A BILL TO BE ENTITLED

AN ACT TO UPDATE AND MODERNIZE THE MIDWIFERY PRACTICE ACT, AS
RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
HEALTH AND HUMAN SERVICES.

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, 24 states and the District of Columbia allow certified nurse-midwives to
practice independently without a collaborative or supervisory practice agreement with 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 nurse-midwives "should have access to a system of care that fosters collaboration among licensed, independent providers"; and

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

"§ 90-178.2. Definitions."

As used in this Article: 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, passed a national certification examination administered by the American Midwifery Certification Board, 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 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.

(1b) Collaborative provider agreement. – A formal, written agreement between a
collaborating provider and a certified nurse-midwife with less than 24
months and 2,400 hours of practice as a certified nurse-midwife to provide
consultation and collaborative assistance or guidance.

(2) "Interconceptional care" includes, but is not limited to, the following:
   a. Family planning;
   b. Screening for cancer of the breast and reproductive tract;
   c. Screening for and management of minor infections of the reproductive organs;
   d. Gynecologic care, including family planning, perimenopause, and postmenopause care.

(3) "Intrapartum care" includes, but is not limited to, the following:
   a. Attending women in uncomplicated labor; confirmation and assessment of labor and its progress.
   b. Assisting with spontaneous delivery of infants in vertex presentation from 37 to 42 weeks gestation; 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.

(4) "Midwifery" means 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 rendering of childbirth assistance in an emergency situation, law, or the performance of abortion, as defined in G.S. 90-21.6.

(5) "Newborn care" 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.
"Postpartum care" includes 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 pitocin and methergine uterotonics after delivery of the infant when indicated and 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.

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

a. Historical and physical assessment; obtaining history with ongoing assessment of mother and fetus.

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

b1. Confirmation and dating of pregnancy.

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

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

“§ 90-178.3. Regulation of midwifery.

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

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

(b1) A certified nurse-midwife with less than 24 months and 2,400 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 approval 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.”

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

"(a) The joint subcommittee of the North Carolina Medical Board and the Board of Nursing created pursuant to under G.S. 90-18.2 shall administer the provisions of this Article and the rules adopted pursuant to under this Article; Provided, however, that actions of the joint subcommittee pursuant to under this Article shall not require approval by the North Carolina..."
SECTION 5. G.S. 90-178.4 is amended by adding the following new subsections to read:

"(a1) Any certified nurse-midwife who attends a planned birth outside of a hospital setting shall 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.

(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."

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

"(b) The joint subcommittee shall adopt rules pursuant to under this Article to establish:

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); ($100.00).
(2) An annual renewal fee to be paid by January 1 of each year by persons approved pursuant to under this Article up to a maximum of fifty dollars ($50.00); ($50.00).
(3) A reinstatement fee for a lapsed approval up to a maximum of five dollars ($5.00); ($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 College of Nurse-Midwives and American Midwifery Certification Board.
(5) The procedure for establishing physician supervision; collaborative provider agreements as required by this Article."

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

"§ 90-178.5. Qualifications for approval.

(a) In order to be approved by the joint subcommittee pursuant to 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 College of Nurse-Midwives; American Midwifery Certification Board.
(3) Submit evidence of arrangements for physician supervision; and 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 2,400 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."

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

"§ 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) Any person who violates G.S. 90-178.3(a) shall be guilty of a Class 3 misdemeanor. 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."

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

"§ 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 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; and

(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.

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

(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 the following occur:

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

(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.

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

(c) 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."

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