

Senate Bill 267

By: Senators Jackson of the 2nd and Tate of the 38th

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 community midwives; to provide for a short title;
5 to provide for definitions; to provide for the creation of the Certified Community Midwife
6 Board; to provide for its membership and duties; to provide for licensure requirements; to
7 provide for the issuance, renewal, and revocation of licenses; to require written disclosures
8 to clients; to provide for authorized acts and duties; to provide for statutory construction; to
9 provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

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

14 **SECTION 2.**

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

17 "CHAPTER 24B

18 43-24B-1.

19 This chapter shall be known and may be cited as the 'Certified Community Midwife Act.'

20 43-24B-2.

21 As used in this chapter, the term:

- 22 (1) 'Board' means the Certified Community Midwife Board created pursuant to Code
23 Section 43-24B-3.
- 24 (2) 'Certified community midwife' means a skilled practitioner who provides specialized
25 care to women and their infants during antenatal, childbirth, and postpartum periods and
26 an individual licensed under this chapter who is engaging in the practice of certified
27 community midwifery.
- 28 (3) 'Certified nurse-midwife' means an individual who is licensed as a registered nurse
29 pursuant to Chapter 26 of this title and who is also certified by the American College of
30 Nurse-Midwives.
- 31 (4) 'Client' means a woman and her fetus or newborn baby under the care of a certified
32 community midwife.
- 33 (5) 'Low risk' means a labor and delivery and postpartum, newborn, and interconceptual
34 care that does not include a condition that requires a mandatory transfer under
35 administrative rules adopted by the division.
- 36 (6) 'Physician' means an individual licensed to practice medicine pursuant to Chapter 34
37 of this title.
- 38 (7) 'Practice of certified community midwifery' means the practice of providing the
39 necessary supervision, care, and advice to a client during essentially normal pregnancy,
40 labor, delivery, postpartum, and newborn periods that is consistent with national
41 professional midwifery standards and that is based upon the acquisition of clinical skills
42 necessary for the care of a pregnant woman and a newborn baby, including antepartum,
43 intrapartum, postpartum, newborn, and limited interconceptual care, and includes:
- 44 (A) Obtaining an informed consent to provide services;
45 (B) Obtaining a health history, including a physical examination;
46 (C) Developing a plan of care for a client;
47 (D) Evaluating the results of client care;
48 (E) Consulting and collaborating with and referring and transferring care to licensed
49 health care professionals, as is appropriate, regarding the care of a client;
50 (F) Obtaining medications to administer to a client, including:
- 51 (i) Prescription vitamins;
52 (ii) Rho(D) immunoglobulin;
53 (iii) Sterile water;
54 (iv) One dose of intramuscular oxytocin after the delivery of a baby to minimize a
55 client's blood loss;
56 (v) An additional single dose of oxytocin if a hemorrhage occurs, in which case the
57 certified community midwife must initiate transfer if a client's condition does not
58 immediately improve;

- 59 (vi) Oxygen;
- 60 (vii) Local anesthetics without epinephrine;
- 61 (viii) Vitamin K to prevent hemorrhagic disease of a newborn baby;
- 62 (ix) As required by law, eye prophylaxis to prevent ophthalmia neonatorum; and
- 63 (x) Any other medication approved by a licensed health care provider with authority
- 64 to prescribe that medication;
- 65 (G) Obtaining food, food extracts, or dietary supplements as defined by the federal
- 66 Food, Drug, and Cosmetic Act, homeopathic remedies, plant substances that are not
- 67 designated as prescription drugs or controlled substances, and over-the-counter
- 68 medications;
- 69 (H) Obtaining and using appropriate equipment and devices such as a Doppler, a blood
- 70 pressure cuff, phlebotomy supplies, instruments, and sutures;
- 71 (I) Obtaining appropriate screening and testing, including laboratory tests, urinalysis,
- 72 and ultrasound scans;
- 73 (J) Managing the antepartum period;
- 74 (K) Managing the intrapartum period, including:
- 75 (i) Monitoring and evaluating the condition of a mother and a fetus;
- 76 (ii) Performing an emergency episiotomy; and
- 77 (iii) Delivering a baby in any out-of-hospital setting;
- 78 (L) Managing the postpartum period, including the suturing of an episiotomy and the
- 79 suturing of first and second degree natural perineal and labial lacerations, including the
- 80 administration of a local anesthetic;
- 81 (M) Managing the newborn period, including:
- 82 (i) Providing care for a newborn baby, including performing a normal newborn baby
- 83 examination; and
- 84 (ii) Resuscitating a newborn baby;
- 85 (N) Providing limited interconceptual services in order to provide continuity of care,
- 86 including:
- 87 (i) Breastfeeding support and counseling;
- 88 (ii) Family planning, limited to natural family planning, cervical caps, and
- 89 diaphragms; and
- 90 (iii) Pap smears, where each client with an abnormal result is to be referred to an
- 91 appropriate licensed health care provider; and
- 92 (O) Executing the orders of a physician, if the orders are within the education,
- 93 knowledge, and skill of the certified community midwife.

94 43-24B-3.

95 (a) There is created within the division the Certified Community Midwife Board which
96 shall consist of five members.

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

98 (1) Four certified community midwives; and

99 (2) One member of the general public.

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

102 (d) Each member of the board shall receive the expense allowance as provided by
103 subsection (b) of Code Section 45-7-21 and the same mileage allowance for the use of a
104 personal car as that received by other state officials and employees or a travel allowance
105 of actual transportation costs if traveling by public carrier within this state.

106 (e) Any vacancy on the board shall be filled in the same manner as the regular
107 appointments. The Governor may remove members of the board for incompetence, neglect
108 of duty, unprofessional conduct, conviction of any felony, failure to meet the qualifications
109 of this chapter, or committing any act prohibited by this chapter.

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

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

113 43-24B-4.

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

116 43-24B-5.

117 (a) Each applicant for a license under this chapter shall meet the following requirements:

118 (1) Submit an application in a form prescribed by the division;

119 (2) Pay a fee as determined by the board;

120 (3) Be of good moral character with no pending complaints;

121 (4) Have satisfactory results from a criminal background check conducted by the
122 Georgia Crime Information Center and the Federal Bureau of Investigation, as
123 determined by the board. Application for a license under this Code section shall
124 constitute express consent and authorization for the board to perform such criminal
125 background check. Each applicant who submits an application for licensure agrees to
126 provide the board with any and all information necessary to run such criminal
127 background check, including, but not limited to, classifiable sets of fingerprints. The

128 applicant shall be responsible for all fees associated with the performance of such
 129 background check;

130 (5) Hold a certificate from a board approved school or program or equivalent
 131 certification approved by the board;

132 (6) Provide documentation of three years apprenticeship which includes training and
 133 practice as a doula or community health worker and includes experience in initial
 134 obstetrical exams, prenatal care, births, newborn examinations, and postpartum care.
 135 Preceptors for apprenticeships may be certified community midwives, certified
 136 nurse-midwives, physicians, or physician assistants with at least five years of experience
 137 and at least 50 documented births;

138 (7) Hold current certification in adult and infant coronary pulmonary resuscitation
 139 (CPR); and

140 (8) Provide documentation of successful completion of an approved pharmacology
 141 course as defined by board rule.

142 (b) The board, in its discretion, may issue a license to an applicant who does not meet all
 143 of the requirements of paragraphs (5) through (8) of subsection (a) of this Code section but
 144 who has been engaged in the practice of certified community midwifery for at least ten
 145 years and has at least 50 documented births.

146 43-24B-6.

147 (a) A license issued by the board shall be renewed every three years if the licensee is not
 148 in violation of this chapter at the time of application for renewal.

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

151 43-24B-7.

152 (a) The board may refuse to issue or renew a license; may revoke, suspend, or restrict a
 153 license; may place a licensee on probation; may issue a public or private reprimand; or may
 154 issue a cease and desist order upon proof that the licensee or applicant has:

155 (1) Represented or held himself or herself out to be a certified community midwife;

156 (2) Administered a prescription medication, except oxygen or oxytocin, in the practice
 157 of certified community midwifery;

158 (3) Prior to engaging in the practice of midwifery with a client, failed to obtain from the
 159 client an informed consent statement in accordance with Code Section 43-24B-9;

160 (4) Failed to retain signed informed consent statements for at least four years in
 161 accordance with Code Section 43-24B-9;

- 162 (5) Disregarded a client's dignity or right to privacy as to her person, condition,
 163 possessions, or medical record;
- 164 (6) Failed to file or record any medical report as required by law, impeded or obstructed
 165 the filing or recording of a report, or induced another to fail to file or record a report;
- 166 (7) Breached a statutory, common law, regulatory, or ethical requirement of
 167 confidentiality with respect to a client, unless ordered by the court;
- 168 (8) Used advertising or an identification statement that is false, misleading, or deceptive;
 169 or
- 170 (9) Used in combination with the term 'midwife' the term 'nurse' or another title, initial,
 171 or designation that falsely implies that the certified community midwife is licensed as a
 172 certified nurse-midwife, registered nurse, licensed practical nurse, certified practical
 173 nurse, or certified professional midwife.
- 174 (b) The board is authorized to conduct investigations into allegations of conduct described
 175 in subsection (a) of this Code section.
- 176 (c) In addition to the actions specified in subsection (a) of this Code section, the board may
 177 fine a licensee found to have violated any provision of this chapter or any rule adopted by
 178 the board under this chapter of not less than \$100.00 nor more than \$500.00 for each such
 179 violation.
- 180 (d) The provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,'
 181 shall be applicable to the board and the provisions of this chapter.

182 43-24B-8.

183 Any individual engaging in the practice of certified community midwifery in violation of
 184 this chapter shall be guilty of a misdemeanor.

185 43-24B-9.

186 (a) Prior to engaging in the practice of certified community midwifery with a client, a
 187 certified community midwife shall obtain informed consent from such client.

188 (b) Such informed consent shall include:

189 (1) The name and license number of the certified community midwife;

190 (2) The client's name, address, telephone number, and primary care provider, if the client
 191 has one;

192 (3) A description of the certified community midwife's education, training, continuing
 193 education, and experience in midwifery;

194 (4) A description of the certified community midwife's peer review process;

195 (5) The certified community midwife's philosophy of practice;

196 (6) A promise to provide the client, upon request, with separate documents describing
 197 the rules governing the practice of certified community midwifery, including a list of
 198 conditions indicating the need for consultation, collaboration, referral, transfer, or
 199 mandatory transfer, and the certified community midwife's personal written practice
 200 guidelines;

201 (7) A medical backup or transfer plan;

202 (8) A description of the services provided to the client by the certified community
 203 midwife;

204 (9) The certified community midwife's current legal status;

205 (10) The availability of a grievance process;

206 (11) The signatures of the client and certified community midwife and the date of
 207 signatures; and

208 (12) Whether the certified community midwife is covered by a professional liability
 209 insurance policy.

210 (c) The certified community midwife shall retain a copy of such informed consents for at
 211 least four years.

212 43-24B-10.

213 (a) A certified community midwife shall:

214 (1)(A) Limit the certified community midwife's practice to normal pregnancy, labor,
 215 delivery, postpartum, newborn, and interconceptual care:

216 (i) That is not pharmacologically induced;

217 (ii) That is low risk at the start of labor;

218 (iii) That remains low risk throughout the course of labor and delivery;

219 (iv) In which the infant is born spontaneously between 37 and 43 completed weeks
 220 of gestation; and

221 (v) In which after delivery, both mother and infant remain low risk; and

222 (B) The limitations contained in subparagraph (A) of this paragraph shall not prohibit
 223 a certified community midwife from delivering an infant when there is:

224 (i) Intrauterine fetal demise; or

225 (ii) A fetal anomaly incompatible with life; and

226 (2) Appropriately recommend and facilitate consultation with, collaboration with,
 227 referral to, or transfer or mandatory transfer of care to a licensed health care professional
 228 when the circumstances require such action in accordance with this Code section and
 229 standards established by board rule.

230 (b) If after a client has been informed that she has or may have a condition indicating the
231 need for medical consultation, collaboration, referral, or transfer and the client chooses to
232 decline, then the certified community midwife shall:

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

234 (2) Continue to provide care for the client if the client signs a waiver of medical
235 consultation, collaboration, referral, or transfer.

236 (c) If after a client has been informed that she has or may have a condition indicating the
237 need for mandatory transfer, the certified community midwife shall, in accordance with
238 procedures established by board rule, terminate the care or initiate transfer by:

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

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

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

243 (d) The standards for consultation and transfer are the minimum standards that a certified
244 community midwife shall follow. A certified community midwife shall initiate
245 consultation, collaboration, referral, or transfer of a patient sooner than required by
246 administrative rule if, in the opinion and experience of the certified community midwife,
247 the condition of the mother or infant warrant a consultation, collaboration, referral, or
248 transfer.

249 43-24B-11.

250 (a) If a certified community midwife seeks to consult or collaborate with or refer or
251 transfer a client to a licensed health care provider or facility, the responsibility of the
252 provider or facility for the client shall not begin until the client is physically within the care
253 of such provider or facility.

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

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

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

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

265 (4) The issuing of an order for a certified community midwife's client does not constitute
 266 a delegation of duties from the other provider to the certified community midwife.

267 (d) A licensed health care provider may not be held civilly liable for rendering emergency
 268 medical services that arise from prohibited conduct or from care rendered under a waiver
 269 as specified, unless the emergency medical services constitute gross negligence or reckless
 270 disregard for the client.

271 (e) A certified community midwife shall be solely responsible for the use of medications
 272 under this chapter.

273 43-24B-12.

274 A certified community midwife shall not be authorized to:

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

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

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

280 (4) Use forceps or a vacuum extractor;

281 (5) Manually remove the placenta, except in an emergency that presents an immediate
 282 threat to the life of the mother; or

283 (6) Induce abortion.

284 43-24B-13.

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

287 43-24B-14.

288 The practice of certified community midwifery shall not be considered the practice of
 289 medicine, nursing, or nurse-midwifery."

290 **SECTION 3.**

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