

Ala. Code 1975

Section 34-19-11

Definitions.

The following words and phrases shall have the following meanings, unless the context clearly indicates otherwise:

- (1) BOARD. The State Board of Midwifery.
- (2) LICENSED MIDWIFE. A practitioner who holds a certified professional midwife credential and is licensed by the board to practice midwifery.
- (3) MIDWIFERY. The provision of primary maternity care during the antepartum, intrapartum, and postpartum periods.

(Act 2017-383, §2.)

Section 34-19-12

State Board of Midwifery - Creation; expenses; composition; meetings; liability of members; employees; collection of information.

- (a) There is created and established a State Board of Midwifery to implement and administer this chapter.
- (b) The board shall pay all of its expenses from its own funds and no expenses shall be borne by the State of Alabama from the State General Fund.
- (c) The board shall consist of seven members appointed by the Governor and subject to confirmation by the Senate, from a list of qualified individuals nominated by the designated organization. Each list shall contain the names of at least two individuals for each position to be filled.
- (d) The members of the board shall be appointed for staggered initial terms and subsequent terms shall be for a minimum of four years or until his or her successor has been appointed and qualified.
- (e) The board shall meet at least twice each year, conducting its business in person or by electronic methods.
- (f) The board shall elect one of its members to serve as chair for a two-year term. The chair may not serve consecutive terms.
- (g) The composition of the board shall be as follows:
 - (1) Four members shall hold a valid certified professional midwife credential from the North American Registry of Midwives. These members shall be appointed from a list of names submitted by the Alabama Birth Coalition or its successor organization. One of these members

shall be appointed to an initial term of four years, one to a term of three years, and two to a term of two years.

(2) One member shall be a nurse practitioner. This member shall be appointed to an initial term of four years.

(3) One member shall be a licensed certified nurse midwife or registered nurse licensed under Article 5 of Chapter 21. This member shall be appointed from a list submitted by the Alabama Board of Nursing. This member shall be appointed to an initial term of three years.

(4) One member shall have used midwifery services in the state. This member shall be appointed from a list of names submitted by the Alabama Birth Coalition. This member shall be appointed to an initial term of three years.

(h) When choosing individuals to be considered by the Governor for appointment to the board, the nominating authorities shall strive to assure membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state.

(i) All members of the board shall be immune from individual civil liability while acting within the scope of their duties as board members, unless conduct is unreasonable.

(j) Vacancies shall be filled by the Governor and confirmed by the Senate in the same manner as other appointments are made. In the case of a vacancy, the new appointee shall serve for the remainder of the unexpired term.

(k) Members of the board shall serve without compensation but shall be allowed travel and per diem expenses at the same rate paid to state employees, to be paid from the funds collected for the administration of this chapter, as funds are available.

(l) The board may employ, subject to the State Merit System, investigators, inspectors, attorneys, and any other agents, employees, and assistants as may from time to time be necessary, and may use any other means necessary to enforce the provisions of this chapter.

(m)(1) A licensed midwife shall file annually with the board the following information on a form prepared by the board and accessible on its website:

a. The total number of births attended by the licensed midwife in the previous year, including births where the licensed midwife was assisting another licensed midwife.

b. The number of maternal transfers to a health care facility from births attended by the licensed midwife, including instances where the licensed midwife was assisting another licensed midwife.

c. The number of infant transfers to a health care facility from births attended by the licensed midwife, including instances where the licensed midwife was assisting another licensed midwife.

d. The total number of maternal deaths from births attended by the licensed midwife, including instances where the licensed midwife was assisting another licensed midwife.

e. The total number of infant deaths from births attended by the licensed midwife, including instances where the licensed midwife was assisting another licensed midwife.

(2) The board shall make the information collected under this subsection available to the public in accordance with federal law.

(n) The board shall be subject to the Alabama Sunset Law, Chapter 20, Title 41, as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2021, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

(Act 2017-383, §2.)

Section 34-19-13

State Board of Midwifery - Disposition of funds.

All funds received by the board under this chapter shall be deposited in the State Treasury to the credit of the board and all such funds are to be appropriated to the board to defray the expenses incurred in carrying out this chapter. The expenses shall include printing, stamps, stationery, clerical help, travel, and other necessary expenditures. In all cases, any fee that is received by the board shall not be refunded, and no applicant shall have the right to recover any part of a fee accompanying his or her application for licensure or otherwise paid to the board except on the death, disability, or retirement from practice of any applicant or licensee between payment of any fee and the expiration of his or her current renewal or the issuance of the initial license. The books and records of the board shall be subject to audit in the same manner and to the same extent as any other state agency. The board shall keep a true and accurate account of all funds received by the board and all expenditures made by the board.

(Act 2017-383, §2.)

Section 34-19-14

State Board of Midwifery - Powers and duties; scope of licensed practice of midwifery.

(a) The board shall do all of the following consistent with this chapter:

(1) Approve, renew, suspend, or revoke licenses for the practice of midwifery.

(2) Investigate and conduct hearings regarding complaints against a licensed midwife in order to determine if disciplinary action is warranted.

(3) Establish reasonable licensure fees, including, but not limited to, initial application, renewal, and reinstatement fees.

(4) Develop standardized forms including, but not limited to, a midwife disclosure form, informed consent form, emergency care form, and applications for licensure and renewal.

(5) Impose administrative fines, not to exceed one thousand dollars (\$1,000) per violation, for violating this chapter, a board rule, or a condition of a license.

(6) Establish levels of professional liability insurance that must be maintained by a licensed midwife at a limit of no less than one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand dollars (\$300,000) aggregate.

(b)(1) The board shall adopt rules pursuant to the Administrative Procedure Act to implement this chapter in a manner consistent with the most current North American Registry of Midwives Job Analysis and with essential documents developed and published by the Midwives Alliance of North America. The rules shall include, but not be limited to, provision for all of the following:

- a. Licensing procedures and requirements.
- b. Minimum initial and continuing education requirements for licensure.
- c. Standards by which a licensed midwife shall conduct risk assessment.
- d. Standards for professional conduct.
- e. A standard procedure for investigating complaints.
- f. Requirements for clinical internships for individuals seeking midwifery training.

(2) The rules shall ensure independent practice.

(c) A licensed midwife may not administer or perform any of the following obstetric procedures which are outside of the scope of the licensed practice of midwifery:

- (1) An epidural, spinal, or caudal anesthetic.
 - (2) Any type of narcotic analgesia.
 - (3) Forceps or a vacuum extractor-assisted delivery.
 - (4) Abortion.
 - (5) Cesarean section or any surgery or surgical deliver except minimal episiotomies.
 - (6) Pharmacological induction or augmentation of labor or artificial rupture of membranes prior to the onset of labor.
 - (7) Except for the administration of local anesthetic, administration of an anesthetic.
 - (8) Administration of any prescription medication in a manner that violates the Alabama Uniform Controlled Substance Act.
 - (9) Vaginal birth after a cesarean.
- (d) A licensed midwife may not perform either of the following:
- (1) Delivery of a diagnosed multiple pregnancy.
 - (2) Delivery of a baby whose position is diagnosed as non-cephalic at the onset of labor.

(Act 2017-383, §2.)

Section 34-19-15

Licensure requirements; duration; grounds for suspension, revocation, etc., of license; recordkeeping.

(a) An individual desiring to be licensed as a midwife shall apply to the board on forms provided by the board. Applicants for licensure shall submit evidence satisfactory to the board that he or she has met all of the following requirements:

(1) Is at least 21 years of age.

(2) Is a citizen of the United States or, if not a citizen of the United States, is legally present in the United States with appropriate documentation from the federal government.

(3) Has obtained a certified professional midwife credential through an education program or pathway accredited by the Midwifery Education Accreditation Council or by another accrediting agency recognized by the United States Department of Education.

(b) Notwithstanding subdivision (3) of subsection (a), the board may license the following:

(1) An applicant who has obtained a certified professional midwife credential prior to January 1, 2020, through a nonaccredited pathway, provided the applicant obtains the Midwifery Bridge Certificate or completes an educational program or pathway accredited by the Midwifery Education Accreditation Council or by another accrediting agency recognized by the United States Department of Education.

(2) An applicant who has maintained licensure in a state that does not require an accredited education, provided the applicant obtains the Midwifery Bridge Certificate or completes an educational program or pathway accredited by the Midwifery Education Accreditation Council or by another accrediting agency recognized by the United States Department of Education.

(c) Licenses shall be valid for a period of 24 months.

(d) Following the contested case provisions of the Administrative Procedure Act, the board may suspend or revoke a license, or it may refuse to grant a license to an applicant for licensure, if the licensee or applicant:

(1) Has obtained a license by means of fraud, misrepresentation, or concealment of material facts, including making a false statement on an application or any other document required by the board for licensure.

(2) Has engaged in unprofessional conduct pursuant to rules adopted by the board.

(3) Has been convicted of any felony.

(4) Has performed an act that exceeds the scope of practice granted by the board to the licensed midwife.

(5) Has had his or her license revoked, suspended, or denied in any other territory or jurisdiction of the United States for any act described in this subsection.

(e) The board shall maintain an up-to-date list of every individual licensed to practice midwifery pursuant to this chapter and individuals whose licenses have been suspended, revoked, or

denied. The information on the list shall be available for public inspection during reasonable business hours and the information may be shared with others as deemed necessary and acceptable by the board. The list shall include the name of the individual, the date and the cause of action, the penalty incurred, and the length of the penalty.

(Act 2017-383, §2.)

Section 34-19-16

Where care may be performed; required forms and duties of licensed midwife.

- (a) A licensed midwife may provide midwifery care in the setting of the client's choice, except a hospital.
- (b) A licensed midwife shall ensure that the client has signed a midwife disclosure form provided by the board indicating receipt of a written statement that includes all of the following information:
 - (1) A description of the licensed midwife's education, training, and experience in midwifery.
 - (2) Antepartum, intrapartum, and postpartum conditions requiring medical referral, transfer of care, and transport to a hospital.
 - (3) A plan for medical referral, transfer of care, and transport of the client or newborn or both when indicated by specific antepartum, intrapartum, or postpartum conditions.
 - (4) Instructions for filing a complaint against a licensed midwife.
 - (5) A statement that the licensed midwife must comply with the federal Health Insurance Portability and Accountability Act.
 - (6) The status of a licensed midwife's professional liability insurance coverage.
 - (7) References to current evidence regarding the safety of midwifery care in out-of-hospital settings, including a copy of the most recent statement by the American Congress of Obstetricians and Gynecologists on home birth.
- (c) A licensed midwife shall ensure that the client has signed an informed consent form provided by the board.
- (d) For screening purposes only, a licensed midwife may order routine antepartum and postpartum laboratory analyses to be performed by a licensed laboratory.
- (e) After a client has secured the services of a licensed midwife, the licensed midwife shall document an emergency care plan on a form provided by the board.
- (f) A licensed midwife shall determine the progress of labor and, when birth is imminent, shall be available until delivery is accomplished.
- (g) A licensed midwife shall remain with the client during the postpartal period until the conditions of the client and newborn are stabilized.

(h) A licensed midwife shall instruct the client regarding the requirements of the administration of eye ointment ordered by the Department of Public Health pursuant to Section 22-20-2.

(i) A licensed midwife shall instruct the client regarding the requirements of administration of newborn health screening ordered by the Department of Public Health pursuant to Section 22-20-3.

(j) A licensed midwife shall file a birth certificate for each birth in accordance with the requirements of Section 22-9A-7.

(k) A licensed midwife shall collect clinical data under the Midwives Alliance of North America Statistics Project for each client who initiates care and shall submit a copy of the clinical data collected for each consenting client to the board upon request.

(l) A licensed midwife shall report to the Alabama Department of Public Health pursuant to Chapter 11A, of Title 22, and any other law that requires hospitals or physicians to report to the Alabama Department of Public Health.

(m) A licensed midwife shall provide all information required to be provided to new mothers pursuant to Section 22-20-3.1, and all information required to be provided to new mothers before discharge by hospitals, as defined in Section 22-21-20.

(n) A licensed midwife shall order those tests provided in Section 22-20-3 and any rule adopted by the State Board of Health pursuant to that section relating to the newborn screening program, to all neonates in his or her care.

(o) A licensed midwife may order and administer a urinalysis or blood glucose test as indicated.

(Act 2017-383, §2.)

Section 34-19-17

Violations.

(a) Except as provided in this section, it shall be unlawful for an individual other than a licensed midwife to practice midwifery in this state for economic remuneration or to hold himself or herself out to be a licensed midwife unless he or she is a licensed midwife as defined in this chapter. An individual violating this section shall be guilty of a Class C misdemeanor.

(b) An individual does not violate subsection (a) in any of the following circumstances:

(1) The individual is a certified nurse midwife acting in accordance with Sections 34-21-80 to 34-21-93, inclusive.

(2) The individual is training under a licensed midwife and is assisting the licensed midwife in the practice of midwifery.

(3) The individual is providing gratuitous assistance at childbirth.

(c) Nothing in this section shall be construed to repeal, abridge, or modify Section 6-5-332, or any other Good Samaritan statute.

(Act 2017-383, §2.)

Section 34-19-18

Construction of chapter.

(a) Nothing in this chapter shall be construed to establish a standard of care for physicians or otherwise modify, amend, or supersede any provision of the Alabama Medical Liability Act of 1987 or the Alabama Medical Liability Act of 1996, commencing with Section 6-5-540, et seq., or any amendment thereto, or any judicial interpretation thereof.

(b) Nothing in this chapter shall be construed as authorizing a licensed midwife to practice medicine or prescribe medicine or drugs.

(Act 2017-383, §2.)

Section 34-19-19

Liability of physician, health care provider, or hospital.

No physician, other health care provider, or hospital shall be civilly or criminally liable for any act or omission or advice, care, or service provided by an individual practicing midwifery outside of a hospital or resulting from the choice of a woman to give birth to a child outside of a hospital, provided the midwife is not employed to practice midwifery by the physician, health care provider, or hospital or is not practicing midwifery as an employee, member, or shareholder of a business entity in which the physician, health care provider, or hospital participates by way of receiving monetary or non-cash income and has actual knowledge of the midwife's status as an employee, partner, member, or shareholder of the business entity.

(Act 2017-383, §2.)

Section 34-19-20

Licensed Midwives.

Individuals licensed as midwives as set forth in this chapter shall be designated Licensed Midwives.

(Act 2017-383, §2.)

Section 34-19-21

Coverage or reimbursement for services not required.

Nothing contained in this chapter shall be construed to create a requirement that any health benefit plan, group insurance plan, policy, or contract for health care services that covers hospital, medical, or surgical expenses, health maintenance organizations, preferred provider organizations, medical service organizations, physician-hospital organizations, or any other person, firm, corporation, joint venture, or other similar business entity that pays for, purchases, or furnishes group health care services to patients, insureds, or beneficiaries in this state, including entities created pursuant to Article 6, commencing with Section 10A-20-6.01, of Chapter 20, Title 10A, provide coverage or reimbursement for the services described or authorized in this chapter.

(Act 2017-383, §4.)