

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

1

SENATE BILL 106

Short Title: Home Birth Freedom Act. (Public)

Sponsors: Senators Goolsby, Clodfelter, Bingham (Primary Sponsors); Allran, Cook, Kinnaird, Parmon, and Rabin.

Referred to: Health Care.

February 20, 2013

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.



- 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.