

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H.B. 772
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10428-NBf-34

Short Title: Access Midwives Act. (Public)

Sponsors: Representatives Fisher, Lambeth, Hurley, and Carney (Primary Sponsors).

Referred to:

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 Article
6 to read:

7 "Article 10B.

8 "Certified Professional Midwives.

9 **"§ 90-178.10. Title.**

10 This Article may be cited as the "Access Midwives 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 attendant, and setting for giving birth.
- 15 (2) Access to prenatal care and delivery services is limited by the inadequate
16 number of providers of maternity services, and the practice of midwifery may
17 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) AMCB. – American Midwifery Certification Board.
- 28 (2) Antepartal. – Occurring during pregnancy.
- 29 (3) Certified Nurse-Midwife (CNM). – A person approved to practice
30 Nurse-Midwifery under Article 10A of this Chapter.
- 31 (4) Certified Professional Midwife (CPM). – A person who has obtained national
32 certification from the North American Registry of Midwives (NARM).
- 33 (5) Consultation. – The exchange of information and advice regarding the client's
34 condition and indicated treatment with a licensed physician or certified nurse
35 midwife.



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

27 **"§ 90-178.13. License required; exemptions.**

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

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

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

48 **"§ 90-178.14. The North Carolina Council of Midwives.**

49 (a) Composition and Terms. – The North Carolina Council of Midwives is created. The
50 Council shall consist of seven members who shall serve staggered terms. The Council members

1 shall be appointed by the Secretary of the Department of Health and Human Services, and the
2 initial Council members shall be appointed on or before October 1, 2019, as follows:

- 3 (1) Four Certified Professional Midwives, one of whom shall serve for a term of
4 four years, two of whom shall serve for terms of three years, and one of whom
5 shall serve for a term of two years.
- 6 (2) One licensed physician who is knowledgeable in midwifery care who shall
7 serve for a term of four years.
- 8 (3) One home birth consumer who shall serve for a term of two years.
- 9 (4) One Certified Nurse-Midwife experience in out-of-hospital birth who shall
10 serve for a term of two years.

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

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

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

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

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

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

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

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

45 **"§ 90-178.15. Powers and duties of the Council.**

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

- 49 (1) Administer this Article.
- 50 (2) Issue interpretations of this Article.

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

27 **"§ 90-178.16. Requirements for licensure.**

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

- 30 (1) Completes an application on a form approved by the Council.
- 31 (2) Has obtained a certification from the North American Registry of Midwives
32 (NARM) and currently holds the title of Certified Professional Midwife
33 (CPM).
- 34 (3) On or after December 31, 2021, and in accordance with US MERA guidelines,
35 has graduated from or otherwise successfully completed a midwifery program
36 or school that has either been (i) accredited by an organization recognized by
37 the United States Department of Education, including the Midwifery
38 Education Accreditation Council (MEAC) and Accreditation Commission for
39 Midwifery Education (ACME), or (ii) approved by the Council.
- 40 (4) Submits proof to the Council of current cardiopulmonary resuscitation (CPR)
41 certification and neonatal resuscitation (NPR) certification.
- 42 (5) Has read, understands, and agrees to practice under the guidelines set forth in
43 this Article and any rules adopted pursuant to this Article.
- 44 (6) Pays the required fees in accordance with G.S. 90-178.20.
- 45 (7) On or before December 31, 2021, demonstrates successful completion of a
46 Midwifery Bridge Certificate consisting of continuing education in
47 emergency skills for pregnancy, birth, newborn care, and other midwifery
48 topics addressing the ICM Core Competencies as determined by US MERA.

49 **"§ 90-178.17. Responsibilities of a licensed midwife; display of license.**

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

- 4 (1) Provide care for the healthy woman who is expected to have a normal
5 pregnancy, labor, birth, and postpartal phase in the setting of the mother's
6 choice.
- 7 (2) Ensure that the client has signed an informed consent form. This form shall
8 include information to inform the client of the qualifications of the licensee.
- 9 (3) Order routine antepartal or postpartal screening or laboratory analysis to be
10 performed by a licensed laboratory or testing facility, when necessary.
- 11 (4) Develop an emergency plan to be signed by the client and placed in the client's
12 chart. The documentation shall also include referral and transfer plans for the
13 client in the event of an emergency.
- 14 (5) Determine the progress of labor, monitor fetal and maternal status, and when
15 labor is well-established, be available until delivery is accomplished.
- 16 (6) Remain with the mother during the postpartal period until the conditions of
17 the mother and newborn are stabilized.
- 18 (7) Instruct the parents regarding the requirements of newborn screening.
- 19 (8) Instruct the parents regarding the requirement of newborn hearing screening.
- 20 (9) Submit and maintain a birth certificate for each birth in accordance with the
21 requirements of Article 4 of Chapter 130A of the General Statutes.
- 22 (10) Practice in compliance with the requirements of this Article and any rules
23 adopted pursuant to this Article.

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

26 **"§ 90-178.18. License renewal; inactive status; lapsed license.**

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

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

42 (c) A midwife who does not seek inactive status and allows the license to expire after a
43 90-day grace period shall apply for a new license as prescribed in this Article.

44 **"§ 90-178.19. Reciprocity.**

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

49 **"§ 90-178.20. Fees.**

50 (a) All fees shall be set by the Council, in consultation with the Division, pursuant to
51 rules adopted under this Article. All fees payable to the Council shall be deposited in the name

1 of the Council in financial institutions designated by the Council as official depositories and shall
2 be used to pay all expenses incurred in carrying out the purposes of this Article.

3 (b) All salaries, compensation, and expenses incurred or allowed to carry out the purposes
4 of this Article shall be paid by the Council exclusively out of the fees received by the Council as
5 authorized by this Article or funds received from other sources. In no case shall any salary,
6 expense, or other obligation of the Council be charged against the State treasury.

7 **"§ 90-178.21. Suspension, revocation, and refusal to renew license.**

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

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

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

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

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

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

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

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

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

32 **"§ 90-178.22. Enjoining illegal practices; vicarious liability.**

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

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

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