

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

S

1

SENATE BILL 498

Short Title: Certified Professional Midwives.

(Public)

---

Sponsors: Senators Lucas; Clodfelter, Dannelly, Foxx, and Kinnaird.

---

Referred to: Health Care.

---

March 19, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE PRACTICE OF MIDWIFERY BY CERTIFIED  
PROFESSIONAL MIDWIVES.

The General Assembly of North Carolina enacts:

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

"Article 10B.

"Certified Professional Midwives.

**§ 90-178.17. Legislative findings.**

(a) The General Assembly finds that certified professional midwives should be  
allowed to practice midwifery in this State for the following reasons:

(1) Access to prenatal care and delivery services are limited by an  
inadequate number of providers.

(2) Women should have the freedom to choose the manner, cost, and  
setting in which they give birth.

(3) It is in the best interest of this State to remove obstacles to out-of-  
hospital deliveries and to encourage cooperation and consultation  
between licensed health care professionals and certified professional  
midwives.

(b) The General Assembly also recognizes that the certified professional midwife  
requirements are based on widely accepted core competencies for midwifery, that the  
requirements represent national standards for non-nurse midwives, and that the practice  
of midwifery by certified professional midwives is the only credential that requires out-  
of-hospital training.

**§ 90-178.18. Definitions.**

The following definitions apply in this Article:

- 1           (1) Approval. – Authorization from the North Carolina Supervisory  
2 Council of Certified Professional Midwives to practice midwifery in  
3 this State.
- 4           (2) Certified Professional Midwife (CPM). – A person who has obtained  
5 national certification from the North American Registry of Midwives  
6 (NARM) after having demonstrated his or her qualifications through  
7 the application process, a practical skills assessment, and a written  
8 examination.
- 9           (3) Consultation. – The exchange of information and advice with a  
10 physician regarding the client condition and indicated treatment.
- 11          (4) Council. -- The North Carolina Supervisory Council of Certified  
12 Professional Midwives responsible for administering Article 10B of  
13 Chapter 90 of the General Statutes, which is a separate and  
14 independent branch of the Midwifery Joint Committee that administers  
15 Article 10A of Chapter 90 of the General Statutes.
- 16          (5) Intrapartum care. – The term shall include:  
17           a. Assisting women during uncomplicated labor.  
18           b. Assisting with the spontaneous delivery of infants from 37 to 42  
19           weeks gestation.  
20           c. Performing amniotomy.  
21           d. Performing emergency episiotomies.  
22           e. Providing intravenous fluids for hydration when needed.
- 23          (6) Midwifery. – The provision of prenatal, intrapartum, and postpartum  
24 care for women experiencing normal pregnancies and newborn care  
25 for their infants in out-of-hospital settings. Midwifery may include  
26 well-woman care as defined in rules adopted by the Board, but does  
27 not include the practice of medicine as described in G.S. 90-178.2(3).
- 28          (7) Newborn care. – The term shall include:  
29           a. Providing routine physical assessments including APGAR  
30           scoring.  
31           b. Maintaining thermal stability.  
32           c. Providing assistance to newborns to establish respiration,  
33           including the acquisition and use of oxygen when needed.  
34           d. The acquisition and use of Vitamin K.  
35           e. The acquisition and use of eye prophylaxis for ophthalmia  
36           neonatorum.  
37           f. The ability to complete and file birth certificates.
- 38          (8) North Carolina Registry of Midwives (NARM). – An international  
39 certification agency whose mission is to establish and administer  
40 certification for the 'Certified Professional Midwife' credential.
- 41          (9) Postpartum care. – The term shall include:  
42           a. Management of the normal third stage of labor.  
43           b. The acquisition and use of oxytocic drugs after delivery when  
44           needed.

- 1           c.     Repairing lacerations associated with childbirth, including the  
2                     acquisition and use of local anesthesia.  
3           d.     The acquisition and administration of Rhogam.  
4           e.     The performance of evaluation examinations in the days and  
5                     weeks following delivery.  
6        (10) Prenatal care. – The term shall include:  
7           a.     Historical and physical assessments of pregnant women.  
8           b.     Obtaining, ordering, and assessing the results of routine  
9                     laboratory tests.  
10          c.     The acquisition and administration of Rhogam.  
11          d.     Supervising client use of prenatal vitamins, folic acid, iron, and  
12                     nonprescription medicines.

13 **"§ 90-178.19. Approval required; exemptions.**

14        (a)     On or after January 1, 2002, no person shall practice midwifery as defined in  
15 G.S. 90-178.18 unless that person has been approved by the Council as provided in this  
16 Article.

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

- 18           (1)    A midwife licensed under Article 10A of this Chapter.  
19           (2)    A physician licensed under Article 1 of this Chapter when engaged in  
20                     the practice of medicine as defined by law.  
21           (3)    The performance of medical acts by a physician assistant or nurse  
22                     practitioner when performed in accordance with the rules of the North  
23                     Carolina Medical Board.  
24           (4)    The practice of nursing by a registered nurse engaged in the practice of  
25                     nursing as defined by law.  
26           (5)    The rendering of childbirth assistance in an emergency situation.  
27           (6)    Individuals who are present at or assisting the certified professional  
28                     midwife in the birth process, including family members or other  
29                     caregivers invited by the birth mother, persons providing emergency  
30                     medical care, doulas, or midwifery students or assistants who are  
31                     under the supervision of a certified professional midwife approved  
32                     under the provisions of this Article.

33 **"§ 90-178.20. The North Carolina Supervisory Council of Certified Professional**  
34 **Midwives.**

35        (a)     Composition and Terms. – The North Carolina Supervisory Council of  
36 Certified Professional Midwives is created. The Council shall consist of seven members  
37 who shall serve staggered terms. The initial Council members shall be selected on or  
38 before October 1, 2001, as follows:

- 39           (1)    The General Assembly, upon the recommendation of the President Pro  
40                     Tempore of the Senate, shall appoint one certified professional  
41                     midwife and one woman who has received care from a certified  
42                     professional midwife, both of whom shall serve for terms of three  
43                     years.

1           (2) The General Assembly, upon the recommendation of the Speaker of  
2 the House of Representatives, shall appoint one licensed physician  
3 who has experience working with midwives practicing in out-of-  
4 hospital settings, and one woman who has received care from a  
5 professional certified midwife, both of whom shall serve for terms of  
6 two years.

7           (3) The Governor shall appoint two certified professional midwives who  
8 shall serve terms of one year, and one certified nurse midwife with  
9 out-of-hospital experience to serve a term of two years.

10 Upon the expiration of the terms of the initial Council members, members shall be  
11 elected by majority vote of the certified professional midwives in good standing.  
12 Members shall be elected for terms of three years and shall serve until their successors  
13 are elected. No member may serve more than two consecutive full terms.

14           (b) Qualifications. – The certified professional midwife members shall hold  
15 current approvals from the Council, reside or be employed in this State, and remain in  
16 good standing with the Council during their terms.

17           (c) Vacancies. – A vacancy shall be filled by majority vote of the certified  
18 professional midwives in good standing. All persons elected to fill vacancies shall serve  
19 the remainder of the unexpired term and until their successors have been duly elected  
20 and qualified.

21           (d) Removal. – The Council may remove any of its members for neglect of duty,  
22 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings  
23 in his or her capacity as a certified professional midwife shall be disqualified from  
24 participating in the official business of the Council until the charges have been resolved.

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

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

32           (g) Meetings. – The Council shall hold its first meeting within 45 days after the  
33 appointment of its members, and shall hold at least two meetings each year to conduct  
34 business and to review the standards and rules previously adopted by the Council with  
35 guidance from the Midwives Alliance of North America's Core Competencies. The  
36 Council shall establish the procedures for calling, holding, and conducting regular and  
37 special meetings. A majority of Council members shall constitute a quorum.

38 **"§ 90-178.21. Powers of the Council.**

39 The Council shall have the power and duty to:

40           (1) Administer this Article.

41           (2) Issue interpretations of this Article.

42           (3) Adopt, amend, or repeal rules as may be necessary to carry out the  
43 provisions of this Article.

- 1           (4) Employ and fix compensation of personnel that the Council determines  
2 is necessary to carry into effect the provisions of this Article and incur  
3 other expenses necessary to effectuate this Article.
- 4           (5) Examine and determine the qualifications and fitness of applicants for  
5 approval, renewal of approval, and reciprocal approval.
- 6           (6) Issue, renew, deny, suspend, or revoke approvals and carry out any  
7 disciplinary actions authorized by this Article.
- 8           (7) Set fees for approval, approval renewal, and other services deemed  
9 necessary to carry out the purposes of this Article.
- 10          (8) Maintain a current list of all persons who have been approved as a  
11 certified professional midwife under this Article and collect their  
12 annual statistics.
- 13          (9) Address problems and concerns of practicing certified professional  
14 midwives in order to promote safety for the citizens of this State.
- 15          (10) Conduct investigations for the purpose of determining whether  
16 violations of this Article or grounds for disciplining certified  
17 professional midwives exist.
- 18          (11) Maintain a record of all proceedings and make available to all  
19 approved certified professional midwives and other concerned parties  
20 an annual report 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 **§ 90-178.22. Qualifications for approval.**

24 An applicant shall be approved to practice as a certified professional midwife if the  
25 applicant meets all of the following qualifications:

- 26          (1) Is at least 21 years of age.
- 27          (2) Has obtained a high school diploma or its equivalent.
- 28          (3) Completes an application on a form provided by the Council.
- 29          (4) Submits evidence of certification by the North American Registry of  
30 Midwives.
- 31          (5) Submits a client-informed consent document to the Council that shall  
32 include:
  - 33           a. Disclosure of the certified professional midwife's qualifications,  
34 experience, and training.
  - 35           b. A written protocol for medical emergencies and transportation  
36 to a hospital when needed.
  - 37           c. A description of the midwifery model of care.
  - 38           d. A description of the right to file a complaint and the procedures  
39 for filing a complaint.
  - 40           e. Any other information as deemed necessary by the Council to  
41 allow the client to make an informed decision in selecting a  
42 certified professional midwife and, if applicable, in choosing  
43 home birth.

1           (6)   Has proof of current adult and infant cardiopulmonary resuscitation  
2                    (CPR) certification or neonatal resuscitation.

3           (7)   Pays the required fee under G.S. 90-178.24.

4   "**§ 90-178.23. Reciprocity; nonresident approval.**

5       (a)   The Council may, upon application and payment of proper fees, grant  
6 approval to a person who resides in this State and has been approved to practice as a  
7 certified professional midwife in another state whose standards of competency are  
8 substantially equivalent to those provided in this Article.

9       (b)   The Council may, upon application and payment of proper fees, grant  
10 approval to a nonresident if the person meets the requirements of this Article or the  
11 person resides in a state that recognizes approvals issued by the Council.

12 "**§ 90-178.24. Expenses; fees.**

13       (a)   All fees payable to the Council shall be deposited in the name of the Council  
14 in financial institutions designated by the Council as official depositories and shall be  
15 used to pay all expenses incurred in carrying out the purposes of this Article.

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

21       (c)   The Council shall establish fees not exceeding the following amounts:

22           (1)   Initial issuance of approval                     \$ 400.00

23           (2)   Renewal of approval                                 \$2,500.00

24           (3)   Late renewal fee   \$ 150.00.

25 "**§ 90-178.25. Issuance and renewal of approval.**

26       The Council shall approve a person to practice as a certified professional midwife,  
27 upon payment of the fee required in G.S. 178.24, if the person has satisfactorily met the  
28 requirements of this Article as administered by the Council. All approvals to practice  
29 shall expire three years after the date they were issued unless renewed. All applications  
30 for renewal shall be filed with the Council and shall be accompanied by the renewal fee  
31 as required by G.S. 90-178.24 and proof of current certification from NARM.  
32 Compliance with NARM recertification requirements shall include: (i) current adult and  
33 infant CPR or neonatal resuscitation; and (ii) at least five hours of certified education  
34 units in a peer review workshop or five hours of peer review participation in addition to  
35 25 hours of continuing education. An approval that has expired for failure to renew may  
36 be reinstated after the applicant pays the late and renewal fees as required by G.S. 90-  
37 178.24.

38 "**§ 90-178.26. Inactive status.**

39       Upon request, the Council shall grant an approved certified professional midwife  
40 inactive status. While inactive, the person shall not practice midwifery as defined in this  
41 Article, in this State and shall not be subject to renewal of approval requirements  
42 established by the Council. However, while inactive, the person shall comply with all  
43 NARM certification requirements. The person may reactivate his or her approval by  
44 submitting a reactivation application to the Council and paying a renewal of approval

1 fee that shall be prorated for the number of months remaining before the time the  
2 applicant would ordinarily be required to renew his or her approval.

3 **"§ 90-178.27. Suspension, revocation, and refusal to renew approval.**

4 (a) The Council may require remedial education, issue a letter of reprimand,  
5 deny, refuse to renew, suspend, or revoke an application for approval or an approval if  
6 the applicant or person who has been approved:

7 (1) Gives false information or withholds material information from the  
8 Council in procuring or attempting to procure an approval.

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

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

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

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

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

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

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

31 **"§ 90-178.28. Withdrawal by midwife.**

32 (a) Prenatal Period. -- A certified professional midwife may withdraw from  
33 responsibility for a client during the prenatal period if for any reason the certified  
34 professional midwife does not feel comfortable continuing as the client's midwife. The  
35 certified professional midwife may take into account: (i) the client's refusal to consult  
36 with a physician when the midwife believes consultation is required; (ii) the client's  
37 failure or refusal to follow recommendations made by the midwife; (iii) personality  
38 incompatibilities; or (iv) any other factor that the midwife believes may create an  
39 unwarranted risk to the client or child or interfere with the midwife's ability to care  
40 responsibly for the client or child. In the event the midwife withdraws, the midwife shall  
41 immediately notify the client in writing and cooperate with the client in finding  
42 alternative care.

43 (b) After Onset of Labor. -- After the onset of labor, the midwife may withdraw  
44 only if the midwife believes he or she is unable to care responsibly for the client or

1 newborn and the client refuses to transfer to a hospital. The midwife shall document the  
2 relevant events, and shall make reasonable attempts to ensure that the client is not left  
3 unattended, including contacting emergency medical personnel or a physician.

4 **"§ 90-178.29. Third-party reimbursement allowed.**

5 Certified professional midwives approved to practice in this State shall receive third-  
6 party reimbursement from private agencies that provide coverage for maternity and  
7 obstetrical care.

8 **"§ 90-178.30. Enjoining illegal practices; immunity.**

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

12 (b) No physician, certified nurse midwife, or hospital providing emergency  
13 medical care or treatment to a woman or infant arising during childbirth as a  
14 consequence of the care received from a certified professional midwife as approved  
15 under this Article, shall be liable for any civil damages or any act or omission as a result  
16 of rendering the emergency medical care."

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