

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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PRINCIPAL CLERK

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SENATE BILL DRS35179-NB-120

Short Title: Accessing Midwives Act. (Public)

Sponsors: Senator Burgin (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE CERTIFIED PROFESSIONAL MIDWIVES LICENSING
3 ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
6 to read:

7 "Article 10B.

8 "Certified Professional Midwives.

9 "**§ 90-178.10. Title.**

10 This Article may be cited as the "Accessing Midwives Act."

11 "**§ 90-178.11. Findings.**

12 The General Assembly makes the following findings:

- 13 (1) There is a need for a person to have the freedom to choose the manner, cost,
14 attendant, and setting for giving birth.
- 15 (2) Access to prenatal care and delivery services is limited by the inadequate
16 number of providers of maternity services, and the practice of midwifery may
17 help to reduce this shortage.
- 18 (3) There is a need for the safe and effective delivery of newborn babies and the
19 health, safety, and welfare of their mothers in the delivery process.
- 20 (4) In the interest of public health, the State should promote the regulation of the
21 practice of midwifery for the purpose of protecting the health and welfare of
22 women and infants.
- 23 (5) Midwifery is a profession in its own right, and it is not the practice of
24 medicine.

25 "**§ 90-178.12. Definitions.**

26 The following definitions apply in this Article:

- 27 (1) AMCB. – American Midwifery Certification Board.
- 28 (2) Antepartal. – Occurring during pregnancy.
- 29 (3) Certified Midwife (CM). – A person who has obtained national certification
30 from the American Midwifery Certification Board (AMCB).
- 31 (4) Certified Nurse-Midwife (CNM). – A person approved to practice
32 Nurse-Midwifery under Article 10A of this Chapter.
- 33 (5) Certified Professional Midwife (CPM). – A person who has obtained national
34 certification from the North American Registry of Midwives (NARM).



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- 1 (6) Collaboration. – The process by which a licensed midwife and a physician or
2 other appropriate health care provider jointly manage the care of a client, as
3 defined by Board rule.
- 4 (7) Consultation. – The exchange of information and advice regarding the client's
5 condition and indicated treatment with a licensed physician or certified nurse
6 midwife.
- 7 (8) Council. – The North Carolina Council of Midwives, a subcommittee of the
8 Division of Health Service Regulation.
- 9 (9) Department. – The North Carolina Department of Health and Human
10 Services.
- 11 (10) Division. – The Division of Health Service Regulation within the Department
12 of Health and Human Services to which the North Carolina Council of
13 Midwives reports.
- 14 (11) Health care provider. – As defined in G.S. 90-21.11.
- 15 (12) ICM. – International Confederation of Midwives.
- 16 (13) Intrapartal. – Occurring during the process of giving birth.
- 17 (14) Licensed physician. – A physician duly licensed in this State to practice
18 medicine under Article 1 of this Chapter.
- 19 (15) Licensee. – A Certified Professional Midwife who holds the CPM credential
20 or a Certified Midwife who holds the CM credential and is licensed to practice
21 midwifery under this Article.
- 22 (16) Midwife. – A person who is trained to (i) give the necessary care and advice
23 to women during pregnancy, labor, and the post-birth period, (ii) conduct
24 normal deliveries as the midwife's own responsibility, (iii) care for the newly
25 born infant, and (iv) recognize the warning signs of abnormal conditions
26 requiring referral to or collaboration with a licensed physician or other
27 licensed health care provider.
- 28 (17) Midwifery. – The provision of primary health or maternity care to
29 childbearing people and infants.
- 30 (18) NACPM. – The National Association of Certified Professional Midwives.
- 31 (19) NARM. – The North American Registry of Midwives.
- 32 (20) Postpartal. – Occurring subsequent to birth.
- 33 (21) US MERA. – United States Midwifery Education, Regulation, and
34 Association.

35 **"§ 90-178.13. License required; exemptions.**

36 (a) No person shall practice or offer to practice midwifery as defined in this Article or
37 otherwise indicate or imply that the person is a licensed Certified Professional Midwife or
38 Certified Midwife unless the person is currently licensed as provided in this Article.

39 (b) The provisions of this Article do not apply to any of the following:

- 40 (1) An individual approved to practice midwifery under Article 10A of this
41 Chapter.
- 42 (2) A physician licensed to practice medicine under Article 1 of this Chapter when
43 engaged in the practice of medicine as defined by law.
- 44 (3) The performance of medical acts by a physician assistant or nurse practitioner
45 when performed in accordance with the rules of the North Carolina Medical
46 Board.
- 47 (4) The practice of nursing by a registered nurse engaged in the practice of nursing
48 under Article 9A of this Chapter.
- 49 (5) The rendering of childbirth assistance in an emergency situation.
- 50 (6) Individuals who are present during the birth process or assisting the certified
51 professional midwife in the birth process, including family members, birth

workers, or other caregivers invited by the birthing person, midwifery students, and assistants who are under the supervision of a midwife licensed under the provisions of this Article.

- (7) A traditional birth attendant practicing midwifery without a license if the traditional birth attendant has cultural or religious traditions that have historically included the attendance of traditional birth attendants at births and that birth attendant serves only the families in that distinct cultural or religious group.

"§ 90-178.14. The North Carolina Council of Midwives.

(a) Composition and Terms. – The North Carolina Council of Midwives is created. The Council shall consist of seven members who shall serve staggered terms. The Council members shall be appointed by the Secretary of the Department of Health and Human Services, and the initial Council members shall be appointed on or before October 1, 2023, or within three months of this Article becoming law, whichever is later, as follows:

- (1) Four Certified Professional Midwives, one of whom shall serve for a term of four years, two of whom shall serve for terms of three years, and one of whom shall serve for a term of two years.
- (2) One licensed physician who is knowledgeable in midwifery care who shall serve for a term of four years.
- (3) One community birth consumer who shall serve for a term of two years.
- (4) One Certified Nurse-Midwife experienced in community birth who shall serve a term of two years.

Upon the expiration of the terms of the initial Council members, members shall be appointed for terms of four years and shall serve until their successors are appointed. No member may serve more than two consecutive terms.

(b) Qualifications. – Each Council member shall be a resident of this State. The members who are health care providers shall hold current licenses from the Council and remain in good standing with the Council during their terms.

(c) Vacancies. – Any vacancy shall be filled by the Secretary of the Department of Health and Human Services. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed.

(d) Removal. – The Council may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. If a Council member is absent from three consecutive Council meetings without excuse, that member shall be removed from office, and a new member shall be appointed by the Secretary of the Department of Health and Human Services. An absence shall be deemed excused if caused (i) by a health problem or condition verified in writing by a licensed physician or (ii) by an accident or similar unforeseeable tragedy or event, on or before the next Council meeting. A member subject to disciplinary proceedings in the member's capacity as a health care provider shall be disqualified from participating in the official business of the Council until the charges have been resolved.

(e) Compensation. – Each member of the Council shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 93B-5.

(f) Officers. – The officers of the Council shall be a chair, a vice-chair, and other officers deemed necessary by the Council to carry out the purposes of this Article. All officers shall be elected annually by the Council for two-year terms and shall serve until their successors are elected and qualified. No person may serve as chair for more than six consecutive years.

(g) Meetings. – The Council shall hold its first meeting within 45 days after the appointment of its members and shall hold at least two meetings each year to conduct business and to review the standards and rules previously adopted by the Council. The Council shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of Council members shall constitute a quorum. The Council shall hold such meetings

1 during the year as it deems necessary, one of which shall be an annual meeting. The Department,
2 the chairperson, or a majority of the Council shall have the authority to call additional meetings.

3 (h) Notice of Meeting; Records. – Public notice shall be given for all meetings and all
4 meetings are open to the public. All records are available to the public. Persons wishing to obtain
5 copies of records may request copies, in writing, from the Council.

6 (i) The Council shall adopt rules within one year of the initial meeting to implement the
7 provisions of this Article.

8 **"§ 90-178.15. Powers and duties of the Council.**

9 In consultation with the Division and with guidance from the National Association of
10 Certified Professional Midwives Standards of Practice, the Council shall have the following
11 powers and duties:

- 12 (1) Administer this Article.
- 13 (2) Issue interpretations of this Article.
- 14 (3) Adopt, amend, or repeal rules as may be necessary to carry out the provisions
15 of this Article, including rules relating to the administration of medications
16 consistent with a licensed midwife's training and scope of practice.
- 17 (4) Verify the credentials and qualifications of applicants for licensure, license
18 renewal, and reciprocal licensure.
- 19 (5) Issue, renew, deny, suspend, or revoke licensure and carry out any disciplinary
20 actions authorized by this Article.
- 21 (6) Set fees for licensure, license renewal, and other services deemed necessary
22 to carry out the purposes of this Article, and not to exceed five hundred dollars
23 (\$500.00) over a two-year period.
- 24 (7) Maintain a current list of all persons who have been licensed as midwives
25 under this Article and, using a statistically validated data collection tool,
26 collect and review annual practice reports.
- 27 (8) Address problems and concerns of licensed midwives in order to promote
28 safety for the citizens of this State.
- 29 (9) Conduct investigations for the purpose of determining whether violations of
30 this Article or grounds for disciplining midwives exist.
- 31 (10) Maintain a record of all proceedings and make available to all licensed
32 midwives and other concerned parties an annual report of all Council action.
- 33 (11) Adopt a seal containing the name of the Council for use on all official
34 documents and reports issued by the Council.
- 35 (12) Educate the public and other providers of maternity care about the role of the
36 licensed midwife.

37 **"§ 90-178.16. Requirements for licensure.**

38 An applicant shall be licensed to practice as a midwife under this Article if the applicant
39 meets all of the following requirements:

- 40 (1) Completes an application on a form approved by the Council.
- 41 (2) Has completed all required educational and clinical training, including
42 education in emergency skills for pregnancy, birth, and newborn care and
43 other midwifery topics addressing all ICM Core Competencies, as determined
44 by US MERA, and has earned the national midwifery certification credential
45 awarded by a national midwifery certification agency accredited by the
46 National Commission on Certifying Agencies (NCCA), the accrediting body
47 of the Institute of Credentialing Excellence.
- 48 (3) Submits proof to the Council of current cardiopulmonary resuscitation (CPR)
49 certification and neonatal resuscitation (NRP) certification.
- 50 (4) Has read, understands, and agrees to practice under the guidelines set forth in
51 this Article and any rules adopted pursuant to this Article.

1 (5) Pays the required fees in accordance with G.S. 90-178.20.

2 **"§ 90-178.17. Responsibilities of a licensed midwife; display of license.**

3 (a) A Certified Professional Midwife licensed under this Article shall practice according
4 to the National Association of Certified Professional Midwives (NACPM) Standards of Practice
5 and shall have the following responsibilities:

6 (1) Provide care for the healthy client who is expected to have a normal
7 pregnancy, labor, birth, and postpartal phase in the setting of their choice.

8 (2) Ensure that the client has signed an informed consent form. This form shall
9 include information to inform the client of the qualifications of the licensee,
10 and the process of shared decision making and refusal.

11 (3) Order routine antepartal or postpartal screening or laboratory analysis to be
12 performed by a licensed laboratory or testing facility, when necessary.

13 (4) Develop an emergency plan in collaboration with the client that shall include
14 transfer plans for the client in the event of an emergency.

15 (5) Determine the progress of labor, monitor fetal and maternal status, and when
16 labor is well-established, be available until delivery is accomplished.

17 (6) Remain with the mother during the postpartal period until the conditions of
18 the mother and newborn are stabilized.

19 (7) Instruct the parents regarding the requirements of newborn screening.

20 (8) Instruct the parents regarding the requirement of newborn hearing screening.

21 (9) Submit and maintain a birth certificate of live birth in accordance with the
22 requirements of Article 4 of Chapter 130A of the General Statutes.

23 (10) Practice in compliance with the requirements of this Article and any rules
24 adopted pursuant to this Article.

25 (b) A midwife licensed pursuant to this Article shall display the license at all times in a
26 conspicuous place where the licensed midwife is practicing, when applicable.

27 **"§ 90-178.18. License renewal; inactive status; lapsed license.**

28 (a) An initial license to practice as a midwife shall be valid for two years. After the initial
29 license expires, a license shall be renewed every two years. All applications for renewal shall be
30 filed with the Council and shall be accompanied by the renewal fee in accordance with
31 G.S. 90-178.20 and proof of current certification from NARM or AMCB. Compliance with
32 NARM or AMCB recertification requirements shall include (i) remaining in good standing with
33 NARM or AMCB, (ii) maintaining current cardiopulmonary resuscitation (CPR) and neonatal
34 resuscitation (NRP) certifications, and (iii) completing any continuing education requirements.

35 (b) A license that has expired for failure to renew may be reinstated after the applicant
36 pays any late and renewal fees as required by G.S. 90-178.20 and complies with any other rules
37 adopted pursuant to this Article.

38 (c) Upon written request to the Council, the Council may grant a licensed midwife
39 inactive status. While inactive, the midwife shall not practice midwifery in this State and shall
40 not be subject to license renewal requirements established by the Council. A midwife may change
41 the midwife's status from inactive to active by (i) submitting a written request to the Council and
42 (ii) fulfilling the requirements for renewal described under subsection (a) of this section.

43 (d) A midwife who does not seek inactive status and allows the license to expire after a
44 90-day grace period shall apply for a new license as prescribed in this Article.

45 **"§ 90-178.19. Reciprocity.**

46 The Council may, upon application and payment of proper fees, grant a license to an
47 individual who resides in this State and has been licensed, certified, or registered to practice as a
48 midwife in another jurisdiction if that jurisdiction's standards of competency are substantially
49 equivalent to those provided in this Article in accordance with rules adopted by the Council.

50 **"§ 90-178.20. Fees.**

1 (a) All fees shall be set by the Council, in consultation with the Division, pursuant to
2 rules adopted under this Article. All fees payable to the Council shall be deposited in the name
3 of the Council in financial institutions designated by the Council as official depositories and shall
4 be used to pay all expenses incurred in carrying out the purposes of this Article.

5 (b) All salaries, compensation, and expenses incurred or allowed to carry out the purposes
6 of this Article shall be paid by the Council exclusively out of the fees received by the Council as
7 authorized by this Article or funds received from other sources.

8 **"§ 90-178.21. Midwifery formulary.**

9 The Council shall establish a formulary of drugs and devices that are appropriate to midwifery
10 care. Licensed midwives shall dispense only those drugs and devices in accordance with the
11 current formulary defined by the Council. Licensed midwives shall comply with applicable State
12 and federal laws and rules relating to prescribing and administering of drugs. Licensed midwives
13 shall maintain proper records of obtaining, storing, and administering drugs and devices. Nothing
14 in this section shall be construed to preclude a midwife from carrying out the prescribed medical
15 orders of a licensed health care provider authorized to prescribe.

16 **"§ 90-178.22. Suspension, revocation, and refusal to renew license.**

17 (a) The Council may issue a letter of reprimand, deny, refuse to renew, suspend, or revoke
18 an application for licensure or a license if the applicant or licensee does any of the following:

19 (1) Gives false information or withholds material information from the Council
20 in procuring or attempting to procure a license.

21 (2) Gives false information or withholds material information from the Council
22 during the course of an investigation conducted by the Council.

23 (3) Has been convicted of or pled guilty or no contest to a crime that indicates the
24 person is unfit or incompetent to practice midwifery as defined in this Article
25 or that indicates the person has deceived, defrauded, or endangered the public.

26 (4) Has a habitual substance abuse problem or mental impairment that interferes
27 with his or her ability to provide appropriate care as established by this Article
28 or rules adopted by the Council.

29 (5) Has demonstrated gross negligence, incompetency, or misconduct in the
30 practice of midwifery as defined in this Article.

31 (6) Has had an application for licensure or a license to practice midwifery in
32 another jurisdiction denied, suspended, or revoked for reasons that would be
33 grounds for similar action in this State.

34 (7) Has willfully violated any provision of this Article or rules adopted by the
35 Council.

36 (b) The taking of any action authorized under subsection (a) of this section may be
37 ordered by the Council after a hearing is held in accordance with Article 3A of Chapter 150B of
38 the General Statutes. The Council may reinstate a revoked license if it finds that the reasons for
39 revocation no longer exist and that the person can reasonably be expected to perform the services
40 authorized under this Article in a safe manner.

41 **"§ 90-178.23. Enjoining illegal practices; vicarious liability.**

42 (a) The Council may apply to the superior court for an order enjoining violations of this
43 Article. Upon a showing by the Council that any person has violated this Article, the court may
44 grant injunctive relief.

45 (b) No health care provider or medical facility shall be liable for an injury to a woman or
46 infant arising during childbirth and resulting from an act or omission by a midwife licensed under
47 this Article, regardless of whether the health care provider has consulted with or accepted a
48 referral from the licensee."

49 **SECTION 2.** This act becomes effective October 1, 2023.