

# STATE OF NEW YORK

310

2023-2024 Regular Sessions

## IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sens. SALAZAR, BROUK, JACKSON, KENNEDY, MAY, MYRIE, OBER-  
ACKER, PARKER, SEPULVEDA, SKOUFIS, WEIK -- read twice and ordered  
printed, and when printed to be committed to the Committee on Higher  
Education

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 Assem-  
bly, do enact as follows:

1 Section 1. The education law is amended by adding a new article 140-A  
2 to read as follows:

### ARTICLE 140-A

#### CERTIFIED PROFESSIONAL MIDWIFERY

##### Section 6960. Introduction.

6 6961. Definition of practice of certified professional midwif-  
7 ery.

8 6962. Practice of certified professional midwifery.

9 6963. Use of title "certified professional midwife".

10 6964. Requirements for a professional license.

11 6965. Exempt persons.

12 § 6960. Introduction. This article applies to the profession of certi-  
13 fied professional midwifery. The general provisions for all professions  
14 contained in article one hundred thirty of this title apply to this  
15 article.

16 § 6961. Definition of practice of certified professional midwifery. 1.  
17 The practice of the profession of certified professional midwifery is  
18 defined as the management in the home, birth center, or community  
19 setting, of normal pregnancies, child birth, and postpartum care, and  
20 shall include newborn evaluation, resuscitation and referral for  
21 infants. A certified professional midwife may also provide precon-  
22 ception care as defined by the commissioner. A certified professional

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

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

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

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

32 § 6962. Practice of certified professional midwifery. Only a person  
33 licensed or exempt under this article or authorized by any other section  
34 of law shall practice certified professional midwifery.

35 § 6963. Use of title "certified professional midwife". Only a person  
36 licensed or exempt under this article shall use the title "certified  
37 professional midwife" in connection with the practice of certified  
38 professional midwifery in the state, provided, however, a person  
39 licensed under article one hundred forty of this title and who has  
40 obtained the credentials pursuant to subdivision two of section sixty-  
41 nine hundred sixty-four of this article may also use the title "certi-  
42 fied professional midwife".

43 § 6964. Requirements for a professional license. To qualify for a  
44 license as a certified professional midwife, an applicant shall fulfill  
45 the following requirements:

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

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

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

54 (b) submit evidence of license or certification, the educational prep-  
55 aration for which is determined by the department to be equivalent to

1 the foregoing, from any state or country, satisfactory to the department  
2 and in accordance with the commissioner's regulations; or

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

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

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

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

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

13 § 6965. Exempt persons. Nothing in this article shall (a) affect,  
14 prevent, expand, or limit any duty or responsibility of a physician,  
15 midwife, physician assistant, or nurse practitioner, acting within the  
16 professional's scope of practice, from practicing certified professional  
17 midwifery; or (b) affect or prevent a medical student, midwifery  
18 student, certified professional midwifery student, physician assistant  
19 student, or nurse practitioner student from engaging in clinical prac-  
20 tice in an educational program registered by the department, under the  
21 supervision of a physician or board certified obstetrician/gynecologist  
22 or midwife, physician assistant, or nurse practitioner, acting within  
23 the professional's scope of practice.

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

26 § 6953. Use of title "midwife". Only a person licensed or exempt under  
27 this article shall use the title "midwife". Only a person licensed  
28 under both this article and article one hundred thirty-nine of this  
29 [~~chapter~~] title may use the title "nurse-midwife". Only a person  
30 authorized to use the title "certified professional midwife" under arti-  
31 cle one hundred forty-A of this chapter may use the title "certified  
32 professional midwife".

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

36 § 6954. State board of midwifery. 1. The state board of midwifery  
37 shall be appointed by the board of regents on recommendation of the  
38 commissioner for the purpose of assisting the board of regents on  
39 matters of professional licensing and professional conduct in accordance  
40 with section sixty-five hundred eight of this title. The board shall be  
41 composed of [~~thirteen~~] sixteen individuals. Initial appointments to the  
42 board shall be such that the terms shall be staggered. However, no  
43 members shall serve more than two terms. However, a vacant seat on the  
44 board designated for an individual licensed to practice under article  
45 one hundred forty-A of this title shall not be counted for purposes of a  
46 quorum until it has been initially filled.

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

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

50 [~~(b)~~] (c) Three members of the board shall be persons licensed under  
51 article one hundred forty-A of this title.

52 (d) Two members of the board shall be individuals who are licensed  
53 physicians who are also certified as obstetrician/gynecologists by a  
54 national certifying body.

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

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

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

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

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

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

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

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

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

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

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