

House Bill 1251

By: Representatives Mathiak of the 73rd and Barr of the 103rd

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 Group for Licensed Midwives; to provide for its membership and duties; to provide for the
7 Secretary of State to consult with such advisory group; to provide for regulation by the
8 Secretary of State; to provide for licensure requirements; to prohibit certain actions without
9 licensure; to provide for written disclosures to clients; to provide for standards of liability in
10 certain situations; to authorize the filing of birth certificates; to provide for certain
11 requirements; to provide for prohibited acts; to provide for violations; to provide for statutory
12 construction; to amend Code Section 43-26-12 of the Official Code of Georgia Annotated,
13 relating to exceptions to the operation of the "Georgia Registered Professional Nurse Practice
14 Act," so as to provide for an exception relating to the practice of midwifery; to provide for
15 related matters; to provide for an effective date; to repeal conflicting laws; and for other
16 purposes.

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

18 **SECTION 1.**

19 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by
20 repealing in its entirety Chapter 26, relating to the practice of midwifery, and designating
21 said chapter as reserved.

22 **SECTION 2.**

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

25 "CHAPTER 24B

26 43-24B-1.

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

28 43-24B-2.

29 (a) The General Assembly finds that:

30 (1) Parents are entitled to freedom in choosing their provider and setting for childbirth;

31 (2) Some potential parents in this state desire alternatives to currently available hospital
 32 based maternity care;

33 (3) Safe, planned out-of-hospital childbirth requires assistance by trained and competent
 34 professionals;

35 (4) Certified professional midwives are nationally credentialed specialists in
 36 out-of-hospital births;

37 (5) Numerous counties in this state are underserved by obstetricians;

38 (6) Licensed midwives can assist women and their families with safe and effective
 39 childbirth while guiding the health, safety, and welfare of mothers and their offspring
 40 through the childbearing year; and

41 (7) Regulating certified professional midwives promotes access to safe and effective
 42 antepartum, intrapartum, and postpartum care.

43 (b) The General Assembly, therefore, declares it to be the purpose of this chapter to protect
 44 the health, safety, and welfare of the public by providing for the licensure and regulation
 45 of the activities of licensed midwives.

46 43-24B-3.

47 As used in this chapter, the term:

48 (1) 'Advisory group' means the Advisory Group for Licensed Midwives created pursuant
 49 to Code Section 43-24B-4.

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

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

55 (4) 'Consultation' means a communication between a licensed midwife and a physician,
 56 a certified nurse midwife, or another licensed healthcare provider with expertise in
 57 providing medical services to women during the prenatal, childbirth, and postpartum
 58 periods when assessing a condition during such periods.

59 (5) 'Informed consent' means a written certification by the mother consenting to
60 procedures, protocols, and treatments or recommended diagnostic tests after full
61 disclosure of the current standard of care and its purpose, benefits, known risks,
62 contraindications, and associated risks, as well as any alternative options.

63 (6) 'Informed refusal' means a written certification by the mother that indicates that after
64 full disclosure of the current standard of care and its purpose, benefits, known risks,
65 contraindications, and associated risks, the mother declines specified procedures,
66 protocols, and treatments.

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

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

70 (9) 'Midwifery' means assistance given, in exchange for compensation, to women during
71 the prenatal, childbirth, and postpartum periods, including well-woman screening and
72 education. Midwifery services may be provided in out-of-hospital settings, such as a
73 private home. Such services, which are provided within a network of relationships with
74 other maternity care providers who may provide consultation and collaboration when
75 needed, include:

76 (A) Providing care, education, counseling, and support to women and their families
77 throughout pregnancy, birth, and the postpartum period; identifying unique physical
78 social and emotional needs; recognizing abnormal conditions requiring the services of
79 a healthcare provider such as a physician, physician assistant, or advanced practice
80 registered nurse and developing a plan for consultation and referral when such
81 conditions arise; and providing emergency care and support for mothers and babies
82 until additional assistance is available; and

83 (B) Ordering prenatal, postpartum, and well-woman laboratory analyses performed by
84 a licensed laboratory for screening purposes; ordering obstetric ultrasounds; obtaining
85 and administering antihemorrhagic agents including but not limited to Pitocin
86 (oxytocin), misoprostol and methergine, intravenous fluids for stabilization of the
87 laboring person, neonatal injectable vitamin K, newborn antibiotic eye prophylaxis,
88 oxygen, intravenous antibiotics for Group B Streptococcal antibiotic prophylaxis,
89 Rho(D) immune globulin, local anesthetic, epinephrine, and other drugs or supplies
90 approved by the Secretary; and administering a specific drug prescribed by a physician
91 or other authorized healthcare provider for a client of a licensed midwife.

92 (10) 'Office' means the office of the Secretary of State.

93 (11) 'Referral' means a request made by a licensed midwife to a physician or other
94 healthcare provider for an assessment of a mother or her offspring in order to determine
95 appropriate care.

- 96 (12) 'Secretary' means the Secretary of State or his or her designee.
- 97 43-24B-4.
- 98 (a) There is created within the office the Advisory Group for Licensed Midwives which
99 shall consist of six members.
- 100 (b) The Secretary shall appoint all members of the advisory group as follows:
- 101 (1) Three certified professional midwives;
- 102 (2) One consumer member who has firsthand experience with out-of-hospital birth and
103 who does not derive a substantial livelihood from the provision of services related to
104 prenatal, childbirth, or postpartum care;
- 105 (3) One certified nurse midwife; and
- 106 (4) One licensed physician who has firsthand experience with out-of-hospital births.
- 107 (c) Members of the advisory group may serve for any number of terms and may serve
108 consecutive terms at the will of the Secretary; provided, however, that no member shall
109 serve more than two consecutive terms.
- 110 (d) The members of the advisory group shall serve for staggered terms of three years each;
111 provided, however, that initial appointments shall be made as follows:
- 112 (1) One certified professional midwife and one certified nurse midwife for a term of
113 three years;
- 114 (2) One certified professional midwife and one licensed physician for a term of two
115 years; and
- 116 (3) One certified professional midwife and one consumer member for a term of one year.
- 117 (e) Any vacancy shall be filled in the same manner as the regular appointments. After the
118 initial appointments, all certified professional midwives appointed as members of the
119 advisory group shall be licensed midwives.
- 120 (f) The Secretary may remove members of the advisory group for incompetence, neglect
121 of duty, unprofessional conduct, conviction of any felony, failure to meet the qualifications
122 of this chapter, or committing any act prohibited by this chapter.
- 123 (g) Each member of the advisory group shall serve without compensation.
- 124 (h) The advisory group shall elect a chairperson from among its membership, and may
125 elect other officers at the discretion of the advisory group, who shall each serve for one
126 year.
- 127 (i) The advisory group shall meet at least once per year or as otherwise called by the
128 Secretary.

129 43-24B-5.

130 (a) The Secretary shall seek the advice of the advisory group regarding the establishment
131 of rules and regulations and the implementation of requirements relating to licensure,
132 license renewal, discipline, continuing education, and other issues related to the practice
133 of midwifery in accordance with this chapter.

134 (b) The Secretary shall consult with the advisory group prior to setting or changing fees
135 as provided for in this chapter.

136 (c) The advisory group may act as a facilitator of state-wide dissemination of information
137 concerning professional midwifery services.

138 (d) The advisory group shall provide analysis of disciplinary actions taken, appeals and
139 denials, and revocation of licenses at least once per year.

140 43-24B-6.

141 With respect to the enforcement of this chapter, the Secretary shall retain all powers and
142 duties and may perform all functions of licensing boards as provided in Chapter 1 of this
143 title, including, but not limited to, the power to refuse to grant a license, revoke a license,
144 or discipline a licensee pursuant to Code Section 43-1-19.

145 43-24B-7.

146 (a) The Secretary may grant a license, upon submission of a completed application on a
147 form and in such manner as the Secretary prescribes, and accompanied by applicable fees,
148 to a person who:

149 (1) Is at least 21 years of age at the time of application;

150 (2) Holds a current national certification as a certified professional midwife, including
151 having passed the examination required for certification;

152 (3)(A) Has successfully completed a formal midwifery education and training program
153 accredited by the Midwifery Education Accreditation Council (MEAC); or

154 (B) For persons who were certified as certified professional midwives prior to
155 December 31, 2023, has completed nonaccredited education pathways and obtained the
156 Midwifery Bridge Certificate from the North American Registry of Midwives
157 (NARM);

158 (4) Has satisfactory results from a criminal background check report conducted by the
159 Georgia Crime Information Center and the Federal Bureau of Investigation, as
160 determined by the advisory group. Application for a license under this Code section shall
161 constitute express consent and authorization for the advisory group to perform such
162 criminal background check. Each applicant who submits an application for licensure
163 agrees to provide the advisory group with all information necessary to run such criminal

164 background check, including, but not limited to, classifiable sets of fingerprints. The
165 applicant shall be responsible for all fees associated with the performance of such
166 background check; and

167 (5) Has completed such other requirements as may be prescribed by the Secretary.

168 (b) Applicants for licensure who are licensed in another state or jurisdiction that has
169 requirements for licensure that either meet or exceed the requirements of this chapter for
170 licensure may be granted a license by the Secretary.

171 43-24B-8.

172 (a) After evaluation of an application and other evidence submitted, the Secretary shall
173 notify each applicant that such application and evidence submitted are satisfactory and
174 accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons for
175 the rejection.

176 (b) The Secretary is authorized to require that the practice of midwifery by licensed
177 midwives in this state be consistent with the Job Analysis of the North American Registry
178 of Midwives (NARM) or its successor organization and with the standards of practice of
179 the National Association of Certified Professional Midwives or another national midwifery
180 organization approved by the Secretary.

181 43-24B-9.

182 (a) A license issued by the Secretary is the property of the Secretary and must be
183 surrendered on demand.

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

185 (c) The licensee shall inform the Secretary and advisory group of any change of address.

186 (d) The license may be renewed biennially if the licensee is not in violation of this chapter
187 at the time of application for renewal and has completed continuing education requirements
188 established by the Secretary.

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

191 (f) Under procedures and conditions established by the Secretary, a licensee may request
192 that his or her license be declared inactive. The licensee may apply for active status at any
193 time, and upon meeting the conditions set by the Secretary, such license shall be declared
194 active.

195 43-24B-10.

196 On and after January 1, 2021, any person who practices midwifery, uses the title 'licensed
197 midwife' or the abbreviation 'L.M.', or holds himself or herself out to the public as a
198 licensed midwife shall be required to be licensed pursuant to this chapter.

199 43-24B-11.

200 (a) Before providing midwifery services to a client, a licensed midwife shall provide, in
201 a language that is understandable to the client, a written disclosure containing:

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

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

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

206 (4) The relevant state laws and regulations pertaining to the practice of midwifery;

207 (5) The method by which a client may file a complaint with the Secretary and advisory
208 group;

209 (6) Whether the licensed midwife has liability insurance and a statement that many
210 physicians and surgeons do not have liability insurance coverage for services provided
211 to someone having a planned out-of-hospital birth;

212 (7) If applicable, the name of a licensed healthcare provider, acting within the scope of
213 his or her authority, with whom he or she has a consultative relationship;

214 (8) The procedure that the midwife will use to terminate midwifery care to the client if
215 the client:

216 (A) Has or may have a condition indicating the need for medical consultation,
217 collaboration, referral, or nonurgent transfer; or

218 (B) Has or may have a condition indicating the need for urgent transfer; and

219 (9) Any other relevant information required by the Secretary.

220 (b) A licensed midwife shall obtain a signed informed consent or an informed refusal in
221 a language that is understandable to the client; provided, however, that in cases of an
222 emergency which endangers the health of the mother or child, the licensed midwife shall
223 not be required to obtain an informed refusal.

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

226 43-24B-12.

227 (a) No healthcare provider or facility shall be vicariously liable for an injury resulting from
228 an act or omission by a midwife unless an employment or agency relationship has been
229 established between the midwife and the healthcare provider or facility.

230 (b) Any physician, certified nurse midwife, other authorized healthcare provider acting
231 within his or her scope of authority, or hospital providing medical care or treatment to a
232 woman or infant due to an emergency arising during delivery or birth as a consequence of
233 the care received by a licensed midwife shall not be held liable for any civil damages as a
234 result of such medical care or treatment unless such damages result from providing, or
235 failing to provide, medical care or treatment under circumstances demonstrating a reckless
236 disregard for the consequences so as to affect the life or health of another.

237 43-24B-13.

238 (a) A licensed midwife shall be authorized to file a birth certificate for each birth in
239 accordance with the laws of this state.

240 (b) A licensed midwife shall:

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

242 (2) Provide clients with access to practice guidelines as may be required by the
243 Secretary;

244 (3) Notify clients about relevant state governmental requirements affecting newborns;
245 and

246 (4) Maintain a record or chart of client interactions which shall include, as described in
247 subparagraph (B) of paragraph (9) of Code Section 43-24B-3, any tests or analyses
248 ordered; any antihemorrhagic agents, intravenous fluids, or vitamins administered; or any
249 other drugs administered, if any, pursuant to a prescription of a physician or other
250 authorized prescriber.

251 43-24B-14.

252 A licensed midwife shall not:

253 (1) Administer a prescription drug to a client in a manner that violates the laws of this
254 state;

255 (2) Effect any type of surgical delivery except for the cutting of an emergency
256 episiotomy;

257 (3) Administer any type of epidural, spinal, or caudal anesthetic or any type of narcotic
258 analgesia;

259 (4) Use forceps or a vacuum extractor;

260 (5) Manually remove the placenta, except in an emergency that presents an immediate
261 threat to the life of the client; or

262 (6) Induce abortion.

263 43-24B-15.

264 Any person who violates this chapter shall be guilty of a misdemeanor, and a license held
 265 by any person convicted under this Code section shall be forfeited and revoked upon the
 266 Secretary receiving notice of such conviction.

267 43-24B-16.

268 Nothing in this chapter shall be construed to prevent:

269 (1) Any licensed healthcare professional from engaging in the authorized scope of
 270 practice of his or her profession;

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

272 (3) Representatives of a pregnant woman's culture from providing care consistent with
 273 the tenets or practices of such culture or representatives of a pregnant woman's religion
 274 from providing care consistent with practices of such religion; provided, however, that
 275 such representatives shall not hold themselves out as licensed midwives; or

276 (4) Precepted apprentices, student midwives, and midwifery assistants from providing
 277 midwifery services under the supervision and in the physical presence of a licensed
 278 midwife."

279 **SECTION 3.**

280 Code Section 43-26-12 of the Official Code of Georgia Annotated, relating to exceptions to
 281 the operation of the "Georgia Registered Professional Nurse Practice Act," is amended in
 282 subsection (a) by deleting "and" at the end of paragraph (9), by replacing the period at the
 283 end of paragraph (10) with "; and", and by adding a new paragraph to read as follows:

284 "(11) The practice of midwifery by a licensed midwife pursuant to Chapter 24B of this
 285 title."

286 **SECTION 4.**

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

289 **SECTION 5.**

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