

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: All Rules and Forms

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

G.S. 150B-21.1(a3)(1) requires an agency to submit its rules to the Codifier “at least 30 business days prior” to adoption. According to your Temporary Rulemaking Findings of Need form, these rules were submitted on July 20, 2023, and adopted less than 30 business days later, on August 29, 2023. By my calculations, 30 business days after July 20 would have been August 31. Can you confirm the timeline?

G.S. 90-178.4 creates a “joint subcommittee of the North Carolina Medical Board and the Board of Nursing” to “administer the provisions of this Article and the rules adopted pursuant to this Article.” The statute gives the rulemaking authority to the “joint subcommittee”. That said, does the Medical Board have to submit these Rules, as well as the Board of Nursing?

Many of your rules request the CNM to make submissions to the Committee. I don’t see a contact rule anywhere in Chapter 33, so consider adding one and referring to it throughout, so your regulated public knows how and where to submit applications, requests, etc.

Throughout these rules, the Committee often refers to a CNM’s level of experience (i.e. more than 24 months and 4,000 hours of practice). Must this experience be gathered in the State of North Carolina? Or does out of state practice count?

Please conform your introductory statements on each Rule to the rule formatting examples for temporary rules to be published in the NCAC, which can be found on our website at: <https://www.oah.nc.gov/rule-format-examples>.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: September 7, 2023



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0101 Administrative Body and Definitions

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0101

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Throughout the Rule, there are several instances where you use the phrase “certified nurse midwife” and then add the acronym in parentheses. However, the acronym is used inconsistently, and in many cases you use the phrase “Certified Nurse Midwife” with the words capitalized. Only add the acronym in parentheses at the first usage, and then consistently use the acronym. Otherwise, delete the acronym and just use the full phrase. In any event, please choose one form between “CNM”, “certified nurse midwife”, or “Certified Nurse Midwife” and be consistent. Please be mindful of the sentence in (a), lines 6-7 if you choose to just eliminate the acronym.

Many of these definitions are verbatim copies of statutory definitions from G.S. 90-178.2. Repetition of verbatim statutory language subjects your rule to objection under G.S. 150B-21.9(a)(3) for lack of necessity. To avoid a staff opinion recommending objection, I suggest deleting the following definitions: (5), (6), (7), (8), (9), (10), (11), (13), and (14). I am including requests for changes for these definitions below, but even if these changes are made, I will still be inclined to issue a staff opinion if these definitions continue to be included.

Throughout, please delete “but is not limited to” as it follows “including” or “includes”.

Throughout, wherever the phrase “including” is used to set off a list, what else would fall within the definition? For instance, in (b)(8), “interconceptional care” includes the care in (a), (b), and (c), but what else would fall within this care? Elsewhere in your Rules I have observed that midwives fill a primary care provider role. That doesn’t seem to be captured in (b)(8), however.

In (b)(4), p.2, line 2, “obstetrician-gynecologist” should be plural. Also on that line, please change “which” to “that”.

In (b)(5), line 9, change “or is successor” to “or its successor”.

Brian Liebman
Commission Counsel

Date submitted to agency: September 7, 2023

In (b)(5), lines 9-10, from whom would the CNM receive this designation? Additionally, this definition seems somewhat circular in this respect, as it essentially says a CNM is someone who has received the designation CNM.

In (b)(5), lines 10-13, what are these documents (?) referenced in the Rule? What does it mean that CNMs “practice in accordance with” them? Would violation of any of these standards be grounds for the Commission to discipline a midwife? At the very least, I think these need to be incorporated by reference pursuant to G.S. 150B-21.6.

In (b)(8)(c), line 24, what is a “minor” infection?

In (b)(10), p.3, line 1, where is the practice of medicine “defined by law”?

In (b)(10), line 2, what is a “medical act”?

In (b)(10), line 4, where is the practice of nursing “defined by law”?

In (b)(11)(a) and (b), lines 7 and 8, define “routine”.

In (b)(11)(b), line 8, what else is included in the “physical assessment” besides APGAR scoring?

In (b)(12), line 13, delete “and with”, and insert commas on either side of “its antecedents” to make a proper list.

In (b)(12), line 14, should “care” be inserted after “newborn”?

In (b)(12), lines 14-15, what does “otherwise unspecified primary health services” mean?

In (b)(13), line 17, what is “a health puerperium”?

In (b)(13)(a), what is “the normal third stage” of labor?

In (b)(13)(b), what are “uterotonics”?

In (b)(13)(b), clarify when uterotonics would be “indicated”.

In (b)(13)(d), what are “normal and appropriate” interventions?

In (b)(13)(d), what else would be included in “management of deviations” besides “complications and emergencies”?

In (b)(14), line 23-24, what are “management strategies”?

In (b)(14), line 24, when are strategies and therapeutics “indicated”?

In (b)(14)(a), what are the contents of a “physical assessment”?

In (b)(14)(b), what are “routine” lab tests?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: September 7, 2023

21 NCAC 33 .0101 is proposed as a temporary rule, without changes, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS

(a) The responsibility for administering the provisions of G.S. 90, Article 10A, shall be assumed by an administrative body, the Midwifery Joint Committee, hereinafter referred to as the "Committee." The certified nurse midwife shall hereinafter be referred to as ~~"midwife."~~ "CNM."

(b) In addition to the definitions set forth in G.S. 90-178.2, the following shall apply to the Rules in this Chapter:

~~(1) "Primary Supervising Physician" means a physician with an active unencumbered license with the North Carolina Medical Board who, by signing the midwife application, shall be held accountable for the on going supervision, consultation, collaboration, and evaluation of the medical acts performed by the midwife, as defined in the site specific written clinical practice guidelines. A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician. A physician in a graduate medical education program who is also practicing in a non training situation may supervise a midwife in the non training situation if he or she is fully licensed.~~

~~(2) "Back up Primary Supervising Physician" means a physician licensed by the North Carolina Medical Board who, by signing an agreement with the midwife and the primary supervising physician or physicians shall be held accountable for the supervision, consultation, collaboration, and evaluation of medical acts by the midwife in accordance with the site specific written clinical practice guidelines when the primary supervising physician is not available. The signed and dated agreements for each back up primary supervising physician or physicians shall be maintained at each practice site. A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back up primary supervising physician. A physician in a graduate medical education program who is also practicing in a non training situation may be a back up primary supervising physician to a midwife in the non training situation if he or she is fully licensed and has signed an agreement with the midwife and the primary supervising physician.~~

(1) "American Midwifery Certification Board (AMCB)" means the national certifying body for candidates in nurse-midwifery and midwifery who have received their graduate level education in programs accredited by the Accreditation Commission for Midwifery Education.

(2) "Accreditation Commission for Midwifery Education (ACME)" means an accreditation agency established to advance and promote midwifery education.

(3) "American College of Nurse-Midwives (ACNM)" means the professional association that represents certified nurse-midwives (CNMs) and certified midwives (CMs) in the United States. ACNM sets the standard for midwifery education and practice in the United States.

- (4) “American College of Obstetricians and Gynecologists (ACOG)” means the professional membership organization for obstetrician-gynecologist which produces practice guidelines for health care professionals and educational materials for patients, provides practice management and career support, facilitates program and initiatives to improve women’s health, and advocates for members and patients.
- (5) “Certified Nurse Midwife (CNM)” means a nurse licensed and registered under Article 9A of this Chapter who has completed a midwifery education program accredited by the Accreditation Commission for Midwifery Education, or its successor, passed a national certification examination administered by the American Midwifery Certification Board, or is successor, and has received the professional designation of “Certified Nurse Midwife” (CNM). Certified Nurse Midwives practice in accordance with the Core Competencies for Basic Midwifery Practice, the Standards for the Practice of Midwifery, the Philosophy of the American College of Nurse-Midwives (ACNM), and the Code of Ethics promulgated by the ACNM.
- (6) “Collaborating provider” means a physician licensed to practice medicine under Article 1 of this Chapter for a minimum of four years and has a minimum of 8,000 hours of practice and who is or has engaged in the practice of obstetrics or a Certified Nurse Midwife who has been approved to practice midwifery under this Article for a minimum of four years and 8,000 hours.
- (7) “Collaborative provider agreement” means a formal, written agreement between a collaborating provider and a Certified Nurse Midwife with less than 24 months and 4,000 hours of practice as a Certified Nurse Midwife to provide consultation and collaborative assistance or guidance.
- (8) “Interconceptional care” includes, but is not limited to, the following:
- (a) Gynecological care, family planning, perimenopause care, and postmenopause care;
 - (b) Screening for cancer of the breast and reproductive tract; and
 - (c) Screening for and management of minor infections of the reproductive organs.
- (9) “Intrapartum care” means care that focuses on the facilitation of the physiologic birth process and includes, but is not limited to, the following:
- (a) Confirmation and assessment of labor and its progress;
 - (b) Identification of normal and deviations from normal and appropriate interventions, including management of complications, abnormal intrapartum events, and emergencies;
 - (c) Management of spontaneous vaginal birth and appropriate third-stage management, including the use of uterotonics;
 - (d) Performing amniotomy;
 - (e) Administering local anesthesia;
 - (f) Performing episiotomy and repair; and
 - (g) Repairing laceration associated with childbirth.
- (10) “Midwifery” means the act of providing prenatal, intrapartum, postpartum, newborn, and interconceptional care. The term does not include the practice of medicine by a physician licensed

1 to practice medicine when engaged in the practice of medicine as defined by law, the performance
2 of medical acts by a physician assistant or nurse practitioner when performed in accordance with
3 the Rules of the North Carolina Medical Board, the practice of nursing by a RN engaged in the
4 practice of nursing as defined by law, or the performance of abortion, as defined in G.S. 90-21.81.

5 (11) "Newborn care" means care that focuses on the newborn and includes, but is not limited to, the
6 following:

- 7 (a) Routine assistance to the newborn to establish respiration and maintain thermal stability;
8 (b) Routine physical assessment including APGAR scoring;
9 (c) Vitamin K administration;
10 (d) Eye prophylaxis for ophthalmia neonatorum; and
11 (e) Methods to facilitate newborn adaptation to extrauterine life, including stabilization,
12 resuscitation, and emergency management as indicated.

13 (3)(12) "Obstetrics" means a branch of medical science that deals with birth and with its antecedents and
14 sequels, including prenatal, intrapartum, postpartum, newborn or gynecology, and otherwise
15 unspecified primary health services for women.

16 (13) "Postpartum care" means care that focuses on management strategies and therapeutics to facilitate
17 a health puerperium and includes, but is not limited to, the following:

- 18 (a) Management of the normal third stage of labor;
19 (b) Administration of uterotonics after delivery of the infant when indicated;
20 (c) Six weeks postpartum evaluation exam and initiation of family planning; and
21 (d) Management of deviations from normal and appropriate interventions, including
22 management of complications and emergencies.

23 (14) "Prenatal care" means care that focuses on promotion of a healthy pregnancy using management
24 strategies and therapeutics as indicated and includes, but is not limited to, the following:

- 25 (a) Obtaining history with ongoing physical assessment of mother and fetus;
26 (b) Obtaining and assessing the results of routine laboratory tests;
27 (c) Confirmation and dating of pregnancy; and
28 (d) Supervising the use of prescription and nonprescription medications, such as prenatal
29 vitamins, folic acid, and iron.

30
31 *History Note: Authority G.S. 90-178.4;*
32 *Eff. February 1, 1984;*
33 *Amended Eff. July 1, 2000; October 1, 1988;*
34 *Readopted Eff. November 1, 2018;*
35 *Amended Eff. April 1, 2020.*
36 *Temporary Adoption Eff. October 1, 2023.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0103 Application

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No
Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0103

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 5, is “approval to practice” a noun? I’ve seen it used that way throughout these Rules. If it’s used that way, that’s fine, but just wanted to confirm. I noted that in (b), p.2, line 13, the Rule says “seeking approval to practice” rather than “an approval to practice”. Please be consistent.

In (a)(1), line 6, what is a “complete” application? Although G.S. 90-174(b)(4) explicitly gives the “joint subcommittee” the authority to “establish the form and contents of the application” by rule, I do not see any rule or part of a rule in which the contents of the application are clearly set out. As the application seems to be on a form provided by the Board of Nursing (see also G.S. 178.5(a)(1)), that form would need to either go through rulemaking itself, or have its contents or substantive requirements described in another rule or a statute. See also (b)(1) and (c) on p.2 with respect to references to applications.

In (a)(1), line 8, add “The” before “Application” and put “Application” in lowercase.

In (a)(3), line 12, a license for what? Midwifery or to practice as a registered nurse?

How are (a)(3) and (a)(5) different requirements? They seem to mean the same thing.

In (a)(4), line 14, what is a “privilege to practice” and how is it different than a license? See also (b)(3), p.2, line 21.

*In (a)(4), line 14, where is the statutory requirement that the nurse be a RN, as opposed to an LPN? Is it G.S. 90-178.2(1), which defines a CNM as “a nurse licensed **and registered** under Article 9A”?*

In (a)(6), line 18, what “information” are you requiring? Be specific. See also (b)(5), p.2, line 24.

Brian Liebman
Commission Counsel
Date submitted to agency: September 7, 2023

In (a)(6), line 18, what “evidence” are you requiring”? Be specific. See also (b)(5), p.2, line 24.

In (a)(6), line 20, what about the “sites” are you asking for? See also (b)(5), p.2, lines 25-26.

In (a)(7), line 26, are you requiring the attestation to be “under oath or affirmation” as in (a)(1)?

In (a)(8), line 30, where is your statutory authority to require a criminal background check under the Board of Nursing’s statutes? G.S. 90-171.48 applies only to applicants for licensure as a nurse.

In (b)(5), p.2, line 24, add a comma following “education”.

In (b)(6), line 27, what “information” are you requiring?

On p.3, lines 1-3, is this supposed to be part of (c), or a new paragraph (d)?

On p.3, line 1, what is a “concern”? And who would have the concern? Someone on the committee? A fellow practitioner? A member of the public?

On p.3, line 2, when “may” the applicant not be required to appear even if a concern is raised?

I don’t understand the reference to G.S. 90-171.37 in your History Note. Please explain how the Board of Nursing’s disciplinary authority is relevant here.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 33 .0103 is proposed as a temporary rule, **with changes**, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0103 ~~APPLICATION AND ANNUAL RENEWAL~~

(a) To be eligible for an approval to practice independently as a ~~midwife~~, CNM, an applicant shall:

(1) submit a completed application for approval to practice, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. Application is posted on the Board of Nursing's website at www.ncbon.com;

~~(3)(2)~~ submit the approval to practice application fee as established in ~~90-178.4(b)(1)~~; 90-178.4(b)(1) and Rule .0102 of this Section;

(3) have an unencumbered license or approval to practice in all jurisdictions in which a license is or has ever been held.

~~(3)(4)~~ hold an active, unencumbered North Carolina RN license or privilege to practice;

(4)(5) have hold an active, unencumbered registered nurse license and midwifery CNM license or approval to practice in all jurisdictions in which a license/approval license or approval to practice is or has ever been held;

~~(2)(5)(6)~~ submit information on the applicant's education, evidence of the applicant's maintained certification by the American College of Nurse-Midwives, Midwifery Certification Board or its successor, ~~identification of the physician or physicians who will supervise the applicant~~, and the sites where the applicant intends to practice midwifery;

(6)(7) submit a written explanation and all related documents if the midwife has ever been listed as a nurse aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Committee may take these findings into consideration when determining if an approval to practice should be denied pursuant to G.S. 90-178.6. In the event findings are pending, the Committee may withhold taking any action until the investigation is completed; and submit an attestation of completion of at least 24 months experience and 4,000 practice hours as a CNM. **[The clinical experience shall be in collaboration with a collaborating provider.]** Documentation of successful completion of this requirement shall be provided to the Committee upon request;

~~(7)(8)~~ complete a criminal background check in accordance with ~~G.S. 90-171.48~~; G.S. 90-171.48; and

~~(5)(8)(9)~~ have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee may use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6 and ~~90-171.37~~; 90-171.37.

~~In the event that any of the information required in accordance with this Paragraph should indicate a concern about the applicant's qualifications, an applicant may be required to appear in person for an interview with~~

1 the Committee if the Committee determines in its discretion that more information is needed to evaluate the
2 application.

3 (b) ~~Each midwife shall annually renew their approval to practice with the Committee no later than the last day of the~~
4 ~~midwife's birth month by:~~

5 ~~(1) submitting a completed application for renewal, attesting under oath or affirmation that the~~
6 ~~information on the application is true and complete, and authorizing the release to the Committee~~
7 ~~of all information pertaining to the application. Applications are located on the Board of Nursing's~~
8 ~~website at www.ncbon.com;~~

9 ~~(2) attest to having completed the requirements of the Certificate Maintenance Program of the American~~
10 ~~College of Nurse-Midwives, including continuing education requirements, and submit evidence of~~
11 ~~completion if requested by the Committee as specified in Rule .0111 of this Section;~~

12 ~~(3) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2).~~

13 (b) An applicant seeking approval to practice with less than 24 months experience and 4,000 hours of practice as a
14 CNM shall:

15 (1) submit an application for approval to practice, attesting under oath or affirmation that the
16 information on the application is true and complete, and authorizing the release to the Committee
17 of all information pertaining to the application. The application can be found on the Board of
18 Nursing's website at www.ncbon.com;

19 (2) submit the approval to practice application fee as established in 90-178.4(b) and Rule .0102 of this
20 Chapter;

21 (3) hold an active, unencumbered North Carolina RN license or privilege to practice;

22 (4) hold an active, unencumbered CNM license or approval to practice in all jurisdictions in which a
23 license or approval to practice is or has ever been held;

24 (5) submit information on the applicant's education evidence of the applicant's maintained certification
25 by the American Midwifery Certification Board or its successor and the sites where the applicant
26 intends to practice midwifery;

27 (6) submit information identifying the collaborating provider with whom the applicant will collaborate;

28 (7) complete a criminal background check in accordance with G.S. 90-171.48; and

29 (8) have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant
30 shall provide a written explanation and any investigative report or court documents evidencing the
31 circumstances of the crime(s) if requested by the Committee. The Committee may use these
32 documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6
33 and 90-171.37.

34 (c) **[In the event]** When a CNM seeks independent practice, the CNM shall submit a new application for approval to
35 practice independently, attesting under oath or affirmation that the information on the application is true and complete,
36 and authorizing the release to the Committee of all information pertaining to the application and required fee.

1 In the event that any information required in accordance with this Rule should indicate a concern about the applicant's
2 qualifications, an applicant may be required to appear in person for an interview with the Committee if the Committee
3 determines in its discretion that more information is needed to evaluate the application.

4
5 *History Note: Authority G.S. 90-178.4(b); 90-178.5; 90-171.48; 90-171.37;*
6 *Eff. February 1, 1984;*
7 *Amended Eff. March 1, 2017; January 1, 1989;*
8 *Readopted Eff. November 1, 2018;*
9 *Amended Eff. April 1, 2020.*
10 *Temporary Adoption Eff. October 1, 2023.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0104 Provider Collaboration Required

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0104

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (b), line 24, what do you mean by “discontinues working within the . . . agreement”? Does this mean that the CNM stops working with the collaborating provider? Or does it mean that the CNM violates the terms of the agreement?

In (d), line 34, consider breaking this paragraph into a list as follows:

(d) A collaborative provider shall:

- (1) hold an active, unencumbered approval to practice as a CNM and have a minimum of four years and 8,000 hours of practice as a CNM or;*
- (2) hold an active, unencumbered license to practice medicine in North Carolina and be actively engaged in the practice of obstetrics.*

In (d), line 36, add “be” before “actively”.

In (d), line 36, define “actively engaged”.

In (e), p.2, line 1, add “has” before “4,000”.

In (e), lines 2-3, what are you requiring with “shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient”? Is this not required of a CNM practicing under a collaborative agreement?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: September 7, 2023

21 NCAC 33 .0104 is proposed as a temporary rule, without changes, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0104 PHYSICIAN SUPERVISION PROVIDER COLLABORATION REQUIRED

~~The applicant shall furnish the committee evidence that the applicant will perform the acts authorized by the Midwifery Practice Act under the supervision of a physician who is actively engaged in the practice of obstetrics in North Carolina. Such evidence shall include a description of the nature and extent of such supervision and a delineation of the procedures to be adopted and followed by each applicant and the supervising physician responsible for the acts of said applicant for rendering health care services at the sites at which such services will be provided. Such evidence shall include:~~

- ~~(1) — mutually agreed upon written clinical practice guidelines that define the individual and shared responsibilities of the midwife and the supervising physician or physicians in the delivery of health care services;~~
- ~~(2) — mutually agreed upon written clinical practice guidelines for ongoing communication that provide for and define appropriate consultation between the supervising physician or physicians and the midwife;~~
- ~~(3) — periodic and joint evaluation of services rendered, such as chart review, case review, patient evaluation, and review of outcome statistics; and~~
- ~~(4) — periodic and joint review and updating of the written medical clinical practice guidelines.~~

(a) A CNM who has practiced fewer than 24 months and 4,000 hours of practice as a CNM shall practice in consultation with a collaborating provider in accordance with a collaborative provider agreement in compliance with Rule .0116 of this Chapter.

(b) The approval to practice of the CNM practicing under the supervision of a collaborative provider agreement is terminated when the CNM discontinues working within the approved collaborative provider agreement or experiences an interruption in their RN licensure status. The CNM shall notify the Committee in writing within five days of the termination of the collaborative provider agreement.

(c) The CNM shall have 90 days to submit a newly-executed collaborative provider agreement with a collaborative provider to the Committee. During this 90-day period, the CNM may continue to practice midwifery in accordance with the Midwifery Practice Act and this Chapter. Should the 90-day period expire without a newly-executed collaborative provider agreement being submitted to the Committee, the approval to practice is rendered inactive and the CNM shall be required to submit an application for reinstatement of the approval to practice consistent with Rule .0103 and Rule .0115 of this Chapter. The Committee will notify the CNM when the application has been approved and the approval to practice is reinstated.

(d) To be eligible a collaborative provider shall hold an active, unencumbered approval to practice as a CNM having a minimum of four years and 8,000 hours of practice as a CNM or an active, unencumbered license to practice medicine in North Carolina and actively engaged in obstetrics.

1 (e) A CNM who has practiced over 24 months and 4,000 hours of practice as a CNM may be issued an approval to
2 practice midwifery independently and shall consult and collaborate with and refer patients to such other health care
3 providers as may be appropriate for the care of the patient.

4
5 *History Note: Authority G.S. 90-178.4(b); 90-178.3;*
6 *Eff. February 1, 1984;*
7 *Amended Eff. July 1, 2000; October 1, 1988; April 1, 1985;*
8 *Readopted Eff. November 1, 2018.*
9 *Temporary Adoption Eff. October 1, 2023.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0105 Disciplinary Action

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0105

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (b), lines 8-9, consider re-writing in the active tense: “the Committee may take disciplinary action if it finds one or more of the following:”

In (b)(2), line 11, define “immoral” and “dishonorable”. These terms, if left undefined, are impermissibly vague and unclear.

In (b)(4), line 14, who would adjudicate the CNM as mentally incompetent? A judge? In any jurisdiction?

In (b)(4), line 14, who determines whether the CNM’s mental or physical condition renders them unable to safely function? What does it mean to “safely function” in this context?

In (b)(5), line 17, what are “prevailing standards”? Are these defined?

In (b)(6), line 18, what criminal offenses “bear on the CNM’s ability to practice”?

In (b)(8), line 21, where is “professional competence” defined? Also, how is this different from (b)(12)’s requirement to “maintain competence”?

In (b)(10), line 24, how long does the CNM have to respond to inquiries before he or she is judged to have failed to respond?

In (b)(12), line 28, to the extent this is different than (b)(8), where is “competence” defined?

In (b)(14), line 30, where is “the scope of CNM practice” defined?

In (c), line 36, what is a “private letter of concern”?

Brian Liebman
Commission Counsel

Date submitted to agency: September 7, 2023

*In (d), p.2, lines 2-3, does the Midwifery Committee (or subcommittee) have the statutory authority to exercise power given by statute to the Board of Nursing? Wouldn't the Committee's power to discipline stem from G.S. 90-178.6 and 178.7? If the Committee has the disciplinary authority vested in the Board of Nursing by G.S. 90-171.37, why does G.S. 90-178.6(b) specifically note that "revocation of a license to practice **nursing** pursuant to G.S. 90-171.37 shall automatically result in **comparable** action against the person's approval to practice midwifery under this Article"? Doesn't this indicate that these are separate sources of authority?*

In your History Note, please explain the relevance of the references to the portions of G.S. 90-171 that have been added.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 33 .0105 is proposed as a temporary rule, without changes, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0105 DISCIPLINARY ACTION

(a) The ~~midwife~~ CNM is subject to G.S. 90-171.37; 90-171.48 and 21 NCAC 36 .0217 by virtue of the license to practice as a ~~registered nurse, RN.~~

(b) After notice and hearing in accordance with provisions of G. S. 150B, Article 3A, disciplinary action may be taken by the Committee if one or more of the following is found:

- (1) practicing without a valid approval to practice as a CNM;
- (2) immoral or dishonorable conduct;
- (3) presenting false information to the Committee in procuring or attempting to procure an approval to practice as a CNM;
- (4) the CNM is adjudicated mentally incompetent or the CNM's mental or physical condition renders the CNM unable to safely function as a CNM;
- (5) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the prevailing standards for CNMs;
- (6) conviction of a criminal offense which bears on the CNM's ability to practice or that the CNM has deceived or defrauded the public;
- (7) soliciting or attempting to solicit payments for the CNM practice with false representations;
- (8) lack of professional competence as a CNM;
- (9) exploiting the patient, including the promotion of the sale of services, appliances, or drugs, for the financial gain of the CNM or of a third party;
- (10) failure to respond to inquiries of the Committee for investigation and discipline;
- (11) the CNM has engaged or attempted to engage in the performance of midwifery acts other than according to the collaborative provider agreement or without being approved by the Committee to practice independently;
- (12) failure to maintain competence as a CNM;
- (13) failure to obtain a written, informed consent agreement from a patient;
- (14) practiced or offered to practice beyond the scope of CNM practice;
- (15) failure to comply with any order of the Committee;
- (16) violating any term of probation, condition, or limitation imposed on the CNM by the Committee; or
- (17) any violation within this Chapter.

~~(b)(c)~~ After an investigation is completed, the Committee may recommend one of the following:

- (1) dismiss the case;
- (2) issue a private letter of concern;
- (3) enter into negotiation for a Consent Order; or

1 (4) a disciplinary hearing in accordance with G.S. 150B, Article 3A.

2 (d) Upon a finding of violation, the Committee may utilize the range of disciplinary options as enumerated in G.S.
3 90-171.37.

4
5 *History Note: Authority G.S. 90-171.37; 90-171.43; 90-171.44; 90-171.48; 90-178.6; 90-178.7;*
6 *Eff. February 1, 1985;*
7 *Amended Eff. August 1, 2002; October 1, 1988;*
8 *Readopted Eff. November 1, 2018;*
9 *Amended Eff. April 1, 2020.*
10 *Temporary Adoption Eff. October 1, 2023.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0111 Continuing Education (CE)

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0111

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), lines 5-6, what is this "Program"? Please incorporate it by reference pursuant to 150B-21.6.

In (b), line 12, Rule .0117 does not define "controlled substances".

In (b), line 13, spell out "1".

In (c), please consider rewriting in the active tense.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: September 7, 2023

21 NCAC 33 .0111 is proposed as a temporary rule, without changes, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0111 CONTINUING EDUCATION (CE)

(a) In order to maintain approval to practice midwifery, a ~~midwife~~ CNM shall meet the requirements of the Certificate Maintenance Program of the American ~~College of Nurse Midwives, Midwifery Certifying Board,~~ including continuing education requirements. ~~Every midwife who prescribes controlled substances shall complete at least one hour of continuing education (CE) hours annually consisting of CE designated specifically to address controlled substances prescribing practices, signs of the abuse or misuse of controlled substances, and controlled substance prescribing for chronic pain management. Documentation of continuing education shall be maintained by the midwife for the previous five calendar years and made available upon request to the Committee.~~

(b) Prior to prescribing controlled substances as the same are defined in 21 NCAC 33 .0117, CNMs shall have completed a minimum of one CE hour within the preceding 12 months on 1 or more of the following topics:

- (1) Controlled substances prescription practices;
- (2) Prescribing controlled substances for chronic pain management;
- (3) Recognizing signs of controlled substance abuse or misuse; or
- (4) Non-opioid treatment options as an alternative to controlled substances.

(c) Documentation of all CE completed within the previous five years shall be maintained by the CNM and made available upon request to the Committee.

*History Note: Authority: ~~G.S. 90-5.1; 90-14(a)(15); 90-178.5(2); S.L. 2015-241, s. 12F .16(b); G.S. 90-178.3; 90-178.5(a)(2);~~
~~Eff. March 1, 2017;~~
~~Readopted Eff. November 1, 2018.~~
Temporary Adoption Eff. October 1, 2023.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0112 Scope of Practice

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0112

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

The sentence at lines 5-6 “The CNM’s scope of practice... maintained competence.” is impermissibly vague and unclear. What levels of educational preparation are there? What procedures or privileges do they translate to? What if someone has a high level of education but hasn’t “maintained competence”? What does that do to the scope of their practice? How does someone “maintain competence”?

At line 6, what does it mean for the CNM to “be held accountable”? Does this mean disciplinary action by the Committee?

At line 8, these services “include” the list of (1)-(7), but what else is included? It is important that there be a discrete list, given that this is where the scope of practice is defined, and it is a disciplinable offense to exceed that scope. How is someone to know if they exceed the scope of practice when it isn’t explicitly defined?

In (1), line 9, what are “primary health care services”? Are these defined somewhere?

In (1), line 10, what does “throughout the lifespan” mean? Does this mean a midwife functions as a primary care physician for people of all ages?

In (2), line 12, what does “promotion and maintenance of health care services” mean? It sounds like you’re saying the midwife is responsible for convincing people to seek care with them at risk of “being held accountable”.

In (3), line 13, “disease” should be plural.

In (4), what other “settings” must the CNM provide care in?

Brian Liebman
Commission Counsel
Date submitted to agency: September 7, 2023

In (7), line 19, do you mean evaluating health outcomes of specific patients? Or are you requiring the CNM to conduct longitudinal studies of their treatment profiles?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 33 .0112 is proposed as a temporary rule, without changes, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0112 SCOPE OF PRACTICE

The CNM's scope of practice is defined by academic educational preparation and national certification and maintained competence. A CNM shall be held accountable by the Committee for a broad range of personal health services or which the CNM is educationally prepared and for which competency has been maintained once the CNM has been authorized to practice midwifery. These services include:

- (1) diagnosing, treating, and managing a full range of primary health care services to the patient throughout the lifespan, including gynecologic care, family planning services, preconception care, prenatal and postpartum care, childbirth, and care of the newborn;
- (2) promotion and maintenance of health care services for the patient throughout their lifespan;
- (3) treating patient and their partners for sexually transmitted disease and reproductive health;
- (4) providing care in diverse settings, which may include home, hospital, birth center, and a variety of ambulatory care settings including private offices and community and public health clinics;
- (5) prescribing, administering, and dispensing therapeutic measures, tests, procedures, and drugs;
- (6) planning for situations beyond the CNMs scope of practice and expertise by collaborating, consulting with, and referring to other health care providers as appropriate; and
- (7) evaluating health outcomes.

History Note: Authority: G.S. 90-18.8; 90-178.3;

Temporary Adoption Eff. October 1, 2023.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0114 Annual Renewal

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0114

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 6, please consider rewriting in the active tense.

In (a)(2), line 9, what is a “complete” application? Although G.S. 90-174(b)(4) explicitly gives the “joint subcommittee” the authority to “establish the form and contents of the application” by rule, I do not see any rule or part of a rule in which the contents of the application are clearly set out. As the application seems to be on a form provided by the Board of Nursing (see also G.S. 178.5(a)(1)), that form would need to either go through rulemaking itself, or have its contents or substantive requirements described in another rule or a statute.

In (3), line 13, add “-ing” to “attest”.

In (c), line 21, please change “their” to “his or her”.

In (c), line 21, when you say “has not renewed” do you mean the CNM has to submit the application to renew, or do you mean that the Committee has to have granted the application by the end of the birth month?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 33 .0114 is proposed as a temporary rule, without changes, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0114 ANNUAL RENEWAL

(a) The CNM approval to practice shall be renewed annually no later than the last day of the applicant's birth month by:

- (1) maintaining an active, unencumbered North Carolina RN license or privilege to practice;
- (2) submitting a completed application for renewal, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. Applications are located on the Board of Nursing's website at www.ncbon.com;
- (3) attest to having completed the requirements of the Certificate Maintenance Program of the American Midwifery Certification Board or its successor, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Chapter; and
- (4) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2) and this Chapter.

(b) It shall be the duty of the CNM to keep the Committee informed of a current mailing address, telephone number, and email address.

(c) If the CNM has not renewed by end of their birth month and submitted the annual fee, the approval to practice shall expire.

*History Note: Authority: G.S. 90-178.4(b); 90-178.5;
 Temporary Adoption Eff. October 1, 2023.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0115 Inactive Status

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0115

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 7, would an email satisfy the “in writing” requirement?

In (c), line 10, move the period after “Rule” to just before “0103”.

In (c) line 10, consider revising in the active tense: “and shall not resume practicing until he or she receives notification that the Committee has granted his or her application.”

In (c), line 10, what application are you referring to ? Nothing in Rule .0103 governs applications to come out of inactive status.

In (d), line 13, add “the” before “American”.

In (d), line 13-14, what are the American College of Nurse Midwives reentry to practice guidelines? If you are enforcing them via this Rule, they need to be incorporated by reference pursuant to G.S. 150B-21.6.

What does the last sentence in (d) mean? Why would the approval to practice be limited only to clinical activities required by the refresher course? The CNM can’t practice in areas that they do not need a refresher on?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 33 .0115 is proposed as a temporary rule, without changes, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0115 INACTIVE STATUS

(a) Any CNM who wishes to place their approval to practice on an inactive status shall notify the Committee in writing.

(b) A CNM with an inactive approval to practice status shall not practice as a CNM.

(c) A CNM with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice in Rule. 0103 of this Chapter and receive notification from the Committee of approval prior to beginning practice after the application is approved.

(d) A CNM who has not practiced as a CNM in more than two years shall complete a midwifery refresher course approved by the Commission based on American College of Nurse-Midwives' reentry to midwifery practice guidelines and directly related to the CNM's area of academic education and national certification. A midwifery refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

History Note: Authority G.S. 90-178.3; 90-178.5;
Temporary Adoption Eff. October 1, 2023.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0116 Collaborative Provider Agreement

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0116

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a)(1), lines 7-8, do you mean that a copy of the agreement has to be kept in all provider sites? How does this comport with Rule .0112(4)'s requirement that the CNM be prepared to practice in a variety of different settings?

In (a)(2), line 9, what does a "review" entail?

In (b), line 15, define "direct communication" and "telecommunication".

In (c), please consider revising in the active tense.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

21 NCAC 33 .0116 is proposed as a temporary rule, without changes, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0116 COLLABORATIVE PROVIDER AGREEMENT

(a) A CNM with less than 24 months and 4,000 hours of practice as a CNM is required to have a written collaborative provider agreement to practice midwifery. The collaborative provider agreement shall:

(1) be agreed upon, signed, and dated by both the collaborating provider and the CNM, and maintained in each provider site;

(2) be reviewed at least annually. This review shall be acknowledged by a dated signature sheet, signed by both the collaborating provider and the CNM, appended to the collaborative provider agreement, and available for inspection by the Committee;

(3) include mutually agreed upon written clinical practice guidelines for the drugs, devices, medical treatments, tests, and procedures that may be prescribed, ordered, and performed by the CNM; and

(4) include a pre-determined plan for emergency services.

(b) The collaborating provider and the CNM shall be available to each other for consultation by direct communication or telecommunication.

(c) A copy of the collaborative provider agreement executed within the previous five years shall be maintained by the CNM and made available upon request of the Committee.

History Note: Authority G.S. 90-18.8; 90-178.3; 90-178.4; 90-178.5;

Temporary Adoption Eff. October 1, 2023.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0117 Prescribing Authority

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No
Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0117

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Is this Rule “consistent with the rules established for nurse practitioners under G.S. 90-18.2(b)(1)”, as required by G.S. 90-18.8(c)?

In (b), are you requiring both the collaborating provider CNM and the CNM under the agreement to have a DEA registration? There is an inference here (and in (e)(3)), but there’s no explicit requirement that a CNM practicing under an agreement or a CNM practicing independently have a DEA registration.

In (b), line 9, please delete the “(s)” and say either “schedules” or “schedule or schedules”.

To my reading, (c)(1) and (c)(2) say the exact same thing. Please correct.

Consider rewriting (c)(1)/(2) in the active tense: “The collaborative provider agreement outlined in Rule .0116 of this Chapter shall include the drugs and devices that the CNM may prescribe.”

Beyond that, is (c)(1)/(2) really necessary? Rule .0116 already says this.

In (c)(2), why are (A)-(C) underneath (c)(2). These seem to be independent requirements that should be (3), (4), (5), to my reading.

In (c)(2)(B), what are the “Controlled Substance laws and regulations”? Are these state level statutes and rules? Federal statutes and regulations? Make a specific reference to the laws/rules/regulations you are requiring compliance with.

In (c)(2)(C), does this not say a slightly different thing than the second sentence of (b)? What does “equal or greater than” mean?

In (d), line 29, what is a “prescribing stipulation” in this context?

Brian Liebman
Commission Counsel

Date submitted to agency: September 7, 2023

Where in (e) is the requirement that the CNM write their “identification number” assigned by the joint subcommittee on the prescription? This is required in G.S. 90-18.8(b)(3).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: September 7, 2023

21 NCAC 33 .0117 is proposed as a temporary rule, without changes, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0117 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in this rule apply to writing prescriptions and ordering the administration of medications by a CNM.

(b) A CNM must possess a valid United States Drug Enforcement Administration (“DEA”) registration in order for the CNM to act as a collaborating provider for another CNM. The DEA registration of the collaborating provider shall include the same schedule(s) of controlled substances as the CNM practicing under a collaborative provider agreement.

(c) Prescribing and dispensing stipulations for the CNM authorized to practice under a collaborative provider agreement are as follows:

(1) Drugs and devices that may be prescribed by the CNM shall be included in the collaborative provider agreement as outlined in Rule .0116 of this Chapter.

(2) Drugs and devices that may be prescribed by the CNM shall be included in the collaborative provider agreement as outlined in Rule .0116 of this Chapter.

(A) The CNM has an assigned DEA number that is entered on each prescription for a controlled substance;

(B) Refills may be issued consistent with Controlled Substance laws and regulations; and

(C) The collaborative provider shall possess a schedule(s) of controlled substances equal to or greater than the CNM's DEA registration.

(3) The CNM may prescribe a drug or device not included in the collaborative provider agreement only as follows:

(A) Upon a specific written or verbal order obtained from the collaborating provider before the prescription or order is issued by the CNM; and

(B) The written or verbal order as described in Part (c)(3)(A) of this rule shall be entered into the patient record with a notation that it is issued on the specific order of a collaborating provider and signed by the CNM and the collaborating provider.

(d) All prescribing stipulations shall be written in the patient’s chart and shall include the medication and dosage, the amount prescribed, the directions for use, the number of refills, and the signature of the CNM.

(e) The prescriptions issued by the CNM shall contain:

(1) the name of the patient;

(2) the CNM's name and telephone number; and

(3) the CNM's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed.

(f) A CNM shall not prescribe controlled substances for the CNM’s own use, the use of the CNM’s collaborating provider, the use of the CNM’s immediate family, the use of any other person living in the same residence as the

1 CNM, or the use of any person with whom the CNM is having a sexual relationship. As used in this Paragraph,
2 "immediate family" means a spouse, parent, child, sibling, parent-in-law, son-in-law or daughter-in-law, brother-in-
3 law or sister-in-law, step-parent, step-child, or step-sibling.

4
5 *History Note:* Authority G.S. 90-18.8; 90-178.3:
6 Temporary Adoption Eff. October 1, 2023.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC Board of Nursing

2. Rule citation & name: 21 NCAC 33 .0118 Birth Outside Hospital Setting

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: July 20, 2023
- b. Proposed Temporary Rule published on the OAH website: July 26, 2023
- c. Public Hearing date: August 8, 2023
- d. Comment Period: July 26, 2023 – August 17, 2023
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): July 20, 2023
- f. Adoption by agency on: August 29, 2023
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3: October 1, 2023
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: Session Law 2023-14 Senate Bill 20
Effective date: May 16, 2023
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ Other:

Explain: The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing “the effective date of a recent act of the General Assembly or the United States Congress”. On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC’s requirements for midwifery practice and meets the legislature’s charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Senate Bill 20 directs the Midwifery Joint Committee (MJC) to adopt rules to address the CNM issues identified in rational above. Portions of this law become effective October 1, 2023 thus not allowing the MJC to complete permanent rulemaking in time for implementation date.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Angela H. Ellis, Chief Administrative Officer

Phone: 984.238.7644

E-Mail: angela@ncbon.com

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

Angela Ellis

*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Angela Ellis

Title: Chief Administrative Officer/Rulemaking Coordinator

E-Mail: angela@ncbon.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULE
REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Board of Nursing

RULE CITATION: 21 NCAC 33 .0118

DEADLINE FOR RECEIPT: Friday, September 15, 2023.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), do these rules only apply if the patient is planning the birth at their “home”?

In (a)(1), line 8, does the agreement “include” anything else beyond what is delineated here?

In (a)(1)(C), line 13, what information are you requiring?

In (a)(1)(E), line 16, is “health care facility” defined anywhere? It seems like (a)(2)(A) specifies what kind of health care facility is acceptable, consider moving that here.

Are (a)(2) and (a)(2)(A)-(C) verbatim repetitions of G.S. 90-178.4(a2)? If so consider revising to eliminate the repetition of statutory language and just say that the CNM has to provide a detailed written plan of care consistent with G.S. 90-178.4(a2).

In (a)(2)(C), line 26, how and when must the health care facility be notified? Can the CNM satisfy this request by leaving a voicemail for the hospital administrator?

In (a)(3), line 28, there appears to be a grammatical error: “a decision to non-emergent transfer care”.

In (a)(3), line 28, what is a “non emergent” transfer of care?

In (a)(3)(B), line 30, does the patient have to agree to a release of their medical records? Is that part of the consent agreement?

In (a)(4), line 33, what is an “emergent situation”?

In (a)(4), line 34, “immediate” should be “immediately”.

In (a)(4), line 34, delete “of” between “transfer” and “care”.

Brian Liebman
Commission Counsel
Date submitted to agency: September 7, 2023

In (a)(4), line 34, define “reasonable effort”.

In (a)(4), lines 35 and 36, and in (a)(4)(A), p.2, line 1, delete the (s) and either make the word plural or say “patient or patients”.

In (b), p.2, line 3, I think you meant “emergent and non-emergent transfer of care plans”.

In (c), line 7, under what guidelines is this assessment made? Please incorporate them by reference under G.S. 150B-21.6.

In (c), line 8, what other known situations are contraindicated by ACOG? Where are these documented? Please incorporate them by reference under G.S. 150B-21.6.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: September 7, 2023

21 NCAC 33 .0118 is proposed as a temporary rule, **with changes**, as published on the OAH website on July 26, 2023 as follows:

21 NCAC 33 .0118 BIRTH OUTSIDE HOSPITAL SETTING

(a) [A CNM approved to practice may attend and provide midwifery services for a planned birth outside of a hospital setting for a pregnancy deemed low risk by the American College of Obstetricians and Gynecologists (ACOG).] Prior to initiating care for a patient planning a home birth outside of a hospital setting, the CNM shall be required to:

(1) obtain a signed, written informed consent agreement with the patient that includes:

(A) identifying information of the patient to include name, date of birth, address, phone number, and email address if available;

(B) identifying information of the CNM to include the name, RN license number, approval to practice number, practice name, if applicable, and email address;

(C) information about the procedures, benefits, and risks of planned births outside of hospital settings;

(D) an acknowledgment and understanding of the clear assumption of these risks by the patient;

(E) an acknowledgment by the patient to consent to transfer to a health care facility when and if deemed necessary by the CNM; and

(F) a disclosure that the CNM is not covered under a policy of liability insurance, if applicable.

(2) Provide the patient with a detailed, written plan for transfer of care to a health care facility under emergent and non-emergent transfer. Such plan shall be signed and dated by both the patient and the CNM and shall include:

(A) the name of and distance to the nearest health care facility licensed under Chapter 122C or Chapter 131E of the General Statutes that has at least one operating room;

(B) the procedures for transfer, including modes of transportation and methods for notifying the relevant health care facility of impending transfer; and

(C) an affirmation that the relevant health care facility has been notified of the plan for emergent and non-emergent transfer by the CNM.

(3) After a decision to non-emergent transfer care has been made, the CNM shall:

(A) call the relevant receiving health care facility to notify them of transfer;

(B) provide a copy of the patient's medical record to the receiving health care facility; and

(C) provide a verbal summary of the care provided by the CNM to the patient and newborn, if applicable, to the receiving health care facility.

(4) In an emergent situation, the CNM shall initiate emergency care as indicated by the situation and immediate transfer of care by making a reasonable effort to contact the health care professional or facility to whom the patient(s) will be transferred and to follow the health care professional's instructions; remain with the patient(s) until transfer of care is completed; and continue emergency care as needed while:

1 (A) transporting the patient(s) by private vehicle; or

2 (B) calling 911 and reporting the need for immediate transfer.

3 (b) Copies of the informed consent agreement and emergent and non-emergent transfer of care shall be maintained in
4 the patient's record and provided to the Committee upon request.

5 (c) A CNM approved to practice may attend and provide midwifery services for a planned home birth outside of a
6 hospital setting for a pregnancy deemed low-risk by the American College of Obstetricians and Gynecologists
7 (ACOG). No CNM shall attend or provide midwifery services to a patient for a planned home birth outside of a
8 hospital setting for known situations contraindicated by ACOG including fetal malpresentation, multiple gestation,
9 and prior cesarean.

10
11 *History Note: Authority: G.S. 90-18.8; 90-178.3; 90-178.4;*

12 *Temporary Adoption Eff. October 1, 2023.*