

2
3 ORR AMENDMENT TO HB315, AS ENGROSSED
4
5
6
7

8 On page 1, line 13, after "offense" insert the
9 following:

10 ; to add Sections 34-19-11 to 34-19-19, inclusive,
11 to the Code of Alabama 1975; to establish a State Board of
12 Midwifery to license and regulate the practice of certified
13 professional midwifery; to provide for the composition of the
14 board and function of the board; to specify requirements for
15 the licensing of midwives and provide for licensing fees; to
16 establish guidelines for the practice of midwifery; to provide
17 for penalties for violations; to amend Section 22-9A-7, Code
18 of Alabama 1975, relating to registration of births; to amend
19 Section 34-43-3, Code of Alabama 1975, relating to the
20 definition of therapeutic massage; to repeal Sections 34-19-2
21 through 34-19-10, inclusive, Code of Alabama 1975; and in
22 connection therewith would have as its purpose or effect the
23 requirement of a new or increased expenditure of local funds
24 within the meaning of Amendment 621 of the Constitution of
25 Alabama of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of Alabama of 1901,
27 as amended

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

On page 2, after line 3, insert the following and renumber the remaining section accordingly:

Section 2. Sections 34-19-11 to 34-19-19, inclusive, are added to the Code of Alabama 1975, to read as follows:

§34-19-11.

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.

§34-19-12.

(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.

1 (d) The members of the board shall be appointed for
2 staggered initial terms and subsequent terms shall be for a
3 minimum of four years or until his or her successor has been
4 appointed and qualified.

5 (e) The board shall meet at least twice each year,
6 conducting its business in person or by electronic methods.

7 (f) The board shall elect one of its members to
8 serve as chair for a two-year term. The chair may not serve
9 consecutive terms.

10 (g) The composition of the board shall be as
11 follows:

12 (1) Four members shall hold a valid certified
13 professional midwife credential from the North American
14 Registry of Midwives. These members shall be appointed from a
15 list of names submitted by the Alabama Birth Coalition or its
16 successor organization. One of these members shall be
17 appointed to an initial term of four years, one to a term of
18 three years, and two to a term of two years.

19 (2) One member shall be a licensed physician. This
20 member shall be appointed from a list of names submitted by
21 the Medical Association of the State of Alabama. This member
22 shall be appointed to an initial term of four years.

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

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

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

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

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

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

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

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

6 §34-19-13.

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

25 §34-19-14.

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

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

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

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

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

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

16 (6) Once a determination is made by the board that
17 professional liability insurance is affordable and available,
18 establish reasonable professional liability insurance
19 requirements for licensed midwives.

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

27 a. Licensing procedures and requirements.

1 b. Minimum initial and continuing education
2 requirements for licensure.

3 c. The allowable scope of midwifery practice
4 regarding use of equipment, procedures, and administration of
5 medication necessary for the safe practice of midwifery.

6 d. Standards by which a licensed midwife shall
7 conduct risk assessment.

8 e. Standards for professional conduct.

9 f. A standard procedure for investigating
10 complaints.

11 g. Requirements for clinical internships for
12 individuals seeking midwifery training.

13 h. Standards regarding professional liability
14 insurance as provided by Section 34-19-14, Code of Alabama
15 1975.

16 (2) The rules shall ensure independent practice. The
17 rules shall encourage and facilitate consultation and
18 collaboration with other health care professionals and
19 facilities, but shall not require any agreement, written or
20 otherwise, with any other health care professional or
21 facility.

22 (3) The rules shall prohibit a licensed midwife from
23 administering or performing any of the following obstetric
24 procedures which are outside of the scope of the licensed
25 practice of midwifery:

26 a. An epidural, spinal, or caudal anesthetic.

27 b. Any type of narcotic analgesia.

1 c. Forceps or a vacuum extractor-assisted delivery.

2 d. Abortion.

3 e. Cesarean section.

4 (4) The rules shall prohibit a licensed midwife from
5 performing either of the following:

6 a. Delivery of a diagnosed multiple pregnancy.

7 b. Delivery of a baby whose position is diagnosed as
8 non-cephalic at the onset of labor.

9 §34-19-15.

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

15 (1) Is at least 21 years of age.

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

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

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

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

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

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

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

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

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

1 (3) Has been convicted of any felony.

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

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

7 (e) The board shall maintain an up-to-date list of
8 every individual licensed to practice midwifery pursuant to
9 this chapter and individuals whose licenses have been
10 suspended, revoked, or denied. The information on the list
11 shall be available for public inspection during reasonable
12 business hours and the information may be shared with others
13 as deemed necessary and acceptable by the board. The list
14 shall include the name of the individual, the date and the
15 cause of action, the penalty incurred, and the length of the
16 penalty.

17 §34-19-16.

18 (a) A licensed midwife may provide midwifery care in
19 the setting of the client's choice.

20 (b) A licensed midwife shall ensure that the client
21 has signed a midwife disclosure form provided by the board
22 indicating receipt of a written statement that includes all of
23 the following information:

24 (1) A description of the licensed midwife's
25 education, training, and experience in midwifery.

1 (2) Antepartum, intrapartum, and postpartum
2 conditions requiring medical consultation, transfer of care,
3 and transport to a hospital.

4 (3) A plan for medical consultation, transfer of
5 care, and transport of the client or newborn or both when
6 indicated by specific antepartum, intrapartum, or postpartum
7 conditions.

8 (4) Instructions for filing a complaint against a
9 licensed midwife.

10 (5) A statement that the licensed midwife must
11 comply with the federal Health Insurance Portability and
12 Accountability Act.

13 (6) The status of a licensed midwife's professional
14 liability insurance coverage.

15 (7) References to current evidence regarding the
16 safety of midwifery care in out-of-hospital settings,
17 including a copy of the most recent statement by the American
18 Congress of Obstetricians and Gynecologists on home birth.

19 (c) A licensed midwife shall ensure that the client
20 has signed an informed consent form provided by the board.

21 (d) For screening purposes only, a licensed midwife
22 may order routine antepartum and postpartum laboratory
23 analyses to be performed by a licensed laboratory.

24 (e) After a client has secured the services of a
25 licensed midwife, the licensed midwife shall document an
26 emergency care plan on a form provided by the board.

1 (f) A licensed midwife shall determine the progress
2 of labor and, when birth is imminent, shall be available until
3 delivery is accomplished.

4 (g) A licensed midwife shall remain with the client
5 during the postpartal period until the conditions of the
6 client and newborn are stabilized.

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

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

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

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

23 (l) A licensed midwife shall report to the Alabama
24 Department of Public Health pursuant to Chapter 11A, of Title
25 22, Code of Alabama 1975, and any other law that requires
26 hospitals or physicians to report to the Alabama Department of
27 Public Health.

1 (m) A licensed midwife shall provide all information
2 required to be provided to new mothers pursuant to Section
3 22-20-3.1, Code of Alabama 1975, and all information required
4 to be provided to new mothers before discharge by hospitals,
5 as defined in Section 22-21-20, Code of Alabama 1975.

6 (n) A licensed midwife shall administer those tests
7 provided in Section 22-20-3, Code of Alabama 1975, and any
8 rule adopted by the State Board of Health pursuant to that
9 section relating to the newborn screening program, to all
10 neonates in his or her care.

11 §34-19-17.

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

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

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

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

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

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

6 §34-19-18.

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

13 (b) Unless otherwise ordered by a court of competent
14 jurisdiction, the decisions, opinions, actions, and
15 proceedings discussed, rendered, entered, or acted upon in
16 good faith and without malice and on the basis of facts
17 reasonably known or reasonably believed to exist of any peer
18 review or North American Registry of Midwives Disciplinary
19 Process shall be privileged and confidential, and no member
20 thereof shall be liable for the decision, opinion, action, or
21 proceeding.

22 §34-19-19.

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

25 Section 3. Sections 22-9A-7 and 34-43-3, Code of
26 Alabama 1975, are amended to read as follows:

27 "§22-9A-7.

1 "(a) A certificate of birth for each live birth
2 ~~which~~ that occurs in this state shall be filed with the Office
3 of Vital Statistics, or as otherwise directed by the State
4 Registrar, within five days after the birth and shall be
5 registered if it has been completed and filed in accordance
6 with this section.

7 "(b) (1) When a birth occurs in an institution or en
8 route to the institution, the person in charge of the
9 institution or his or her designated representative shall
10 obtain the personal data, prepare the certificate, secure the
11 signatures required, and file the certificate as directed in
12 subsection (a) or as directed by the State Registrar within
13 the required five days. The physician or other person in
14 attendance shall provide the medical information required by
15 the certificate and certify to the facts of birth within 72
16 hours after the birth. If the physician, or other person in
17 attendance, does not certify to the facts of birth within the
18 72-hour period, the person in charge of the institution or his
19 or her designee shall complete and sign the certificate.

20 "(2) In all cases where a birth occurs in an
21 institution, the person in charge of the institution shall
22 provide a procedure for collection of the normal fee for a
23 certified copy of the birth certificate from the mother or
24 father. The fee shall be forwarded to the State Registrar when
25 a complete record of the birth is obtained, and the State
26 Registrar shall issue a certified copy of the birth
27 certificate to the mother or father of the child. The issuance

1 of a certified copy of the birth certificate by the State
2 Registrar shall not apply to births where the death of the
3 infant occurred a short time following the birth, unless the
4 certificate is requested by the father or mother, or where
5 adoption is indicated.

6 "(c) When a birth occurs outside an institution, the
7 certificate shall be prepared and filed by one of the
8 following in the indicated order of priority:

9 "(1) The physician or licensed midwife in attendance
10 at the birth or who sees the child within three days after the
11 birth.

12 "(2) Any other person in attendance at or
13 immediately after the birth.

14 "(3) The father, the mother, or in the absence of
15 the father and the inability of the mother, the person in
16 charge of the premises where the birth occurred.

17 "(d) When a birth occurs in a moving conveyance
18 within the United States and the child is first removed from
19 the conveyance in this state, the birth shall be registered in
20 this state and the place where it is first removed shall be
21 considered the place of birth. When a birth occurs on a moving
22 conveyance while in international waters or air space or in a
23 foreign country or its air space and the child is first
24 removed from the conveyance in this state, the birth shall be
25 registered in this state, but the certificate shall show the
26 actual place of birth as can be determined.

1 "(e) For the purposes of birth registration, the
2 mother is deemed to be the woman who gives birth to the child,
3 unless otherwise determined by law.

4 "(f) (1) If the mother was married at the time of
5 either conception or birth, or between conception and birth,
6 the name of the husband shall be entered on the certificate as
7 the father of the child, unless it is established by law that
8 he is not the father of the child.

9 "(2) If the mother was not married at the time of
10 either conception or birth or between conception and birth,
11 the name of the father shall not be entered on the certificate
12 unless paternity has been determined by a court of competent
13 jurisdiction or unless the legitimation process specified in
14 Sections 26-11-1 through 26-11-3, inclusive, or otherwise
15 provided by law has been completed.

16 "(3) If the father is not named on the certificate
17 of birth, no other information about the father shall be
18 entered on the certificate.

19 "(g) The birth certificate of a child born to a
20 married woman as a result of artificial insemination, with
21 consent of her husband, shall be completed in accordance with
22 subdivision (1) of subsection (f).

23 "(h) Either of the parents of the child shall attest
24 to the accuracy of the personal data entered on the
25 certificate in time to permit the filing of the certificate
26 within the five days prescribed in subsection (a).

27 "§34-43-3.

1 "For purposes of this chapter, the following terms
2 shall have the following meanings:

3 "(1) ADVERTISE. Distributing a card, flier, sign, or
4 device to any person or organization, or allowing any sign or
5 marking on any building, radio, television, or by advertising
6 by any other means designed to attract public attention.

7 "(2) BOARD. The Alabama Board of Massage Therapy
8 created pursuant to this chapter.

9 "(3) BOARD-APPROVED MASSAGE THERAPY SCHOOL. A school
10 where massage therapy is taught which is one of the following:

11 "a. If located in Alabama is approved by the board
12 as meeting the minimum established standards of training and
13 curriculum as determined by the board.

14 "b. If located outside of Alabama is recognized by
15 the board and by a regionally recognized professional
16 accrediting body.

17 "c. Is a postgraduate training institute accredited
18 by the Commission on Accreditation for Massage Therapy.

19 "(4) ESTABLISHMENT. A site, premises, or business
20 where massage therapy is practiced by a licensed massage
21 therapist.

22 "(5) EXAMINATION. A National Certification For
23 Therapeutic Massage and Bodywork Examination administered by
24 an independent agency or another nationally or internationally
25 accredited exam administered by an independent agency per
26 approval of the board. The examination will be accredited by
27 the National Committee for Certifying Agencies. The board

1 retains the right to administer a written, oral, or practical
2 examination.

3 "(6) LICENSE. The credential issued by the board
4 which allows the licensee to engage in the safe and ethical
5 practice of massage therapy.

6 "(7) MASSAGE THERAPIST. A person licensed pursuant
7 to this chapter who practices or administers massage therapy
8 or touch therapy modalities to a patron for compensation.

9 "(8) MASSAGE THERAPY INSTRUCTOR. A licensed massage
10 therapist approved by the board to teach the practice of
11 massage therapy.

12 "(9) PERSON. Any individual, firm, corporation,
13 partnership, organization, association, or other legal entity.

14 "(10) SEXUALLY ORIENTED BUSINESS. A sex parlor,
15 massage parlor, nude studio, modeling studio, love parlor,
16 adult bookstore, adult movie theater, adult video arcade,
17 adult motel, or other commercial enterprise which has as its
18 primary business the offering for sale, rent, or exhibit, or
19 the exhibit of, items or services intended to provide sexual
20 stimulation or sexual gratification to the customer.

21 "(11) STUDENT OF MASSAGE THERAPY. Any person
22 currently enrolled in an Alabama massage therapy school
23 program approved by the board.

24 "(12) TEMPORARY PERMIT. A temporary permit issued at
25 the request of a massage therapist who is qualified according
26 to the Alabama massage therapy law prior to approval by the
27 board and not to exceed six months.

1 "(13) THERAPEUTIC MASSAGE AND RELATED TOUCH THERAPY
2 MODALITIES. The mobilization of the soft tissue which may
3 include skin, fascia, tendons, ligaments, and muscles, for the
4 purpose of establishing and maintaining good physical
5 condition. The term shall include effleurage, petrissage,
6 tapotement, compression, vibration, stretching, heliotherapy,
7 superficial hot and cold applications, topical applications,
8 or other therapy which involves movement either by hand,
9 forearm, elbow, or foot, for the purpose of therapeutic
10 massage. Massage therapy may include the external application
11 and use of herbal or chemical preparations and lubricants such
12 as salts, powders, liquids, nonprescription creams, mechanical
13 devises such as T-bars, thumpers, body support systems, heat
14 lamps, hot and cold packs, salt glow, steam cabinet baths or
15 hydrotherapy. The term includes any massage, movement therapy,
16 massage technology, myotherapy, massotherapy, oriental massage
17 techniques, structural integration, or polarity therapy. The
18 term shall not include laser therapy, microwave, injection
19 therapy, manipulation of the joints, or any diagnosis or
20 treatment of an illness that normally involves the practice of
21 medicine, chiropractic, physical therapy, podiatry, nursing,
22 midwifery, occupational therapy, veterinary, acupuncture,
23 osteopathy, orthopedics, hypnosis, or naturopathics."

24 Section 4. Nothing contained in this act shall be
25 construed to create a requirement that any health benefit
26 plan, group insurance plan, policy, or contract for health
27 care services that covers hospital, medical, or surgical

1 expenses, health maintenance organizations, preferred provider
2 organizations, medical service organizations,
3 physician-hospital organizations, or any other person, firm,
4 corporation, joint venture, or other similar business entity
5 that pays for, purchases, or furnishes group health care
6 services to patients, insureds, or beneficiaries in this
7 state, including entities created pursuant to Article 6,
8 commencing with Section 10A-20-6.01, of Chapter 20, Title 10A,
9 Code of Alabama 1975, provide coverage or reimbursement for
10 the services described or authorized in this act.

11 Section 5. Sections 34-19-2 to 34-19-10, inclusive,
12 Code of Alabama 1975, are repealed.

13 Section 6. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621, now
17 appearing as Section 111.05 of the Official Recompilation of
18 the Constitution of Alabama of 1901, as amended, because the
19 bill defines a new crime or amends the definition of an
20 existing crime.