formulary;

16 (5) License duly qualified applicants by examination or reinstatement;

17 (6) Enforce qualifications for licensure;

18 (7) Be authorized to establish requirements, fees, and application process for temporary
19 licensure for visiting certified professional midwives;

20 (8) Be authorized to set standards for competency of licensees continuing in or returning
21 to practice;

22 (9) Be authorized to establish rules for and provide permits for student midwives under
23 the supervision of a licensed midwife;

24 (10) Renew licenses of licensed midwives in accordance with this chapter;

25 (11) Establish rules regarding nonrenewal and reinstatement requirements;

26 (12) Establish rules for and implement the disciplinary process;

27 (13) Be authorized to appoint standing or ad hoc committees as necessary to inform and
28 make recommendations to the board about issues and concerns and to facilitate
29 communication among the board, licensees, and the community;

30 (14) Determine fees; and

31 (15) Adopt a seal which shall be in the care of the board and shall be affixed only in such
32 a manner as prescribed by the board.

33 31-26-8.

34 (a) Persons seeking licensure as a licensed midwife shall submit such information as
35 required in the form and manner determined by the board.

36 (b) Persons seeking licensure shall pay the required license fee as determined by the board.

- 1 (c) To be eligible for licensure, a midwife must:
- 2 (1) Be at least 18 years of age;
- 3 (2) Have graduated from high school or the equivalent thereof;
- 4 (3) Be a certified professional midwife with current certification;
- 5 (4) Have current certification for cardiopulmonary resuscitation and neonatal
- 6 resuscitation; and
- 7 (5) Be in good physical and mental health.
- 8 (d) Any applicant who meets the license requirements and procedures prescribed in this
- 9 chapter and as specified by board regulations may be issued a license to practice as a
- 10 licensed midwife.

11 31-26-9.

- 12 (a) Licenses issued under this chapter shall be valid for four years and shall be renewed
- 13 prior to the expiration of the license, according to schedules and fees decided by the board.
- 14 (b) A license shall be renewed, at the discretion of the board, for any licensed midwife
- 15 who remits the required fee, has current certification as a certified professional midwife,
- 16 and who complies with the requirements of this chapter and as established by the board.
- 17 (c) If a license has not been renewed by the end of an established renewal period, the board
- 18 may restore and reissue a license subject to reinstatement according to rules established by
- 19 and at the discretion of the board and may impose a reinstatement fee. An applicant whose
- 20 license has lapsed for a period greater than three years may be eligible for licensing, but
- 21 such rules shall not establish requirements greater than the eligibility requirements of this
- 22 chapter.

23 31-26-10.

- 24 (a) The board may undertake disciplinary proceedings against a licensed midwife:
- 25 (1) Upon its own initiative; or
- 26 (2) Upon written complaint of any person which charges that a person licensed by the
- 27 board has committed misconduct under subsection (b) of this Code section and which
- 28 specifies the grounds for the misconduct.
- 29 (b) Misconduct by a licensed midwife sufficient to support disciplinary proceedings under
- 30 this Code section as determined by the board shall include:
- 31 (1) The practice of fraud or deceit in procuring or attempting to procure licensure to
- 32 practice under this chapter;
- 33 (2) Conviction of any crime which demonstrates unfitness to practice midwifery;
- 34 (3) Demonstrable gross incompetence of the licensee;

1 (4) Addiction to the use of alcohol or other habit-forming drugs to a degree which
2 renders the licensee unfit to practice under this chapter;

3 (5) A legal finding of mental incompetence;

4 (6) Willful or repeated violation of the provisions of this chapter; and

5 (7) Suspension or revocation without subsequent reinstatement of licensure, similar to
6 one issued under this chapter, in another jurisdiction.

7 (c) The board may take disciplinary action against a licensed midwife in any one or more
8 of the following ways:

9 (1) By public or private reprimand;

10 (2) By suspension, limitation, or restriction of license;

11 (3) By revocation of license; or

12 (4) By assessing administrative fines in amounts established by the board which shall not
13 exceed \$2,000.00 per offense, or in the case of a continuing offense, \$250.00 for each day
14 the violation continues.

15 31-26-11.

16 The denial of an initial license, the issuance of a private reprimand, and the denial of a
17 request for reinstatement of a license on the grounds that the applicant or licensee has failed
18 to meet the minimum requirements shall not be considered a contested case within the
19 meaning of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and notice
20 and hearing within the meaning of Chapter 13 of Title 50 shall not be required, but the
21 applicant or licensee shall be allowed to appear before the board if he or she so requests.

22 31-26-12.

23 Licensed midwives shall be liable for their acts and omissions in the performance of the
24 services that they provide; and no physician, nurse, prehospital emergency medical
25 personnel, or health care institution shall be liable for any act or omission resulting from
26 the administration of services by any licensed midwife. The provisions of this Code section
27 shall not relieve any other licensed midwife, physician, nurse, prehospital emergency
28 medical personnel, or health care institution from liability for any willful or wanton act or
29 omission, any act or omission constituting gross negligence, or for circumstances where
30 a licensed midwife has a business relationship with any such licensed midwife, physician,
31 nurse, prehospital emergency medical personnel, or health care institution. A physician,
32 nurse, prehospital emergency medical personnel, or health care institution shall not be
33 deemed to have established a business relationship solely by providing consultation to or
34 accepting referral from the midwife in accordance with this Code section.

1 31-26-13.

2 Any health insurance policy, health maintenance organization plan, or other form of health
3 insurance coverage that covers maternity care, including Medicaid, may not deny coverage
4 for maternity care provided by a licensed midwife in any setting and must reimburse
5 maternity care by a licensed midwife at the same rate as for other providers of maternity
6 care covered by the insurance policy.

7 31-26-14.

8 (a) In recognition that, in Georgia, a variety of practitioners provide care to women during
9 pregnancy and childbirth, this chapter does not apply to the following:

10 (1) Certified nurse-midwives licensed by the Georgia Board of Nursing to practice in
11 Georgia, unless they have chosen to become licensed midwives; and

12 (2) Licensed physicians or other licensed health care providers authorized to provide
13 midwifery care.

14 (b) No provision in this chapter shall be construed to require licensure in Georgia as a
15 licensed midwife in:

16 (1) The practice of midwifery by students when such practice is an integral part of their
17 training and under the supervision of a licensed midwife;

18 (2) The rendering of assistance by anyone in the case of an emergency or disaster;

19 (3) The incidental care of the mother by members of the family, friends, or persons
20 primarily utilized as housekeepers, provided that such care does not constitute the
21 practice of midwifery within the meaning of this chapter and individuals do not hold
22 themselves out as being licensed midwives;

23 (4) Caring for the pregnant woman in accordance with tenets or practices of any church
24 or religious denomination which teaches reliance upon spiritual means through prayer for
25 healing;

26 (5) The performance of auxiliary services in the care of a pregnant woman when such
27 care and activities do not require the knowledge and skill required of a person practicing
28 midwifery as a licensed midwife and when such care or activities are performed under
29 orders or directions of a licensed health care provider; or

30 (6) In the providing of childbirth education, massage, labor support, lactation
31 information, or other informative and supportive services to women during the
32 childbearing cycle that do not require the knowledge and skill of a person practicing
33 midwifery as a licensed midwife.

34 (c) In a civil or administrative proceeding under this chapter, a person claiming an
35 exemption or an exception pursuant to subsection (a) or (b) of this Code section has the
36 burden of proving this exemption or exception. In a criminal proceeding, the burden of

1 going forward with evidence of a claim of exemption or exception pursuant to subsection
2 (a) of this Code section is on the person claiming the exemption or exception.

3 31-26-15.

4 It shall be a misdemeanor for any person, including any corporation, association, or
5 individual, to:

6 (1) Practice midwifery as a licensed midwife without a valid current license, except as
7 otherwise permitted under the laws of this state;

8 (2) Practice midwifery as a licensed midwife under cover of any diploma, license, or
9 record illegally or fraudulently obtained, signed, or issued;

10 (3) Practice midwifery as a licensed midwife during the time the license is suspended,
11 revoked, surrendered, or administratively revoked for failure to renew;

12 (4) Use any words, abbreviations, figures, letters, titles, signs, cards, or devices implying
13 that such person is a licensed midwife unless such person is duly licensed to practice
14 under the provisions of this chapter;

15 (5) Fraudulently furnish a license to practice midwifery as a licensed midwife; or

16 (6) Knowingly aid or abet any person to violate this chapter.

17 31-26-16.

18 (a) A licensed midwife may provide maternity care for a low-risk client who is expected
19 to have a normal pregnancy, labor, childbirth, and postpartum period in the setting of the
20 mother's choice.

21 (b) The licensed midwife shall ensure that the client has signed an informed disclosure and
22 care agreement document prior to providing care. This document shall include disclosure
23 of specific information about the midwife's qualifications, experience, and practice as
24 designated by the board. Such disclosure shall include, but not be limited to:

25 (1) A description of the licensed midwife's qualifications, experience, and training;

26 (2) A written protocol for medical emergencies, including hospital transport, particular
27 to each client;

28 (3) A description of the Midwives Model of Care;

29 (4) A copy of the state regulations governing the practice of midwifery;

30 (5) A statement concerning the licensed midwife's malpractice or liability insurance
31 coverage;

32 (6) A description of the right to file a complaint with the Georgia Board of Certified
33 Professional Midwives and the procedures for filing a complaint; and

- 1 (7) Such other information as the Georgia Board of Certified Professional Midwives
2 determines is appropriate to allow the client to make an informed choice to select licensed
3 midwifery care.
- 4 (c) For screening purposes only, the licensed midwife may order routine antepartal and
5 postpartal laboratory analysis to be performed by a licensed laboratory.
- 6 (d) The licensed midwife shall determine the progress of labor and, when birth is
7 imminent, shall be available until delivery is accomplished.
- 8 (e) The licensed midwife shall create a chart for each client according to accepted
9 professional standards and regulations of the board and should preserve and dispose of such
10 records as directed by the board.
- 11 (f) The licensed midwife shall remain with the postpartal mother during the postpartal
12 period until the conditions of the mother and newborn are stabilized or the mother and baby
13 are under the care of another licensed health care provider if transfer of care was necessary.
- 14 (g) The licensed midwife shall instruct the parents regarding any state government
15 requirements regarding newborn care, including but not limited to prophylactic eye
16 medication, administration of Vitamin K, and newborn screening.
- 17 (h) The licensed midwife shall file a birth certificate for each birth in accordance with
18 Code Section 31-10-9 within ten days of delivery.
- 19 (i) The licensed midwife shall practice midwifery in compliance with the rules and
20 regulations promulgated pursuant to this chapter."

21 **SECTION 3.**

22 This Act shall become effective January 1, 2005.

23 **SECTION 4.**

24 All laws and parts of laws in conflict with this Act are repealed.