

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 662*

Short Title: Midwifery Licensing Act. (Public)

Sponsors: Senators Bingham; Clodfelter and Kinnaird.

Referred to: Health Care.

April 20, 2011

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
6 Article to read:

7 "Article 10B.

8 "Certified Professional Midwives.

9 **"§ 90-178.10. Findings.**

10 The General Assembly makes the following findings:

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

23 **"§ 90-178.11. Definitions.**

24 The following definitions apply in this Article:

- 25 (1) Antepartal. – Occurring during pregnancy.
- 26 (2) Certified nurse midwife. – A person approved to practice nurse midwifery
27 under Article 10A of this Chapter.
- 28 (3) Certified professional midwife (CPM). – A person who has obtained
29 national certification from the North American Registry of Midwives
30 (NARM).
- 31 (4) Consultation. – The exchange of information and advice regarding the client
32 condition and indicated treatment with a licensed physician or certified nurse
33 midwife.
- 34 (5) Council. – The North Carolina Council of Certified Professional Midwives,
35 a subcommittee of the Division of Health Service Regulation.
- 36 (6) Department. – The North Carolina Department of Health and Human
37 Services.



- 1 (7) Division. – The Division of Health Service Regulation within the
2 Department of Health and Human Services to which the North Carolina
3 Council of Certified Professional Midwives reports.
4 (8) Intrapartal. – Occurring during the process of giving birth.
5 (9) Licensed physician. – A physician duly licensed in this State to practice
6 medicine under Article 1 of this Chapter and specializing in obstetrics and
7 gynecology.
8 (10) Licensee. – A certified professional midwife who holds the CPM credential
9 and is licensed to practice midwifery under this Article.
10 (11) Midwife. – A person who is trained to (i) give the necessary care and advice
11 to women during pregnancy, labor, and the post-birth period, (ii) conduct
12 normal deliveries as the midwife's own responsibility, and (iii) care for the
13 newly born infant and is able to recognize the warning signs of abnormal
14 conditions requiring referral to or collaboration with a licensed physician or
15 certified nurse midwife.
16 (12) Midwifery. – The practice of midwifery as defined under G.S. 90-178.2(3).
17 (13) NARM. – The North American Registry of Midwives.
18 (14) Postpartal. – Occurring subsequent to birth.

19 **"§ 90-178.12. License required; exemptions.**

20 (a) On or after January 1, 2012, no person shall practice or offer to practice midwifery
21 as defined in this Article or otherwise indicate or imply that the person is a licensed certified
22 professional midwife unless the person is currently licensed as provided in this Article.

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

- 24 (1) An individual approved to practice midwifery under Article 10A of this
25 Chapter.
26 (2) A physician licensed to practice medicine under Article 1 of this Chapter
27 when engaged in the practice of medicine as defined by law.
28 (3) The performance of medical acts by a physician assistant or nurse
29 practitioner when performed in accordance with the rules of the North
30 Carolina Medical Board.
31 (4) The practice of nursing by a registered nurse engaged in the practice of
32 nursing under Article 9A of this Chapter.
33 (5) The rendering of childbirth assistance in an emergency situation.
34 (6) Individuals who are present at or assisting the certified professional midwife
35 in the birth process, including family members or other caregivers invited by
36 the birth mother, persons providing emergency medical care, doulas, or
37 midwifery students or assistants who are under the supervision of a certified
38 professional midwife licensed under the provisions of this Article.

39 **"§ 90-178.13. The North Carolina Council of Certified Professional Midwives.**

40 (a) Composition and Terms. – The North Carolina Council of Certified Professional
41 Midwives is created. The Council shall consist of seven members who shall serve staggered
42 terms. The Council members shall be appointed by the Secretary of Health and Human
43 Services and the initial Council members shall be appointed on or before October 1, 2011, as
44 follows:

- 45 (1) Four certified professional midwives, one of whom shall serve for a term of
46 four years, two of whom shall serve for terms of three years, and one of
47 whom shall serve for a term of two years.
48 (2) One licensed physician who is knowledgeable in midwifery care who shall
49 serve for a term of four years.
50 (3) One home birth consumer who shall serve for a term of four years.

1 (4) One certified nurse midwife who practices home birth who shall serve for a
2 term of two years.

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

6 (b) Qualifications. – Each Council member shall be a resident of this State and the
7 certified professional midwife members shall hold current licenses from the Council and
8 remain in good standing with the Council during their terms.

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

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

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

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

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

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

36 **"§ 90-178.14. Powers and duties of the Council.**

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

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.

44 (4) Employ and fix compensation of personnel that the Council determines is
45 necessary to carry into effect the provisions of this Article and incur other
46 expenses necessary to effectuate this Article.

47 (5) Examine and determine the qualifications and fitness of applicants for
48 licensure, license renewal, and reciprocal licensure.

49 (6) Issue, renew, deny, suspend, or revoke licensure and carry out any
50 disciplinary actions authorized by this Article.

- 1 (7) Set fees for licensure, license renewal, and other services deemed necessary
2 to carry out the purposes of this Article.
- 3 (8) Maintain a current list of all persons who have been licensed as certified
4 professional midwives under this Article and collect their annual statistics.
- 5 (9) Address problems and concerns of practicing certified professional
6 midwives in order to promote safety for the citizens of this State.
- 7 (10) Conduct investigations for the purpose of determining whether violations of
8 this Article or grounds for disciplining certified professional midwives exist.
- 9 (11) Maintain a record of all proceedings and make available to all approved
10 certified professional midwives and other concerned parties an annual report
11 of all Council action.
- 12 (12) Adopt a seal containing the name of the Council for use on all official
13 documents and reports issued by the Council.
- 14 (13) Educate the public and other providers of obstetrical care about the role of
15 the licensed midwife.

16 **"§ 90-178.15. Requirements for licensure.**

17 An applicant shall be licensed to practice as a certified professional midwife under this
18 Article if the applicant meets the following requirements:

- 19 (1) Completes an application on a form approved by the Council.
- 20 (2) Has obtained a certification from NARM and currently holds the title of
21 certified professional midwife (CPM).
- 22 (3) On or after December 31, 2013, has graduated from a Midwifery Education
23 and Accreditation Council (MEAC) accredited school.
- 24 (4) Submits proof to the Council of current cardiopulmonary resuscitation
25 (CPR) certification and neonatal resuscitation (NPR) certification.
- 26 (5) Has read, understands, and agrees to practice under the guidelines set forth
27 in this Article and any rules adopted pursuant to this Article.
- 28 (6) Pays the required fees in accordance with G.S. 90-178.19.

29 **"§ 90-178.16. Responsibilities of a licensed midwife; display of license.**

30 (a) A certified professional midwife licensed under this Article shall have the following
31 responsibilities:

- 32 (1) Provide care for the healthy woman who is expected to have a normal
33 pregnancy, labor, birth, and postpartal phase in the setting of the mother's
34 choice.
- 35 (2) Ensure that the client has signed an informed consent form. This form shall
36 include information to inform the client of the qualifications of the licensee.
- 37 (3) Order routine antepartal or postpartal screening or laboratory analysis to be
38 performed by a licensed laboratory or testing facility, when necessary.
- 39 (4) Develop an emergency plan to be signed by the client and placed in the
40 client's chart. The documentation shall also include referral and transfer
41 plans for the client in the event of an emergency.
- 42 (5) Determine the progress of labor and, when birth is imminent, be available
43 until delivery is accomplished.
- 44 (6) Remain with the postpartal mother during the postpartal period until the
45 conditions of the mother and newborn are stabilized.
- 46 (7) Instruct the parents regarding the requirements of newborn screening.
- 47 (8) Instruct the parents regarding the requirement of newborn hearing screen.
- 48 (9) Maintain a birth certificate for each birth in accordance with the
49 requirements of Article 4 of Chapter 130A of the General Statutes.
- 50 (10) Practice in compliance with the requirements of this Article and any rules
51 adopted pursuant to this Article.

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

3 **"§ 90-178.17. License renewal; inactive status; lapsed license.**

4 (a) An initial license to practice as a certified professional midwife shall be valid for
5 three years. After the initial license expires, a license shall be renewed every two years. All
6 applications for renewal shall be filed with the Council and shall be accompanied by the
7 renewal fee in accordance with G.S. 90-178.19 and proof of current certification from NARM.
8 Compliance with NARM recertification requirements shall include (i) remaining in good
9 standing with NARM; (ii) maintaining current cardiopulmonary resuscitation (CPR) and
10 neonatal resuscitation certifications; and (iii) completing any continuing education
11 requirements. A license that has expired for failure to renew may be reinstated after the
12 applicant pays any late and renewal fees as required by G.S. 90-178.19 and complies with any
13 other rules adopted pursuant to this Article.

14 (b) Upon written request to the Council, the Council may grant a licensed midwife
15 inactive status. While inactive, the midwife shall not practice midwifery as defined in this
16 Article in this State and shall not be subject to license renewal requirements established by the
17 Council. A midwife may change the midwife's status from inactive to active by (i) submitting a
18 written request to the Council, and (ii) fulfilling the requirements for renewal described under
19 subsection (a) of this section.

20 (c) A midwife who does not seek inactive status and allows the license to expire after a
21 60-day grace period shall apply for a new license as prescribed in this Article.

22 **"§ 90-178.18. Reciprocity.**

23 The Council may, upon application and payment of proper fees, grant a license to a person
24 who resides in this State and has been licensed, certified, or registered to practice as a certified
25 professional midwife in another jurisdiction if that jurisdiction's standards of competency are
26 substantially equivalent to those provided in this Article in accordance with rules adopted by
27 the Council.

28 **"§ 90-178.19. Fees.**

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

33 (b) All salaries, compensation, and expenses incurred or allowed to carry out the
34 purposes of this Article shall be paid by the Council exclusively out of the fees received by the
35 Council as authorized by this Article or funds received from other sources. In no case shall any
36 salary, expense, or other obligation of the Council be charged against the State treasury.

37 **"§ 90-178.20. Suspension, revocation, and refusal to renew license.**

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

- 41 (1) Gives false information or withholds material information from the Council
42 in procuring or attempting to procure a license.
- 43 (2) Gives false information or withholds material information from the Council
44 during the course of an investigation conducted by the Council.
- 45 (3) Has been convicted of or pled guilty or no contest to a crime that indicates
46 the person is unfit or incompetent to practice midwifery as defined in this
47 Article or that indicates the person has deceived, defrauded, or endangered
48 the public.
- 49 (4) Has a habitual substance abuse problem or mental impairment that interferes
50 with his or her ability to provide appropriate care as established by this
51 Article or rules adopted by the Council.

- 1 (5) Has demonstrated gross negligence, incompetency, or misconduct in the
2 practice of midwifery as defined in this Article.
- 3 (6) Has had an application for licensure or a license to practice midwifery in
4 another jurisdiction denied, suspended, or revoked for reasons that would be
5 grounds for similar action in this State.
- 6 (7) Has willfully violated any provision of this Article or rules adopted by the
7 Council.

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

13 **"§ 90-178.21. Third-party reimbursement allowed; no requirement to use licensed**
14 **certified professional midwife.**

15 A certified professional midwife licensed pursuant to this Article may receive third-party
16 reimbursement from private agencies that provide coverage for maternity and obstetrical care.
17 A managed care organization or insurance company may not require a patient to be served by a
18 licensee instead of a licensed physician or nurse practitioner.

19 **"§ 90-178.22. Enjoining illegal practices; vicarious liability.**

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

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

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