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**VERSIONS OF THIS BILL**

[12/08/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3487_20221208.docx)

A bill

to amend the South Carolina Code of Laws BY enacting the “midwife practice act”; by ADDING ARTICLE 11 TO CHAPTER 47, TITLE 40 SO AS TO TRANSFER REGULATORY AUTHORITY OF THE PRACTICE OF MIDWIFERY TO THE STATE BOARD OF MEDICAL EXAMINERS FOR SOUTH CAROLINA; TO DEFINE TERMS; TO SET FORTH CERTAIN MIDWIFE PRACTICE REQUIREMENTS AND PROHIBITIONS; TO PROVIDE CRITERIA FOR LICENSURE, INCLUDING EXAMINATION REQUIREMENTS, WITH EXCEPTIONS; TO REQUIRE CONTINUING EDUCATION; TO PROVIDE FOR THE PROMULGATION OF REGULATIONS BY THE BOARD; AND FOR OTHER PURPOSES; by amending Section 44‑89‑30, relating to terms defined in the “birthing center licensure act”, so as to change certain definitional terms; and by amending Section 44‑89‑60, relating to reporting requirements, so as to make conforming changes.

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

SECTION 1. This act may be cited as the “Midwife Practice Act”.

SECTION 2. Chapter 47, Title 40 of the S.C. Code is amended by adding:

Article 11

Midwife Practice Act

 Section 40‑47‑1710. As used in this article:

 (1) “Apprentice license” means a license issued by the Board of Medical Examiners to authorize a person desiring to become a licensed midwife to obtain clinical experience under supervision of a South Carolina practicing physician, certified nurse midwife, advanced practice registered nurse, or licensed midwife.

 (2) “Approved program” means a midwifery school or a midwifery training program which is approved by the board.

 (3) “Board” or “Board of Medical Examiners” means the State Board of Medical Examiners for South Carolina.

 (4) “Certified nurse midwife” means a nurse authorized by the South Carolina State Board of Nursing to practice as a certified nurse midwife.

 (5) “Client” means a woman under the care of a licensed midwife, as well as her fetus and newborn child.

 (6) “Estimated due date” means the estimated date of delivery with a known date of conception, known date of last menstrual period, or first trimester ultrasound.

 (7) “Facility” means any room, space, location, area, structure, mobile unit, or business, or any part of any of these places, where childbirth is practiced or conducted in a place or by persons licensed by the board.

 (8) “Licensed health care provider” means a physician, physician assistant, advanced practice registered nurse, or certified nurse midwife.

 (9) “Licensed midwife” means a person who has completed all requirements of the board to practice midwifery pursuant to this article, has successfully completed the examination process, and has been approved by the board for licensure.

 (10) “Low‑risk client” means an individual who is at low or normal risk of developing complications during pregnancy and childbirth as evidenced by the absence of any preexisting maternal disease or disease arising during pregnancy or such other conditions as the board may identify in regulations.

 (11) “Newborn” means an infant from the time of birth until six weeks or until breastfeeding support is no longer necessary.

 (12) “Physician” means a person who is currently practicing medicine and is licensed to practice medicine or osteopathy in South Carolina or contiguous states.

 (13) “Practice of midwifery” means providing maternity care that is consistent with a licensed midwife’s training, education, and experience to women and newborns during the antepartum, intrapartum, and postpartum periods.

 (14) “Supervision” means the coordination, direction, and continued evaluation at first hand of the person in training and obtaining clinical experience as an apprentice midwife within the scope of these provisions.

 Section 40‑47‑1715. This article does not apply to any of the following:

 (1) a certified nurse midwife, unless the certified nurse midwife chooses to become a licensed midwife;

 (2) a student midwife‑in‑training under the direct supervision of a licensed midwife;

 (3) a person rendering aid in an emergency where no fee for the service is contemplated, charged, or received;

 (4) a person administering care to a member of such person’s family; or

 (5) the practice of a profession by an individual who is licensed, certified, or registered under other laws of this State and is performing services within the authorized scope of practice.

 Section 40‑47‑1720. (A) It has long been recognized that most pregnancy, labor, and childbirth are normal physiologic events for both the woman and the baby, and that midwives have a long history of caring for and facilitating these normal functions. It also is now recognized that the practice of midwifery by licensed midwives in South Carolina is in need of a practice act to govern and protect these events.

 (B) Unless otherwise provided for in this article, this article applies to licensed midwives regulated by the Board of Medical Examiners. If there is a conflict between this article and Chapter 89, Title 44, the provisions of this article control.

 Section 40‑47‑1725. (A)(1) The Board of Medical Examiners shall establish a committee for educational program approval, testing, and a peer review process to consult with the licensed midwives in questions of ethics, competency, and performance. The committee may make recommendations to deny, suspend, or revoke a license. The committee also may recommend specific educational objectives, apprenticeships, or other improvement measures as necessary for the advancement of midwifery and maternal‑fetal outcomes in the State.

 (2) The Midwifery Advisory Council of the Department of Health and Environmental Control in office at the time of the implementation of this article shall serve as the first committee until their terms expire and new members are appointed by the board.

 (B) The board shall establish standards and procedures for transferring care from a licensed midwife to a hospital if the need arises, which must include providing a board‑approved completed transfer of care form for all transfers. The board shall require a licensed midwife to establish and maintain a written plan for the emergency notification of and transfer to a local hospital and to maintain current contact information for the appropriate staff at the receiving hospitals.

 (C) The board shall determine the conditions for which, at any time in the maternity cycle, the licensed midwife must recommend medical consultation or refer for medical care. These conditions must not infringe on the scope of practice for which the licensed midwife is trained and certified. A condition that arises that has not been addressed in this article must be managed in accordance with the best practices as determined by the board.

 (D) The board shall evaluate consumer feedback forms issued through the licensed midwives to all consumers of licensed midwifery care. The board also shall issue to, collect, and evaluate yearly forms from the licensed midwives regarding their practices.

 (E) The board is solely responsible for the inspection of records of mothers and newborns delivered by licensed midwives and shall promulgate regulations to implement the provisions of this subsection.

 Section 40‑47‑1730. The board has the authority and the responsibility to:

 (1) receive applications for licensure, determine the qualifications of persons applying for licensure, provide licenses to applicants qualified under this article, and renew, suspend, revoke, and reinstate licenses;

 (2) establish fees for examination of applicants, licensure, renewal of licensure, and inspection;

 (3) establish the minimum amount and type of continuing education to be required for each licensed midwife seeking renewal of the midwife’s license;

 (4) investigate complaints against persons who are licensed under this article;

 (5) provide the process and implementation of routine inspections;

 (6) undertake, when appropriate, disciplinary proceedings and disciplinary action against persons licensed under this article;

 (7) promulgate regulations necessary to administer this article; and

 (8) provide such other services and perform such other functions as are consistent with this article and necessary to fulfill its responsibilities.

 Section 40‑47‑1735. (A) A licensed midwife must be able at all times to recognize the warning signs of abnormal or potentially abnormal conditions necessitating referral to a licensed health care provider. It is the licensed midwife’s duty to consult with a licensed health care provider whenever there are significant deviations from the normal. The licensed midwife’s training and practice must reflect a particular emphasis on thorough risk assessment.

 (B) At any time in the maternity cycle, the licensed midwife must recommend medical consultation, or refer for medical care, any woman who:

 (1) has a history of serious problems not discovered at the initial visit with a health care provider;

 (2) develops a blood pressure of persistently greater than 141/90 or more;

 (3) develops severe persistent headaches, epigastric pain, or visual disturbances;

 (4) develops significant proteinuria or glycosuria;

 (5) has convulsions of any kind;

 (6) has significant vaginal bleeding before the onset of labor;

 (7) has symptoms of kidney or urinary tract infection;

 (8) has symptoms of vaginitis that does not respond to initial treatment;

 (9) has symptoms of gonorrhea, syphilis, or genital herpes;

 (10) smokes more than ten cigarettes per day and does not decrease usage;

 (11) appears to abuse alcohol or drugs;

 (12) does not improve nutrition within satisfactory limits;

 (13) presents with anemia that does not respond to therapy;

 (14) develops symptoms of diabetes;

 (15) has excessive vomiting;

 (16) has “morning sickness” (nausea) continuing past twenty‑four weeks gestation;

 (17) develops symptoms of pulmonary disease;

 (18) has polyhydramnios or oligohydramnios;

 (19) has severe varicosities of the vulva or extremities;

 (20) has fundal height measurements significantly inappropriate for gestational age;

 (21) has suspected multiple gestation;

 (22) has suspected malpresentation;

 (23) has marked decrease in or cessation of fetal movements;

 (24) has rupture of membranes or other signs of labor before completion of thirty‑seven weeks gestation;

 (25) is outside of normal parameters for term delivery;

 (26) has a fever of 100.4 or higher for twenty‑four hours;

 (27) demonstrates serious psychiatric illness or severe psychological problems;

 (28) demonstrates unresolved fearfulness regarding home birth or licensed midwife care, or otherwise desires consultation or transfer;

 (29) develops respiratory distress in labor;

 (30) has prolonged ruptured membranes without onset of labor;

 (31) has meconium‑stained amniotic fluid with non‑reassuring heart tones;

 (32) has more than capillary bleeding in labor prior to delivery;

 (33) has persistent or recurrent fetal heart tones significantly above or below the baseline, or late or irregular decelerations which do not disappear permanently with change in maternal position, or abnormally slow return to baseline after contractions;

 (34) develops ketonuria or other signs of exhaustion;

 (35) develops pathological retraction ring;

 (36) does not show continued progress to delivery in second stage;

 (37) has a partially separated placenta or atonic uterus;

 (38) has bleeding before or after delivery of placenta, greater than 1000 cc, or is symptomatic of shock;

 (39) has firm uterus with no bleeding but retained placenta more than one hour;

 (40) has significant change in blood pressure, pulse over 120, or is pale, cyanotic, weak, or dizzy;

 (41) retains placental or membrane fragments;

 (42) has a greater than normal lochial flow;

 (43) has placental abnormality;

 (44) has platelet sensitization, hematological or coagulation disorders;

 (45) has prior chemotherapy and/or radiation treatment for a malignancy;

 (46) has cervical insufficiency;

 (47) is HIV positive status; or

 (48) uses opiates, such that the use places the infant at risk of neonatal abstinence syndrome.

 Section 40‑47‑1740. (A) A licensed midwife must be able to carry out emergency measures in the absence of medical help. A licensed midwife must be trained to deal effectively with those life‑threatening complications most likely to arise in the course of childbirth, as defined by the board.

 (B) Examples of life‑threatening complications include, at a minimum:

 (1) respiratory or circulatory failure in mother or infant;

 (2) postpartum hemorrhage;

 (3) cord prolapse;

 (4) tight nuchal cord;

 (5) multiple births and malpresentations;

 (6) shoulder dystocia;

 (7) gross prematurity or intrauterine growth retardation; and

 (8) serious congenital anomalies.

 Section 40‑47‑1745. (A) A licensed midwife who deems it necessary to transfer or terminate care pursuant to the provisions of this article, or any regulations promulgated pursuant to this article, shall transfer or terminate care, and the action may not be regarded as having abandoned care or wrongfully terminated services.

 (B) A licensed midwife who discontinues care for a client who no longer qualifies for services under the provisions of this article, or any regulations promulgated pursuant to this article, may not be deemed to have abandoned care.

 Section 40‑47‑1750. (A) At or before the second trimester or as soon thereafter as care occurs, if such testing has not yet occurred, the licensed midwife may order the following laboratory tests:

 (1) a serological test for syphilis, either rapid plasma reagin (RPR) or venereal disease research laboratory;

 (2) blood group;

 (3) Rh factor and antibody screen;

 (4) rubella titer;

 (5) complete blood count;

 (6) gonorrhea screen;

 (7) urine culture;

 (8) chlamydia screen;

 (9) hepatitis B, hepatitis C, and human immunodeficiency virus (HIV); and

 (10) a prenatal panel screening as defined by individual laboratory criteria.

 (B) Throughout the pregnancy, the licensed midwife may order the following as appropriate:

 (1) human chorionic gonadotropin (HCG) hormone titer;

 (2) cervical cytology;

 (3) test for tuberculosis;

 (4) ultrasound for size and date discrepancy, unsure dates, anatomy or other indications;

 (5) metabolic newborn screening;

 (6) cord blood group and Direct Coomb’s test (DCT);

 (7) group B streptococcus test;

 (8) hyperbilirubinemia in the newborn; and

 (9) other tests as may be appropriate for normal pregnancy and newborn care.

 (C) The licensed midwife shall recommend during the third trimester:

 (1) a 50‑gram glucose screening for gestational diabetes if client desires, has risk factors for, or family history of Type 1 Diabetes Mellitus;

 (2) a hemoglobin and/or hematocrit test; and

 (3) an antibody screen and rhogam injection for a woman with Rh negative type blood.

 Section 40‑47‑1755. The licensed midwife shall document a client’s refusal of any required or recommended test or services with evidence that recommendations and education were given to the client prior to refusal.

 Section 40‑47‑1760. (A) Regulations promulgated by the board must include standards for transferring care from a licensed midwife if the need arises.

 (B) The following diagnoses, conditions, or symptoms should be transferred to a higher level of care:

 (1) maternal fever in labor;

 (2) suggestion of fetal jeopardy or abnormal fetal heart tones;

 (3) current spontaneous premature labor;

 (4) current preterm premature rupture of membranes;

 (5) current preeclampsia;

 (6) current hypertensive disease of pregnancy;

 (7) uncontrolled bleeding;

 (8) delivery injuries to the bladder or bowel;

 (9) grand mal seizure;

 (10) uncontrolled vomiting;

 (11) coughing or vomiting of blood;

 (12) severe chest pain;

 (13) sudden onset of shortness of breath and associated labored breathing; or

 (14) any other emergent condition identified by the board.

 Section 40‑47‑1765. (A) The board shall promulgate regulations to:

 (1) establish scope and practice standards for antepartum, intrapartum, postpartum, and newborn care;

 (2) define a protocol for use of medications that must include methods of obtaining, storing, and disposing of such drugs and an indication for use, dosage, route of administration, and duration of treatment. Medications must allow for the following:

 (a) oxygen;

 (b) postpartum antihemorrhagic agents;

 (c) injectable local anesthetic for the repair of lacerations that are no more extensive than second degree;

 (d) antibiotics to the mother for group B streptococcus prophylaxis consistent with guidelines of the United States Centers for Disease Control and prevention;

 (e) epinephrine to the mother administered for anaphylactic shock;

 (f) intravenous fluids for stabilization of the client;

 (g) Rho(d)immune globulin;

 (h) Vitamin K prophylactics; and

 (j) eye prophylactics to the baby; and

 (3) prohibit the use of other legend drugs, except those of a similar nature and character as determined by the board to be consistent with the practice of midwifery; provided that at least ninety days’ advance notice of the proposal to allow the use of such drugs is given to the Board of Pharmacy.

 (B) The board may not:

 (1) require a licensed midwife to have a nursing degree or diploma;

 (2) except as a condition imposed by disciplinary proceedings by the board, require a licensed midwife to practice midwifery under the supervision of another health care provider;

 (3) except as a condition imposed in disciplinary proceedings by the board, require a licensed midwife to enter into an agreement, written or otherwise, with another health care provider; or

 (4) limit the location where a licensed midwife may practice midwifery.

 Section 40‑47‑1770. (A) The board shall promulgate regulations to integrate licensed midwives into hospitals licensed to provide perinatal care services with respect to:

 (1) access to physician‑to‑provider consultation available twenty‑four hours a day;

 (2) transfer methods and protocols from the licensed midwife to a hospital within a fifty‑mile radius which provides level 1 or higher perinatal services;

 (3) access to professional continuing education relating to safe transfers and escalation of care; and

 (4) collection of data on transfer outcomes to evaluate the effectiveness and safety of transfer of care from a licensed midwife to a hospital.

 (B) Nothing in this section may be construed to:

 (1) allow or require the Board of Health and Environmental Control, the Department of Health and Environmental Control, or hospitals to promulgate regulations or requirements that restrict the scope of practice, change existing licensure requirements, or impose any other regulation or requirement on licensed midwives, other than the methods and protocols for transfer of a patient to a hospital; or

 (2) require hospitals to give licensed midwives hospital admitting privileges.

 (C) For purposes of this section, “integrate” means to facilitate the full exercise of scope of practice, autonomy, self‑regulation, collaboration, and smooth transition between licensed midwives and hospitals which provide perinatal care services. “Integrate” does not mean to supervise licensed midwives.

 Section 40‑47‑1775. (A) Midwifery licensure in South Carolina is by examination only.

 (B) Persons to which subsection (A) does not apply include:

 (1) any person authorized by the South Carolina State Board of Nursing to practice as a certified nurse midwife in the State;

 (2) any student pursuing a course of study in an approved midwifery education program that is approved by the board who provides midwifery services, provided that such services are an integral part of the student’s course of study and are performed under the supervision of a South Carolina practicing physician, certified nurse midwife, or licensed midwife; and

 (3) any midwife already licensed by the Department of Health and Environmental Control prior to the effective date of this article.

 Section 40‑47‑1780. (A) Any person applying for a midwifery license must show evidence of completion of an approved academics program, clinical apprenticeship, and recommendations from their clinical preceptor.

 (B) The examination must consist of two parts:

 (1) a written examination designed to test knowledge of theory regarding pregnancy and childbirth and to test clinical judgment in licensed midwifery management; and

 (2) a practical examination designed to demonstrate the mastery of skills necessary for the practice of licensed midwifery.

 (C) The board shall offer the examination at least twice a year. The board may defer written examination requirements to another approved examination organization.

 (D) An applicant who fails to pass the examination within two examination periods must wait a period of time for additional study and clinical experience as prescribed by the board before reapplying to take the examination.

 (E) The examination administered by the North American Registry of Midwives (NARM), or such other certifying examination as the board may subsequently approve, must be accepted by the board as a qualifying examination for purposes of midwifery licensure.

 (F) Any midwife already licensed by the Department of Health and Environmental Control on the effective date of this article is not required to sit for a new examination and is automatically qualified as a licensed midwife. The existing license remains in effect until its previously designated expiration date at which time the midwife must apply for renewal of the license pursuant to the provisions of this article.

 Section 40‑47‑1785. The board shall grant a license to any person upon notice of application completion by the board and upon receipt of the required license fee as established by the board. The board shall require applicants to submit a completed application that meets the requirements set forth herein.

 Section 40‑47‑1790. (A) The following additional practices may be performed by a licensed midwife who provides documentation acceptable to the board of having acquired the training and skills necessary to safely perform them:

 (1) catheterization of the urinary bladder;

 (2) administration of medications as allowed by the board;

 (3) artificial rupture of the amniotic membranes if the fetal head is engaged and the client is at least eight centimeters dilation;

 (4) venipuncture and capillary blood sampling;

 (5) suturing;

 (6) intravenous therapy; and

 (7) an emergency episiotomy.

 (B) The board shall notify the licensed midwife that documentation submitted under this section is acceptable to the board and that the licensed midwife is considered certified for additional practices. A licensed midwife may not perform the practices set forth in this section until the board has provided notification of acceptance.

 Section 40‑47‑1795. A licensed midwife may not:

 (1) use vacuum extraction or forceps as an aid in the delivery of a newborn;

 (2) grant prescriptive privilege;

 (3) perform abortions;

 (4) perform an epidural, spinal, or caudal anesthetic;

 (5) administer any type of narcotic analgesia;

 (6) perform a Cesarean section or any surgery or surgical delivery except minimal episiotomies;

 (7) perform pharmacological induction or augmentation of labor or artificial rupture of membranes prior to the onset of labor;

 (8) perform circumcisions; or

 (9) perform or administer any other obstetric disorder, diagnosis, condition, or symptom identified by the board.

 Section 40‑47‑1800. A licensed midwife may not:

 (1) disregard a client’s dignity or right to privacy as to her person, condition, possessions, or medical record;

 (2) breach any legal requirement of confidentiality with respect to a client, unless ordered by a court of law;

 (3) submit a birth certificate known by the person to be false or fraudulent, or wilfully make or file false or incomplete reports or records in the practice of midwifery;

 (4) fail to provide information sufficient to allow a client to give informed consent or the refusal thereof;

 (5) engage in the practice of midwifery while impaired due to the use of alcohol or other drugs; or

 (6) violate any other standards of conduct as determined by the board in regulations promulgated to regulate the practice of midwifery.

 Section 40‑47‑1805. (A) Before initiating care, a licensed midwife shall obtain a signed informed consent agreement from each client, acknowledging receipt, at minimum, of the following:

 (1) the licensed midwife’s training and experience;

 (2) instructions for obtaining a copy of the regulations promulgated by the board pursuant to this article;

 (3) instructions for filing complaints with the board;

 (4) a written protocol for emergencies, including hospital transport that is specific to each individual client;

 (5) a description of the benefits and risks of midwifery care and birth; and

 (6) any other information required by the board in regulation.

 (B) Every licensed midwife shall maintain a record of all signed informed consent agreements for each client for a minimum of nine years after the last day of care for such client.

 (C) Any licensed midwife submitting an application to renew a license pursuant to Section 40‑47‑1810 shall compile and submit to the board complete practice data for the calendar year preceding the date of the application. Such information must be provided in form and content as prescribed by the board in regulation and must include, but not be limited to:

 (1) the number of clients accepted for care by the licensed midwife;

 (2) the number of deliveries performed by the licensed midwife along with APGAR scores;

 (3) the number of prenatal transfers; intrapartum and postpartum transfers, and

 (4) any perinatal deaths.

 Section 40‑47‑1810. (A) A midwifery license must be renewed every three years. An applicant for renewal shall submit to the board:

 (1) a renewal application on the form prescribed by the board;

 (2) evidence of completion of thirty contact hours of continuing education as required by regulation;

 (3) evidence of current certification in cardiopulmonary resuscitation of the adult and newborn; and

 (4) renewal fees.

 (B) Delinquency in renewal of permits or licenses of thirty days or greater shall result in fines, as allowed, or termination after six months.

 (C) Any licensed midwife registered in South Carolina may be placed on inactive status by requesting such status of the board in writing and filing annual reports. Inactive status may be maintained for a maximum of two renewals.

 (D) The board may refuse to issue, suspend for a definite period, or revoke a permit or license for any of the following causes:

 (1) being derelict in any duty imposed by law;

 (2) exhibiting incompetence as determined by local midwifery standards;

 (3) being convicted of a felony;

 (4) practicing while suffering from a contagious or infectious disease of public health importance;

 (5) practicing under a false name or alias;

 (6) violating any of the standards of practice set forth herein;

 (7) obtaining any fee by fraud or misrepresentation;

 (8) using or causing or promoting the use of any advertising matter, promotional literature, testimonial, or any other representation, however disseminated or published, which is misleading or untruthful;

 (9) representing that the service or advice of a person licensed to practice medicine will be used or made available when that is not true, or using the word “doctor”, or similar words, abbreviations, or symbols so as to connote the medical profession when such is not the case; or

 (10) permitting another to use the midwife’s license.

 (E) The board shall promulgate regulations in accordance with the Administrative Procedures Act to provide notice and opportunity for hearing an appeal of any decision.

 Section 40‑47‑1815. (A) The board shall maintain and revise a list of approved courses for licensure under this article. The board may use the list as a guideline in determining the acceptability of a nonlisted educational source that an applicant submits as complying with any educational experience requirement provided for in regulations.

 (B) Clinical experience in licensed midwifery may be obtained in any setting office, clinic, hospital, maternity center, or home. The board shall provide guidance for the required types and numbers of experiences. Apprentice midwives must obtain their clinical experience under the supervision of a physician, certified nurse midwife, or licensed midwife.

 (C) Continuing education is required for renewal of license under this article as follows:

 (1) In each three‑year licensing period, thirty contact hours of continuing education must be obtained.

 (2) Continuing education may be obtained through organized courses, conferences, meetings of area licensed midwives, or other mechanisms as approved by the board.

 (3) In any calendar year, the board may require specific topics for continuing education based upon any problem areas identified by the board.

 Section 40‑47‑1820. (A) All fees received under the provisions of this article must be paid to the board and used for the implementation of the South Carolina Midwife Practice Act.

 (B) The board shall promulgate regulations to establish fees authorized by this article including, but not limited to, examination, licensure, and inspection fees.

 Section 40‑47‑1825. (A) A licensed health care provider performing a consultation or referral is responsible only for determining that at the time of the event the individual was at low or normal risk of developing complications during pregnancy and childbirth.

 (B) For any licensed health care provider performing a consultation or referral, the provider‑client relationship exists only for the purpose of that event and does not continue beyond its conclusion.

 (C) A licensed health care provider consultation or referral as defined in this section does not create:

 (1) any legal duty, responsibility, or obligation by the provider for continuing care after the conclusion of the event; or

 (2) a legal relationship between the provider and the licensed midwife or any duty, responsibility, or obligation by the licensed health care provider to supervise, collaborate with, or oversee the licensed midwife’s care of the client.

 (D)(1) A licensed health care provider or other health care provider, hospital, institution, facility, or clinic may not be deemed to have established a legal relationship with a licensed midwife solely by providing a consultation or referral as defined in this section or for accepting a transfer of a client from a licensed midwife.

 (2) A licensed health care provider or other health care provider, hospital, institution, facility, or clinic is not liable for civil damages arising out of the negligent, grossly negligent, or wanton or wilful acts or omissions of the licensed midwife solely for providing a consultation as defined in this section or accepting a transfer of a client from a licensed midwife.

 (E) Nothing in this article is intended to expand liability. In the event of an action for injury or death due to any act or omission of a licensed midwife the liability of any other licensed health care provider is limited to their negligent acts and omissions that violate their standards of care according to existing law.

SECTION 3.A. Section 44‑89‑30(5) of the S.C. Code is amended to read:

 (5) “Lay Licensed midwife” means an individual so licensed by the State Board of Medical Examiners for South Carolina to practice midwifery pursuant to Article 11, Chapter 47, Title 40, or by the department if licensed before the effective date of that article.

B. Section 44‑89‑60(2) of the S.C. Code is amended to read:

 (2) Birthing centers shall provide care by physicians, certified nurse~~‑~~midwives nurse midwives, or licensed lay~~‑~~midwives midwives to childbearing women during pregnancy, birth, and puerperium.

SECTION 4. The State Board of Medical Examiners for South Carolina shall promulgate regulations to implement the provisions of this article, but until these regulations take effect, the board shall adopt, by rule, the provisions of Reg. 61‑24, with which the board and licensees must comply. Provided, however, if any provisions of Reg. 61‑24 conflict with the provisions of this article, the board shall not adopt those regulatory provisions.

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 7. This act takes effect upon approval by the Governor.

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