**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA LICENSED MIDWIFE ACT” BY ADDING ARTICLE 12 TO CHAPTER 47, TITLE 40 SO AS TO PROVIDE A CITATION; TO PROVIDE NECESSARY DEFINITIONS; TO REQUIRE LICENSURE BY THE BOARD OF MEDICAL EXAMINERS TO PRACTICE AS AN APPRENTICE MIDWIFE, LICENSED MIDWIFE, OR CERTIFIED PROFESSIONAL MIDWIFE, AND TO PROVIDE EXCEPTIONS; TO PROVIDE 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 THE ACT; TO CREATE THE LICENSED MIDWIFE COMMITTEE AS AN ADVISORY COMMITTEE TO THE BOARD OF MEDICAL EXAMINERS, AND TO PROVIDE FOR THE DUTIES, POWERS, COMPOSITION, TERMS, AND MEETINGS OF THE COMMITTEE; TO DEFINE THE EXTENT OF CARE THAT A LICENSEE MAY PROVIDE; TO RECOMMEND REQUIREMENTS FOR LICENSURE; AND TO PROVIDE MISCELLANEOUS REQUIREMENTS FOR AN APPRENTICE MIDWIFE, LICENSED MIDWIFE, OR CERTIFIED PROFESSIONAL MIDWIFE; AND TO AMEND SECTION 44‑89‑30, RELATING TO DEFINITIONS IN THE BIRTHING CENTER LICENSURE ACT, SO AS TO 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 Licensed Midwife Act

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

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

(1) ‘Apprentice midwife’ means a person licensed by the board to engage in a course of study, to include clinical experience under the supervision of a physician, certified nurse‑midwife, certified professional midwife, or midwife licensed this State, who will prepare that person to become a licensed midwife.

(2) ‘Apprentice midwife license’ means a license issued by the board to authorize a person desiring to become a midwife to obtain clinical experience under supervision of a physician, certified nurse‑midwife, certified professional midwife, or midwife licensed in this State. This license is not transferable.

(3) ‘Birthing center’ means a facility or other place regulated pursuant to the Birthing Center Licensure Act of 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.

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

(5) ‘Certified nurse‑midwife’ or ‘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.

(6) ‘Certified professional midwife’ or ‘CPM’ means a professional midwifery practitioner who has met the standards for certification set by a board‑approved organization.

(7) ‘Committee’ means the licensed Midwife Committee established pursuant to this article.

(8) ‘DHEC’ means the Department of Health and Environmental Control.

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

(10) ‘Licensed midwife’ means a person to whom the board has authorized to practice midwifery in this State.

(11) ‘Low‑risk’ means normal, uncomplicated prenatal course as determined by adequate prenatal care and prospects for a normal, uncomplicated birth as defined by reasonable and generally accepted criteria of maternal and fetal health.

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

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

Section 40‑47‑1820. A person may not wilfully practice or offer to act as an apprentice midwife, licensed midwife, or certified professional midwife unless he is licensed by the South Carolina Board of Medical Examiners or he was licensed by DHEC on the effective date of this article. The board shall accept the license of a person licensed as an apprentice midwife, licensed midwife, or certified professional 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 Licensed Midwife Committee as an advisory committee to the Board of Medical Examiners which consists of seven members to be appointed by the board. Two of the members must be licensed midwives or certified professional midwives with a minimum of three years of patient care experience. Two of the members must be certified nurse midwives with a minimum of three years of patient care experience. One member must be a physician who has a minimum of three years comanaging patients with midwives and is licensed to practice in this State. One member must be a consumer of midwife care. 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 annually and at other times as it considers 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. The committee may adopt rules and procedures as it considers necessary.

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 an apprentice midwife, licensed midwife, or certified professional 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 apprentice midwives, licensed midwives, and certified professional 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 licensed midwives and certified professional 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 licensed midwives and certified professional 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 licensed midwife or certified professional midwife may provide care to low‑risk women and neonates determined by medical evaluation to be prospectively normal for pregnancy and, except under emergency circumstances, may deliver only women who have completed between thirty‑eight to forty‑two weeks of gestation. A licensed midwife or certified professional midwife shall, upon acceptance of a woman for care, require her to have two visits with a physician, community health center, or health department. One of these visits must be in the final six weeks of pregnancy. During pregnancy, the patient shall be seen by the licensed midwife, certified professional midwife, or other appropriate health care provider according to the following schedule:

(1) at least once every four weeks until thirty‑two weeks gestation;

(2) once every two weeks from thirty‑two until thirty‑six weeks; and

(3) weekly after thirty‑six weeks.

Each woman under the care of a licensed midwife or certified professional midwife must give informed written consent that the licensed midwife or certified professional midwife is not a CNM or physician.

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 certified professional midwife. The board shall grant a license as a certified professional 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 certified professional midwife;

(4) submitted evidence to the board that the applicant has completed certification by a board‑approved organization;

(5) submitted evidence of completion of an educational program to be evaluated by a board‑approved organization;

(6) submitted evidence of completed apprenticeship and a recommendation by the supervising licensed midwife, certified professional midwife, certified nurse‑midwife, or a physician active in perinatal care;

(7) submitted evidence of valid health care provider cardiopulmonary resuscitation certificate by the American Red Cross or American Heart and Neonatal Resuscitation Program certificate in accordance with current board‑approved organization standards;

(8) submitted evidence that the applicant has tested negative for tuberculosis or is noninfectious for tuberculosis;

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

(10) provided all documentation that the board considers appropriate, and demonstrated knowledge of the contents of this article; and

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

Section 40‑47‑1850. (A) A license issued to a licensed midwife or certified professional midwife pursuant to this article may be renewed biennially or as otherwise provided by the board in regulation. A licensee is not eligible for license renewal unless, during the licensure period, the licensee completes:

(1) thirty contact hours of board‑approved continuing education;

(2) American Red Cross or American Heart Association certification in cardiopulmonary resuscitation of adults and newborns;

(3) participation in an annual peer review; and

(4) an annual negative skin test for tuberculosis or is noninfectious for tuberculosis.

(B) A licensee shall complete the renewal form and submit it to the board with the renewal fee. Upon receipt of the application and the fee, the board shall verify the accuracy of the application and renew the license for the applicable period. If a licensee fails to timely renew his license, the license is deemed lapsed at the close of the renewal period and the licensee may not practice midwifery in this State until the licensee is reinstated to practice. The board may reinstate the licensee on payment of a reinstatement fee, the current renewal fee, and completion of continuing education satisfactory to the board. The board may deny reinstatement based on evidence of misconduct.

(C) A licensee shall notify the board in writing within fifteen business days of any change of address.

Section 40‑47‑1860. (A) Except as otherwise provided in this article, an individual must obtain a license in accordance with this article before the individual may practice as an apprentice midwife. The board shall grant a license as an apprentice 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 licensed midwife;

(4) provided evidence that the applicant has tested negative for tuberculosis or is noninfectious for tuberculosis;

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

(6) appeared before the Licensed Midwife Committee, and provided all documentation that the board considers appropriate, and demonstrated knowledge of the contents of this article;

(7) enrolled in a board‑approved course of education, or submitted evidence of a planned course of education, subject to the approval of the board; and

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

(B) Applications for renewal of an apprentice midwife license must be submitted at least ninety days prior to the expiration of the initial license. A licensed apprentice midwife may apply for renewal of an apprentice license up to three times before obtaining certification by a board‑approved organization. Under extenuating circumstances, one additional renewal may be granted at the discretion of the board on a case‑by‑case basis.

Section 40‑47‑1870. An apprentice midwife, licensed midwife, or certified professional midwife must clearly identify himself as an apprentice midwife, licensed midwife, or certified professional midwife to ensure that the licensee is not mistaken or misrepresented as a physician or certified nurse midwife. When working in a licensed birthing center, hospital, or in a physician’s office, an apprentice midwife, licensed midwife, or certified professional midwife shall wear a clearly legible identification badge or other adornment at least one inch by three inches in size bearing the licensee’s name and the words ‘Apprentice Midwife’, ‘Licensed Midwife’, or ‘Certified Professional Midwife’. A patient in a facility using an apprentice midwife, licensed midwife, or certified professional midwife must be informed when an apprentice midwife, licensed midwife, or certified professional 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~~ Licensed 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.

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