**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA LAY MIDWIFE ACT” BY ADDING ARTICLE 12 TO CHAPTER 47, TITLE 40 SO AS TO PROVIDE FOR THE LICENSURE OF LAY MIDWIVES; AND TO AMEND SECTION 44‑89‑30, RELATING TO DEFINITIONS IN THE BIRTHING CENTER LICENSURE ACT, SO AS TO REDEFINE THE TERM “LAY MIDWIFE” AND MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 47, Title 40 of the 1976 Code is amended by adding:

“Article 12

South Carolina Lay Midwife Act

Section 40‑47‑1810. This article may be cited as the ‘South Carolina Lay Midwife Act’.

Section 40‑47‑1815. As used in this article:

(1) ‘Birthing center’ means a facility or other place regulated under Chapter 89, Title 44 where human births are planned to occur. This does not include the usual residence of the mother or any facility which is licensed as a hospital.

(2) ‘Board’ means the South Carolina Board of Medical Examiners.

(3) ‘Certified Nurse‑Midwife (CNM)’ means a person educated in the discipline of nursing and midwifery, certified by examination by the American College of Nurse‑Midwives, and licensed by the State Board of Nursing as a Registered Nurse.

(4) ‘Department’ means the South Carolina Department of Labor, Licensing and Regulation.

(5) ‘Lay midwife’ means midwife who may have had little formal training or recognized professional education in midwifery, who learned by accompanying doctors or midwives attending home births.

(6) ‘Midwifery’ means the application of scientific principles in the care of ‘with woman’ care during uncomplicated pregnancy, birth, and puerperium including care of the newborn, support of the family unit, and gynecologic health care.

(7) ‘Person’ means a natural individual, private or public organization, political subdivision, or other governmental agency.

(8) ‘Sponsoring obstetrician’ means the physician specialist in obstetrics who signs the lay midwife’s application for licensure. The sponsoring obstetrician must be a South Carolina licensed physician currently possessing an active, unrestricted license to practice medicine in this State who practices in the medical specialty of obstetrics, approved by the Accreditation Committee on Graduate Medical Education, or its equivalent or successor. The sponsoring obstetrician also may be the supervising obstetrician.

(9) ‘Supervising obstetrician’ means a South Carolina licensed physician currently possessing an active, unrestricted license to practice medicine in South Carolina who practices in the medical specialty of obstetrics and has successfully completed a residency in obstetrics, approved by the Accreditation Committee on Graduate Medical Education, American Osteopathic Association, or its equivalent or successor.

(10) ‘Supervision’ means medically directing and accepting responsibility for the midwifery services rendered by a lay midwife in a manner approved by the board. The supervising obstetrician or a certified nurse midwife supervising a lay midwife as permitted by the board through regulation must be in the hospital or birthing center such that he can be immediately available to participate directly in the care of the patient with whom the lay midwife and the obstetrician or certified nurse midwife are jointly involved.

Section 40‑47‑1820. A person may not wilfully practice or offer to act as a lay midwife unless licensed by the South Carolina Board of Medical Examiners or were licensed by the Department of Health and Environmental Control (DHEC) on the effective date of this article. The board may accept the license of a person licensed as lay midwife by DHEC on the effective date of this article as initial licensure under this article.

Section 40‑47‑1825. The Director of the Department of Labor, Licensing and Regulation may employ additional staff as necessary for the performance of the department’s duties under this article.

Section 40‑47‑1830. (A) There is created the Lay Midwife Committee as an advisory committee to the Board of Medical Examiners which consists of five members to be appointed by the board. Two of the members must be certified nurse midwives with a minimum of three years of patient care experience. Two members must be physicians who specialize in obstetrics and who are licensed to practice in this State. One member of the Board of Medical Examiners shall serve on the committee ex officio, with full rights to participate and vote. All organizations, groups, or interested individuals may submit recommendations to the board of at least two individuals for each position to be filled on the committee.

(B) The members shall serve for terms of four years and until their successors are appointed and qualify. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term. The board, after notice and opportunity for hearing, may remove any member of the committee for negligence, neglect of duty, incompetence, revocation or suspension of license, or other dishonorable conduct. Members of the committee shall receive mileage, subsistence, and per diem as provided by law for members of state boards, commissions, and committees for each meeting attended. No member may serve more than two full four‑year terms consecutively but may be eligible for reappointment four years from the date the last full four‑year term expired.

(C) The committee shall meet at least two times yearly and at other times as may be necessary. A majority of the members currently serving constitutes a quorum. At its initial meeting, and at the beginning of each year thereafter, the committee shall elect from its membership a chairman, vice chairman, and secretary to serve for a term of one year.

Section 40‑47‑1835. (A) The committee shall evaluate the qualifications for licensure and make recommendations to the board.

(B) The committee:

(1) may recommend regulations to the board relating to professional conduct to carry out the provisions of this article including, but not limited to, professional certification and the establishment of ethical standards of practice for persons holding a license to practice as a lay midwife in this State;

(2) shall conduct hearings and keep records and minutes necessary to carry out its functions;

(3) shall provide notice of all hearings authorized under this article pursuant to the Administrative Procedures Act;

(4) shall determine the additional qualifications and make recommendations regarding the issuance of licenses to qualified lay midwives;

(5) shall recommend to the board whether to issue or renew licenses under those conditions prescribed in this article;

(6) may recommend requirements to the board for continuing professional education of lay midwives;

(7) shall keep a record of its proceedings and a register of all licensees, including names and last known places of employment and residence. The board annually shall compile and make available a list of lay midwives authorized to practice in this State. An interested person may obtain a copy of this list upon application to the board and payment of an amount sufficient to cover the cost of printing and mailing;

(8) shall report annually to the board on duties performed, actions taken, and recommendations;

(9) shall hear disciplinary cases and recommend findings of fact, conclusions of law, and sanctions to the board. The board shall conduct a final order hearing at which it shall make a final decision; and

(10) shall perform such duties and tasks as may be delegated to the committee by the board.

Section 40‑47‑1840. A lay midwife shall practice pursuant to written scope of practice protocols signed by all supervising obstetricians and the lay midwife. Copies of the protocols must be on file at all practice sites. The protocols shall include at a minimum the:

(1) name, license number, and practice addresses of the sponsoring obstetrician;

(2) name and practice address of the lay midwife;

(3) date the protocol was developed and dates it was reviewed or amended; and

(4) situations that require direct evaluation by or immediate referral to the obstetrician or a certified nurse midwife.

Section 40‑47‑1845. Except as otherwise provided in this article, an individual must obtain a license in accordance with this article before the individual may practice as a lay midwife. The board shall grant a license as a lay midwife to an applicant who has:

(1) submitted a completed application on forms provided by the board;

(2) paid the nonrefundable application fees established in this article;

(3) certified that he is mentally and physically able to engage safely in practice as a lay midwife;

(4) submitted evidence to the board that the applicant has completed training required by the board;

(5) no licensure, certificate, or registration as a lay midwife under current discipline, revocation, suspension, probation, or investigation for cause resulting from the applicant’s practice as a lay midwife in any jurisdiction;

(6) appeared before a board member or board designee with his sponsoring obstetrician, provided all documentation that the board considers appropriate, and demonstrated knowledge of the contents of this article; and

(7) submitted to the board any other information the board considers necessary to evaluate the applicant’s qualifications.

Section 40‑47‑1850. An obstetrician who agrees to act as the sponsoring obstetrician of a lay midwife shall adopt a written practice protocol that delineates the service that the lay midwife is authorized to provide and the manner in which the obstetrician will supervise the lay midwife. The obstetrician shall base the provisions of the protocol on consideration of relevant quality assurance standards that the board prescribes by regulation. The protocol must be reviewed by the obstetrician at least once a year.

Section 40‑47‑1860. A lay midwife shall practice only under the supervision of a physician who is actively and directly engaged in the clinical practice of medicine and meets the definition of being a supervising obstetrician. An obstetrician may not supervise more than two lay midwives at any one time.

Section 40‑47‑1870. A lay midwife may not:

(1) perform a task which has not been listed and approved on the scope of the practice protocol currently on file with the board; or

(2) prescribe drugs, medications, or devices of any kind.

Section 40‑47‑1880. A lay midwife must clearly identify himself as a lay midwife to ensure that the lay midwife is not mistaken or misrepresented as a physician or certified nurse midwife. A lay midwife shall wear a clearly legible identification badge or other adornment at least one inch by three inches in size bearing the lay midwife’s name and the words ‘Lay Midwife’. A patient in a facility using a lay midwife must be informed when a lay midwife will be involved in the birth of their child.”

SECTION 2. Section 44‑89‑30(5) of the 1976 Code is amended to read:

“(5) ‘Lay midwife’ means an individual ~~so~~ licensed by the ~~department~~ South Carolina Board of Medical Examiners pursuant to the provisions of Article 12, Chapter 47, Title 40.”

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑