

House Bill 717

By: Representatives Mathiak of the 73rd, Barr of the 103rd, Bazemore of the 63rd, Bonner of the 72nd, Rich of the 97th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 repeal in its entirety Chapter 26, relating to the practice of midwifery; to amend Title 43 of
3 the Official Code of Georgia Annotated, relating to professions and businesses, so as to
4 provide for the licensure and regulation of midwives; to provide for a short title; to provide
5 for legislative findings; to provide for definitions; to provide for the creation of the Advisory
6 Board for Licensed Midwives; to provide for its membership and duties; to provide for
7 licensure requirements; to provide for the issuance, renewal, and revocation of licenses; to
8 require written disclosures to clients; to provide for authorized acts and duties of licensed
9 midwives; to provide for statutory construction; to provide for nuisances; to provide for
10 related matters; to provide for an effective date; to repeal conflicting laws; and for other
11 purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by
15 repealing in its entirety Chapter 26, relating to the practice of midwifery

16 **SECTION 2.**

17 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
18 is amended by adding a new chapter to read as follows:

19 **"CHAPTER 24B**

20 **43-24B-1.**

21 **This chapter shall be known and may be cited as the 'Georgia Licensed Midwife Act.'**

22 43-24B-2.23 The General Assembly finds that:24 (1) Childbirth is the culmination of pregnancy and is a natural process, not a disease;25 (2) Regulating midwives promotes access to safe and effective antepartum, childbirth,
26 and postpartum care, providing for the health, safety, and welfare of mothers and their
27 newborns;28 (3) Midwifery has always been a highly valued part of life in this state;29 (4) Parents are entitled to freedom in choosing their provider and setting for childbirth;30 (5) Potential parents in this state desire alternatives to currently available hospital based
31 maternity care;32 (6) Costs of out-of-hospital childbirth tend to be lower than in-hospital childbirth;33 (7) Planned out-of-hospital childbirth is safer when assisted by trained midwives;34 (8) Midwives can assist women and their families with safe and effective childbirth
35 while guiding the health, safety, and welfare of mothers and their offspring through the
36 childbearing year;37 (9) Certified professional midwives are specialists in out-of-hospital births;38 (10) Many parts of this state currently experience a crisis in access to safe and effective
39 care for mothers and their newborns during the prenatal, childbirth, and postpartum
40 periods;41 (11) Numerous counties in this state are underserved by obstetricians;42 (12) Improved access to midwives in all settings is associated with significantly higher
43 rates of spontaneous vaginal delivery, vaginal birth after cesarean (VBAC), and
44 breastfeeding at birth and at six months; and significantly lower rates of cesarean section
45 (CS), preterm (PTB), and low birth weight (LBW) infants;46 (13) Midwifery care improves pregnancy outcomes for both low-risk and high-risk
47 women in underserved rural and urban communities;48 (14) Lack of access to licensed midwives impels families to have unattended
49 out-of-hospital births or travel long distances to get care; and50 (15) For healthy women, midwife assisted childbirth in out-of-hospital settings has lower
51 maternity and infant morbidity rates than in-hospital childbirth.52 43-24B-3.53 As used in this chapter, the term:54 (1) 'Advisory board' means the Advisory Board for Licensed Midwives established
55 pursuant to Code Section 43-24B-4.

56 (2) 'Certified nurse midwife' means a midwife who has been certified by the American
 57 Midwifery Certification Board or its successor and is licensed by the Georgia Board of
 58 Nursing.

59 (3) 'Certified professional midwife' means a midwife who has been certified by the North
 60 American Registry of Midwives, or its successor organization.

61 (4) 'Consultation' means a communication between a midwife and another health care
 62 provider when assessing a condition during the prenatal, childbirth, or postpartum
 63 periods.

64 (5) 'Informed consent' means a verbal or written agreement from the mother to consent
 65 to procedures, protocols, and treatments or recommended diagnostic tests after full
 66 disclosure of the current standard of care, its purpose, benefits, known risks,
 67 contraindications, and associated risks, as well as any alternative options.

68 (6) 'Informed refusal' means a verbal or written agreement from the mother that indicates
 69 that after full disclosure of the current standard of care, its purpose, benefits, known risks,
 70 contraindications, and risks associated with its refusal, women have the legal authority
 71 in all but the rarest of emergency circumstances to decline procedures, protocols, and
 72 treatments that such mother finds unacceptable for any reason.

73 (7) 'License' means a license issued pursuant to this chapter to practice midwifery.

74 (8) 'Licensed midwife' means a midwife who has a license to practice midwifery
 75 pursuant to this chapter.

76 (9) 'Midwifery' means the assistance given to women during the prenatal, childbirth, and
 77 postpartum periods, including well-woman screening and education.

78 (10) 'Midwifery assistant' means any person working under the supervision of a midwife
 79 as defined in this chapter.

80 (11) 'Out-of-hospital birth' includes both home birth and birth center birth.

81 (12) 'Referral' means a request made by a midwife to a physician or other health care
 82 provider for an assessment of a mother or her offspring in order to determine appropriate
 83 care.

84 43-24B-4.

85 (a) There is created within the division the Advisory Board for Licensed Midwives which
 86 shall consist of six members.

87 (b) The Governor shall appoint all members of such advisory board as follows:

88 (1) Three certified professional midwives;

89 (2) One consumer member, who has firsthand experience with out-of-hospital birth and
 90 who does not derive a substantial livelihood from the provision of anything related to
 91 prenatal, childbirth, or postpartum care;

- 92 (3) One certified nurse midwife; and
- 93 (4) One licensed physician who has firsthand experience with out-of-hospital births.
- 94 (c) Each member of the advisory board shall be a citizen of the United States and shall
95 have been a resident of Georgia for at least five years immediately preceding their
96 appointment. Members of the advisory board may serve for unlimited terms except that
97 no member may serve more than two consecutive terms.
- 98 (d) The members of the advisory board shall serve for staggered terms of three years each;
99 provided, however, that initial appointments shall be made as follows:
- 100 (1) One certified professional midwife and one certified nurse midwife for a term of
101 three years;
- 102 (2) One certified professional midwife and one licensed physician for a term of two
103 years; and
- 104 (3) One certified professional midwife and one consumer member for a term of one year.
- 105 (e) Each member of the advisory board shall receive the expense allowance as provided
106 by subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of
107 a personal car as that received by other state officials and employees or a travel allowance
108 of actual transportation cost if traveling by public carrier within this state. Each advisory
109 board member shall also be reimbursed for any conference or meeting registration fee
110 incurred in the performance of his or her duties as an advisory board member. For each
111 day's service outside of the state as an advisory board member, such member shall receive
112 actual expenses as an expense allowance as well as the mileage allowance for the use of
113 a personal car equal to that received by other state officials and employees or a travel
114 allowance of actual transportation cost if traveling by public carrier or by rental motor
115 vehicle. Expense vouchers submitted by advisory board members are subject to approval
116 of the chairperson. Out-of-state travel by advisory board members must be approved by
117 the advisory board chairperson.
- 118 (f) Any vacancy on the advisory board shall be filled in the same manner as the regular
119 appointments. The Governor may remove members of the advisory board for
120 incompetence, neglect of duty, unprofessional conduct, conviction of any felony, failure
121 to meet the qualifications of this chapter, or committing any act prohibited by this chapter.
- 122 43-24B-5.
- 123 (a) The advisory board shall elect a chairperson from among its membership, and may
124 elect other officers at the discretion of the advisory board, who shall each serve for one
125 year.
- 126 (b) The advisory board shall meet at least once per year or as otherwise called by the
127 chairperson.

128 43-24B-6.

129 No person shall identify themselves as a licensed midwife in this state unless they are
130 licensed pursuant to this chapter.

131 43-24B-7.

132 Each applicant for a license under this chapter shall be at least 18 years of age, shall have
133 submitted a completed application upon a form and in such manner as the advisory board
134 prescribes, accompanied by applicable fees, and shall meet the following requirements:

135 (1)(A) Possessing national certification by the North American Registry of Midwives
136 as a certified professional midwife; or

137 (B) Possessing national certification recognized by the advisory board and substantially
138 equivalent to the North American Registry of Midwives for certified professional
139 midwives;

140 (2)(A) Having completed an educational program or pathway accredited by the
141 Midwifery Education and Accreditation Council and obtained the certified professional
142 midwife credential; or

143 (B)(i) Having completed an educational pathway not accredited by the Midwifery
144 Education and Accreditation Council; and

145 (ii)(I) Possessing the Midwifery Bridge Certificate issued by the North American
146 Registry of Midwives; or

147 (II) For certified professional midwives who have maintained licensure in a state
148 that does not require completion of an educational program or pathway accredited
149 by the Midwifery Education and Accreditation Council obtaining the Midwifery
150 Bridge Certificate regardless of the date of their certification in order to apply for
151 licensure;

152 (3) Having satisfactory results from a criminal background check report conducted by
153 the Georgia Crime Information Center and the Federal Bureau of Investigation, as
154 determined by the advisory board. Application for a license under this Code section shall
155 constitute express consent and authorization for the advisory board to perform such
156 criminal background check. Each applicant who submits an application for licensure
157 agrees to provide the advisory board with any and all information necessary to run such
158 criminal background check, including, but not limited to, classifiable sets of fingerprints.
159 The applicant shall be responsible for all fees associated with the performance of such
160 background check; and

161 (4) Completing such other requirements as may be prescribed by the advisory board.

162 43-24B-8.

163 After evaluation of an application and other evidence submitted, the advisory board shall
164 notify each applicant that such application and evidence submitted are satisfactory and
165 accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons for
166 the rejection.

167 43-24B-9.

168 (a) A license issued by the advisory board is the property of the advisory board and must
169 be surrendered on demand.

170 (b) The licensee shall display the license in an appropriate and public manner.

171 (c) The licensee shall inform the advisory board of any change of address.

172 (d) The license shall be renewed biennially if the licensee is not in violation of this chapter
173 at the time of application for renewal.

174 (e) Each person licensed under this chapter is responsible for renewing his or her license
175 before the expiration date.

176 (f) Under procedures and conditions established by the advisory board, a licensee may
177 request that his or her license be declared inactive. The licensee may apply for active status
178 at any time, and upon meeting the conditions set by the advisory board, such license shall
179 be declared active.

180 43-24B-10.

181 (a) The advisory board may revoke, suspend, deny, or refuse to issue or renew a license;
182 place a licensee on probation; or issue a letter of admonition upon proof that the licensee
183 or applicant has:

184 (1) Procured or attempted to procure a license by fraud, deceit, misrepresentation,
185 misleading omission, or material misstatement of fact;

186 (2) Been convicted of a felony or of any crime involving moral turpitude as provided
187 under state law;

188 (3) Willfully or negligently acted in a manner inconsistent with the health or safety of
189 persons under such licensee's care;

190 (4) Had a license to practice a business or profession suspended or revoked or has
191 otherwise been subject to discipline related to such licensee's practice of a business or
192 profession in any other jurisdiction;

193 (5) Committed a fraudulent act that materially affects the fitness of the licensee or
194 applicant to practice a business or profession;

195 (6) Excessively or habitually used alcohol or drugs, provided that the advisory board
 196 shall not discipline a licensee under this paragraph if such licensee is enrolled in a
 197 substance abuse program approved by the advisory board; or

198 (7) A physical or mental disability that renders such licensee incapable of safely
 199 practicing midwifery.

200 (b) The advisory board is authorized to conduct investigations into allegations of conduct
 201 described in subsection (a) of this Code section.

202 (c) In addition to revoking, suspending, denying, or refusing to renew a license, the
 203 advisory board may fine a licensee found to have violated any provision of this chapter or
 204 any rule adopted by the advisory board under this chapter of not less than \$100.00 nor more
 205 than \$500.00 for each such violation.

206 (d) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
 207 shall be applicable to the advisory board and the provisions of this chapter.

208 (e) Any person may file a complaint with the advisory board with respect to a licensed
 209 midwife.

210 43-24B-11.

211 On and after July 1, 2019, no person without a license issued pursuant to this chapter shall
 212 use the title 'licensed midwife' or the abbreviation 'L.M.'.

213 43-24B-12.

214 (a) Before performing midwifery services to a client, a licensed midwife shall provide, in
 215 a language that is understandable to the client, a written disclosure containing:

216 (1) The midwife's name, address, telephone number, and license number;

217 (2) Relevant information about the licensed midwife's training, qualifications, expertise,
 218 and disciplinary sanctions, if any;

219 (3) The midwife's fees and method of billing;

220 (4) The relevant state laws and regulations pertaining to the practice of midwifery in this
 221 state;

222 (5) The method with which a client may file a complaint with the advisory board;

223 (6) Whether the licensed midwife has liability insurance; and

224 (7) Any other relevant information required by the advisory board.

225 (b) A licensed midwife shall obtain a signed written informed consent or informed refusal
 226 in a language that is understandable to the client.

227 (c) Written disclosures, written informed consents, and written informed refusals shall be
 228 signed by the client and retained by the licensed midwife for at least six years.

229 43-24B-13.

230 (a) A licensed midwife shall be authorized to:

231 (1) Order prenatal, postpartum, and well-woman laboratory analyses to be performed by
232 a licensed laboratory for screening purposes;

233 (2) Order obstetric ultrasounds;

234 (3) Administer prescription drugs prescribed by a licensed physician or other authorized
235 health care professional; and

236 (4) Precept apprentices and student midwives and supervise midwifery assistants,
237 provided that apprentices, student midwives, and midwifery assistants work only under
238 the direction of the licensed midwife.

239 (b) A licensed midwife shall:

240 (1) Provide midwifery services consistent with the job analysis of the North American
241 Registry of Midwives or its successor organization and consistent with the standards of
242 practice of the National Association of Certified Professional Midwives or another
243 national midwifery organization approved by the advisory board;

244 (2) Keep current with continuing education consistent with standards established by a
245 national organization recognized by the advisory board;

246 (3) Provide clients with access to written plans for consultation, referral, and transport;

247 (4) Provide clients with access to practice guidelines as required by the midwife's
248 certifying organization;

249 (5) Notify clients about relevant state governmental requirements affecting newborns;

250 (6) File a birth certificate for each birth in accordance with the laws of this state; and

251 (7) Purchase, possess, carry, or administer prescription supplies, including intravenous
252 bags for fluid replenishment, RhoD-immunoglobulin, vitamin K for administering orally
253 or through intramuscular injection, postpartum antihemorrhagic agents, local anesthetics
254 for suturing childbirth related lacerations or episiotomies, oxygen, a prophylactic eye
255 agent to a newborn, and other prescription medications or restricted medical items
256 approved by the advisory board.

257 43-24B-14.

258 A licensed midwife shall not practice midwifery when:

259 (1) Impaired due to any physical, mental, or substance-abuse related problem; or

260 (2) Circumstances reasonably make the practice of midwifery by the licensed midwife
261 amount to reckless disregard for a client's health, safety, or welfare.

262 43-24B-15.

263 A licensed midwife may terminate services to a client for any reason, provided that the
264 client has reasonable access to other professional care.

265 43-24B-16.

266 A licensed midwife may seek discretionary consultation with a licensed physician or
267 certified nurse midwife and such physician or certified nurse midwife consulted shall not
268 be held liable for any acts or omissions on the part of such licensed midwife, unless such
269 physician or certified nurse midwife directly contributes to acts or omissions of such
270 licensed midwife involving reckless disregard for the health, safety, or welfare of a
271 pregnant woman or newborn.

272 43-24B-17.

273 (a) Nothing in this chapter shall be construed to affect or prevent:

274 (1) Any licensed health care professionals from engaging in the authorized scope of
275 practice of their profession;

276 (2) Members of a pregnant woman's family from providing incidental care;

277 (3) Representatives of a pregnant woman's culture or religion from providing care
278 consistent with tenets or practices relying on spiritual care of the physical body;

279 (4) Care providers acting under the orders or direction of licensed health care
280 professionals; or

281 (5) Anyone providing incidental support or information for a pregnant woman.

282 (b) Midwifery shall not constitute the practice of medicine in this state.

283 (c) Nothing in this chapter shall be construed to change the regulation of physicians as
284 provided for in the laws of this state.

285 43-24B-18.

286 Any health insurance policy, health maintenance organization plan, or other form of health
287 insurance coverage, including Medicaid, that covers maternity care shall not deny coverage
288 for maternity care provided by a licensed midwife in any setting and shall reimburse
289 maternity care by a licensed midwife at the same rate as for other providers of maternity
290 care covered by the insurance policy.

291 43-24B-19.

292 Any violation of this chapter or any rules and regulations adopted pursuant to this chapter
293 is declared to be a public nuisance subject to abatement as provided in Code Section
294 31-5-9."

295 **SECTION 3.**

296 This Act shall become effective upon its approval by the Governor or upon its becoming law
297 without such approval.

298 **SECTION 4.**

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