

Senate Bill 81

By: Senators Anderson of the 43rd, Butler of the 55th, Jones II of the 22nd, Jackson of the 41st, Islam of the 7th 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 community midwives; to provide for a short title;
5 to provide for legislative findings; to provide for definitions; to provide for the creation of
6 the State Board of Community Midwifery; to provide for its membership and duties; to
7 provide for the Secretary of State to consult with such board; to provide for regulation by the
8 Secretary of State; to provide for licensure requirements; to provide for informed consent and
9 written disclosures to clients; to provide for standards of liability in certain situations; to
10 authorize the filing of birth certificates; to provide for prohibited acts; to provide for statutory
11 construction; to amend Code Section 43-26-12 of the Official Code of Georgia Annotated,
12 relating to exceptions to the operation of the "Georgia Registered Professional Nurse Practice
13 Act," so as to provide for an exception relating to the practice of midwifery; to provide for
14 related matters; to provide for an effective date; to repeal conflicting laws; and for other
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

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

21 **SECTION 2.**

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

24 "CHAPTER 24B

25 43-24B-1.

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

27 43-24B-2.

28 (a) The General Assembly finds that:

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

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

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

34 (4) Community midwives are trained in managing normal physiological birth in the
35 community setting;

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

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

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

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

45 43-24B-3.

46 As used in this chapter, the term:

47 (1) 'Board' means the State Board of Community Midwifery created pursuant to Code
48 Section 43-24B-4.

49 (2) 'Certified nurse midwife' means a midwife who is an advanced practice registered
50 nurse.

51 (3) 'Community midwife' means:

52 (A) A skilled practitioner who provides specialized care to women and their infants
53 during antenatal, childbirth, and postpartum periods in out-of-hospital community birth
54 settings; or

55 (B) An individual licensed under this chapter who is engaging in the practice of
56 community midwifery.

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

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

65 (6) 'License' means a license issued pursuant to this chapter to engage in the practice of
66 community midwifery.

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

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

80 (B) Ordering prenatal, postpartum, and well-woman laboratory analyses performed by
81 a licensed laboratory for screening purposes; ordering obstetric ultrasounds; obtaining
82 and using appropriate equipment and devices such as a Doppler ultrasound, blood
83 pressure cuff, and phlebotomy supplies, instruments, and sutures; ordering obstetric
84 ultrasounds; obtaining and administering antihemorrhagic agents including but not
85 limited to Pitocin (oxytocin), misoprostol and methergine, intravenous fluids for
86 stabilization of the laboring person, magnesium sulfate, terbutaline, neonatal injectable
87 vitamin K, newborn antibiotic eye prophylaxis, oxygen, intravenous antibiotics for
88 Group B Streptococcal antibiotic prophylaxis, Rho(D) immune globulin, local
89 anesthetic, epinephrine, and other drugs or supplies approved by the Secretary; and
90 administering a specific drug prescribed by a physician or other authorized healthcare
91 provider for a client of a community midwife;

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

95 (D) Managing the newborn period, including:

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

98 (ii) Resuscitating a newborn baby; and

99 (iii) Performing newborn screenings;

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

102 (i) Breastfeeding support and counseling;

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

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

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

109 (8) 'Referral' means a request made by a community midwife to a physician or other
110 healthcare provider for an assessment of a client or her offspring in order to determine
111 appropriate care.

112 (9) 'Secretary' means the Secretary of State or his or her designee.

113 43-24B-4.

114 (a) There is created within the division the State Board of Community Midwifery which
115 shall consist of five members.

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

117 (1) Four community midwives; and

118 (2) One member of the general public.

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

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

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

126 (f) Each member of the board shall serve without compensation and at no cost to the state.

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

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

130 43-24B-5.

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

133 43-24B-6.

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

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

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

137 (3) Have satisfactory results from a criminal background check conducted by the
138 Georgia Crime Information Center and the Federal Bureau of Investigation, as
139 determined by the board. Application for a license under this Code section shall
140 constitute express consent and authorization for the board to perform such criminal
141 background check. Each applicant who submits an application for licensure agrees to
142 provide the board with any and all information necessary to run such criminal

143 background check, including, but not limited to, classifiable sets of fingerprints. The
144 applicant shall be responsible for all fees associated with the performance of such
145 background check;

146 (4) Hold a current certification as a certified community midwife or a certified
147 professional midwife, including having passed the examination required for certification
148 or an equivalent certification, from a midwifery organization recognized by the board;

149 (5) Hold current certification in adult cardiopulmonary resuscitation from an
150 organization recognized by the board; and

151 (6) Provide documentation of successful completion of an approved pharmacology
152 course as defined by board rule.

153 (b) The board, in its discretion, may issue a license to an applicant who does not meet all
154 of the requirements of subsection (a) of this Code section but who has been engaged in the
155 practice of community midwifery for at least ten years and has at least 50 documented
156 births.

157 43-24B-7.

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

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

162 43-24B-8.

163 (a) The Secretary shall seek the advice of the board regarding the establishment of rules
164 and regulations and the implementation of requirements relating to licensure, license
165 renewal, discipline, continuing education, and other issues related to the practice of
166 midwifery in accordance with this chapter.

167 (b) The Secretary shall consult with the board prior to setting or changing fees as provided
168 for in this chapter.

169 (c) The board may act as a facilitator of state-wide dissemination of information
170 concerning professional midwifery services.

171 (d) The board shall provide analysis of disciplinary actions taken, appeals and denials, and
172 revocation of licenses at least once per year.

173 43-24B-9.

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

176 (b) Such informed consent shall include:

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

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

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

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

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

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

188 (7) A medical emergency transfer plan;

189 (8) A description of the services provided to the client by the community midwife;

190 (9) The availability of a grievance process;

191 (10) The signatures of the client and community midwife and the dates of signature; and

192 (11) Whether the community midwife is covered by a professional liability insurance
193 policy.

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

196 (d) A community midwife shall be authorized to file a birth certificate for each birth in
197 accordance with the laws of this state.

198 43-24B-10.

199 (a) If a community midwife seeks consultation with or refers or transfers a client to a
200 licensed healthcare provider or facility, the responsibility of the provider or facility for the
201 client shall not begin until the client is physically within the care of such provider or
202 facility.

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

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

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

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

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

215 (d) A licensed healthcare provider shall not be held civilly liable for rendering emergency
216 medical services that arise from prohibited conduct or from care rendered under a waiver

217 as specified, unless the emergency medical services constitute gross negligence or reckless
218 disregard for the client.

219 (e) A community midwife shall be solely responsible for the use of medications under this
220 chapter.

221 43-24B-11.

222 A community midwife shall not be authorized to:

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

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

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

228 (4) Use forceps or a vacuum extractor; or

229 (5) Manually remove the placenta, except in an emergency that presents an immediate
230 threat to the life of the woman.

231 43-24B-12.

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

234 43-24B-13.

235 Nothing in this chapter shall be construed to prevent:

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

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

239 (3) Representatives of a pregnant woman's culture from providing care consistent with
240 the tenets or practices of such culture or representatives of a pregnant woman's religion

241 from providing care consistent with practices of such religion; provided, however, that
242 such representatives shall not hold themselves out as community midwives; or
243 (4) Precepted apprentices, student midwives, and midwifery assistants from providing
244 midwifery services under the supervision and in the physical presence of a community
245 midwife."

246 **SECTION 3.**

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

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

253 **SECTION 4.**

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

256 **SECTION 5.**

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