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SENATE DRS25128-LUz-137* (03/04)

Short Title: Update/Modernize Midwifery Practice Act. (Public)

Sponsors: Senators Pate, Tarte, and Woodard (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO UPDATE AND MODERNIZE THE MIDWIFERY PRACTICE ACT, AS
RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
HEALTH AND HUMAN SERVICES.

Whereas, certified nurse-midwives are advanced practice registered nurses who are formally educated with current requirements for graduate level education and have achieved certification by the American Midwifery Certification Board; and

Whereas, North Carolina ranks 44th in the nation in infant mortality and 37th in maternal mortality; and

Whereas, women in North Carolina face disparities in access to prenatal health care services as half of North Carolina counties have three or fewer obstetricians, 31 counties have no obstetricians, and 46 counties have no certified nurse-midwives; and

Whereas, women in North Carolina face disparities in primary health care services as 78 counties are designated as health professional shortage areas by the Health Resources and Services Administration; and

Whereas, the American Congress of Obstetricians and Gynecologists projects a workforce shortage of obstetricians/gynecologists and recommends certified nurse-midwives as part of the solution; and

Whereas, care by certified nurse-midwives within a health care system has been shown to produce high-quality outcomes at lower costs; and

Whereas, access to care by certified nurse-midwives has specifically been shown to decrease rates of neonatal and infant mortality, low birth weight, medical intervention, and caesarean section; and

Whereas, the requirement to practice under the supervision of a physician creates an undue restriction on the practice of certified nurse-midwives and inappropriate liability for the physician; and

Whereas, 24 states and the District of Columbia allow certified nurse-midwives to practice independently without a collaborative or supervisory practice agreement with a physician; and

Whereas, the Institute of Medicine has found access to care from certified nurse-midwives has improved primary health care services for women in rural and inner city areas and recommends removing scope-of-practice barriers, such as the requirement of physician supervision, and allowing certified nurse-midwives to practice to the full extent of their education and training; and

Whereas, the American College of Obstetricians and Gynecologists and the American College of Nurse-Midwives have jointly stated that obstetricians/gynecologists and



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1 certified nurse-midwives "are experts in their respective fields of practice and are educated,
2 trained, and licensed, independent providers" and that obstetricians/gynecologists and certified
3 nurse-midwives "should have access to a system of care that fosters collaboration among
4 licensed, independent providers"; and

5 Whereas, the Federal Trade Commission has found that removing restrictions on the
6 practice of advanced practice registered nurses, such as certified nurse-midwives, "has the
7 potential to benefit consumers by expanding choices for patients, containing costs, and
8 improving access"; Now, therefore,

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** Article 1 of Chapter 90 of the General Statutes is amended by adding
11 the following new section to read:

12 **"§ 90-18.7. Limitations on nurse-midwives.**

13 (a) Any certified nurse-midwife approved under the provisions of Article 10A of this
14 Chapter to provide midwifery care may use the title "certified nurse-midwife." Any other
15 person who uses the title in any form or holds himself or herself out to be a certified
16 nurse-midwife or to be so approved shall be deemed to be in violation of this Article.

17 (b) A certified nurse-midwife is authorized to write prescriptions for drugs if all of the
18 following conditions are met:

19 (1) The certified nurse-midwife has current approval from the joint
20 subcommittee established under G.S. 90-178.4.

21 (2) The joint subcommittee as established under G.S. 90-178.4 has assigned an
22 identification number to the certified nurse-midwife that appears on the
23 written prescription.

24 (3) The joint subcommittee as established under G.S. 90-178.4 has provided to
25 the certified nurse-midwife written instructions about indications and
26 contraindications for prescribing drugs and a written policy for periodic
27 review of the drugs prescribed.

28 (c) The joint subcommittee of the North Carolina Medical Board and the Board of
29 Nursing, established under G.S. 90-178.4, shall adopt rules governing the approval of
30 individual certified nurse-midwives to write prescriptions with any limitations the joint
31 subcommittee deems are in the best interest of patient health and safety, consistent with the
32 rules established for nurse practitioners under G.S. 90-18.2(b)(1)."

33 **SECTION 2.** G.S. 90-178.2 reads as rewritten:

34 **"§ 90-178.2. Definitions.**

35 ~~As used in this Article:~~ The following definitions apply in this Article:

36 (1) Certified nurse-midwife. – A nurse licensed and registered under Article 9A
37 of this Chapter who has completed a midwifery education program
38 accredited by the Accreditation Commission for Midwifery Education,
39 passed a national certification examination administered by the American
40 Midwifery Certification Board, and has received the professional
41 designation of "Certified Nurse-Midwife" (CNM). Certified nurse-midwives
42 practice in accordance with the Core Competencies for Basic Midwifery
43 Practice, the Standards for the Practice of Midwifery, the Philosophy of the
44 American College of Nurse-Midwives (ACNM), and the Code of Ethics
45 promulgated by the ACNM.

46 (1a) Collaborating provider. – A physician licensed to practice medicine under
47 Article 1 of this Chapter for a minimum of four years and who is or has
48 engaged in the practice of obstetrics or a certified nurse-midwife who has
49 been approved to practice midwifery under this Article for a minimum of
50 four years.

- 1 (1b) Collaborative provider agreement. – A formal, written agreement between a
 2 collaborating provider and a certified nurse-midwife with less than 24
 3 months and 2,400 hours of practice as a certified nurse-midwife to provide
 4 consultation and collaborative assistance or guidance.
- 5 (2) "Interconceptional care" ~~includes~~includes, but is not limited to:to, the
 6 following:
- 7 a. Family planning;
- 8 b.a. Screening for cancer of the breast and reproductive ~~tract~~tract.
- 9 e-b. Screening for and management of minor infections of the
 10 reproductive ~~organs~~organs.
- 11 c. Gynecologic care, including family planning, perimenopause, and
 12 postmenopause care.
- 13 (3) "~~Intrapartum care~~" ~~includes but~~Intrapartum care. – Care that focuses on the
 14 facilitation of the physiologic birth process and includes, but is not limited
 15 to:to, the following:
- 16 a. ~~Attending women in uncomplicated labor;~~Confirmation and
 17 assessment of labor and its progress.
- 18 b. ~~Assisting with spontaneous delivery of infants in vertex presentation~~
 19 ~~from 37 to 42 weeks gestation;~~Identification of normal and
 20 ~~deviations from normal and appropriate interventions, including~~
 21 ~~management of complications, abnormal intrapartum events, and~~
 22 ~~emergencies.~~
- 23 b1. Management of spontaneous vaginal birth and appropriate third-stage
 24 management, including the use of uterotonics.
- 25 c. Performing ~~amniotomy~~amniotomy.
- 26 d. Administering local ~~anesthesia~~anesthesia.
- 27 e. Performing episiotomy and ~~repair~~and repair.
- 28 f. Repairing lacerations associated with childbirth.
- 29 (4) "~~Midwifery~~" ~~means the~~Midwifery. – The act of providing prenatal,
 30 intrapartum, postpartum, newborn and interconceptional care. The term does
 31 not include the practice of medicine by a physician licensed to practice
 32 medicine when engaged in the practice of medicine as defined by law, the
 33 performance of medical acts by a physician assistant or nurse practitioner
 34 when performed in accordance with the rules of the North Carolina Medical
 35 Board, the practice of nursing by a registered nurse engaged in the practice
 36 of nursing as defined by law, or the ~~rendering of childbirth assistance in an~~
 37 ~~emergency situation.~~law, or the performance of abortion, as defined in
 38 G.S. 90-21.6.
- 39 (5) "~~Newborn care~~" ~~includes~~Newborn care. – Care that focuses on the newborn
 40 and includes, but is not limited to:to, the following:
- 41 a. Routine assistance to the newborn to establish respiration and
 42 maintain thermal ~~stability~~stability.
- 43 b. Routine physical assessment including APGAR ~~scoring~~scoring.
- 44 c. Vitamin K ~~administration~~and administration.
- 45 d. Eye prophylaxis for ophthalmia neonatorum.
- 46 e. Methods to facilitate newborn adaptation to extrauterine life,
 47 including stabilization, resuscitation, and emergency management as
 48 indicated.
- 49 (6) "~~Postpartum care~~"~~includes~~Postpartum care. – Care that focuses on
 50 management strategies and therapeutics to facilitate a healthy puerperium
 51 and includes, but is not limited to:to, the following:

- 1 a. Management of the normal third stage of ~~labor;~~labor.
- 2 b. Administration of ~~pitocin and methergine~~uterotonics after delivery of
- 3 the infant when ~~indicated;~~andindicated.
- 4 c. Six weeks postpartum evaluation exam and initiation of family
- 5 planning.
- 6 d. Management of deviations from normal and appropriate
- 7 interventions, including management of complications and
- 8 emergencies.
- 9 (7) ~~"Prenatal care" includes~~Prenatal care. – Care that focuses on promotion of
- 10 normal pregnancy using management strategies and therapeutics as indicated
- 11 and includes, but is not limited to, the following:
- 12 a. ~~Historical and physical assessment;~~Obtaining history with ongoing
- 13 physical assessment of mother and fetus.
- 14 b. Obtaining and assessing the results of routine laboratory ~~tests;~~
- 15 andtests.
- 16 b1. Confirmation and dating of pregnancy.
- 17 c. Supervising the use of prescription and nonprescription medications,
- 18 such as prenatal vitamins, folic acid, iron, and nonprescription
- 19 medicines and iron."

20 **SECTION 3.** G.S. 90-178.3 reads as rewritten:

21 "**§ 90-178.3. Regulation of midwifery.**

22 (a) No person shall practice or offer to practice or hold oneself out to practice

23 midwifery unless approved ~~pursuant to~~under this Article.

24 (b) A ~~person~~certified nurse-midwife approved ~~pursuant to~~under this Article may

25 practice midwifery in a hospital or non-hospital ~~setting and~~setting. The certified nurse-midwife

26 shall ~~practice under the supervision of a physician licensed to practice medicine who is actively~~

27 ~~engaged in the practice of obstetrics.~~consult, collaborate with, or refer to other providers

28 licensed under this Article, if indicated by the health status of the patient. A registered

29 ~~nurse~~certified nurse-midwife approved ~~pursuant to~~under this Article is authorized to write

30 prescriptions for drugs in accordance with ~~the same conditions applicable to a nurse~~

31 ~~practitioner under G.S. 90-18.2(b).~~G.S. 90-18.7(b).

32 (b1) A certified nurse-midwife with less than 24 months and 2,400 hours of practice as a

33 certified nurse-midwife shall: (i) have a collaborative provider agreement with a collaborating

34 provider and (ii) maintain signed and dated copies of the collaborative provider agreement as

35 required by practice guidelines and any rules adopted by the joint subcommittee of the North

36 Carolina Medical Board and the Board of Nursing. If a collaborative provider agreement is

37 terminated before the certified nurse-midwife acquires the level of experience required for

38 approval under this Article, the certified nurse-midwife shall have 90 days from the date the

39 agreement is terminated to enter into a collaborative provider agreement with a new

40 collaborating provider. During the 90-day period, the certified nurse-midwife may continue to

41 practice midwifery as defined under this Article.

42 (c) Graduate nurse midwife applicant status may be granted by the joint subcommittee

43 in accordance with G.S. 90-178.4."

44 **SECTION 4.** G.S. 90-178.4(a) reads as rewritten:

45 "(a) The joint subcommittee of the North Carolina Medical Board and the Board of

46 Nursing created ~~pursuant to~~under G.S. 90-18.2 shall administer the provisions of this Article

47 and the rules adopted ~~pursuant to~~under this Article; Provided, however, that actions of the joint

48 subcommittee ~~pursuant to~~under this Article shall not require approval by the North Carolina

49 Medical Board and the Board of Nursing. For purposes of this Article, the joint subcommittee

50 shall be enlarged by ~~four~~seven additional members, including ~~two certified midwives~~five

51 nurse-midwives appointed upon the recommendation of the North Carolina Affiliate of the

1 American College of Nurse-Midwives and two obstetricians-physicians actively engaged in the
2 practice of obstetrics who have had working experience with midwives-certified
3 nurse-midwives."

4 **SECTION 5.** G.S. 90-178.4 is amended by adding the following new subsections
5 to read:

6 "(a1) Any certified nurse-midwife who attends a planned birth outside of a hospital
7 setting shall obtain a signed informed consent agreement from the certified nurse-midwife's
8 patient that shall include:

- 9 (1) Information about the risks associated with a planned birth outside of the
10 hospital.
- 11 (2) A clear assumption of those risks by the patient.
- 12 (3) An agreement by the patient to consent to transfer to a health care facility
13 when and if deemed necessary by the certified nurse-midwife.
- 14 (4) If the certified nurse-midwife is not covered under a policy of liability
15 insurance, a clear disclosure to that effect.

16 (a2) Any certified nurse-midwife who attends a planned birth outside of a hospital
17 setting shall provide to each patient a detailed, written plan for emergent and nonemergent
18 transfer, which shall include:

- 19 (1) The name of and distance to the nearest health care facility licensed under
20 Chapter 122C or Chapter 131E of the General Statutes that has at least one
21 operating room.
- 22 (2) The procedures for transfer, including modes of transportation and methods
23 for notifying the relevant health care facility of impending transfer."

24 **SECTION 6.** G.S. 90-178.4(b) reads as rewritten:

25 "(b) The joint subcommittee shall adopt rules pursuant to under this Article to establish;
26 establish each of the following:

- 27 (1) A fee which shall cover application and initial approval up to a maximum of
28 one hundred dollars ~~(\$100.00);~~(\$100.00).
- 29 (2) An annual renewal fee to be paid by January 1 of each year by persons
30 approved pursuant to under this Article up to a maximum of fifty dollars
31 ~~(\$50.00);~~(\$50.00).
- 32 (3) A reinstatement fee for a lapsed approval up to a maximum of five dollars
33 ~~(\$5.00);~~(\$5.00).
- 34 (4) The form and contents of the applications which shall include information
35 related to the applicant's education and certification by the ~~American College~~
36 ~~of Nurse-Midwives;~~ and American Midwifery Certification Board.
- 37 (5) The procedure for establishing ~~physician supervision~~ collaborative provider
38 agreements as required by this Article."

39 **SECTION 7.** G.S. 90-178.5 reads as rewritten:

40 **"§ 90-178.5. Qualifications for ~~approval~~approval; independent practice.**

41 (a) In order to be approved by the joint subcommittee pursuant to under this Article, a
42 person shall; shall comply with each of the following:

- 43 (1) Complete an application on a form furnished by the joint
44 ~~subcommittee;~~subcommittee.
- 45 (2) Submit evidence of certification by the ~~American College of~~
46 ~~Nurse-Midwives;~~American Midwifery Certification Board.
- 47 (3) Submit evidence of ~~arrangements for physician supervision;~~ and a
48 collaborative provider agreement as required by G.S. 90-178.3(b1).
- 49 (4) Pay the fee for application and approval.

50 (b) Upon submitting to the joint subcommittee evidence of completing 24 months and
51 2,400 hours of practice as a certified nurse-midwife pursuant to a collaborative provider

1 agreement, a certified nurse-midwife is authorized to practice midwifery independently in
2 accordance with this Article."

3 **SECTION 8.** G.S. 90-178.7 reads as rewritten:

4 **"§ 90-178.7. Enforcement.**

5 (a) The joint subcommittee may apply to the Superior Court of Wake County to restrain
6 any violation of this Article.

7 (b) ~~Any person who violates G.S. 90-178.3(a) shall be guilty of a Class 3~~
8 ~~misdemeanor.~~No person shall perform any act constituting the practice of midwifery, as
9 defined in this Article, or any of the branches thereof, unless the person shall have been first
10 approved under this Article. Any person who practices midwifery without being duly approved
11 and registered, as provided in this Article, shall not be allowed to maintain any action to collect
12 any fee for such services. Any person so practicing without being duly approved shall be guilty
13 of a Class 3 misdemeanor. Any person so practicing without being duly approved under this
14 Article and who is falsely representing himself or herself in a manner as being approved under
15 this Article or any Article of this Chapter shall be guilty of a Class I felony."

16 **SECTION 9.** Article 10A of Chapter 90 of the General Statutes is amended by
17 adding the following new section to read:

18 **"§ 90-178.8. Limit vicarious liability.**

19 (a) No physician or physician assistant, including the physician assistant's employing or
20 supervising physician, licensed under Article 1 of this Chapter or nurse licensed under Article
21 9A of this Chapter shall be held liable for any civil damages as a result of the medical care or
22 treatment provided by the physician, physician assistant, or nurse when the following occur:

23 (1) The physician, physician assistant, or nurse is providing medical care or
24 treatment to a woman or infant in an emergency situation; and

25 (2) The emergency situation arises during the delivery or birth of the infant as a
26 consequence of the care provided by a certified nurse-midwife approved
27 under this Article who attends a planned birth outside of a hospital setting.

28 However, the physician, physician assistant, or nurse shall remain liable for his or her own
29 independent acts of negligence.

30 (b) No health care facility licensed under Chapter 122C or Chapter 131E of the General
31 Statutes shall be held liable for civil damages as a result of the medical care or treatment
32 provided by the facility when the following occur:

33 (1) The facility is providing medical care or treatment to a woman or infant in
34 an emergency situation; and

35 (2) The emergency situation arises during the delivery or birth of the infant as a
36 consequence of the care provided by a certified nurse-midwife approved
37 under this Article who attends a planned birth outside of a hospital setting.

38 However, the health care facility shall remain liable for its own independent acts of negligence.

39 (c) Nothing in this section shall be construed to limit liability when the civil damages to
40 this section are the result of gross negligence or willful or wanton misconduct."

41 **SECTION 10.** This act is effective when it becomes law.