

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 498

Short Title: Certified Professional Midwives.

(Public)

Sponsors: Senators Lucas; Clodfelter, Dannelly, Foxx, and Kinnaird.

Referred to: Health Care.

March 19, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE PRACTICE OF MIDWIFERY BY CERTIFIED
PROFESSIONAL MIDWIVES.

The General Assembly of North Carolina enacts:

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

"Article 10B.

"Certified Professional Midwives.

§ 90-178.17. Legislative findings.

(a) The General Assembly finds that certified professional midwives should be
allowed to practice midwifery in this State for the following reasons:

(1) Access to prenatal care and delivery services are limited by an
inadequate number of providers.

(2) Women should have the freedom to choose the manner, cost, and
setting in which they give birth.

(3) It is in the best interest of this State to remove obstacles to out-of-
hospital deliveries and to encourage cooperation and consultation
between licensed health care professionals and certified professional
midwives.

(b) The General Assembly also recognizes that the certified professional midwife
requirements are based on widely accepted core competencies for midwifery, that the
requirements represent national standards for non-nurse midwives, and that the practice
of midwifery by certified professional midwives is the only credential that requires out-
of-hospital training.

§ 90-178.18. Definitions.

The following definitions apply in this Article:

- 1 (1) Approval. – Authorization from the North Carolina Supervisory
2 Council of Certified Professional Midwives to practice midwifery in
3 this State.
- 4 (2) Certified Professional Midwife (CPM). – A person who has obtained
5 national certification from the North American Registry of Midwives
6 (NARM) after having demonstrated his or her qualifications through
7 the application process, a practical skills assessment, and a written
8 examination.
- 9 (3) Consultation. – The exchange of information and advice with a
10 physician regarding the client condition and indicated treatment.
- 11 (4) Council. -- The North Carolina Supervisory Council of Certified
12 Professional Midwives responsible for administering Article 10B of
13 Chapter 90 of the General Statutes, which is a separate and
14 independent branch of the Midwifery Joint Committee that administers
15 Article 10A of Chapter 90 of the General Statutes.
- 16 (5) Intrapartum care. – The term shall include:
17 a. Assisting women during uncomplicated labor.
18 b. Assisting with the spontaneous delivery of infants from 37 to 42
19 weeks gestation.
20 c. Performing amniotomy.
21 d. Performing emergency episiotomies.
22 e. Providing intravenous fluids for hydration when needed.
- 23 (6) Midwifery. – The provision of prenatal, intrapartum, and postpartum
24 care for women experiencing normal pregnancies and newborn care
25 for their infants in out-of-hospital settings. Midwifery may include
26 well-woman care as defined in rules adopted by the Board, but does
27 not include the practice of medicine as described in G.S. 90-178.2(3).
- 28 (7) Newborn care. – The term shall include:
29 a. Providing routine physical assessments including APGAR
30 scoring.
31 b. Maintaining thermal stability.
32 c. Providing assistance to newborns to establish respiration,
33 including the acquisition and use of oxygen when needed.
34 d. The acquisition and use of Vitamin K.
35 e. The acquisition and use of eye prophylaxis for ophthalmia
36 neonatorum.
37 f. The ability to complete and file birth certificates.
- 38 (8) North Carolina Registry of Midwives (NARM). – An international
39 certification agency whose mission is to establish and administer
40 certification for the 'Certified Professional Midwife' credential.
- 41 (9) Postpartum care. – The term shall include:
42 a. Management of the normal third stage of labor.
43 b. The acquisition and use of oxytocic drugs after delivery when
44 needed.

- 1 c. Repairing lacerations associated with childbirth, including the
2 acquisition and use of local anesthesia.
3 d. The acquisition and administration of Rhogam.
4 e. The performance of evaluation examinations in the days and
5 weeks following delivery.
6 (10) Prenatal care. – The term shall include:
7 a. Historical and physical assessments of pregnant women.
8 b. Obtaining, ordering, and assessing the results of routine
9 laboratory tests.
10 c. The acquisition and administration of Rhogam.
11 d. Supervising client use of prenatal vitamins, folic acid, iron, and
12 nonprescription medicines.

13 **"§ 90-178.19. Approval required; exemptions.**

14 (a) On or after January 1, 2002, no person shall practice midwifery as defined in
15 G.S. 90-178.18 unless that person has been approved by the Council as provided in this
16 Article.

17 (b) The provisions of this Article do not apply to:

- 18 (1) A midwife licensed under Article 10A of this Chapter.
19 (2) A physician licensed under Article 1 of this Chapter when engaged in
20 the practice of medicine as defined by law.
21 (3) The performance of medical acts by a physician assistant or nurse
22 practitioner when performed in accordance with the rules of the North
23 Carolina Medical Board.
24 (4) The practice of nursing by a registered nurse engaged in the practice of
25 nursing as defined by law.
26 (5) The rendering of childbirth assistance in an emergency situation.
27 (6) Individuals who are present at or assisting the certified professional
28 midwife in the birth process, including family members or other
29 caregivers invited by the birth mother, persons providing emergency
30 medical care, doulas, or midwifery students or assistants who are
31 under the supervision of a certified professional midwife approved
32 under the provisions of this Article.

33 **"§ 90-178.20. The North Carolina Supervisory Council of Certified Professional**
34 **Midwives.**

35 (a) Composition and Terms. – The North Carolina Supervisory Council of
36 Certified Professional Midwives is created. The Council shall consist of seven members
37 who shall serve staggered terms. The initial Council members shall be selected on or
38 before October 1, 2001, as follows:

- 39 (1) The General Assembly, upon the recommendation of the President Pro
40 Tempore of the Senate, shall appoint one certified professional
41 midwife and one woman who has received care from a certified
42 professional midwife, both of whom shall serve for terms of three
43 years.

1 (2) The General Assembly, upon the recommendation of the Speaker of
2 the House of Representatives, shall appoint one licensed physician
3 who has experience working with midwives practicing in out-of-
4 hospital settings, and one woman who has received care from a
5 professional certified midwife, both of whom shall serve for terms of
6 two years.

7 (3) The Governor shall appoint two certified professional midwives who
8 shall serve terms of one year, and one certified nurse midwife with
9 out-of-hospital experience to serve a term of two years.

10 Upon the expiration of the terms of the initial Council members, members shall be
11 elected by majority vote of the certified professional midwives in good standing.
12 Members shall be elected for terms of three years and shall serve until their successors
13 are elected. No member may serve more than two consecutive full terms.

14 (b) Qualifications. – The certified professional midwife members shall hold
15 current approvals from the Council, reside or be employed in this State, and remain in
16 good standing with the Council during their terms.

17 (c) Vacancies. – A vacancy shall be filled by majority vote of the certified
18 professional midwives in good standing. All persons elected to fill vacancies shall serve
19 the remainder of the unexpired term and until their successors have been duly elected
20 and qualified.

21 (d) Removal. – The Council may remove any of its members for neglect of duty,
22 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
23 in his or her capacity as a certified professional midwife shall be disqualified from
24 participating in the official business of the Council until the charges have been resolved.

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

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

32 (g) Meetings. – The Council shall hold its first meeting within 45 days after the
33 appointment of its members, and shall hold at least two meetings each year to conduct
34 business and to review the standards and rules previously adopted by the Council with
35 guidance from the Midwives Alliance of North America's Core Competencies. The
36 Council shall establish the procedures for calling, holding, and conducting regular and
37 special meetings. A majority of Council members shall constitute a quorum.

38 **"§ 90-178.21. Powers of the Council.**

39 The Council shall have the power and duty to:

40 (1) Administer this Article.

41 (2) Issue interpretations of this Article.

42 (3) Adopt, amend, or repeal rules as may be necessary to carry out the
43 provisions of this Article.

- 1 (4) Employ and fix compensation of personnel that the Council determines
2 is necessary to carry into effect the provisions of this Article and incur
3 other expenses necessary to effectuate this Article.
- 4 (5) Examine and determine the qualifications and fitness of applicants for
5 approval, renewal of approval, and reciprocal approval.
- 6 (6) Issue, renew, deny, suspend, or revoke approvals and carry out any
7 disciplinary actions authorized by this Article.
- 8 (7) Set fees for approval, approval renewal, and other services deemed
9 necessary to carry out the purposes of this Article.
- 10 (8) Maintain a current list of all persons who have been approved as a
11 certified professional midwife under this Article and collect their
12 annual statistics.
- 13 (9) Address problems and concerns of practicing certified professional
14 midwives in order to promote safety for the citizens of this State.
- 15 (10) Conduct investigations for the purpose of determining whether
16 violations of this Article or grounds for disciplining certified
17 professional midwives exist.
- 18 (11) Maintain a record of all proceedings and make available to all
19 approved certified professional midwives and other concerned parties
20 an annual report of all Council action.
- 21 (12) Adopt a seal containing the name of the Council for use on all official
22 documents and reports issued by the Council.

23 **§ 90-178.22. Qualifications for approval.**

24 An applicant shall be approved to practice as a certified professional midwife if the
25 applicant meets all of the following qualifications:

- 26 (1) Is at least 21 years of age.
- 27 (2) Has obtained a high school diploma or its equivalent.
- 28 (3) Completes an application on a form provided by the Council.
- 29 (4) Submits evidence of certification by the North American Registry of
30 Midwives.
- 31 (5) Submits a client-informed consent document to the Council that shall
32 include:
 - 33 a. Disclosure of the certified professional midwife's qualifications,
34 experience, and training.
 - 35 b. A written protocol for medical emergencies and transportation
36 to a hospital when needed.
 - 37 c. A description of the midwifery model of care.
 - 38 d. A description of the right to file a complaint and the procedures
39 for filing a complaint.
 - 40 e. Any other information as deemed necessary by the Council to
41 allow the client to make an informed decision in selecting a
42 certified professional midwife and, if applicable, in choosing
43 home birth.

1 fee that shall be prorated for the number of months remaining before the time the
2 applicant would ordinarily be required to renew his or her approval.

3 **"§ 90-178.27. Suspension, revocation, and refusal to renew approval.**

4 (a) The Council may require remedial education, issue a letter of reprimand,
5 deny, refuse to renew, suspend, or revoke an application for approval or an approval if
6 the applicant or person who has been approved:

7 (1) Gives false information or withholds material information from the
8 Council in procuring or attempting to procure an approval.

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

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

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

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

21 (6) Has had an application for approval or an approval to practice
22 midwifery in another jurisdiction denied, suspended, or revoked for
23 reasons that would be grounds for similar action in this State.

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

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

31 **"§ 90-178.28. Withdrawal by midwife.**

32 (a) Prenatal Period. -- A certified professional midwife may withdraw from
33 responsibility for a client during the prenatal period if for any reason the certified
34 professional midwife does not feel comfortable continuing as the client's midwife. The
35 certified professional midwife may take into account: (i) the client's refusal to consult
36 with a physician when the midwife believes consultation is required; (ii) the client's
37 failure or refusal to follow recommendations made by the midwife; (iii) personality
38 incompatibilities; or (iv) any other factor that the midwife believes may create an
39 unwarranted risk to the client or child or interfere with the midwife's ability to care
40 responsibly for the client or child. In the event the midwife withdraws, the midwife shall
41 immediately notify the client in writing and cooperate with the client in finding
42 alternative care.

43 (b) After Onset of Labor. -- After the onset of labor, the midwife may withdraw
44 only if the midwife believes he or she is unable to care responsibly for the client or

1 newborn and the client refuses to transfer to a hospital. The midwife shall document the
2 relevant events, and shall make reasonable attempts to ensure that the client is not left
3 unattended, including contacting emergency medical personnel or a physician.

4 **"§ 90-178.29. Third-party reimbursement allowed.**

5 Certified professional midwives approved to practice in this State shall receive third-
6 party reimbursement from private agencies that provide coverage for maternity and
7 obstetrical care.

8 **"§ 90-178.30. Enjoining illegal practices; immunity.**

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

12 (b) No physician, certified nurse midwife, or hospital providing emergency
13 medical care or treatment to a woman or infant arising during childbirth as a
14 consequence of the care received from a certified professional midwife as approved
15 under this Article, shall be liable for any civil damages or any act or omission as a result
16 of rendering the emergency medical care."

17 **SECTION 2.** This act is effective when it becomes law.