

# STATE OF NEW YORK

7078--A

2021-2022 Regular Sessions

## IN SENATE

May 27, 2021

Introduced by Sens. SALAZAR, BIAGGI, BROUK, JACKSON, JORDAN, KENNEDY, MAY, MYRIE, OBERACKER, PARKER, SEPULVEDA, SKOUFIS, WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Senate Rule 6, sec. 8 -- 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 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

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

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

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

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

34 § 6962. Practice of certified professional midwifery. Only a person  
35 licensed or exempt under this article or authorized by any other section  
36 of law shall practice certified professional midwifery.

37 § 6963. Use of title "certified professional midwife". Only a person  
38 licensed or exempt under this article shall use the title "certified  
39 professional midwife" in connection with the practice of certified  
40 professional midwifery in the state, provided, however, a person  
41 licensed under article one hundred forty of this title and who has  
42 obtained the credentials pursuant to subdivision two of section sixty-  
43 nine hundred sixty-four of this article may also use the title "certi-  
44 fied professional midwife".

45 § 6964. Requirements for a professional license. To qualify for a  
46 license as a certified professional midwife, an applicant shall fulfill  
47 the following requirements:

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

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

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

(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.

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

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

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

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

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

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

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

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

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

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

33    § 7. This act shall take effect eighteen months after it becomes a  
34 law, provided however that the amendments to subdivision 6 of section  
35 571 of the public health law made by section six of this act shall be  
36 subject to the expiration and reversion of such subdivision pursuant to  
37 section 8 of part C of chapter 57 of the laws of 2022, as amended, when  
38 upon such date the provisions of section five of this act shall take  
39 effect. Effective immediately, the commissioner of education shall make  
40 regulations and take other actions reasonably necessary to implement  
41 this act on the effective date of this act.