

# STATE OF NEW YORK

7898

2021-2022 Regular Sessions

## IN ASSEMBLY

May 28, 2021

Introduced by M. of A. GOTTFRIED, PAULIN -- read once and referred to the Committee on Higher Education

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

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

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

3 ARTICLE 140-A

4 COMMUNITY MIDWIFERY

5 Section 6960. Introduction.

6 6961. Definition of practice of community midwifery.

7 6962. Practice of community midwifery.

8 6963. Use of title "community midwife".

9 6964. Requirements for a professional license.

10 6965. Exempt persons.

11 § 6960. Introduction. This article applies to the profession of commu-  
12 nity midwifery. The general provisions for all professions contained in  
13 article one hundred thirty of this title apply to this article.

14 § 6961. Definition of practice of community midwifery. 1. The practice  
15 of the profession of community midwifery is defined as the management in  
16 the home, birth center, or community setting, of normal pregnancies,  
17 child birth, and postpartum care, including primary preventive gynecolo-  
18 gic and obstetric care of essentially healthy individuals, and shall  
19 include newborn evaluation, resuscitation and referral for infants. A  
20 community midwife shall have collaborative relationships with (i) a  
21 physician who is board certified as an obstetrician-gynecologist by a  
22 national certifying body or (ii) a physician who practices obstetrics  
23 and has obstetric privileges at a general hospital licensed under arti-  
24 cle twenty-eight of the public health law or (iii) a hospital, licensed  
25 under article twenty-eight of the public health law, that provides

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

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1 obstetrics through a physician having obstetrical privileges at such  
2 institution, that provide for consultation, collaborative management and  
3 referral to address the health status and risks of the community  
4 midwife's patients and that include plans for emergency medical gyneco-  
5 logical and obstetrical coverage. A community midwife shall maintain  
6 documentation of the collaborative relationships and shall make informa-  
7 tion about the collaborative relationships available to the community  
8 midwife's patients. Failure to comply with the requirements found in  
9 this subdivision shall be subject to professional misconduct provisions  
10 as set forth in article one hundred thirty of this title.

11 2. A community midwife shall have the authority, as necessary, and  
12 limited to the practice of community midwifery, to order, dispense,  
13 prescribe, and administer drugs, immunizing agents, diagnostic tests and  
14 devices, and to order laboratory tests, as established by the board of  
15 midwifery in accordance with the commissioner's regulations. A community  
16 midwife shall obtain a certificate from the department upon successfully  
17 completing a program including a pharmacology component, or its equiv-  
18 alent, as established by the commissioner's regulations prior to  
19 prescribing under this section.

20 3. Any reference to community midwifery, or community midwife, under  
21 the provisions of this article, this chapter or any other law, shall  
22 refer to and include the profession of community midwifery and a commu-  
23 nity midwife, unless the context clearly requires otherwise.

24 § 6962. Practice of community midwifery. Only a person licensed or  
25 exempt under this article or authorized by any other section of law  
26 shall practice community midwifery.

27 § 6963. Use of title "community midwife". Only a person licensed or  
28 exempt under this article shall use the title "community midwife".

29 § 6964. Requirements for a professional license. To qualify for a  
30 license as a community midwife, an applicant shall fulfill the following  
31 requirements:

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

33 2. Education: achieve and maintain the credential of community midwife  
34 or certified professional midwife from a national certifying body  
35 specializing in the certification of community midwives or certified  
36 professional midwives and approved by the commissioner.

37 3. Examination: pass an examination designated by a certifying body  
38 under subdivision two of this section.

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

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

42 6. Fee: pay a fee of one hundred fifteen dollars for an initial  
43 license, a fee of one hundred eighty dollars for each triennial regis-  
44 tration period and a fee of seventy dollars for a limited permit.

45 § 6965. Exempt persons. Nothing in this article shall (a) affect,  
46 prevent, expand, or limit any duty or responsibility of a physician,  
47 midwife, physician assistant, or nurse practitioner, acting within the  
48 professional's scope of practice, from practicing community midwifery;  
49 or (b) affect or prevent a medical student, midwifery student, physician  
50 assistant student, or nurse practitioner student from engaging in clin-  
51 ical practice in an educational program registered by the department,  
52 under the supervision of a physician or board certified  
53 obstetrician/gynecologist or midwife, physician assistant, or nurse  
54 practitioner, acting within the professional's scope of practice.

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

1 § 6953. Use of title "midwife". Only a person licensed or exempt under  
 2 this article shall use the title "midwife". Only a person licensed  
 3 under both this article and article one hundred thirty-nine of this  
 4 chapter may use the title "nurse-midwife". Only a person licensed under  
 5 article one hundred forty-A of this chapter may use the title "community  
 6 midwife".

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

10 § 6954. State board of midwifery. 1. The state board of midwifery  
 11 shall be appointed by the board of regents on recommendation of the  
 12 commissioner for the purpose of assisting the board of regents on  
 13 matters of professional licensing and professional conduct in accordance  
 14 with section sixty-five hundred eight of this title. The board shall be  
 15 composed of [~~thirteen~~ sixteen] individuals. Initial appointments to the  
 16 board shall be such that the terms shall be staggered. However, no  
 17 members shall serve more than two terms. However, a vacant seat on the  
 18 board designated for an individual licensed to practice under article  
 19 one hundred forty-A of this title shall not be counted for purposes of a  
 20 quorum until it has been initially filled.

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

23 [~~2~~] (b) One member of the board shall be an educator of midwifery.

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

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

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

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

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

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

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

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

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

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

50 § 6. This act shall take effect immediately.