

# 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, MANKTELOW, 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.

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1 defined as the management in the home, birth center, or community  
2 setting, of normal pregnancies, child birth, and postpartum care, and  
3 shall include newborn evaluation, resuscitation and referral for  
4 infants. A certified professional midwife may also provide precon-  
5 ception care as defined by the commissioner. A certified professional  
6 midwife shall have collaborative relationships with (a) a physician who  
7 is board certified as an obstetrician-gynecologist by a national certi-  
8 fying body or (b) a physician who practices obstetrics and has obstetric  
9 privileges at a general hospital licensed under article twenty-eight of  
10 the public health law or (c) a hospital, licensed under article twenty-  
11 eight of the public health law, that provides obstetrics through a  
12 physician having obstetrical privileges at such institution, that  
13 provide for consultation, collaborative management and referral to  
14 address the health status and risks of the certified professional  
15 midwife's patients and that include plans for emergency medical gynecol-  
16 ogical and obstetrical coverage. A certified professional midwife shall  
17 maintain documentation of the collaborative relationships and shall make  
18 information about the collaborative relationships available to the  
19 certified professional midwife's patients. Failure to comply with the  
20 requirements found in this subdivision shall be subject to professional  
21 misconduct provisions as set forth in article one hundred thirty of this  
22 title.

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

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

37 § 6962. Practice of certified professional midwifery. Only a person  
38 licensed or exempt under this article or authorized by any other section  
39 of law shall practice certified professional midwifery.

40 § 6963. Use of title "certified professional midwife". Only a person  
41 licensed or exempt under this article shall use the title "certified  
42 professional midwife" in connection with the practice of certified  
43 professional midwifery in the state, provided, however, a person  
44 licensed under article one hundred forty of this title and who has  
45 obtained the credentials pursuant to subdivision two of section sixty-  
46 nine hundred sixty-four of this article may also use the title "certi-  
47 fied professional midwife".

48 § 6964. Requirements for a professional license. To qualify for a  
49 license as a certified professional midwife, an applicant shall fulfill  
50 the following requirements:

51 1. Application: file an application with the department.

52 2. Education: achieve and maintain the credential of certified profes-  
53 sional midwife from a national certifying body specializing in the  
54 certification of certified professional midwives and approved by the  
55 commissioner and satisfactorily:

1 (a) complete an educational program for the practice of certified  
2 professional midwifery in accordance with the commissioner's regu-  
3 lations;

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

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

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

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

13 5. Character: be of good moral character as determined by the depart-  
14 ment.

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

18 § 6965. Exempt persons. Nothing in this article shall (a) affect,  
19 prevent, expand, or limit any duty or responsibility of a physician,  
20 midwife, physician assistant, or nurse practitioner, acting within the  
21 professional's scope of practice, from practicing certified professional  
22 midwifery; or (b) affect or prevent a medical student, midwifery  
23 student, certified professional midwifery student, physician assistant  
24 student, or nurse practitioner student from engaging in clinical prac-  
25 tice in an educational program registered by the department, under the  
26 supervision of a physician or board certified obstetrician/gynecologist  
27 or midwife, physician assistant, or nurse practitioner, acting within  
28 the professional's scope of practice.

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

31 § 6953. Use of title "midwife". Only a person licensed or exempt under  
32 this article shall use the title "midwife". Only a person licensed  
33 under both this article and article one hundred thirty-nine of this  
34 chapter may use the title "nurse-midwife". Only a person authorized to  
35 use the title "certified professional midwife" under article one hundred  
36 forty-A of this chapter may use the title "certified professional  
37 midwife".

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

41 § 6954. State board of midwifery. 1. The state board of midwifery  
42 shall be appointed by the board of regents on recommendation of the  
43 commissioner for the purpose of assisting the board of regents on  
44 matters of professional licensing and professional conduct in accordance  
45 with section sixty-five hundred eight of this title. The board shall be  
46 composed of [~~thirteen~~] sixteen individuals. Initial appointments to the  
47 board shall be such that the terms shall be staggered. However, no  
48 members shall serve more than two terms. However, a vacant seat on the  
49 board designated for an individual licensed to practice under article  
50 one hundred forty-A of this title shall not be counted for purposes of a  
51 quorum until it has been initially filled.

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

54 [~~2~~] (b) One member of the board shall be an educator of midwifery.

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

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

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

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

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

11    3. For purposes of this article, "board" means the state board of  
12 midwifery created under this section unless the context clearly indi-  
13 cates otherwise.

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

16                    [~~PROFESSIONAL~~] MIDWIFERY [~~PRACTICE-ACT~~]

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

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

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

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

36    § 7. This act shall take effect eighteen months after it becomes a  
37 law, provided however that the amendments to subdivision 6 of section  
38 571 of the public health law made by section six of this act shall be  
39 subject to the expiration and reversion of such subdivision pursuant to  
40 section 8 of part C of chapter 57 of the laws of 2022, as amended, when  
41 upon such date the provisions of section five of this act shall take  
42 effect. Effective immediately, the commissioner of education shall make  
43 regulations and take other actions reasonably necessary to implement  
44 this act on the effective date of this act.