Article 10A.

Practice of Midwifery.

§ 90-178.1. Title.

This Article shall be known and may be cited as the Midwifery Practice Act. (1983, c. 897, s. 1.)

§ 90-178.2. Definitions.

The following definitions apply in this Article:

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

(1a) Collaborating provider. – A physician licensed to practice medicine under Article 1 of this Chapter for a minimum of four years and has a minimum of 8,000 hours of practice and who is or has engaged in the practice of obstetrics or a Certified Nurse Midwife who has been approved to practice midwifery under this Article for a minimum of four years and 8,000 hours.

(1b) Collaborative provider agreement. – A formal, written agreement between a collaborating provider and a Certified Nurse Midwife with less than 24 months and 4,000 hours of practice as a Certified Nurse Midwife to provide consultation and collaborative assistance or guidance.

(1c) "Interconceptional care" includes, but is not limited to, the following:

a. Gynecologic care, family planning, perimenopause care, and postmenopause care.
b. Screening for cancer of the breast and reproductive tract.
c. Screening for and management of minor infections of the reproductive organs.

(2) Intrapartum care. – Care that focuses on the facilitation of the physiologic birth process and includes, but is not limited to, the following:

a. Confirmation and assessment of labor and its progress.
b. Identification of normal and deviations from normal and appropriate interventions, including management of complications, abnormal intrapartum events, and emergencies.
b1. Management of spontaneous vaginal birth and appropriate third-stage management, including the use of uterotonics.
c. Performing amniotomy.
d. Administering local anesthesia.
e. Performing episiotomy and repair.
f. Repairing lacerations associated with childbirth.

(3) Midwifery. – The act of providing prenatal, intrapartum, postpartum, newborn and interconceptional care. The term does not include the practice of medicine by a physician licensed to practice medicine when engaged in the practice of medicine as defined by law, the performance of medical acts by a physician assistant or nurse practitioner when performed in accordance with the rules of the North Carolina Medical Board, the practice of nursing by a registered nurse engaged in the practice of nursing as defined by law, or the performance of abortion, as defined in G.S. 90-21.81.

(4) Newborn care. – Care that focuses on the newborn and includes, but is not limited to, the following:
   a. Routine assistance to the newborn to establish respiration and maintain thermal stability.
   b. Routine physical assessment including APGAR scoring.
   c. Vitamin K administration.
   d. Eye prophylaxis for opthalmia neonatorum.
   e. Methods to facilitate newborn adaptation to extrauterine life, including stabilization, resuscitation, and emergency management as indicated.

(5) Postpartum care. – Care that focuses on management strategies and therapeutics to facilitate a healthy puerperium and includes, but is not limited to, the following:
   a. Management of the normal third stage of labor.
   b. Administration of uterotonics after delivery of the infant when indicated.
   c. Six weeks postpartum evaluation exam and initiation of family planning.
   d. Management of deviations from normal and appropriate interventions, including management of complications and emergencies.

(6) Prenatal care. – Care that focuses on promotion of a healthy pregnancy using management strategies and therapeutics as indicated and includes, but is not limited to, the following:
   a. Obtaining history with ongoing physical assessment of mother and fetus.
   b. Obtaining and assessing the results of routine laboratory tests.
   b1. Confirmation and dating of pregnancy.
   c. Supervising the use of prescription and nonprescription medications, such as prenatal vitamins, folic acid, and iron. (1983, c. 897, s. 1; 1995, c. 94, s. 30; 2023-14, s. 4.3(b); 2023-79, s. 2(a), (b).)

§ 90-178.3. Regulation of midwifery.

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

(b) A Certified Nurse Midwife approved under this Article may practice midwifery in a hospital or non-hospital setting. The Certified Nurse Midwife shall consult, collaborate with, or refer to other providers licensed under this Article, if indicated by the health status of the patient. A Certified Nurse Midwife approved under this Article is authorized to write prescriptions for drugs in accordance with G.S. 90-18.8(b).

(b1) A Certified Nurse Midwife with less than 24 months and 4,000 hours of practice as a Certified Nurse Midwife shall (i) have a collaborative provider agreement with a collaborating provider and (ii) maintain signed and dated copies of the collaborative provider agreement as required by practice guidelines and any rules adopted by the joint subcommittee of the North Carolina Medical Board and the Board of Nursing. If a collaborative provider agreement is terminated before the Certified Nurse Midwife acquires the level of experience required for practice without a collaborative provider agreement under this Article, the Certified Nurse Midwife shall have 90 days from the date the agreement is terminated to enter into a collaborative provider agreement with a new collaborating provider. During the 90-day period, the Certified Nurse Midwife may continue to practice midwifery as defined under this Article.

(c) Graduate nurse midwife applicant status may be granted by the joint subcommittee in accordance with G.S. 90-178.4. (1983, c. 897, s. 1; 2000-140, s. 60; 2023-14, s. 4.3(c).)

§ 90-178.4. Administration.

(a) The joint subcommittee of the North Carolina Medical Board and the Board of Nursing created pursuant to G.S. 90-18.2 shall administer the provisions of this Article and the rules adopted pursuant to this Article; Provided, however, that actions of the joint subcommittee pursuant to this Article shall not require approval by the North Carolina Medical Board and the Board of Nursing. For purposes of this Article, the joint subcommittee shall be enlarged by four additional members, including two certified midwives and two obstetricians who have had working experience with midwives.

(a1) Any Certified Nurse Midwife who attends a planned birth outside of a hospital setting shall discuss with the patient the associated risks and obtain a signed informed consent agreement from the Certified Nurse Midwife's patient that shall include:

(1) Information about the risks associated with a planned birth outside of the hospital.
(2) A clear assumption of those risks by the patient.
(3) An agreement by the patient to consent to transfer to a health care facility when and if deemed necessary by the Certified Nurse Midwife.
(4) If the Certified Nurse Midwife is not covered under a policy of liability insurance, a clear disclosure to that effect.
(5) The joint subcommittee shall develop the contents of an informed consent agreement form to be used by a Certified Nurse Midwife when obtaining informed consent.

(a2) Any Certified Nurse Midwife who attends a planned birth outside of a hospital setting shall provide to each patient a detailed, written plan for emergent and nonemergent transfer, which shall include:

(1) The name of and distance to the nearest health care facility licensed under Chapter 122C or Chapter 131E of the General Statutes that has at least one operating room.
(2) The procedures for transfer, including modes of transportation and methods for notifying the relevant health care facility of impending transfer.
(3) An affirmation that the relevant health care facility has been notified of the plan for emergent and nonemergent transfer by the Certified Nurse Midwife.

(a3) Planned home births attended by a Certified Nurse Midwife shall be limited to low-risk pregnancies. Pregnancies deemed inadvisable for home births by the American College of

Obstetricians and Gynecologists Committee on Obstetric Practice shall be prohibited. The joint subcommittee of the North Carolina Medical Board and the Board of Nursing created under G.S. 90-18.2, including the four additional members required by subsection (a) of this section, shall adopt rules governing the safety of home births attended by a Certified Nurse Midwife.

(b) The joint subcommittee shall adopt rules under this Article to establish each of the following:

(1) A fee which shall cover application and initial approval up to a maximum of one hundred dollars ($100.00).

(2) An annual renewal fee to be paid by January 1 of each year by persons approved under this Article up to a maximum of fifty dollars ($50.00).

(3) A reinstatement fee for a lapsed approval up to a maximum of five dollars ($5.00).

(4) The form and contents of the applications which shall include information related to the applicant's education and certification by the American Midwifery Certification Board.

(5) The procedure for establishing collaborative provider agreements as required by this Article.

(c) The joint subcommittee may solicit, employ, or contract for technical assistance and clerical assistance and may purchase or contract for the materials and services it needs.

(d) All fees collected on behalf of the joint subcommittee and all receipts of every kind and nature, as well as the compensation paid the members of the joint subcommittee and the necessary expenses incurred by them in the performance of the duties imposed upon them, shall be reported annually to the State Treasurer. All fees and other moneys received by the joint subcommittee pursuant to the provisions of the General Statutes shall be kept in a separate fund by the joint subcommittee, to be held and expended only for such purposes as are proper and necessary to the discharge of the duties of the joint subcommittee and to enforce the provisions of this Article. No expense incurred by the joint subcommittee shall be charged against the State.

(e) Members of the joint subcommittee who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the joint subcommittee who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rate set out in G.S. 138-6.

(f) The joint subcommittee shall have the authority to adopt, amend, and repeal rules necessary to administer the provisions of this Article. (1983, c. 897, s. 1; 1995, c. 94, s. 31; 2023-14, s. 4.3(d), (e); 2023-79, s. 2(c), (d).)

§ 90-178.5. Qualifications for approval; independent practice.

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

(1) Complete an application on a form furnished by the joint subcommittee.

(2) Submit evidence of certification by the American Midwifery Certification Board or its successor.

(3) Submit evidence of a collaborative provider agreement as required by G.S. 90-178.3(b1).

(4) Pay the fee for application and approval.

(b) Upon submitting to the joint subcommittee evidence of completing 24 months and 4,000 hours of practice as a Certified Nurse Midwife pursuant to a collaborative provider

agreement, a Certified Nurse Midwife is authorized to practice midwifery independently in accordance with this Article. (1983, c. 897, s. 1; 2023-14, s. 4.3(f).)

§ 90-178.6. Denial, revocation or suspension of approval.

(a) In accordance with the provisions of Chapter 150B, the joint subcommittee may deny, revoke or suspend approval when a person has:

(1) Failed to satisfy the qualifications for approval;
(2) Failed to pay the annual renewal fee by January 1 of the current year;
(3) Given false information or withheld material information in applying for approval;
(4) Demonstrated incompetence in the practice of midwifery;
(5) Violated any of the provisions of this Article;
(6) A mental or physical disability or uses any drug to a degree that interferes with his or her fitness to practice midwifery;
(7) Engaged in conduct that endangers the public health;
(8) Engaged in conduct that deceives, defrauds, or harms the public in the course of professional activities or services; or
(9) Been convicted of or pleaded guilty or nolo contendere to any felony under the laws of the United States or of any state of the United States indicating professional unfitness.

(b) Revocation or suspension of a license to practice nursing pursuant to G.S. 90-171.37 shall automatically result in comparable action against the person's approval to practice midwifery under this Article. (1983, c. 897, s. 1; 1987, c. 827, s. 1.)

§ 90-178.7. Enforcement.

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

(b) No person shall perform any act constituting the practice of midwifery, as defined in this Article, or any of the branches thereof, unless the person shall have been first approved under this Article. Any person who practices midwifery without being duly approved and registered, as provided in this Article, shall not be allowed to maintain any action to collect any fee for such services. Any person so practicing without being duly approved shall be guilty of a Class 3 misdemeanor. Any person so practicing without being duly approved under this Article and who is falsely representing himself or herself in a manner as being approved under this Article or any Article of this Chapter shall be guilty of a Class I felony. (1983, c. 897, s. 1; 1993, c. 539, s. 633; 1994, Ex. Sess., c. 24, s. 14(c); 2023-14, s. 4.3(g).)

§ 90-178.8. Limit vicarious liability.

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

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

(2) The emergency situation arises during the delivery or birth of the infant as a consequence of the care provided by a Certified Nurse Midwife approved under this Article who attends a planned birth outside of a hospital setting.

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

(1) The facility is providing medical care or treatment to a woman or infant in an emergency situation.

(2) The emergency situation arises during the delivery or birth of the infant as a consequence of the care provided by a Certified Nurse Midwife approved under this Article who attends a planned birth outside of a hospital setting.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, health care providers and health care facilities shall remain liable for their own independent acts of negligence.

(d) Nothing in this section shall be construed to limit liability when the civil damages to this section are the result of gross negligence or willful or wanton misconduct. (2023-14, s. 4.3(h).)