

Report on the
State Board of Midwifery
Gardendale, Alabama



**Department of
Examiners of Public Accounts**

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September 23, 2020

Representative Howard Sanderford
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the State Board of Midwifery in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the State Board of Midwifery, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Rachel Laurie Riddle
Chief Examiner

Examiner
Daniel Dupree

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PROFILE

Purpose/Authority

The State Board of Midwifery was established by Act No. 383, Acts of Alabama 2017 to license and regulate midwives in Alabama. Currently, the Board operates under the authority of the *Code of Alabama 1975*, Section 34-19-11 through 34-19-21.

Midwives can only attend to low-risk births and are required to transfer the mother over to an obstetrician if complications arise. They are not allowed to treat mothers expecting twins or triplets and can't help women who have had previous C-sections. Some midwives also provide primary care for women including well woman exams, health promotion and disease prevention, and family planning.

<u>Characteristics</u>	
Members and Selection	<p>Seven members appointed by the Governor and confirmed by the Senate.</p> <ul style="list-style-type: none">• Certified professional midwife members and the consumer member are nominated by the Alabama Birth Coalition.• Certified nurse midwife or registered nurse member is nominated by the Alabama Board of Nursing.• A nominating entity is not named by statute for the nurse practitioner member. <p><i>Code of Alabama 1975</i>, Section 34-19-12</p>
Term	<p>After serving initial staggered terms, members serve four-year terms and serve until their successor is appointed and qualified.</p> <p><i>Code of Alabama 1975</i>, Section 34-19-12</p>
Qualifications	<ul style="list-style-type: none">• Four certified professional midwives, with a valid certified professional midwife credential from the North American Registry of Midwives.• One nurse practitioner.• One certified nurse midwife or registered nurse licensed by the Alabama Board of Nursing.• One consumer member must have used midwifery services in the state. <p><i>Code of Alabama 1975</i>, Section 34-19-12</p>

Consumer Representation	One member required by statute. One consumer member serving <i>Code of Alabama 1975</i> , Section 34-19-12
Racial Representation	No statutory requirement. Two black members serving.
Geographical Representation	No statutory requirement.
Other Representation	The nominating authorities are to strive to assure membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state <i>Code of Alabama 1975</i> , Section 34-19-12
Compensation	Members serve without compensation but are allowed reimbursement for travel expenses in the same manner as state employees. <i>Code of Alabama 1975</i> , Section 34-19-12
Attended Board Member Training	Three Board members Board Attorney
<u>Operations</u>	
Administrator	The Board has a contract with Dr. Sharon J. Porterfield Miller to provide administrative services. The current agreement is for \$500.00 per month for the period December 16, 2019 to December 16, 2020.
Location	No physical location. Mailing Address: PO Box 1282 Gardendale, AL 35071 No set hours of operation
Employees	None
Legal Counsel	Bettie Carmack, Assistant Attorney General, an employee of the Attorney General's Office, serves as legal counsel.
Subpoena Power	None, except as provided by the Alabama Administrative Procedures Act in the <i>Code of Alabama 1975</i> , Section 41-22-12 for hearing and contested cases.

Internet Presence	alsbm.org Information available includes: <ul style="list-style-type: none"> • Meeting minutes • Law and rules • Contact information • Database of licensed midwives • Licensing forms • Online contact form
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Financial

Source of Funds	Licensing fees
State Treasury	Yes, Special Revenue Fund 1719 <i>Code of Alabama 1975</i> , Section 34-19-13
Required Distributions	None
Unused Funds	Unused funds are retained by the Board at fiscal year-end. <i>Code of Alabama 1975</i> , Section 34-19-13

Licensee Information

Licensees	As of February 28, 2020 15 Licensed Midwives
Qualifications	Applicants for an Alabama midwife license must: <ul style="list-style-type: none"> • Be at least 21 years of age • Be a citizen of the United States or legally present in the United States. • Obtain a Certified Professional Midwife (CPM) credential through an education pathway accredited by the Midwifery Accreditation Council or by another accrediting agency recognized by the United States Department of Education. The Board may also license the following: <ul style="list-style-type: none"> • An applicant who has obtained a certified professional midwife credential prior to January 1, 2020, through a nonaccredited pathway, provided the applicant obtains the Midwifery Bridge Certificate* or completes an educational program or pathway accredited by the Midwifery Education Accreditation Council or by another accrediting agency recognized by the United States Department of Education or,

	<ul style="list-style-type: none"> An applicant who has maintained licensure in a state that does not require an accredited education, provided the applicant obtains the Midwifery Bridge Certificate* or completes an educational program or pathway accredited by the Midwifery Education Accreditation Council or by another accrediting agency recognized by the United States Department of Education <p>*Requires current CPM with active status</p> <p><i>Code of Alabama 1975, Section 34-19-15</i></p>
Examinations	<p>The Board does not require an examination for licensure. Applicants must pass an examination prepared by the North American Registry of Midwives to become a CPM. Certification is a prerequisite for state licensure.</p> <p><i>Code of Alabama 1975, Section 34-19-15</i></p>
Reciprocity	<p>The Board may license an applicant who has maintained licensure in a state that does not require an accredited education, provided the applicant obtains the Midwifery Bridge Certificate or completes an educational program or pathway accredited by the Midwifery Education Accreditation Council or by another accrediting agency recognized by the United States Department of Education.</p> <p><i>Code of Alabama 1975, Section 34-19-15</i></p>
Renewals	<p>Licenses are valid for a period of 24 months.</p> <p><i>Code of Alabama 1975, Section 34-19-15</i></p>
Licensee Demographics	<p>Data not readily available</p>
Continuing Education	<p>CPM certification renewal is due every three years. Thirty continuation education contact hours are required during the three-year period. The Board does not require additional continuing education.</p>

SIGNIFICANT ISSUES

Significant Issue 2020-01 – Since the Board’s inception in 2017, the Board has only issued 15 midwifery licenses and generated \$16,800 in application and license fees and has received \$8,998.51 in donations as of July 31, 2020. Licenses are issued biennially.

Board’s Response - The Board issued 15 licenses from January 2019 through December 2019. A timeline might be helpful: Passage of the Statute in May 2017, signed by the Governor in July 2017, Board appointed by Governor January 2018 and approved by the Senate in Feb 2018. The Alabama State Board of Midwifery had its first meeting on March 8, 2018. Rules were then written, approved by Legislative Council and effected by November 2018. Initial licenses were issued in January 2019.

Significant Issue 2020-02 – The Board did not comply with the requirements of the Open Meetings Act regarding executive sessions. According to official board minutes for six meetings, members participating electronically also participated in executive sessions. Although the Board’s statute allows members to participate in meetings by electronic means, the Open Meetings Act prohibits members that are not physically present to participate in executive sessions.

The *Code of Alabama 1975*, Section 34-19-12(e) states, “The board shall meet at least twice each year, **conducting its business in person or by electronic methods.**”

The *Code of Alabama 1975*, Section 36-25A-5.1(e) states: “Any other provision of this section to the contrary notwithstanding, a majority of a quorum of the members participating in any given meeting shall be physically present at the location noticed and called for the meeting in order to conduct any business or deliberation, **and only those members who are physically present may participate in an executive session of the governmental body.**”

Board’s Response - We were initially misinformed concerning the issue of participating electronically in executive session. That has been corrected.

Significant Issue 2020-03 - The Board of Midwifery executed a “Memorandum of Agreement” or contract with an individual for administrative services for the period of December 2019 through December 2020 for \$6,000. The contractor did not submit the following documents as required by the *Code of Alabama 1975*, Sections 41-16-85, 31-13-1, 41-13-9, 41-16-5 and 41-16-85 for private entities or individuals entering into a contract for services with a state entity:

- Disclosure Statement
- Anti-Boycott clause,
- Resume
- Immigration clause,
- E-Verify MOU or Certificate of Compliance with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act.

Board's Response - We were not aware of the requirement. This has been corrected.

Significant Issue 2020-04 – The Board does not ask applicants to sign a declaratory statement declaring if they are United States Citizens or legally present in the United States. The Board has not enrolled in the U.S. Department of Homeland Security's Systematic Alien Verification for Entitlements program (SAVE).

The *Code of Alabama 1975*, Section 31-13-7(g) provides that, "Any United States citizen applying for state or local public benefits, except those benefits described in subsection (e), shall sign a declaration that he or she is a United States citizen."

The *Code of Alabama 1975*, Section 31-13-7(i) states, "The verification that an alien seeking state or local public benefits is an alien lawfully present in the United States shall be made through the Systematic Alien Verification for Entitlements (SAVE) program, operated by the United States Department of Homeland Security."

Board's Response - The application has been amended to include a signature declaring US citizenship. The Board has applied for enrollment in the S.A.V.E. program.

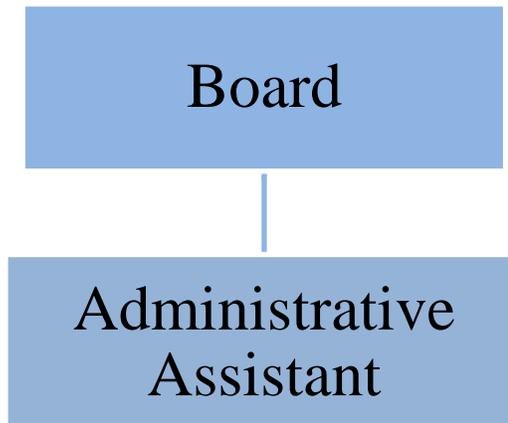
Significant Issue 2020-05 – The Board has not enrolled in E-Verify. The *Code of Alabama 1975*, Section 31-13-15(b) states: "Effective April 1, 2012, every business entity or employer in this state shall enroll in E-Verify and thereafter, according to the federal statutes and regulations governing E-Verify, shall verify the employment eligibility of the employee through E-Verify..."

Board's Response - We were not aware of this requirement. This issue has been corrected.

Significant Issue 2020-06 – The Board does not have a records disposition authority approved by the State Records Commission. The *Code of Alabama 1975*, Section 41-13-21 states: "No state officer or agency head shall cause any state record to be destroyed or otherwise disposed of without first obtaining approval of the State Records Commission."

Board's Response - This approval has been requested.

ORGANIZATION



PERSONNEL

The Board does not have employees. The Board contracts with Dr. Sharon J. Porterfield Miller to provide administrative services. The current agreement is for \$500.00 per month for the period December 16, 2019 to December 16, 2020.

Legal Counsel

Bettie Carmack, Assistant Attorney General, an employee of the Attorney General’s Office, serves as legal counsel.

PERFORMANCE CHARACTERISTICS

Number of Persons per Licensee in Alabama and Surrounding States

	Population (estimate)*	Number of Active Licensees	Persons Per Licensee
Alabama	4,903,185	15	326,879
Florida	21,477,737	178	120,661
Georgia ⁽¹⁾	10,617,423	-	-
Mississippi ⁽¹⁾	2,976,149	-	-
Tennessee	6,829,174	61	111,954

*Source: U.S. Census Bureau, December 2019

⁽¹⁾Do not regulate Certified Professional Midwives (CPM).

The states of Connecticut, Georgia, Illinois, Iowa, Kansas, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, and West Virginia do not regulate and license Certified Professional Midwives.

Notification of Board decisions to Amend Administrative Rules

The Board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules.

COMPLAINT HANDLING

The Board's procedures for investigating complaints were established by *Administrative Rule* 582-X-4. The Board has not received any consumer complaints.

Initial Contact/Documentation	Anyone may file a complaint with the board. The complaint form may be requested on the board's website. Receipt of complaint is to be confirmed to the complainant within ten working days.
Investigative Process / Probable Cause Determination	A complaint review committee, consisting of two CPM board members and one additional member, will consider complaints and make recommendations to the board. Hearings are to be held in accordance with the Administrative Procedures Act.
Disciplinary Action	Following the contested case provisions of the Administrative Procedures Act, the board may suspend or revoke a license, or refuse to grant a license. The board may impose administrative fines not to exceed \$1,000 per violation.

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

Certified Nurse Midwives are licensed as advanced practice nurses by the Alabama Board of Nursing. Certified Nurse Midwives are subject to collaborative practice agreements with an Alabama physician.

FINANCIAL INFORMATION

Source of Funds

License fees and fines. The Board did not have any financial activity for Fiscal Year 2019.

As of July 31, 2020, the Board certified \$16,800 in application and initial license fees and received \$8,998.51 in donations, and expended \$6,287.68. The cash balance as of July 31, 2020 was \$19,510.83.

Funds

The Board has a Special Revenue Fund – Fund 1719 in the State Treasury. The fund is authorized by the *Code of Alabama 1975*, Section 34-19-13. Year end balances are retained by the Board.

Schedule of Fees

Fee Type / Purpose	Statutory Authority	Rule	Amount Authorized	Amount Collected
Application Fee	34-19-14(a)	582-X-2-.04	Set by Board	\$250.00
Initial License	34-19-14(a)	582-X-2-.04	Set by Board	\$550.00
Renewal License	34-19-14(a)	582-X-2-.04	Set by Board	\$600.00

QUESTIONNAIRES

Board Member Questionnaire

A survey was emailed to all six members of the Alabama State Board of Midwifery requesting their participation. Three participated in the survey. The percentages, where shown, are based on the number who responded to the question.

1. What are the most significant issues currently facing the Alabama State Board of Midwifery and how is the Board addressing these issues?

Board Member #1 – “The Board wrote Rules required by the Statute to be according to the guidelines by the NARM job analysis and competencies and attempted to have them certified. Important aspects of those rules were stricken, which potentially could affect the health and safety of the mother and/or baby. The Board hopes to adopt amendments to the rules to ensure safety for mother and baby.”

Board Member #2 – “We have licensed 15 white women as Licensed Midwives. We do not have any minority midwives yet. Our board has committed to gender diversity, racial diversity, and geographical diversity. Our board’s members are diverse. We are listening to the concerns of the public. We always have members of public at our board meetings. There are three black student midwives in the state of Alabama training with Licensed Midwives. All want to become Licensed Midwives as soon as they have completed their training.”

Board Member #3 – “Issues: legal representation for the board maintaining an adequate and effective presence during the legislative session and at other state board meetings that directly affect our profession and maternal/infant health policy within the state. Addressing: Educating our board members on board training that is available while acknowledging our limited resources including but not limited to staffing and time constraints. Licensed Midwives are "land locked" due to on call services and very few midwives in the state. This is a unique aspect of our profession and can affect travel for board meetings. We are discussing strategies and opportunities.”

2. What, if any, changes to the Board’s laws are needed?

Board Member #1 – “There is no nominating authority for the Nurse Practitioner board position. The nominating power for the CPMs should be changed to the professional organization, Alabama Midwives Alliance, rather than the consumer organization, Alabama Birth coalition. The requirement for liability insurance should be stricken as it causes the fees for the midwife to be exorbitant, which must be passed along to the consumer. The midwives need to be allowed to procure, possess and administer any medications that are necessary to ensure safety for mother and baby”

Board Member #2 – “Add clarity to statute: Licensed Midwife may obtain, possess, and administer emergency medications (anti-hemorrhage and/or oxygen), medications for suturing (lidocaine), neonatal vitamin K to prevent hemorrhage of newborn, and RhoGAM to prevent maternal complications: ALL of which are for the safety of mother and baby. Licensed Midwives are NOT granted prescription privileges.”

Board Member #3 – “At this time I see no need to change any of the laws.”

Board Member Questionnaire

3. Is the Board adequately funded?

No Opinion 3 100%

Board Member #2 – “The board does not receive state funding. Licensee fees are funding board operations.”

4. Does the Board have any plans to make changes to its operations?

Yes 1 33%
No 2 67%

Board Member #1 – “Yes. The board hopes to hire an executive director who understands the particular issues surrounding a board of this nature.”

Board Member #2 – “No. We will have a new consumer board member and a new midwife board member. (names were appointed by Governor)”

5. Does the Board have any plans to establish an office and hire staff?

Yes 2 67%
No 1 33%

Board Member #1 – “Yes. Once there are more midwives, supplying sufficient funds, the board hopes to establish an office and hire staff.”

Board Member #2 – “Yes. At December board meeting we hired an administrative assistant.”

6. Do you think the State Board is necessary to protect public welfare?

Yes 2 67%
No 1 33%

7. Do you have any other concerns and comments?

Board Member #1 – “No.”

Board Member #2 – “No.”

Board Member #3 – “No.”

Licensee Questionnaire

A survey was emailed to twelve licensed midwives requesting participation in the survey. Five participated in the survey. The percentages, where shown, are based on the number who responded to the question.

1. Do you think regulation of your profession by the Alabama State Board of Midwifery is necessary to protect public welfare?

Yes	4	80%
No	1	20%

Respondent #2 – “Yes. Absolutely! Public Safety is of utmost importance, regulation of the profession is needed for edification of the practice and personal accountability.”

Respondent #3 – “Yes. The Alabama State Board of Midwifery has done a phenomenal job of getting organized and issuing its first licenses within a year of creation in spite aggressive opposition. They are very careful of making regulation that protects the women and babies of Alabama. Regulation is important to ensure consistent and safe practice of midwifery.”

Respondent #5 – “Yes. I am very grateful for the board's hard work and dedication to regulating the profession of midwifery so that families in Alabama can safely access care from licensed midwives.”

2. Do you think any of the Board’s requirements are irrelevant to the practice of your profession?

No	3	60%
Unknown	2	40%

Respondent #1 – “Unknown. The requirement of PLI is unnecessary.”

Respondent #3 – “No. The Board has been careful to look out for the safety of moms and babies and hold midwives to the parameters of midwives’ scope of practice as defined in the NARM Job Analysis.”

3. Are you adequately informed by the State Board of Midwifery of changes to the Board’s policies, rules, and laws?

Yes	4	80%
No Opinion	1	20%

Respondent #2 – “Yes. I have been very pleased with the ASBM. They have been working hard to keep us informed efficiently and have even been willing to have meetings in different areas so more midwives and consumers can attend.”

Respondent #3 – “Yes. I appreciate that the Board meetings have been held in locations that is convenient for me to attend almost all the meetings. The Board has been quick to inform me when I need to take action on things, for example today I received an email stating that I need to sign a form declaring my US citizenship.”

serious and sometimes life-threatening conditions. Midwives can help with the goal of screening if ADPH would issue the cards to us. As a midwife under the current rules I am responsible to educate my clients on the state requirements regarding newborn screening and refer babies to a pediatrician for the screening. Most of my clients will contact their pediatrician but the correct timing of the screens is rarely ever followed. The first critical screening is often delayed 4-14 days. Some clients choose not to take their baby to a pediatrician. The delayed screening or no screening is not good for the health and safety of babies. If midwives were allowed to perform the screening, we could do it in a timely manner (meet the guidelines) and make sure every baby is screened (fulfilling the goals of national and state newborn screening programs).”

Respondent #4 – “The Department of Public Health currently refuses to provide Licensed Midwives with test cards for Newborn Screening, a routine, state-required test that is the standard of care and important for the health of each newborn, no matter their place of birth.”

Respondent #5 – “It is absolutely unreasonable for the Alabama Department of Public Health to blatantly ignore the Statute and restrict midwives from accessing newborn screening forms, as we are trained and required by law to perform this test to all newborns in our care. As a result of this flagrant disregard for the law and our training, babies and families in Alabama are suffering, as newborns are not receiving this test in a timely manner or at all. If ADPH was truly invested in protecting the health of babies born in Alabama they would release the newborn screens and allow us to do our jobs. Another important issue that needs addressing is direct permission for LMs to obtain, possess, and administer emergency and time-sensitive pharmaceutical medications to the statute is so that we are able to provide the best care in the full scope of our training and in accordance with NARM job analysis. We are not asking for permission to prescribe, just permission to obtain, possess, and administer the life-saving medication that we are trained to use to appropriately care for our clients.”

6. Do you have any other concerns or comments?

Respondent #1 – “Concerns limiting a midwives ability to practice due to high costs of insurance.”

Respondent #2 – “Thank you for taking the time to collect this information on our behalf. I am so proud of the hard work and dedication our board has invested in the organization and sustainability of Midwifery in Alabama. I think they are doing a wonderful job and I admire their collective tenacity!”

Respondent #3 – “I would like to commend and thank the members of the Alabama State Board of Midwifery for all their hard work and for their focus on ensuring the safety of Alabama moms and babies. I admire each one of these board members who have given so much of their time, energy and mental and emotional energy to get midwifery in Alabama where it is today with 15 licensed midwives in the first year and over 100 families served by the licensed midwives in 2019. I hope and pray midwifery will continue to grow and flourish under their oversight.”

Respondent #4 – “Not at this time.”

Respondent #5 – “As a midwife who has worked in other states, it is upsetting how challenging it is to practice safely in Alabama and how much opposition we have to face to receive even the most basic of permissions. For a state that is boasting some of the worst levels in maternal and infant health outcomes, it would do a great deal of good if opposing

Licensee Questionnaire

bodies would seek to actually understand our profession and acknowledge the overwhelming amount of research that highlights the ways in which midwifery care benefits moms and babies.

APPENDICES

Applicable Statutes

Section 34-19-11 Definitions.

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.
(Act 2017-383, §2.)

Section 34-19-12 State Board of Midwifery - Creation; expenses; composition; meetings; liability of members; employees; collection of information.

- (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.
- (d) The members of the board shall be appointed for staggered initial terms and subsequent terms shall be for a minimum of four years or until his or her successor has been appointed and qualified.
- (e) The board shall meet at least twice each year, conducting its business in person or by electronic methods.
- (f) The board shall elect one of its members to serve as chair for a two-year term. The chair may not serve consecutive terms.
- (g) The composition of the board shall be as follows:
 - (1) Four members shall hold a valid certified professional midwife credential from the North American Registry of Midwives. These members shall be appointed from a list of names submitted by the Alabama Birth Coalition or its successor organization. One of these members shall be appointed to an initial term of four years, one to a term of three years, and two to a term of two years.
 - (2) One member shall be a nurse practitioner. This member shall be appointed to an initial term of four years.
 - (3) One member shall be a licensed certified nurse midwife or registered nurse licensed under Article 5 of Chapter 21. This member shall be appointed from a list submitted by the Alabama Board of Nursing. This member shall be appointed to an initial term of three years.
 - (4) One member shall have used midwifery services in the state. This member shall be appointed from a list of names submitted by the Alabama Birth Coalition. This member shall be appointed to an initial term of three years.

- (h) When choosing individuals to be considered by the Governor for appointment to the board, the nominating authorities shall strive to assure membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state.
- (i) All members of the board shall be immune from individual civil liability while acting within the scope of their duties as board members, unless conduct is unreasonable.
- (j) Vacancies shall be filled by the Governor and confirmed by the Senate in the same manner as other appointments are made. In the case of a vacancy, the new appointee shall serve for the remainder of the unexpired term.
- (k) Members of the board shall serve without compensation but shall be allowed travel and per diem expenses at the same rate paid to state employees, to be paid from the funds collected for the administration of this chapter, as funds are available.
- (l) The board may employ, subject to the State Merit System, investigators, inspectors, attorneys, and any other agents, employees, and assistants as may from time to time be necessary, and may use any other means necessary to enforce the provisions of this chapter.
- (m)(1) A licensed midwife shall file annually with the board the following information on a form prepared by the board and accessible on its website:
- a. The total number of births attended by the licensed midwife in the previous year, including births where the licensed midwife was assisting another licensed midwife.
 - b. The number of maternal transfers to a health care facility from births attended by the licensed midwife, including instances where the licensed midwife was assisting another licensed midwife.
 - c. The number of infant transfers to a health care facility from births attended by the licensed midwife, including instances where the licensed midwife was assisting another licensed midwife.
 - d. The total number of maternal deaths from births attended by the licensed midwife, including instances where the licensed midwife was assisting another licensed midwife.
 - e. The total number of infant deaths from births attended by the licensed midwife, including instances where the licensed midwife was assisting another licensed midwife.
- (2) The board shall make the information collected under this subsection available to the public in accordance with federal law.
- (n) The board shall be subject to the Alabama Sunset Law, Chapter 20, Title 41, as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2021, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law. (Act 2017-383, §2.)

Section 34-19-13 State Board of Midwifery - Disposition of funds.

All funds received by the board under this chapter shall be deposited in the State Treasury to the credit of the board and all such funds are to be appropriated to the board to defray the expenses incurred in carrying out this chapter. The expenses shall include printing, stamps, stationery, clerical help, travel, and other necessary expenditures. In all cases, any fee that is received by the board shall not be refunded, and no applicant shall have the right to recover any part of a fee accompanying his or her application for licensure or otherwise paid to the board except on the death, disability, or retirement from practice of any applicant or licensee between payment of any fee and the expiration of his or her current renewal or the issuance of the initial license. The books and records of the board shall be subject to audit in the same manner and to the same extent as any other state agency. The board shall keep a true and accurate account of all funds received by the board and all expenditures made by the board. (Act 2017-383, §2.)

Section 34-19-14 State Board of Midwifery - Powers and duties; scope of licensed practice of midwifery.

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

- (1) Approve, renew, suspend, or revoke licenses for the practice of midwifery.
- (2) Investigate and conduct hearings regarding complaints against a licensed midwife in order to determine if disciplinary action is warranted.
- (3) Establish reasonable licensure fees, including, but not limited to, initial application, renewal, and reinstatement fees.
- (4) Develop standardized forms including, but not limited to, a midwife disclosure form, informed consent form, emergency care form, and applications for licensure and renewal.
- (5) Impose administrative fines, not to exceed one thousand dollars (\$1,000) per violation, for violating this chapter, a board rule, or a condition of a license.
- (6) Establish levels of professional liability insurance that must be maintained by a licensed midwife at a limit of no less than one hundred thousand dollars (\$100,000) per occurrence and three hundred thousand dollars (\$300,000) aggregate.

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

- a. Licensing procedures and requirements.
- b. Minimum initial and continuing education requirements for licensure.
- c. Standards by which a licensed midwife shall conduct risk assessment.
- d. Standards for professional conduct.
- e. A standard procedure for investigating complaints.
- f. Requirements for clinical internships for individuals seeking midwifery training.

(2) The rules shall ensure independent practice.

(c) A licensed midwife may not administer or perform any of the following obstetric procedures which are outside of the scope of the licensed practice of midwifery:

- (1) An epidural, spinal, or caudal anesthetic.
- (2) Any type of narcotic analgesia.
- (3) Forceps or a vacuum extractor-assisted delivery.
- (4) Abortion.
- (5) Cesarean section or any surgery or surgical deliver except minimal episiotomies.
- (6) Pharmacological induction or augmentation of labor or artificial rupture of membranes prior to the onset of labor.
- (7) Except for the administration of local anesthetic, administration of an anesthetic.
- (8) Administration of any prescription medication in a manner that violates the Alabama Uniform Controlled Substance Act.
- (9) Vaginal birth after a cesarean.

(d) A licensed midwife may not perform either of the following:

- (1) Delivery of a diagnosed multiple pregnancy.
 - (2) Delivery of a baby whose position is diagnosed as non-cephalic at the onset of labor.
- (Act 2017-383, §2.)

Section 34-19-15 Licensure requirements; duration; grounds for suspension, revocation, etc., of license; recordkeeping.

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

(1) Is at least 21 years of age.

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

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

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

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

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

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

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

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

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

(3) Has been convicted of any felony.

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

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

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

(Act 2017-383, §2.)

Section 34-19-16 Where care may be performed; required forms and duties of licensed midwife.

(a) A licensed midwife may provide midwifery care in the setting of the client's choice, except a hospital.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) A licensed midwife shall provide all information required to be provided to new mothers pursuant to Section 22-20-3.1, and all information required to be provided to new mothers before discharge by hospitals, as defined in Section 22-21-20.

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

(o) A licensed midwife may order and administer a urinalysis or blood glucose test as indicated.

(Act 2017-383, §2.)

Section 34-19-17 Violations.

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

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

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

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

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

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

(Act 2017-383, §2.)

Section 34-19-18 Construction of chapter.

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

(b) Nothing in this chapter shall be construed as authorizing a licensed midwife to practice medicine or prescribe medicine or drugs.

(Act 2017-383, §2.)

Section 34-19-19 Liability of physician, health care provider, or hospital.

No physician, other health care provider, or hospital shall be civilly or criminally liable for any act or omission or advice, care, or service provided by an individual practicing midwifery outside of a hospital or resulting from the choice of a woman to give birth to a child outside of a hospital, provided the midwife is not employed to practice midwifery by the physician, health care provider, or hospital or is not practicing midwifery as an employee, member, or shareholder of a business entity in which the physician, health care provider, or hospital participates by way of receiving monetary or non-cash income and has actual knowledge of the midwife's status as an employee, partner, member, or shareholder of the business entity.

(Act 2017-383, §2.)

Section 34-19-20 Licensed Midwives.

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

(Act 2017-383, §2.)

Section 34-19-21 Coverage or reimbursement for services not required.

Nothing contained in this chapter shall be construed to create a requirement that any health benefit plan, group insurance plan, policy, or contract for health care services that covers hospital, medical, or surgical expenses, health maintenance organizations, preferred provider organizations, medical service organizations, physician-hospital organizations, or any other person, firm, corporation, joint venture, or other similar business entity that pays for, purchases, or furnishes group health care services to patients, insureds, or beneficiaries in this state,

including entities created pursuant to Article 6, commencing with Section 10A-20-6.01, of Chapter 20, Title 10A, provide coverage or reimbursement for the services described or authorized in this chapter.
(Act 2017-383, §4.)

Board Members



Alabama State Board of Midwifery Members: (Expiration of Term)

NAME	EXPIRATION OF TERM	CITY of Board Member
Noel Leithart, Chair	2020	Gardendale, Alabama
Armstead, Stephanie	2022	Birmingham, Alabama
Bufkin, Stacey	2022	Fairhope, Alabama
Dennis, Tori	2021	Tuscumbia, Alabama
Nero, Marietta	2022	Montgomery, Alabama
Tullis, Colleen	2020	Mobile, Alabama
Vacant/ Consumer	2021	
Carmack, Bettie Attorney		Montgomery, Alabama
Porterfield Miller, Sharon Ed.D.	2020	Gardendale, Alabama

Chairperson Signature: *Noel Leithart*

Date: *17 February 2020*

Board's Response

Significant Issue 2020-01 – Since the Board's inception in 2017, the Board has only issued 15 midwifery licenses and generated \$16,800 in application and license fees and has received \$8,998.51 in donations as of July 31, 2020. Licenses are issued biennially.

*The Board issued 15 licenses from January 2019 through December 2019. A timeline might be helpful: Passage of the Statute in May 2017, signed by the Governor in July 2017, Board appointed by Governor January 2018 and approved by the Senate in Feb 2018. The Alabama State Board of Midwifery had its first meeting on March 8, 2018. Rules were then written, approved by Legislative Council and effected by November 2018. Initial licenses were issued in January 2019.

Significant Issue 2020-02 – The Board did not comply with the requirements of the Open Meetings Act regarding executive sessions. According to official board minutes for six meetings, members participating electronically also participated in executive sessions. Although the Board's statute allows members to participate in meetings by electronic means, the Open Meetings Act prohibits members that are not physically present to participate in executive sessions.

The *Code of Alabama 1975*, Section 34-19-12(e) states, "The board shall meet at least twice each year, conducting its business in person or by electronic methods."

The *Code of Alabama 1975*, Section 36-25A-5.1(e) states: "Any other provision of this section to the contrary notwithstanding, a majority of a quorum of the members participating in any given meeting shall be physically present at the location noticed and called for the meeting in order to conduct any business or deliberation, **and only those members who are physically present may participate in an executive session of the governmental body.**"

*We were initially misinformed concerning the issue of participating electronically in executive session. That has been corrected.

Significant Issue 2020-03 - The Board of Midwifery executed a "Memorandum of Agreement" or contract with an individual for administrative services for the period of December 2019 through December 2020 for \$6,000. The contractor did not submit the following documents as required by the *Code of Alabama 1975*, Sections 41-16-85, 31-13-1, 41-13-9, 41-16-5 and 41-16-85 for private entities or individuals entering into a contract for services with a state entity:

- Disclosure Statement
- Anti-Boycott clause,
- Resume
- Immigration clause,
- E-Verify MOU or Certificate of Compliance with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act.

* We were not aware of the requirement. This has been corrected.

Significant Issue 2020-04 – The Board does not ask applicants to sign a declaratory statement declaring if they are United States Citizens or legally present in the United States. The Board has not enrolled in the U.S. Department of Homeland Security’s Systematic Alien Verification for Entitlements program (SAVE).

The *Code of Alabama 1975*, Section 31-13-7(g) provides that, “Any United States citizen applying for state or local public benefits, except those benefits described in subsection (e), shall sign a declaration that he or she is a United States citizen.”

The *Code of Alabama 1975*, Section 31-13-7(i) states, “The verification that an alien seeking state or local public benefits is an alien lawfully present in the United States shall be made through the Systematic Alien Verification for Entitlements (SAVE) program, operated by the United States Department of Homeland Security.”

*The application has been amended to include a signature declaring US citizenship. The Board has applied for enrollment in the S.A.V.E. program.

Significant Issue 2020-05 – The Board has not enrolled in E-Verify. The *Code of Alabama 1975*, Section 31-13-15(b) states: “Effective April 1, 2012, every business entity or employer in this state shall enroll in E-Verify and thereafter, according to the federal statutes and regulations governing E-Verify, shall verify the employment eligibility of the employee through E-Verify...”

*We were not aware of this requirement. This issue has been corrected.

Significant Issue 2020-06 – The Board does not have a records disposition authority approved by the State Records Commission. The *Code of Alabama 1975*, Section 41-13- 21 states: “No state officer or agency head shall cause any state record to be destroyed or otherwise disposed of without first obtaining approval of the State Records Commission.”

*This approval has been requested.