

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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HOUSE BILL 1169*

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

Sponsors: Representative Stevens (Primary Sponsor).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Health and Human Services, if favorable, Judiciary.

May 22, 2014

A BILL TO BE ENTITLED

1 AN ACT TO UPDATE AND MODERNIZE THE MIDWIFERY PRACTICE ACT, AS
2 RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
3 HEALTH AND HUMAN SERVICES.
4

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

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

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

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

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

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

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

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

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

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



1 Whereas, the American College of Obstetricians and Gynecologists and the
2 American College of Nurse-Midwives have jointly stated that obstetricians/gynecologists and
3 certified nurse-midwives "are experts in their respective fields of practice and are educated,
4 trained, and licensed, independent providers" and that obstetricians/gynecologists and certified
5 nurse-midwives "should have access to a system of care that fosters collaboration among
6 licensed, independent providers"; and

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

11 The General Assembly of North Carolina enacts:

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

14 **"§ 90-18.7. Limitations on nurse-midwives.**

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

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

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

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

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

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

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

36 **"§ 90-178.2. Definitions.**

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

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

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

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

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

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

24 **"§ 90-178.3. Regulation of midwifery.**

25 (a) No person shall practice or offer to practice or hold oneself out to practice
 26 midwifery unless approved ~~pursuant to~~ under this Article.

27 (b) A ~~person certified nurse-midwife approved pursuant to~~ under this Article may
 28 practice midwifery in a hospital or non-hospital ~~setting and~~ setting. The certified nurse-midwife
 29 shall ~~practice under the supervision of a physician licensed to practice medicine who is actively~~
 30 engaged in the practice of obstetrics consult, collaborate with, or refer to other providers
 31 licensed under this Article, if indicated by the health status of the patient. A registered
 32 nurse certified nurse-midwife approved pursuant to under this Article is authorized to write
 33 prescriptions for drugs in accordance with ~~the same conditions applicable to a nurse~~
 34 practitioner under G.S. 90-18.2(b); G.S. 90-18.7(b).

35 (b1) A certified nurse-midwife with less than 24 months and 2,400 hours of practice as a
 36 certified nurse-midwife shall: (i) have a collaborative provider agreement with a collaborating
 37 provider and (ii) maintain signed and dated copies of the collaborative provider agreement as
 38 required by practice guidelines and any rules adopted by the joint subcommittee of the North
 39 Carolina Medical Board and the Board of Nursing. If a collaborative provider agreement is
 40 terminated before the certified nurse-midwife acquires the level of experience required for
 41 approval under this Article, the certified nurse-midwife shall have 90 days from the date the
 42 agreement is terminated to enter into a collaborative provider agreement with a new
 43 collaborating provider. During the 90-day period, the certified nurse-midwife may continue to
 44 practice midwifery as defined under this Article.

45 (c) Graduate nurse midwife applicant status may be granted by the joint subcommittee
 46 in accordance with G.S. 90-178.4."

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

48 "(a) The joint subcommittee of the North Carolina Medical Board and the Board of
 49 Nursing created ~~pursuant to~~ under G.S. 90-18.2 shall administer the provisions of this Article
 50 and the rules adopted ~~pursuant to~~ under this Article; Provided, however, that actions of the joint
 51 subcommittee ~~pursuant to~~ under this Article shall not require approval by the North Carolina

1 Medical Board and the Board of Nursing. For purposes of this Article, the joint subcommittee
 2 shall be enlarged by ~~four~~seven additional members, including ~~two certified midwives~~five
 3 nurse-midwives appointed upon the recommendation of the North Carolina Affiliate of the
 4 American College of Nurse-Midwives and two obstetricians-physicians actively engaged in the
 5 practice of obstetrics who have had working experience with ~~midwives~~certified
 6 nurse-midwives."

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

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

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

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

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

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

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

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

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

43 **"§ 90-178.5. Qualifications for approval; approval; independent practice.**

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

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

1 (4) Pay the fee for application and approval.

2 (b) Upon submitting to the joint subcommittee evidence of completing 24 months and
3 2,400 hours of practice as a certified nurse-midwife pursuant to a collaborative provider
4 agreement, a certified nurse-midwife is authorized to practice midwifery independently in
5 accordance with this Article."

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

7 "**§ 90-178.7. Enforcement.**

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

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

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

21 "**§ 90-178.8. Limit vicarious liability.**

22 (a) No physician or physician assistant, including the physician assistant's employing or
23 supervising physician, licensed under Article 1 of this Chapter or nurse licensed under Article
24 9A of this Chapter shall be held liable for any civil damages as a result of the medical care or
25 treatment provided by the physician, physician assistant, or nurse when the following occur:

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

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

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

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

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

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

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

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

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