

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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**HOUSE BILL 204*
PROPOSED COMMITTEE SUBSTITUTE H204-PCS10362-TJ-13**

Short Title: Update/Modernize/Midwifery Practice Act.

(Public)

Sponsors:

Referred to:

March 5, 2013

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

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

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

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

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

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

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

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

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

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

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

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



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1 nurse-midwives "should have access to a system of care that fosters collaboration among
2 licensed, independent providers"; and

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

7 The General Assembly of North Carolina enacts:

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

10 **"§ 90-18.7. Limitations on nurse-midwives.**

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

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

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

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

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

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

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

32 **"§ 90-178.2. Definitions.**

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

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

44 (2) "Interconceptional care" includes but is not limited to:

45 a. Family planning;

46 b.a. Screening for cancer of the breast and reproductive tract;

47 e-b. Screening for and management of minor infections of the
48 reproductive organs;

49 c. Gynecologic care, including family planning, perimenopause, and
50 postmenopause care; and

- 1 d. Management of common health problems, including infections,
 2 self-limiting conditions, and mild or stable presentations of chronic
 3 conditions using consultation, collaboration, or referral to appropriate
 4 health care services if indicated by the health status of the patient.
- 5 (3) ~~"Intrapartum care" includes but~~Intrapartum care. – Care that focuses on the
 6 facilitation of the physiologic birth process and includes but is not limited
 7 ~~to:~~to the following:
- 8 a. ~~Attending women in uncomplicated labor;~~Confirmation and
 9 assessment of labor and its progress.
- 10 b. ~~Assisting with spontaneous delivery of infants in vertex presentation~~
 11 ~~from 37 to 42 weeks gestation;~~Identification of normal and
 12 ~~deviations from normal and appropriate interventions, including~~
 13 ~~management of complications, abnormal intrapartum events, and~~
 14 ~~emergencies.~~
- 15 b1. Management of spontaneous vaginal birth and appropriate third-stage
 16 management, including the use of uterotonics.
- 17 c. ~~Performing amniotomy;~~amniotomy.
- 18 d. ~~Administering local anesthesia;~~anesthesia.
- 19 e. ~~Performing episiotomy and repair; and~~repair.
- 20 f. ~~Repairing lacerations associated with childbirth.~~
- 21 (4) ~~"Midwifery" means the~~Midwifery. – The act of providing prenatal,
 22 ~~intrapartum, postpartum, newborn and interconceptional care. The term does~~
 23 ~~not include the practice of medicine by a physician licensed to practice~~
 24 ~~medicine when engaged in the practice of medicine as defined by law, the~~
 25 ~~performance of medical acts by a physician assistant or nurse practitioner~~
 26 ~~when performed in accordance with the rules of the North Carolina Medical~~
 27 ~~Board, the practice of nursing by a registered nurse engaged in the practice~~
 28 ~~of nursing as defined by law, or the rendering of childbirth assistance in an~~
 29 ~~emergency situation. law, or the performance of abortion, as defined in~~
 30 ~~G.S. 90-21.6.~~
- 31 (5) ~~"Newborn care" includes~~Newborn care. – Care that focuses on the newborn
 32 ~~and includes, but is not limited to:~~and includes, but is not limited to, the following:
- 33 a. ~~Routine assistance to the newborn to establish respiration and~~
 34 ~~maintain thermal stability;~~stability.
- 35 b. ~~Routine physical assessment including APGAR scoring;~~scoring.
- 36 c. ~~Vitamin K administration; and~~administration.
- 37 d. ~~Eye prophylaxis for ophthalmia neonatorum.~~
- 38 e. ~~Methods to facilitate newborn adaptation to extrauterine life,~~
 39 ~~including stabilization, resuscitation, and emergency management as~~
 40 ~~indicated.~~
- 41 (6) ~~"Postpartum care" includes~~Postpartum care. – Care that focuses on
 42 ~~management strategies and therapeutics to facilitate a healthy puerperium~~
 43 ~~and includes, but is not limited to:~~and includes, but is not limited to, the following:
- 44 a. ~~Management of the normal third stage of labor;~~labor.
- 45 b. ~~Administration of pitocin and methergine~~uterotonics after delivery of
 46 the infant when ~~indicated; and~~indicated.
- 47 c. ~~Six weeks postpartum evaluation exam and initiation of family~~
 48 ~~planning.~~
- 49 d. ~~Management of deviations from normal and appropriate~~
 50 ~~interventions, including management of complications and~~
 51 ~~emergencies.~~

1 (7) ~~"Prenatal care" includes~~Prenatal care. – Care that focuses on promotion of
2 normal pregnancy using management strategies and therapeutics as indicated
3 and includes, but is not limited to, the following:

4 a. ~~Historical and physical assessment;~~Obtaining history with ongoing
5 physical assessment of mother and fetus.

6 b. ~~Obtaining and assessing the results of routine laboratory tests;~~
7 ~~and tests.~~

8 b1. Confirmation and dating of pregnancy.

9 c. Supervising the use of prescription and nonprescription medications,
10 such as prenatal vitamins, folic acid, iron, and nonprescription
11 medicines and iron."

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

13 **"§ 90-178.3. Regulation of midwifery.**

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

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

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

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

27 "(a) The joint subcommittee of the North Carolina Medical Board and the Board of
28 Nursing created ~~pursuant to~~under G.S. 90-18.2 shall administer the provisions of this Article
29 and the rules adopted ~~pursuant to~~under this Article; Provided, however, that actions of the joint
30 subcommittee ~~pursuant to~~under this Article shall not require approval by the North Carolina
31 Medical Board and the Board of Nursing. For purposes of this Article, the joint subcommittee
32 shall be enlarged by ~~four~~seven additional members, including ~~two certified midwives~~five
33 nurse-midwives appointed upon the recommendation of the North Carolina Affiliate of the
34 American College of Nurse-Midwives and two obstetricians-physicians actively engaged in the
35 practice of obstetrics who have had working experience with ~~midwives, certified~~
36 nurse-midwives."

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

39 "(a1) Any certified nurse-midwife who attends a planned birth outside of a hospital
40 setting shall obtain a signed informed consent agreement from the certified nurse-midwife's
41 patient, which shall include:

42 (1) Information about the risks associated with a planned birth outside of the
43 hospital.

44 (2) A clear assumption of those risks by the patient.

45 (3) An agreement by the patient to consent to transfer to a health care facility
46 when and if deemed necessary by the certified nurse-midwife.

47 (4) If the certified nurse-midwife is not covered under a policy of liability
48 insurance, a clear disclosure to that effect.

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

- 1 (1) The name of and distance to the nearest health care facility licensed under
2 Chapter 122C or 131E of the General Statutes that has at least one operating
3 room.
4 (2) The procedures for transfer, including mode(s) of transportation and
5 method(s) for notifying the relevant health care facility of impending
6 transfer."

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

8 "(b) The joint subcommittee shall adopt rules ~~pursuant to~~under this Article to establish
9 each of the following:

- 10 (1) A fee which shall cover application and initial approval up to a maximum of
11 one hundred dollars ~~(\$100.00);~~(\$100.00).
12 (2) An annual renewal fee to be paid by January 1 of each year by persons
13 approved ~~pursuant to~~under this Article up to a maximum of fifty dollars
14 ~~(\$50.00);~~(\$50.00).
15 (3) A reinstatement fee for a lapsed approval up to a maximum of five dollars
16 ~~(\$5.00);~~(\$5.00).
17 (4) The form and contents of the applications which shall include information
18 related to the applicant's education and certification by the ~~American College~~
19 ~~of Nurse-Midwives;~~ American Midwifery Certification Board.
20 ~~(5) The procedure for establishing physician supervision as required by this~~
21 ~~Article."~~

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

23 "**§ 90-178.5. Qualifications for approval.**

24 In order to be approved by the joint subcommittee ~~pursuant to~~under this Article, a person
25 ~~shall;~~shall comply with each of the following:

- 26 (1) Complete an application on a form furnished by the joint
27 ~~subcommittee;~~subcommittee.
28 (2) Submit evidence of certification by the ~~American College of~~
29 ~~Nurse-Midwives;~~ American Midwifery Certification Board.
30 ~~(3) Submit evidence of arrangements for physician supervision; and~~
31 (4) Pay the fee for application and approval."

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

33 "**§ 90-178.7. Enforcement.**

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

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

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

47 "**§ 90-178.8. Limit vicarious liability.**

48 (a) No physician or physician assistant, including the physician assistant's employing or
49 supervising physician, licensed under Article 1 of this Chapter or nurse licensed under Article
50 9A of this Chapter, shall be held liable for any civil damages as a result of the medical care or
51 treatment provided by the physician, physician assistant, or nurse when:

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

6 However, the physician, physician assistant, or nurse shall remain liable for his or her own

7 independent acts of negligence.

8 (b) No health care facility licensed under Chapter 122C or 131E of the General Statutes

9 shall be held liable for civil damages as a result of the medical care or treatment provided by

10 the facility when:

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

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

17 (c) Nothing in this section shall be construed to limit liability when the civil damages to

18 this section are the result of gross negligence or willful or wanton misconduct."

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