

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 719

An Act to amend the Code of Virginia by adding in Article 4 of Chapter 29 of Title 54.1 sections numbered 54.1-2957.7 through 54.1-2957.13, relating to licensure of midwives.

[S 1259]

Approved March 25, 2005

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 4 of Chapter 29 of Title 54.1 sections numbered 54.1-2957.7 through 54.1-2957.13 as follows:

§ 54.1-2957.7. Licensed midwife and practice of midwifery; definitions.

"Midwife" means any person who provides primary maternity care by affirmative act or conduct prior to, during, and subsequent to childbirth, and who is not licensed as a doctor of medicine or osteopathy or certified nurse midwife.

"Practicing midwifery" means providing primary maternity care that is consistent with a midwife's training, education, and experience to women and their newborns throughout the childbearing cycle, and identifying and referring women or their newborns who require medical care to an appropriate practitioner.

§ 54.1-2957.8. Licensure of midwives; requisite training and educational requirements; fees.

A. It shall be unlawful for any person to practice midwifery in the Commonwealth or use the title of licensed midwife unless he holds a license issued by the Board. The Board may license an applicant as a midwife after such applicant has submitted evidence satisfactory to the Board that he has obtained the Certified Professional Midwife (CPM) credential pursuant to regulations adopted by the Board and in accordance with the provisions of §§ 54.1-2915 and 54.1-2916.

B. Persons seeking licensure as a midwife shall submit such information as required in the form and manner determined by the Board.

C. Persons seeking licensure shall pay the required license fee as determined by the Board.

§ 54.1-2957.9. Regulation of the practice of midwifery.

The Board shall adopt regulations governing the practice of midwifery, upon consultation with the Advisory Board on Midwifery. The regulations shall (i) address the requirements for licensure to practice midwifery, including the establishment of standards of care, (ii) be consistent with the North American Registry of Midwives' current job description for the profession and the National Association of Certified Professional Midwives' standards of practice, except that prescriptive authority and the possession and administration of controlled substances shall be prohibited, (iii) ensure independent practice, (iv) provide for an appropriate license fee, and (v) include requirements for licensure renewal and continuing education. Such regulations shall not (a) require any agreement, written or otherwise, with another health care professional or (b) require the assessment of a woman who is seeking midwifery services by another health care professional.

License renewal shall be contingent upon maintaining a Certified Professional Midwife certification.

§ 54.1-2957.10. Advisory Board on Midwifery established; membership; duties; terms; sunset.

A. The Advisory Board on Midwifery is established as an advisory board in the executive branch of state government. The purpose of the Advisory Board is to assist the Board of Medicine in formulating regulations pertaining to the practice of midwifery. The Advisory Board shall also assist in such other matters relating to the practice of midwifery as the Board may require.

B. The Advisory Board shall consist of five nonlegislative citizen members to be appointed by the Governor, subject to confirmation by the General Assembly, including three Certified Professional Midwives, one doctor of medicine or osteopathy or certified nurse midwife who is licensed to practice in the Commonwealth and who has experience in out-of-hospital birth settings, and one citizen who has used out-of-hospital midwifery services. Nonlegislative citizen members of the Advisory Board shall be citizens of the Commonwealth of Virginia.

The initial appointments shall provide for staggered terms with two members being appointed for two-year terms, two members being appointed for three-year terms, and one member being appointed for a four-year term. Thereafter, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

C. The Advisory Board shall elect a chairman and vice chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Advisory Board shall be held at

the call of the chairman or whenever the majority of the members so request.

D. Members shall receive such compensation for the discharge of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the discharge of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Board of Medicine.

E. The Department of Health Professions shall provide staff support to the Advisory Board. All agencies of the Commonwealth shall provide assistance to the Advisory Board, upon request.

F. This section shall expire on July 1, 2008.

§ 54.1-2957.11. Requirements for disclosure.

Any person practicing as a licensed midwife shall provide disclosure of specific information in writing to any client to whom midwifery care is provided. Such disclosure shall include (i) a description of the midwife's qualifications, experience, and training; (ii) a written protocol for medical emergencies, including hospital transport, particular to each client; (iii) a description of the midwives' model of care; (iv) a copy of the regulations governing the practice of midwifery; (v) a statement concerning the licensed midwife's malpractice or liability insurance coverage; (vi) a description of the right to file a complaint with the Board of Medicine and the procedures for filing such complaint; and (vii) such other information as the Board of Medicine determines is appropriate to allow the client to make an informed choice to select midwifery care.

§ 54.1-2957.12. Immunity.

No person other than the licensed midwife who provided care to the patient shall be liable for the midwife's negligent, grossly negligent or willful and wanton acts or omissions. Except as otherwise provided by law, no other licensed midwife, doctor of medicine or osteopathy, nurse, prehospital emergency medical personnel, or hospital as defined in § 32.1-123, or agents thereof, shall be exempt from liability (i) for their own subsequent and independent negligent, grossly negligent or willful and wanton acts or omissions or (ii) if such person has a business relationship with the licensed midwife who provided care to the patient. A doctor of medicine or osteopathy, nurse, prehospital emergency medical person, or hospital as defined in § 32.1-123, or agents thereof, shall not be deemed to have established a business relationship or relationship of agency, employment, partnership, or joint venture with the licensed midwife solely by providing consultation to or accepting referral from the midwife.

§ 54.1-2957.13. Exceptions.

The provisions of §§ 54.1-2957.7 through 54.1-2957.12 shall not prevent or prohibit:

1. Any licensed midwife from delegating to an apprentice or personnel in his personal employ and supervised by him such activities or functions that are nondiscretionary and that do not require the exercise of professional judgment for their performance, if such activities or functions are authorized by and performed for the licensed midwife and responsibility for such activities or functions is assumed by the licensed midwife; or

2. Any person from performing tasks related to the practice of midwives' under the direct and immediate supervision of a licensed doctor of medicine or osteopathy, a certified nurse midwife, or a licensed midwife during completion of the North American Registry of Midwives' Portfolio Evaluation Process Program within a time period specified in regulations adopted by the Board or while enrolled in an accredited midwifery education program.

2. That, notwithstanding the provisions of § 54.1-2902, the practice of midwifery in Virginia prior to the effective date of this act shall not constitute grounds for disciplinary action by the Board of Medicine. The Board may issue a license to a person who has so practiced midwifery in the Commonwealth upon application and compliance with the provisions of this act.

3. That the Board of Medicine shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.