STATE OF NEW YORK

7898--A

2021-2022 Regular Sessions

IN ASSEMBLY

May 28, 2021

Introduced by M. of A. GOTTFRIED, PAULIN, SIMON, GONZALEZ-ROJAS, EPSTEIN, FORREST, WOERNER, THIELE, MAMDANI, DICKENS, McDONALD, MANKTE-LOW, STIRPE, L. ROSENTHAL, McMAHON, CRUZ, KELLES, GALEF, LUPARDO, COOK, BICHOTTE HERMELYN, GUNTHER, CARROLL, JEAN-PIERRE, JACKSON, CAHILL, ZINERMAN, MITAYNES, WALCZYK, LUNSFORD, CLARK, FAHY, SOLAGES, SALKA, REYES, MEEKS, HEVESI, NIOU, SEAWRIGHT, GRIFFIN -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the public health law, in relation to the practice of certified professional midwifery

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Title 8 of the education law is amended by adding a new article 140-A to read as follows:

ARTICLE 140-A

CERTIFIED PROFESSIONAL MIDWIFERY

Section 6960. Introduction.

6961. Definition of practice of certified professional midwifery.

6962. Practice of certified professional midwifery.

6963. Use of title "certified professional midwife".

6964. Requirements for a professional license.

6965. Exempt persons.

§ 6960. Introduction. This article applies to the profession of certified professional midwifery. The general provisions for all professions contained in article one hundred thirty of this title apply to this article.

§ 6961. Definition of practice of certified professional midwifery. 1. The practice of the profession of certified professional midwifery is

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11661-06-2

defined as the management in the home, birth center, or community setting, of normal pregnancies, child birth, and postpartum care, and shall include newborn evaluation, resuscitation and referral for infants. A certified professional midwife may also provide preconception care as defined by the commissioner. A certified professional midwife shall have collaborative relationships with (a) a physician who is board certified as an obstetrician-gynecologist by a national certifying body or (b) a physician who practices obstetrics and has obstetric privileges at a general hospital licensed under article twenty-eight of the public health law or (c) a hospital, licensed under article twenty-eight of the public health law, that provides obstetrics through a physician having obstetrical privileges at such institution, that provide for consultation, collaborative management and referral to address the health status and risks of the certified professional midwife's patients and that include plans for emergency medical gynecological and obstetrical coverage. A certified professional midwife shall maintain documentation of the collaborative relationships and shall make information about the collaborative relationships available to the certified professional midwife's patients. Failure to comply with the requirements found in this subdivision shall be subject to professional misconduct provisions as set forth in article one hundred thirty of this title.

2. A certified professional midwife shall have the authority, as necessary, and limited to the practice of certified professional midwifery, to prescribe and administer drugs, immunizing agents, diagnostic tests and devices, and to order laboratory tests, as established and limited by the board of midwifery in accordance with the commissioner's regulations. A certified professional midwife shall obtain a certificate from the department upon successfully completing a program including a pharmacology component, or its equivalent, as established by the commissioner's regulations prior to prescribing under this section.

3. Any reference to certified professional midwifery, or certified professional midwife, under the provisions of this article, this chapter or any other law, shall refer to and include the profession of certified professional midwifery and a certified professional midwife, unless the context clearly requires otherwise.

§ 6962. Practice of certified professional midwifery. Only a person licensed or exempt under this article or authorized by any other section of law shall practice certified professional midwifery.

§ 6963. Use of title "certified professional midwife". Only a person licensed or exempt under this article shall use the title "certified professional midwife" in connection with the practice of certified professional midwifery in the state, provided, however, a person licensed under article one hundred forty of this title and who has obtained the credentials pursuant to subdivision two of section sixty-nine hundred sixty-four of this article may also use the title "certified professional midwife".

§ 6964. Requirements for a professional license. To qualify for a license as a certified professional midwife, an applicant shall fulfill the following requirements:

1. Application: file an application with the department.

2. Education: achieve and maintain the credential of certified professional midwife from a national certifying body specializing in the certification of certified professional midwives and approved by the commissioner and satisfactorily:

(a) complete an educational program for the practice of certified professional midwifery in accordance with the commissioner's regulations;

(b) submit evidence of license or certification, the educational preparation for which is determined by the department to be equivalent to the foregoing, from any state or country, satisfactory to the department and in accordance with the commissioner's regulations; or

(c) complete a program determined by the department to be equivalent to the foregoing and in accordance with the commissioner's regulations.

3. Examination: pass an examination satisfactory to the department and in accordance with the commissioner's regulations.

4. Age: be at least twenty-one years of age.

5. Character: be of good moral character as determined by the department.

6. Fee: pay a fee of one hundred fifteen dollars for an initial license and a fee of one hundred dollars for each triennial registration period.

§ 6965. Exempt persons. Nothing in this article shall (a) affect, prevent, expand, or limit any duty or responsibility of a physician, midwife, physician assistant, or nurse practitioner, acting within the professional's scope of practice, from practicing certified professional midwifery; or (b) affect or prevent a medical student, midwifery student, certified professional midwifery student, physician assistant student, or nurse practitioner student from engaging in clinical practice in an educational program registered by the department, under the supervision of a physician or board certified obstetrician/gynecologist or midwife, physician assistant, or nurse practitioner, acting within the professional's scope of practice.

§ 2. Section 6953 of the education law, as added by chapter 327 of the laws of 1992, is amended to read as follows:

§ 6953. Use of title "midwife". Only a person licensed or exempt under this article shall use the title "midwife". Only a person licensed under both this article and article one hundred thirty-nine of this chapter may use the title "nurse-midwife". Only a person authorized to use the title "certified professional midwife" under article one hundred forty-A of this chapter may use the title "certified professional midwife".

§ 3. Section 6954 of the education law, as added by chapter 327 of the laws of 1992, paragraph (a) of subdivision 2 as amended by chapter 328 of the laws of 1992, is amended to read as follows:

§ 6954. State board of midwifery. 1. The state board of midwifery shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of [~~thirteen~~] sixteen individuals. Initial appointments to the board shall be such that the terms shall be staggered. However, no members shall serve more than two terms. However, a vacant seat on the board designated for an individual licensed to practice under article one hundred forty-A of this title shall not be counted for purposes of a quorum until it has been initially filled.

2. (a) [~~(1)~~] Seven members of the board shall be persons licensed [~~or exempt~~] under this [~~section~~] article.

[~~(2)~~] (b) One member of the board shall be an educator of midwifery.

(c) Three members of the board shall be persons licensed under article one hundred forty-A of this title.

[~~(b)~~] **(d)** Two members of the board shall be individuals who are licensed physicians who are also certified as obstetrician/gynecologists by a national certifying body.

[~~(c)~~] **(e)** One member of the board shall be an individual licensed as a physician who practices family medicine including obstetrics.

[~~(d)~~] **(f)** One member of the board shall be an individual licensed as a physician who practices pediatrics.

[~~(e)~~] **(g)** One member of the board shall be an individual not possessing either licensure or training in medicine, midwifery, pharmacology or nursing and shall represent the public at large.

3. For purposes of this article, "board" means the state board of midwifery created under this section unless the context clearly indicates otherwise.

§ 4. The article heading of article 140 of the education law, as added by chapter 327 of the laws of 1992, is amended to read as follows:

[~~PROFESSIONAL~~] MIDWIFERY [~~PRACTICE ACT~~]

§ 5. Subdivision 6 of section 571 of the public health law, as amended by chapter 444 of the laws of 2013, is amended to read as follows:

6. "Qualified health care professional" means a physician, dentist, podiatrist, optometrist performing a clinical laboratory test that does not use an invasive modality as defined in section seventy-one hundred one of the education law, physician assistant, specialist assistant, nurse practitioner, [~~or~~] midwife, **or certified professional midwife,** who is licensed and registered with the state education department.

§ 6. Subdivision 6 of section 571 of the public health law, as amended by section 1 of part C of chapter 57 of the laws of 2022, is amended to read as follows:

6. "Qualified health care professional" means a physician, dentist, podiatrist, optometrist performing a clinical laboratory test that does not use an invasive modality as defined in section seventy-one hundred one of the education law, pharmacist administering COVID-19 and influenza tests pursuant to subdivision seven of section sixty-eight hundred one of the education law, physician assistant, specialist assistant, nurse practitioner, [~~or~~] midwife, **or certified professional midwife,** who is licensed and registered with the state education department.

§ 7. This act shall take effect eighteen months after it becomes a law, provided however that the amendments to subdivision 6 of section 571 of the public health law made by section six of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 8 of part C of chapter 57 of the laws of 2022, as amended, when upon such date the provisions of section five of this act shall take effect. Effective immediately, the commissioner of education shall make regulations and take other actions reasonably necessary to implement this act on the effective date of this act.