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SENATE DRS15168-LU-24B (12/12)

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

Sponsors: Senators Hartsell, Randleman, and Stein (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE AND MODERNIZE THE MIDWIFERY PRACTICE ACT.

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

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

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

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

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

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

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

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

25 Whereas, North Carolina is one of only six states that require certified
26 nurse-midwives to practice under the supervision of a physician; and

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

32 Whereas, the American College of Obstetricians and Gynecologists and the
33 American College of Nurse-Midwives have jointly stated that obstetricians/gynecologists and
34 certified nurse-midwives "are experts in their respective fields of practice and are educated,
35 trained, and licensed, independent providers" and that obstetricians/gynecologists and certified



1 nurse-midwives "should have access to a system of care that fosters collaboration among
 2 licensed, independent providers"; Now, therefore,
 3 The General Assembly of North Carolina enacts:

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

6 **"§ 90-18.7. Limitations on nurse-midwives.**

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

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

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

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

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

22 (c) The joint subcommittee of the North Carolina Medical Board and the Board of
 23 Nursing established under G.S. 90-178.4 shall adopt rules governing the approval of individual
 24 nurse-midwives to write prescriptions with any limitations the joint subcommittee deems is in
 25 the best interest of patient health and safety, consistent with the rules established for nurse
 26 practitioners under G.S. 90-18.2(b)."

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

28 **"§ 90-178.2. Definitions.**

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

30 (1) ~~"Interconceptional care" includes but is not limited to:~~

31 ~~a. Family planning;~~

32 ~~b. Screening for cancer of the breast and reproductive tract; and~~

33 ~~c. Screening for and management of minor infections of the~~
 34 ~~reproductive organs;~~

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

45 (2) ~~"Intrapartum care" includes but~~ Intrapartum care. – Care as described by the
 46 American College of Nurse-Midwives' Core Competencies for Basic
 47 Midwifery Practice that focuses on the facilitation of the physiologic birth
 48 process and includes, but is not limited to, the following:

49 ~~a. Attending women in uncomplicated labor;~~ Confirmation and
 50 assessment of labor and its progress.

- 1 b. ~~Assisting with spontaneous delivery of infants in vertex presentation~~
2 ~~from 37 to 42 weeks gestation;~~Identification of normal and
3 deviations from normal and appropriate interventions, including
4 management of complications, abnormal intrapartum events, and
5 emergencies.
- 6 b1. Management of spontaneous vaginal birth and appropriate third-stage
7 management, including the use of uterotonics.
- 8 c. ~~Performing amniotomy;~~amniotomy.
- 9 d. ~~Administering local anesthesia;~~anesthesia.
- 10 e. ~~Performing episiotomy and repair; and~~repair.
- 11 f. ~~Repairing lacerations associated with childbirth.~~
- 12 (3) ~~"Midwifery" means~~Midwifery. – The practice of care that includes, but is
13 not limited to, the act of providing primary, prenatal, intrapartum,
14 postpartum, newborn and interconceptional and newborn care. Midwifery is
15 practiced within a health care system that provides for consultation,
16 collaborative management, or referral as indicated by the health status of the
17 woman or newborn. Midwifery is practiced in accord with the current
18 Standards for Midwifery Practice, as defined by the American College of
19 Nurse-Midwives. The term does not include the practice of medicine by a
20 physician licensed to practice medicine when engaged in the practice of
21 medicine as defined by law, the performance of medical acts by a physician
22 assistant or nurse practitioner when performed in accordance with the rules
23 of the North Carolina Medical Board, the practice of nursing by a registered
24 nurse engaged in the practice of nursing as defined by law, or the rendering
25 of childbirth assistance in an emergency situation.
- 26 (4) ~~"Newborn care" includes~~Newborn care. – Care as described by the American
27 College of Nurse-Midwives' Core Competencies for Basic Midwifery
28 Practice that focuses on the newborn and includes, but is not limited to,
29 the following:
- 30 a. ~~Routine assistance to the newborn to establish respiration and~~
31 ~~maintain thermal stability;~~stability.
- 32 b. ~~Routine physical assessment including APGAR scoring;~~scoring.
- 33 c. ~~Vitamin K administration; and~~administration.
- 34 d. ~~Eye prophylaxis for ophthalmia neonatorum.~~
- 35 e. ~~Methods to facilitate newborn adaptation to extrauterine life,~~
36 ~~including stabilization, resuscitation, and emergency management as~~
37 ~~indicated.~~indicated.
- 38 (5) ~~"Postpartum care" includes~~Postpartum care. – Care as described by the
39 American College of Nurse-Midwives' Core Competencies for Basic
40 Midwifery Practice that focuses on management strategies and therapeutics
41 to facilitate a healthy puerperium and includes, but is not limited to, the
42 following:
- 43 a. ~~Management of the normal third stage of labor;~~labor.
- 44 b. ~~Administration of pitocin and methergine~~uterotonics after delivery of
45 the infant when ~~indicated; and~~indicated.
- 46 c. ~~Six weeks postpartum evaluation exam and initiation of family~~
47 ~~planning.~~
- 48 d. ~~Management of deviations from normal and appropriate~~
49 ~~interventions, including management of complications and~~
50 ~~emergencies.~~emergencies.

- 1 (6) ~~"Prenatal care" includes~~Prenatal care. – Care as described by the American
 2 College of Nurse-Midwives' Core Competencies for Basic Midwifery
 3 Practice that focuses on promotion of normal pregnancy using management
 4 strategies and therapeutics as indicated and includes, but is not limited to,
 5 the following:
 6 a. ~~Historical and physical assessment;~~Obtaining history with ongoing
 7 physical assessment of mother and fetus.
 8 b. ~~Obtaining and assessing the results of routine laboratory tests;~~
 9 ~~and tests.~~
 10 b1. Confirmation and dating of pregnancy.
 11 c. ~~Supervising the use of prescription and nonprescription medications,~~
 12 ~~such as prenatal vitamins, folic acid, iron, and nonprescription~~
 13 ~~medicines and iron.~~
 14 (7) Primary care. – Care as described by the American College of
 15 Nurse-Midwives' Core Competencies for Basic Midwifery Practice that is
 16 the provision of and referral to appropriate health care services and includes,
 17 but is not limited to, the following:
 18 a. Screening for cancer of the breast and reproductive tract.
 19 b. Screening for and management of minor infections of the
 20 reproductive organs.
 21 c. Gynecologic care, including family planning, perimenopause, and
 22 postmenopause.
 23 d. Management of common health problems, including infections,
 24 self-limiting conditions, and mild or stable presentations of chronic
 25 conditions, using consultation, collaboration, or referral to
 26 appropriate health care services, as indicated."

27 **SECTION 3.** G.S. 90-178.3(b) reads as rewritten:

28 "~~(b) A person certified nurse-midwife approved pursuant to this Article may practice~~
 29 ~~midwifery in a hospital or non-hospital setting and setting. The certified nurse-midwife shall~~
 30 ~~practice under the supervision of a physician licensed to practice medicine who is actively~~
 31 ~~engaged in the practice of obstetrics.~~within a health care system that provides for consultation,
 32 collaborative management, or referral as indicated by the health status of the patient. Midwifery
 33 care shall be consistent with the standards of care established by the American College of
 34 Nurse-Midwives. Every nurse-midwife shall provide each patient with information regarding or
 35 referral to other providers and services upon request of the patient or when the care required by
 36 the patient is not within the midwife's scope of practice. A registered nurse certified
 37 nurse-midwife approved pursuant to this Article is authorized to write prescriptions for drugs in
 38 accordance with the same conditions applicable to a nurse practitioner under
 39 G.S. 90-18.2(b); G.S. 90-18.7(b)."

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

41 "(a) The joint subcommittee of the North Carolina Medical Board and the Board of
 42 Nursing created pursuant to G.S. 90-18.2 shall administer the provisions of this Article and the
 43 rules adopted pursuant to this Article; Provided, however, that actions of the joint
 44 subcommittee pursuant to this Article shall not require approval by the North Carolina Medical
 45 Board and the Board of Nursing. For purposes of this Article, the joint subcommittee shall be
 46 enlarged by ~~four~~seven additional members, including ~~two certified midwives~~five
 47 nurse-midwives appointed upon the recommendation of the North Carolina affiliate of the
 48 American College of Nurse-Midwives and two obstetricians-physicians actively engaged in the
 49 practice of obstetrics who have had working experience with
 50 nurse-midwives."

1 **SECTION 5.** G.S. 90-178.4 is amended by adding the following new subsection to
2 read:

3 "(a1) The joint subcommittee shall adopt rules requiring a certified nurse-midwife who
4 attends a planned birth outside of a hospital setting to obtain a signed informed-consent
5 agreement from the certified nurse-midwife's patient. The informed-consent agreement shall
6 include information about the liability insurance coverage carried by the certified
7 nurse-midwife."

8 **SECTION 6.** G.S. 90-178.5 reads as rewritten:

9 "**§ 90-178.5. Qualifications for approval.**

10 In order to be approved by the joint subcommittee pursuant to this Article, a person
11 ~~shall~~ shall comply with each of the following:

- 12 (1) Complete an application on a form furnished by the joint
13 ~~subcommittee;~~ subcommittee.
- 14 (2) Submit evidence of certification by the ~~American College of~~
15 ~~Nurse-Midwives;~~ American Midwifery Certification Board.
- 16 ~~(3) Submit evidence of arrangements for physician supervision; and~~
- 17 (4) Pay the fee for application and approval."

18 **SECTION 7.** Article 10A of Chapter 90 of the General Statutes is amended by
19 adding the following new section to read:

20 "**§ 90-178.8. Limit vicarious liability.**

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

- 25 (1) The physician, physician assistant, or nurse is providing medical care or
26 treatment to a woman or infant in an emergency situation; and
- 27 (2) The emergency situation arises during the delivery or birth of the infant as a
28 consequence of the care provided by a nurse-midwife approved under this
29 Article who attends a planned birth outside of a hospital setting.

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

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

- 35 (1) The facility is providing medical care or treatment to a woman or infant in
36 an emergency situation; and
- 37 (2) The emergency situation arises during the delivery or birth of the infant as a
38 consequence of the care provided by a nurse-midwife approved under this
39 Article who attends a planned birth outside of a hospital setting.

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

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

43 **SECTION 8.** This act is effective when it becomes law.