

House Bill 520

By: Representatives Mathiak of the 82<sup>nd</sup>, Powell of the 33<sup>rd</sup>, Momtahan of the 17<sup>th</sup>, Williams of the 168<sup>th</sup>, Dempsey of the 13<sup>th</sup>, 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 revise provisions  
3 relating to peer review to include midwives; to amend Title 43 of the Official Code of  
4 Georgia Annotated, relating to professions and businesses, so as to provide for the licensure  
5 and regulation of midwives; to provide for a short title; to provide for legislative findings;  
6 to provide for definitions; to provide for the creation of the Advisory Board for Licensed  
7 Midwives; to provide for its membership and duties; to provide for licensure requirements;  
8 to provide for renewal of licenses; to provide for the revocation, suspension, denial, or  
9 refusal to issue or renew a license; to provide fines for violations; to provide for the  
10 promulgation of rules and regulations; to prohibit the practice of midwifery without a license;  
11 to provide exceptions; to provide for informed consent and written disclosures to clients; to  
12 limit the practice of midwifery; to provide for standards of care and liability in certain  
13 situations; to provide for prohibited acts; to authorize the filing of birth certificates; to  
14 provide for statutory construction; to provide for coverage; to provide for abatement; to  
15 provide for an exception under the "Georgia Registered Professional Nurse Practice Act";  
16 to provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
17 for other purposes.

H. B. 520

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in paragraph (2) of Code Section 31-7-131, relating to definitions relative to peer review groups, by striking "and" at the end of subparagraph (L), by replacing the period at the end of subparagraph (M) with "; and", and by adding a new subparagraph to read as follows:

"(N) A midwife."

**SECTION 2.**

Said title is further amended by repealing in its entirety Chapter 26, relating to the practice of midwifery, and designating said chapter as reserved.

**SECTION 3.**

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

"CHAPTER 24B

43-24B-1.

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

43-24B-2.

(a) The General Assembly finds that:

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

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

(3) Trained and competent midwifery professionals can enhance health and safety during planned, out-of-hospital births;

(4) Midwives are independent, autonomous healthcare providers who are trained in managing normal physiological births in the community setting;

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

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

(7) Regulating midwifery promotes access to safe and effective antepartum, intrapartum, and postpartum care.

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

43-24B-3.

As used in this chapter, the term:

(1) 'Advisory board' means the Advisory Board for Licensed Midwives established pursuant to Code Section 43-24B-4.

(2) 'Collaboration' means a process by which a licensed midwife and a physician or other appropriate healthcare provider jointly manage the care of a client, the requirements for which shall be defined by the advisory board.

(3) 'Consultation' means a communication between a licensed midwife and a physician or appropriate healthcare provider with expertise in providing medical services to women during the prenatal, childbirth, and postpartum periods when assessing a condition during such periods.

(4) 'Informed consent' means a written certification by the client consenting to or declining procedures, protocols, and treatments or recommended diagnostic tests after full

disclosure of the current standard of care and its purpose, benefits, known risks, contraindications, and associated risks, as well as any alternative options.

(5) 'License' means a license issued pursuant to this chapter to engage in the practice of midwifery.

(6) 'Licensed midwife' or 'licensee' means an individual licensed under this chapter who is engaging in the practice of midwifery.

(7) 'Practice of midwifery' means assistance given, in exchange for compensation, to women during pregnancy, birth, and the postpartum period, including well-woman screening and education. Such assistance may be provided in out-of-hospital settings, such as a private home or a birth center. Such assistance, which is provided within a network of relationships with other maternity care providers who may provide consultation and collaboration when needed, includes:

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

(B) Ordering prenatal, postpartum, and well-woman laboratory analyses performed by a licensed laboratory for screening purposes; ordering obstetric ultrasounds; obtaining and using appropriate equipment and devices such as a Doppler ultrasound, blood pressure cuff, and phlebotomy supplies, instruments, and sutures; obtaining, carrying, and administering antihemorrhagic agents including but not limited to Pitocin (oxytocin), misoprostol and methergine, intravenous fluids for stabilization of the laboring person, magnesium sulfate, terbutaline, neonatal injectable vitamin K, newborn antibiotic eye prophylaxis, oxygen, intravenous antibiotics for Group B

Streptococcal antibiotic prophylaxis, Rho(D) immune globulin, local anesthetic, epinephrine, and other drugs or supplies approved by the advisory board; provided, however, that nothing in this subparagraph shall be interpreted to include the prescribing of medications;

(C) Managing the postpartum period, including the suturing of an episiotomy and the suturing of first and second degree natural perineal and labial lacerations, including the administration of a local anesthetic;

(D) Managing the newborn period, including:

(i) Providing care for a newborn baby, including performing a normal newborn baby examination;

(ii) Resuscitating a newborn baby; and

(iii) Performing newborn screenings;

(E) Providing limited interconception services in order to provide continuity of care, including:

(i) Breastfeeding support and counseling;

(ii) Family planning, limited to natural family planning, cervical caps, and diaphragms; and

(iii) Pap smears, where each client with an abnormal result is to be referred to an appropriate licensed healthcare provider; and

(F) Executing the orders of a physician, if the orders are within the education, knowledge, and skill of the licensed midwife.

(8) 'Qualified instructor' means an individual who:

(A) Holds a license under this chapter; or

(B) Is a licensed healthcare provider who has at least five years of experience or who has participated in 50 documented births as the primary healthcare provider.

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

43-24B-4.

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

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

(1) Four licensed midwives;

(2) One physician with experience collaborating in out-of-hospital birth; and

(3) One member of the general public who has used the services of a licensed midwife in this state.

(c) The members of the advisory board shall serve for terms of two years and may succeed themselves.

(d) Any vacancy on the advisory board shall be filled in the same manner as the regular appointments.

(e) The Governor may remove members of the advisory board for incompetence, neglect of duty, unprofessional conduct, conviction of any felony, failure to meet the qualifications of this chapter, or committing any act prohibited by this chapter.

(f) The advisory board shall elect a chairperson from among its membership and may elect other officers at the discretion of the advisory board, who shall each serve for one year.

(g) The advisory board shall meet at least once per year or as otherwise called by the chairperson.

43-24B-5.

The advisory board shall issue a license to engage in the practice of midwifery to any individual who meets the requirements of this chapter.

43-24B-6.(a) Each applicant for a license under this chapter shall:(1) Submit an application in a form prescribed by the division;(2) Pay an application fee as determined by the advisory board;

(3) Furnish to the advisory board a full set of fingerprints to enable a criminal background investigation to be conducted on the applicant so as to determine the applicant's suitability to be a licensed midwife. The advisory board shall submit the applicant's fingerprints to the Georgia Crime Information Center. If no disqualifying record is identified at the state level, the Georgia Crime Information Center is authorized to submit the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Georgia Crime Information Center shall notify the advisory board in writing of the results of such criminal background investigation, which shall be used by the advisory board for the exclusive purpose of carrying out its responsibilities under this chapter, shall not be a public record, shall be privileged, and shall not be disclosed to any other person or agency;

(4) Hold a current certification in adult cardiopulmonary resuscitation (CPR) and neonatal resuscitation from an organization recognized by the advisory board;

(5) Provide documentation of successful completion of a pharmacology course approved by the advisory board; and

(6) Hold a current certification in good standing from a midwifery organization recognized by the advisory board, such as the North American Registry of Midwives, the American Midwifery Certification Board, or any successor organizations.

(b) The advisory board, in its discretion, may issue a license to an applicant who does not meet the requirements of paragraph (6) of subsection (a) of this Code section but who:

(1) Has received midwifery training, which shall include experience in initial obstetrical exams, prenatal care, births, newborn examinations, and postpartum care, from a qualified instructor for at least three years; participated in at least 50 documented births;

and achieved a passing score on an examination approved by the advisory board relating to the practice of midwifery;

(2) Has been engaged in the practice of midwifery for at least 25 years; or

(3) Is licensed to engage in the practice of midwifery in another jurisdiction whose laws, in the opinion of the advisory board, require qualifications and maintain standards substantially the same as those of this state for licensed midwives.

43-24B-7.

(a) A license issued by the advisory board shall be renewed every two years if the licensee is not in violation of this chapter at the time of application for renewal and has completed 20 hours of continuing education approved by the advisory board since the license was issued or last renewed.

(b) Each individual licensed under this chapter is responsible for renewing his or her license before the expiration date.

43-24B-8.

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

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

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

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



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

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

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

(7) A physical or mental disability that renders such licensee incapable of safely engaging in the practice of midwifery.

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

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

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

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

43-24B-9.

(a) The advisory board may promulgate any rules and regulations necessary to carry out the provisions of this chapter.

(b) The advisory board may act as a facilitator of the state-wide dissemination of information concerning the practice of midwifery and the services of licensed midwives.

217 43-24B-10.

218 (a) Except as provided in subsection (b) of this Code section, no person shall engage in the  
219 practice of midwifery in this state unless such person holds a license issued by the advisory  
220 board pursuant to Code Section 43-24B-5.

221 (b) A person may engage in the practice of midwifery in this state without a license if:

222 (1) The person is a licensed healthcare practitioner and the services provided are within  
223 the scope of the person's license; or

224 (2)(A) The person does not advertise that the person is a licensed midwife; and

225 (B) The person discloses the following to each client on an informed disclosure  
226 document that is signed by the client:

227 (i) That the person does not possess a license to engage in the practice of midwifery  
228 in this state;

229 (ii) That the person's education and qualifications have not been reviewed by the  
230 state;

231 (iii) That the person is not authorized to carry and administer potentially life-saving  
232 medications;

233 (iv) A plan for transporting the client to the hospital if a problem arises during labor  
234 or childbirth; and

235 (v) That the client will not have recourse through a complaint process conducted by  
236 a professional licensing board.

237 (c) Any individual engaging in the practice of midwifery without a license in violation of  
238 this Code section shall be subject to a fine of not less than \$100.00 nor more than \$500.00  
239 for each such violation.

240 43-24B-11.

241 (a) Prior to engaging in the practice of midwifery with a client, a licensed midwife shall  
242 obtain informed consent from such client and retain a copy of such informed consent for  
243 at least four years.

244 (b) A licensed midwife shall be authorized to file a birth certificate for each birth that such  
245 licensed midwife provides services in connection with in accordance with the laws of this  
246 state.

247 43-24B-12.

248 A licensed midwife shall:

249 (1) Limit his or her practice to pregnancy, labor, delivery, and postpartum, newborn, and  
250 interconception care that is not a pharmacologically induced labor and in which the infant  
251 is born spontaneously between 37 and 43 completed weeks of gestation; provided,  
252 however, that the limitation contained in this paragraph shall not prohibit a licensed  
253 midwife from delivering an infant when there is intrauterine fetal demise or a fetal  
254 anomaly incompatible with life; and

255 (2) Appropriately recommend and facilitate consultation or collaboration with or referral  
256 or transfer of care to a licensed healthcare professional when the circumstances require  
257 such action in accordance with this chapter and standards established by advisory board  
258 rule.

259 43-24B-13.

260 (a) If, after a client has been informed that she has or may have a condition indicating the  
261 need for medical consultation, collaboration, referral, or transfer, and the client declines a  
262 referral or transfer of care, the licensed midwife shall:

263 (1) Terminate care in accordance with procedures established by advisory board rule; or

(2) Continue to provide care for the client if the client signs an informed consent waiver of medical consultation, collaboration, referral, or transfer. A licensed midwife shall not be held liable when such informed consent waiver is signed.

(b) If, after a client has been informed that she has or may have a condition indicating the need for immediate transfer, and the client declines such transfer, the licensed midwife shall, in accordance with procedures established by advisory board rule, terminate the care or initiate transfer by:

(1) Calling 9-1-1 and reporting the need for immediate transfer;

(2) Immediately transporting the client by private vehicle to the receiving provider; or

(3) Contacting the physician to whom the client will be transferred and following such physician's orders.

(c) The standards for consultation and transfer provided in this Code section represent the minimum requirements that a licensed midwife must adhere to. A licensed midwife shall initiate consultation or collaboration with or referral or transfer of a client to a licensed healthcare provider or facility at an earlier stage than mandated by administrative rule if, based on the licensed midwife's professional judgment and experience, the health status of the mother or infant necessitates such action.

43-24B-14.

(a) If a licensed midwife initiates consultation or collaboration with or the referral or transfer of a client to a licensed healthcare provider or facility, the responsibility of the provider or facility for the client shall not begin until the client is physically within the care of such provider or facility.

(b) A licensed healthcare provider who examines a licensed midwife's client shall only be liable for the actual examination and shall not be held accountable for the client's decision to pursue an out-of-hospital birth or the services of a licensed midwife.

(c)(1) A licensed healthcare provider may, upon receiving a briefing or data from a licensed midwife, issue a medical order for the licensed midwife's client, without that client being an explicit patient of such provider.

(2) Regardless of the advice given or order issued, the responsibility and liability for caring for the client shall be that of the licensed midwife.

(3) The provider giving the order shall be responsible and liable only for the appropriateness of the order, given the briefing or data received.

(4) The issuing of an order for a licensed midwife's client shall not constitute a delegation of duties from the other provider to the licensed midwife.

(d) A licensed midwife shall be solely responsible for the administration of medications by such licensed midwife as authorized under this chapter.

43-24B-15.

A licensed midwife shall not be authorized to:

(1) Administer a prescription drug to a client in a manner that violates this chapter;

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

(3) Administer any type of epidural, spinal, or caudal anesthetic or any type of narcotic analgesic; or

(4) Use forceps or a vacuum extractor.

43-24B-16.

Nothing in this chapter shall be construed to abridge or limit in any way the right of a parent or parents to deliver a fetus where, when, how, and with whom they choose.

43-24B-17.

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

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

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

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

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

(b) The practice of midwifery shall not constitute the practice of medicine in this state.

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

43-24B-18.

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

43-24B-19.

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

**SECTION 4.**

Said title is further amended in subsection (a) of Code Section 43-26-12, relating to exceptions to the operation of the "Georgia Registered Professional Nurse Practice Act," by striking "and" at the end of subparagraph (E) of paragraph (9), by replacing the period at the end of paragraph (10) with "; and", and by adding a new paragraph to read as follows:

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

**SECTION 5.**

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

**SECTION 6.**

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