

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

FILED SENATE  
Feb 19, 2013  
S.B. 106  
PRINCIPAL CLERK

S

D

SENATE DRS35055-LUFqq-36A (01/08)

Short Title: Home Birth Freedom Act.

(Public)

Sponsors: Senators Goolsby, Clodfelter, and Bingham (Primary Sponsors).

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  
6 Article to read:

7 "Article 10B.

8 "Certified Professional Midwives.

9 "**§ 90-178.10. Title.**

10 This Article may be cited as the "Home Birth Freedom 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 and setting for giving birth.
- 15 (2) Access to prenatal care and delivery services is limited by the inadequate  
16 number of providers of midwifery services, and the practice of midwifery  
17 may 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) Antepartal. – Occurring during pregnancy.
- 28 (2) Certified nurse midwife. – A person approved to practice nurse midwifery  
29 under Article 10A of this Chapter.
- 30 (3) Certified professional midwife (CPM). – A person who has obtained  
31 national certification from the North American Registry of Midwives  
32 (NARM).
- 33 (4) Consultation. – The exchange of information and advice regarding the  
34 client's condition and indicated treatment with a licensed physician or  
35 certified nurse midwife.



\* D R S 3 5 0 5 5 - L U F Q Q - 3 6 A \*

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

23    **§ 90-178.13. License required; exemptions.**

24    (a)    On or after January 1, 2014, no person shall practice or offer to practice midwifery  
25    as defined in this Article or otherwise indicate or imply that the person is a licensed certified  
26    professional midwife unless the person is currently licensed as provided in this Article.

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

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

44    **§ 90-178.14. The North Carolina Council of Certified Professional Midwives.**

45    (a)    Composition and Terms. – The North Carolina Council of Certified Professional  
46    Midwives is created. The Council shall consist of seven members who shall serve staggered  
47    terms. The Council members shall be appointed by the Secretary of Health and Human  
48    Services, and the initial Council members shall be appointed on or before October 1, 2013, as  
49    follows:

- 1           (1) Four certified professional midwives, one of whom shall serve for a term of  
2           four years, two of whom shall serve for terms of three years, and one of  
3           whom shall serve for a term of two years.
- 4           (2) One licensed physician who is knowledgeable in midwifery care who shall  
5           serve for a term of four years.
- 6           (3) One home birth consumer who shall serve for a term of four years.
- 7           (4) One certified nurse midwife who practices home birth who shall serve for a  
8           term of two years.

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

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

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

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

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

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

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

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

42 **"§ 90-178.15. Powers and duties of the Council.**

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

- 46           (1) Administer this Article.
- 47           (2) Issue interpretations of this Article.
- 48           (3) Adopt, amend, or repeal rules as may be necessary to carry out the  
49 provisions of this Article, including rules relating to the administration of  
50 medications consistent with a licensed certified professional midwife's  
51 training and scope of practice.

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

23 **"§ 90-178.16. Requirements for licensure.**

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

- 26          (1)   Completes an application on a form approved by the Council.
- 27          (2)   Has obtained a certification from NARM and currently holds the title of  
28          certified professional midwife (CPM).
- 29          (3)   On or after December 31, 2016, has graduated from or otherwise  
30          successfully completed a midwifery program or school that has either been:  
31          (i) accredited by an organization recognized by the United States  
32          Department of Education, including the Midwifery Education Accreditation  
33          Council (MEAC); or (ii) approved by the Council.
- 34          (4)   Submits proof to the Council of current cardiopulmonary resuscitation  
35          (CPR) certification and neonatal resuscitation (NPR) certification.
- 36          (5)   Has read, understands, and agrees to practice under the guidelines set forth  
37          in this Article and any rules adopted pursuant to this Article.
- 38          (6)   Pays the required fees in accordance with G.S. 90-178.20.

39 **"§ 90-178.17. Responsibilities of a licensed midwife; display of license.**

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

- 42          (1)   Provide care for the healthy woman who is expected to have a normal  
43          pregnancy, labor, birth, and postpartal phase in the setting of the mother's  
44          choice.
- 45          (2)   Ensure that the client has signed an informed consent form. This form shall  
46          include information to inform the client of the qualifications of the licensee.
- 47          (3)   Order routine antepartal or postpartal screening or laboratory analysis to be  
48          performed by a licensed laboratory or testing facility, when necessary.
- 49          (4)   Develop an emergency plan to be signed by the client and placed in the  
50          client's chart. The documentation shall also include referral and transfer  
51          plans for the client in the event of an emergency.

- 1           (5)   Determine the progress of labor and, when birth is imminent, be available  
2           until delivery is accomplished.  
3           (6)   Remain with the postpartal mother during the postpartal period until the  
4           conditions of the mother and newborn are stabilized.  
5           (7)   Instruct the parents regarding the requirements of newborn screening.  
6           (8)   Instruct the parents regarding the requirement of newborn hearing screening.  
7           (9)   Maintain a birth certificate for each birth in accordance with the  
8           requirements of Article 4 of Chapter 130A of the General Statutes.  
9           (10) Practice in compliance with the requirements of this Article and any rules  
10          adopted pursuant to this Article.

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

13          **"§ 90-178.18. License renewal; inactive status; lapsed license.**

14          (a)   An initial license to practice as a certified professional midwife shall be valid for  
15          three years. After the initial license expires, a license shall be renewed every two years. All  
16          applications for renewal shall be filed with the Council and shall be accompanied by the  
17          renewal fee in accordance with G.S. 90-178.20 and proof of current certification from NARM.  
18          Compliance with NARM recertification requirements shall include (i) remaining in good  
19          standing with NARM; (ii) maintaining current cardiopulmonary resuscitation (CPR) and  
20          neonatal resuscitation (NPR) certifications; and (iii) completing any continuing education  
21          requirements. A license that has expired for failure to renew may be reinstated after the  
22          applicant pays any late and renewal fees as required by G.S. 90-178.20 and complies with any  
23          other rules adopted pursuant to this Article.

24          (b)   Upon written request to the Council, the Council may grant a licensed midwife  
25          inactive status. While inactive, the midwife shall not practice midwifery in this State and shall  
26          not be subject to license renewal requirements established by the Council. A midwife may  
27          change the midwife's status from inactive to active by (i) submitting a written request to the  
28          Council; and (ii) fulfilling the requirements for renewal described under subsection (a) of this  
29          section.

30          (c)   A midwife who does not seek inactive status and allows the license to expire after a  
31          60-day grace period shall apply for a new license as prescribed in this Article.

32          **"§ 90-178.19. Reciprocity.**

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

38          **"§ 90-178.20. Fees.**

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

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

47          **"§ 90-178.21. Suspension, revocation, and refusal to renew license.**

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

- 1           (1)   Gives false information or withholds material information from the Council  
2           in procuring or attempting to procure a license.
- 3           (2)   Gives false information or withholds material information from the Council  
4           during the course of an investigation conducted by the Council.
- 5           (3)   Has been convicted of or pled guilty or no contest to a crime that indicates  
6           the person is unfit or incompetent to practice midwifery as defined in this  
7           Article or that indicates the person has deceived, defrauded, or endangered  
8           the public.
- 9           (4)   Has a habitual substance abuse problem or mental impairment that interferes  
10           with his or her ability to provide appropriate care as established by this  
11           Article or rules adopted by the Council.
- 12           (5)   Has demonstrated gross negligence, incompetency, or misconduct in the  
13           practice of midwifery as defined in this Article.
- 14           (6)   Has had an application for licensure or a license to practice midwifery in  
15           another jurisdiction denied, suspended, or revoked for reasons that would be  
16           grounds for similar action in this State.
- 17           (7)   Has willfully violated any provision of this Article or rules adopted by the  
18           Council.

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

24           "**§ 90-178.22. Third-party reimbursement allowed; no requirement to use licensed**  
25           **certified professional midwife.**

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

30           "**§ 90-178.23. Enjoining illegal practices; vicarious liability.**

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

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

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