

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL DRS45145-NBf-35

Short Title: Birth Freedom Act.

(Public)

Sponsors: Senators Sanderson and Peterson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE CERTIFIED LICENSED MIDWIVES LICENSING ACT.
3 The General Assembly of North Carolina enacts:
4 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 10B.

7 "Certified Professional Midwives.

8 **"§ 90-178.10. Title.**

9 This Article may be cited as the "Birth Freedom Act."

10 **"§ 90-178.11. Findings.**

11 The General Assembly makes the following findings:

- 12 (1) There is a need for a person to have the freedom to choose the manner, cost,
13 attendant, and setting for giving birth.
- 14 (2) Access to prenatal care and delivery services is limited by the inadequate
15 number of providers of maternity services, and the practice of midwifery may
16 help to reduce this shortage.
- 17 (3) There is a need for the safe and effective delivery of newborn babies and the
18 health, safety, and welfare of their mothers in the delivery process.
- 19 (4) In the interest of public health, the State should promote the regulation of the
20 practice of midwifery for the purpose of protecting the health and welfare of
21 women and infants.
- 22 (5) Midwifery is a profession in its own right, and it is not the practice of
23 medicine.

24 **"§ 90-178.12. Definitions.**

25 The following definitions apply in this Article:

- 26 (1) AMCB. – American Midwifery Certification Board.
- 27 (2) Antepartal. – Occurring during pregnancy.
- 28 (3) Certified Nurse-Midwife (CNM). – A person approved to practice
29 Nurse-Midwifery under Article 10A of this Chapter.
- 30 (4) Certified Professional Midwife (CPM). – A person who has obtained national
31 certification from the North American Registry of Midwives (NARM).
- 32 (5) Consultation. – The exchange of information and advice regarding the client's
33 condition and indicated treatment with a licensed physician or certified nurse
34 midwife.
- 35 (6) Council. – The North Carolina Council of Midwives, a subcommittee of the
36 Division of Health Service Regulation.



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- 1 (7) Department. – The North Carolina Department of Health and Human
2 Services.
- 3 (8) Division. – The Division of Health Service Regulation within the Department
4 of Health and Human Services to which the North Carolina Council of
5 Midwives reports.
- 6 (9) Health care provider. – As defined in G.S. 90-21.11.
- 7 (10) ICM. – International Confederation of Midwives.
- 8 (11) Intrapartal. – Occurring during the process of giving birth.
- 9 (12) Licensed physician. – A physician duly licensed in this State to practice
10 medicine under Article 1 of this Chapter.
- 11 (13) Licensee. – A Certified Professional Midwife who holds the CPM credential
12 and is licensed to practice midwifery under this Article.
- 13 (14) Midwife. – A person who is trained to: (i) give the necessary care and advice
14 to women during pregnancy, labor, and the post-birth period; (ii) conduct
15 normal deliveries as the midwife's own responsibility; (iii) care for the newly
16 born infant; and (iv) recognize the warning signs of abnormal conditions
17 requiring referral to or collaboration with a licensed physician or other
18 licensed health care provider.
- 19 (15) Midwifery. – The practice of midwifery as defined under G.S. 90-178.2(3).
- 20 (16) NACPM. – The National Association of Certified Professional Midwives.
- 21 (17) NARM. – The North American Registry of Midwives.
- 22 (18) Postpartal. – Occurring subsequent to birth.
- 23 (19) US MERA. – United States Midwifery Education, Regulation, and
24 Association.

25 **§ 90-178.13. License required; exemptions.**

26 (a) On or after January 1, 2020, no person shall practice or offer to practice midwifery as
27 defined in this Article or otherwise indicate or imply that the person is a licensed Certified
28 Professional Midwife unless the person is currently licensed as provided in this Article.

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

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

46 **§ 90-178.14. The North Carolina Council of Midwives.**

47 (a) Composition and Terms. – The North Carolina Council of Midwives is created. The
48 Council shall consist of seven members who shall serve staggered terms. The Council members
49 shall be appointed by the Secretary of the Department of Health and Human Services, and the
50 initial Council members shall be appointed on or before October 1, 2019, as 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 whom
3 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 two years.
- 7 (4) One Certified Nurse-Midwife experienced in out-of-hospital birth who shall
8 serve for a term of two years.

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

12 (b) Qualifications. – Each Council member shall be a resident of this State. The members
13 who are Certified Professional Midwives shall hold current licenses from the Council and remain
14 in good standing with the Council during their terms. The members who are other health care
15 providers shall hold current licenses in their respective professions and remain in good standing
16 with their respective licensing boards during their terms.

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

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

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

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

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

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

43 **"§ 90-178.15. Powers and duties of the Council.**

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

- 47 (1) Administer this Article.
- 48 (2) Issue interpretations of this Article.
- 49 (3) Adopt, amend, or repeal rules as may be necessary to carry out the provisions
50 of this Article, including rules relating to the administration of medications

1 consistent with a licensed Certified Professional Midwife's training and scope
2 of practice.

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

25 **"§ 90-178.16. Requirements for licensure.**

26 An applicant shall be licensed to practice as a Certified Professional Midwife under this
27 Article if the applicant meets all of the following requirements:

- 28 (1) Completes an application on a form approved by the Council.
- 29 (2) Has obtained a certification from North American Registry of Midwives
30 (NARM) and currently holds the title of Certified Professional Midwife
31 (CPM).
- 32 (3) On or after December 31, 2021, and in accordance with US MERA guidelines,
33 has graduated from or otherwise successfully completed a midwifery program
34 or school that has either been: (i) accredited by an organization recognized by
35 the United States Department of Education, including the Midwifery
36 Education Accreditation Council (MEAC) and Accreditation Commission for
37 Midwifery Education (ACME), or (ii) approved by the Council.
- 38 (4) Submits proof to the Council of current cardiopulmonary resuscitation (CPR)
39 certification and neonatal resuscitation (NPR) certification.
- 40 (5) Has read, understands, and agrees to practice under the guidelines set forth in
41 this Article and any rules adopted pursuant to this Article.
- 42 (6) Pays the required fees in accordance with G.S. 90-178.20.

43 **"§ 90-178.17. Responsibilities of a licensed midwife; display of license.**

44 (a) A Certified Professional Midwife licensed under this Article shall practice according
45 to the National Association of Certified Professional Midwives (NACPM) Standards of Practice
46 and shall have the following responsibilities:

- 47 (1) Provide care for the healthy woman who is expected to have a normal
48 pregnancy, labor, birth, and postpartal phase in the setting of the mother's
49 choice.
- 50 (2) Ensure that the client has signed an informed consent form. This form shall
51 include information to inform the client of the qualifications of the licensee.

- 1 (3) Order routine antepartal or postpartal screening or laboratory analysis to be
2 performed by a licensed laboratory or testing facility, when necessary.
- 3 (4) Develop an emergency plan to be signed by the client and placed in the client's
4 chart. The documentation shall also include referral and transfer plans for the
5 client in the event of an emergency.
- 6 (5) Determine the progress of labor, monitor fetal and maternal status, and when
7 labor is well-established, be available until delivery is accomplished.
- 8 (6) Remain with the mother during the postpartal period until the conditions of
9 the mother and newborn are stabilized.
- 10 (7) Instruct the parents regarding the requirements of newborn screening.
- 11 (8) Instruct the parents regarding the requirement of newborn hearing screening.
- 12 (9) Submit and maintain a birth certificate for each birth in accordance with the
13 requirements of Article 4 of Chapter 130A of the General Statutes.
- 14 (10) Practice in compliance with the requirements of this Article and any rules
15 adopted pursuant to this Article.
- 16 (11) On or before December 31, 2021, demonstrate successful completion of a
17 Midwifery Bridge Certificate consisting of continuing education in
18 emergency skills for pregnancy, birth, newborn care, and other midwifery
19 topics addressing the ICM Core Competencies as determined by US MERA.

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

22 "**§ 90-178.18. License renewal; inactive status; lapsed license.**"

23 (a) An initial license to practice as a Certified Professional Midwife shall be valid for
24 three years. After the initial license expires, a license shall be renewed every two years. All
25 applications for renewal shall be filed with the Council and shall be accompanied by the renewal
26 fee in accordance with G.S. 90-178.20 and proof of current certification from NARM.
27 Compliance with NARM recertification requirements shall include (i) remaining in good
28 standing with NARM or AMCB, (ii) maintaining current cardiopulmonary resuscitation (CPR)
29 and neonatal resuscitation (NPR) certifications, and (iii) completing any continuing education
30 requirements. A license that has expired for failure to renew may be reinstated after the applicant
31 pays any late and renewal fees as required by G.S. 90-178.20 and complies with any other rules
32 adopted pursuant to this Article.

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

38 (c) A midwife who does not seek inactive status and allows the license to expire after a
39 90-day grace period shall apply for a new license as prescribed in this Article.

40 "**§ 90-178.19. Reciprocity.**"

41 The Council may, upon application and payment of proper fees, grant a license to an
42 individual who resides in this State and has been licensed, certified, or registered to practice as a
43 midwife in another jurisdiction if that jurisdiction's standards of competency are substantially
44 equivalent to those provided in this Article in accordance with rules adopted by the Council.

45 "**§ 90-178.20. Fees.**"

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

50 (b) All salaries, compensation, and expenses incurred or allowed to carry out the purposes
51 of this Article shall be paid by the Council exclusively out of the fees received by the Council as

1 authorized by this Article or funds received from other sources. In no case shall any salary,
2 expense, or other obligation of the Council be charged against the State treasury.

3 **"§ 90-178.21. Suspension, revocation, and refusal to renew license.**

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

6 (1) Gives false information or withholds material information from the Council
7 in procuring or attempting to procure a license.

8 (2) Gives false information or withholds material information from the Council
9 during the course of an investigation conducted by the Council.

10 (3) Has been convicted of or pled guilty or no contest to a crime that indicates the
11 person is unfit or incompetent to practice midwifery as defined in this Article
12 or that indicates the person has deceived, defrauded, or endangered the public.

13 (4) Has a habitual substance abuse problem or mental impairment that interferes
14 with his or her ability to provide appropriate care as established by this Article
15 or rules adopted by the Council.

16 (5) Has demonstrated gross negligence, incompetency, or misconduct in the
17 practice of midwifery as defined in this Article.

18 (6) Has had an application for licensure or a license to practice midwifery in
19 another jurisdiction denied, suspended, or revoked for reasons that would be
20 grounds for similar action in this State.

21 (7) Has willfully violated any provision of this Article or rules adopted by the
22 Council.

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

28 **"§ 90-178.22. Enjoining illegal practices; vicarious liability.**

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

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

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