

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0101

DEADLINE FOR RECEIPT: September 16, 2024

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:

Page 1, Lines 4-5: Add "Pursuant to G.S. _____," prior to "the responsibility." In this way it becomes descriptive rather than a mandate.

Page 1, Lines 15-18: This can be read in different ways. Are you mixing a definition and a requirement?

Page 1, Lines 15-16: The AMCB is an organization. Why are you defining it?

Page 1, 30-31: The ACME is an organization. Why are you defining it?

Page 1, Lines 32-34: The ACNM is an organization. Why are you defining it?

Page 1, Lines 35-37, Page 2, Lines 1-2: The ACOG is an organization. Why are you defining it?

Page 2: Line 3: Shouldn't "a" be "the branch of medicine...?"

Generally, to the rule: Aren't you just dining the initialisms?

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

21 NCAC 33 .0101 is adopted as published in NCR 38:24, pages 1642 – 1643, 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.~~ "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) ~~"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.~~ "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 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-gynecologists that produces practice guidelines for health care professionals and educational materials for patients, provides practice management and career~~

1 support, facilitates program and initiatives to improve women's health, and advocates for members
2 and patients.

3 (3)(5) "Obstetrics" means a branch of medical science that deals with birth and with its antecedents and
4 sequels, including prenatal, intrapartum, postpartum, newborn or gynecology, and otherwise
5 unspecified primary health services for women.
6

7 *History Note: Authority G.S. 90-178.4;*
8 *Eff. February 1, 1984;*
9 *Amended Eff. July 1, 2000; October 1, 1988;*
10 *Readopted Eff. November 1, 2018;*
11 *Amended Eff. April 1, 2020.*
12 *Temporary Amendment Eff. October 1, 2023.*
13 *Eff. October 1, 2024.*

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0103

DEADLINE FOR RECEIPT: September 16, 2024

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:

Page 1, Line 4: Applications for what?

Page 1, Lines 4-5: Who is required to make the information appear?

Page 1, Line 17: Define "independently."

Page 1, Line 27: What is an "RN?"

Page 1, Line 29: What is an "RN?"

Page 2, Line 3: Change "may" to "shall."

Page 2, Line 16: "Approval to practice" what?

Page 2, Lines 16-18: This is poorly written and appears to be mixing concepts. Consider striking "is required to practice in collaboration with a collaborating provider and ..." and make this concept its own paragraph or rule.

Page 2, Line 19: Is this the same "application" as in Paragraph (a)?

Page 3, Line 3: Change "may" to "shall."

Page 3, Line 6: Is this the same "application" as in Paragraph (a)?

Page 3, Line 9: Consider "educational institution" rather than "primary source."

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

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

21 NCAC 33 .0103 is adopted, **with changes**, as published in NCR 38:24, pages 1643-1644, as follows:

21 NCAC 33 .0103 ELIGIBILITY AND APPLICATION AND ANNUAL RENEWAL

(a) Applications are posted on the Board of Nursing's website at www.ncbon.com. The following information shall appear on the application:

- (1) the applicant's name, telephone number and email address;
- (2) the applicant's primary address of residence;
- (3) the educational degrees obtained by the applicant with the program name and completion date;
- (4) the number and expiration date of the applicant's national certification from the AMCB;
- (5) other professional or occupational licenses with the license number and jurisdiction in which the license was issued, if applicable;
- (6) the name, license number, telephone number, email address, and practice location of the collaborating provider, if applicable;
- (7) the full address of the practice location where the applicant intends to practice midwifery; and
- (8) the approval to practice number shall be provided on the application if the application is for the renewal or reinstatement of an existing approval to practice.

~~(a)~~(b) 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; application;~~
- ~~(2)~~ submit information on the applicant's education, evidence of the applicant's certification by the American College of Nurse-Midwives, identification of the physician or physicians who will supervise the applicant, and the sites where the applicant intends to practice midwifery;
- ~~(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;
- ~~(4)~~(3) have an unencumbered ~~registered nurse RN~~ license and midwifery license or approval privilege to practice in all jurisdictions in which a ~~license/approval to practice~~ license is or has ever been held;
- (4) hold an active, unencumbered North Carolina RN license or privilege to practice;
- (5) hold an unencumbered CNM license or an approval to practice in all jurisdictions in which a license or an approval to practice is or has ever been held;
- (6) provide an official copy of the educational transcript and certification from **[American Midwifery Certification Board;] AMCB;**
- (7) attest by oath or affirmation to completion of at least 24 months experience and 4,000 practice hours as a CNM. Documentation of successful completion of this requirement shall be provided to the Committee upon request; and

~~(5)(8)~~ 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; 90-178.6.~~

~~(6)~~ 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

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

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

~~(b)(c)~~ Each midwife shall annually renew their An applicant seeking approval to practice with the Committee no later than the last day of the midwife's birth month by: with less than 24 months experience and 4,000 hours of practice as a CNM is required to practice in collaboration with a collaborating provider and shall:

- ~~(1)~~ submitting a completed submit an application for renewal; an 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. ~~Applications are located on the Board of Nursing's website at www.ncbn.com;~~
- ~~(2)~~ attest to having completed the requirements of the Certificate Maintenance Program of the American College of Nurse-Midwives, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Section; submit the approval to practice application fee as established in 90-178.4(b) and rule .0102 of this chapter;
- ~~(3)~~ submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2). hold an unencumbered license or privilege to practice in all jurisdictions in which a license is or has ever been held;
- ~~(4)~~ hold an active, unencumbered North Carolina RN license or privilege to practice;
- ~~(5)~~ hold an unencumbered CNM license or an approval to practice in all jurisdictions in which a license or an approval to practice is or has ever been held;
- ~~(6)~~ provide an official copy of the education transcript and certificate from [American Midwifery Certification Board;] AMCB;
- ~~(7)~~ submit the name and licensure number of the collaborating provider with whom the applicant will collaborate;

1 (8) have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant
2 shall provide a written explanation and any investigative report or court documents evidencing the
3 circumstances of the crime(s) if requested by the Committee. The Committee may use these
4 documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6.
5 (d) Once a CNM has attained 24 months experience and 4,000 hours of practice as a CNM, the CNM shall apply for
6 independent practice by submitting an application attesting under oath or affirmation that the information on the
7 application is true and complete, and authorizing the release to the Committee of all information pertaining to the
8 application and required fee.
9 (e) All educational transcripts and certifications shall be submitted directly to the Committee from the primary source.
10 (f) An applicant shall be required to appear in person for an interview with the Committee if there is a discrepancy in
11 the information submitted.

12
13 *History Note: Authority G.S. 90-178.4(b); 90-178.5;*
14 *Eff. February 1, 1984;*
15 *Amended Eff. March 1, 2017; January 1, 1989;*
16 *Readopted Eff. November 1, 2018;*
17 *Amended Eff. April 1, 2020.*
18 *Temporary Amendment Eff. October 2023.*
19 *Amended Eff. October 1, 2024.*

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0104

DEADLINE FOR RECEIPT: September 16, 2024

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:

Page 1, Line 26: 90 days from when?

Page 1, Line 36: Strike or define "actively."

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

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

21 NCAC 33 .0104 is adopted as published in NCR 38:24, pages 1644 – 1645, 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 shall notify the CNM when the application has been approved and the approval to practice is reinstated.

(d) To be eligible a collaborative provider shall:

- (1) hold an active, unencumbered approval to practice as a CNM and have a minimum of 4 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.

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

4
5 *History Note: Authority G.S. 90-178.4(b);*
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 Amendment Eff. October 1, 2023.*
10 *Eff. October 1, 2024.*

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0105

DEADLINE FOR RECEIPT: September 16, 2024

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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:

Page 1, Line 4-5: Why is this necessary?

Page 1, Line 6: What Committee?

Page 1, Line 6: Change “may” to “shall” or list what factors the Committee shall consider in making its determination whether or not to take disciplinary action.

Page 1, Line 12: How is the CNM's mental or physical condition determined?

Page 1, Line 17-18: What standard is used in determining whether the CNM remains competent?

Page 1, Line 19: What constitutes exploiting?

Page 1, Line 21: Is there a rule requiring them to respond?

Page 1, Line 25: Is there a rule which requires an agreement with the patient?

Page 1, Line 31: Change “may” to “shall.”

Page 2, Line 2: Change “may” to “shall.”

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

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

21 NCAC 33 .0105 is adopted as published in NCR 38:24, pages 1645 – 1646, 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, the Committee may take disciplinary action if it finds one or more of the following:

- (1) practicing without a valid approval to practice as a CNM;
- (2) presenting false information to the Committee in procuring or attempting to procure an approval to practice as a CNM;
- (3) the CNM is adjudicated mentally incompetent by a court of competent jurisdiction or the CNM's mental or physical condition renders the CNM unable to safely function as a CNM;
- (4) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the prevailing standards for CNMs as set forth by ACNM;
- (5) conviction of a criminal offense where the CNM has deceived or defrauded the public;
- (6) soliciting or attempting to solicit payments for the CNM practice with false representations;
- (7) failure to maintain professional competence as a CNM such that the CNM would no longer be eligible for certification by the ACMB or the ACNM;
- (8) 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;
- (9) failure to respond to inquiries of the Committee for investigation and discipline;
- (10) 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;
- (11) failure to obtain a written, informed consent agreement from a patient;
- (12) practiced or offered to practice beyond the scope of CNM practice as defined in rule .0112 of this Chapter;
- (13) failure to comply with any order of the Committee;
- (14) violating any term of probation, condition, or limitation imposed on the CNM by the Committee; or
- (15) 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
- (4) a disciplinary hearing in accordance with G.S. 150B, Article 3A.

1 (d) Upon a finding of a violation of Chapter 90, Article 10A of the North Carolina General Statutes and the rules of
2 this Chapter, the Committee may utilize the range of disciplinary options as enumerated in G.S. 90-178.6 and 90-
3 178.7.

4
5 *History Note: Authority G.S. 90-178.6;*
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 Amendment Eff. October 1, 2023.*
11 *Eff. October 1, 2024.*

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0111

DEADLINE FOR RECEIPT: September 16, 2024

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

Page 23: What kind of documentation is necessary?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

21 NCAC 33 .0111 is adopted, **with changes**, as published in NCR 38:24, page 1646 as follows:

21 NCAC 33 .0111 CONTINUING EDUCATION (CE)

(a) In order to maintain an 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,] AMCB,** 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.~~ These requirements are hereby incorporated by reference, including subsequent amendments or editions, and may be accessed at no cost at: <https://www.amcbmidwife.org/certificate-maintenance-program/purpose-objectives>.

(b) Prior to prescribing Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Act, CNMs shall complete a minimum of one CE hour within the preceding 12 months on one 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) CNMs who complete the federally required training under the Medication Access and Training Expansion Act (MATE) shall be deemed in compliance with the controlled substance prescribing requirements of this rule for the two year CE period in which the MATE training is completed.

(d) The CNM shall maintain documentation of all CE completed within the previous five years and provide a copy to the Committee upon request.

*History Note: Authority: G.S. 90-5.1; 90-14(a)(15); 90-178.5(2); S.L. 2015-241, s. 12F .16(b);
Eff. March 1, 2017;
Readopted Eff. November 1, 2018.
Temporary Amendment Eff. October 1, 2023.
Adopted Eff. October 1, 2024.*

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0112

DEADLINE FOR RECEIPT: September 16, 2024

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

Generally to the Rule: G.S. 90-178.2 (3) defines midwifery as the act of providing prenatal, intrapartum, postpartum, newborn and interconceptional care. Each of these terms is also defined in G.S. 90-178.2 (1-2, 4-6).

Explain the authority of the Committee to expand the scope of practice beyond that which is given in G.S. 90-178.2?

Are there any terms in G.S. 90-178.2 (1-2, 4-6) which the Committee believes to be unclear or ambiguous?

Lines 4-5: This language is ambiguous.

Line 9: Explain the authority for the Committee to empower CNM's to provide "a full range of primary health care services."

Line 9: Define "primary healthcare services."

Line 10: Whose "lifespan?"

Line 12: Explain the authority to include the treatment of sexually transmitted diseases.

Line 13: Define "care."

Line 15: Explain the authority to enable CNMs to write prescriptions without accordance with G.S.90-18.8(b)? G.S. 90-178.3 states that CNM can "write" prescriptions only.

Line 18: Define "health outcomes."

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

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 adopted as published in NCR 38:24, page 1646, 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. Scope of practice is set by the ACNM at https://www.midwife.org/acnm/files/acnmmlibrarydata/uploadfilename/000000000266/Definition%20Midwifery%20Scope%20of%20Practice_2021.pdf, is available at no cost, and is hereby incorporated by reference, including subsequent amendments and editions. Scope of practice includes:

- (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) treating patients and their partners for sexually transmitted diseases and reproductive health;
- (3) providing care in home, hospital, birth center, and a variety of ambulatory care settings including private offices and community and public health clinics;
- (4) prescribing, administering, and dispensing therapeutic measures, tests, procedures, and drugs;
- (5) planning for situations beyond the CNM's scope of practice and expertise by collaborating, consulting with, and referring to other health care providers as appropriate; and
- (6) evaluating health outcomes.

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

Temporary Adoption Eff. October 1, 2023.

Eff. October 1, 2024.

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0114

DEADLINE FOR RECEIPT: September 16, 2024

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

Line 4: Ought it not be “apply for renewal of.” The renewal is actually out of the CNMs ability.

Line 7: It is unclear whether there are one or more applications in Rule .0103.

Line 16: The active voice is preferred. Consider “ CNMs shall keep the Committee informed...”

Line 18-19: Is this automatic? Is there some notice? How will the CNM know their license has expired?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

21 NCAC 33 .0114 is adopted, **with changes**, as published in NCR 38:24, page 1646, as follows:

21 NCAC 33 .0114 ANNUAL RENEWAL

(a) The CNM shall renew the approval to practice 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 as outlined in rule .0103 of this Chapter 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;

(3) attesting to having completed the requirements of the Certificate Maintenance Program of the [American Midwifery Certification Board] AMCB 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 his or her 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.

Adopted Eff. October 1, 2024.

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0115

DEADLINE FOR RECEIPT: September 16, 2024

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:

Generally, to the Rule: What is the difference between being inactive and not having the approval to practice? The process for applying appears to be the same.

Line 7: How does someone "reapply?" Is there a different application from Rule .0103? If so, where are the substantive requirements for that application? If not, what does going on "inactive status" provide the CNM?

Lines 11-13: "Guidelines: do not fall within the definition of a "rule" pursuant to G.S. 150B-2(a)(8). A review of the Reentry Guidelines for CNMs indicates that the substance of this document is not a clear and unambiguous statement of requirements but rather suggestions.

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

William W. Peaslee
Commission Counsel
Date submitted to agency: August 31, 2024

21 NCAC 33 .0115 is adopted as published in NCR 38:24, pages 1646 – 1647, 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 of the effective date which the CNM will no longer practice.

(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 an approval to practice shall meet the qualifications for an approval to practice in rule .0103 of this Chapter and shall not resume practicing until notification is received that the Committee has granted the application.

(d) A CNM who has not practiced as a CNM in more than two years immediately preceding the filing of an application for reinstatement of the approval shall follow the Reentry Guidelines for CNMs which are hereby incorporated by reference, including subsequent amendments or editions and are available at no cost at: <http://www.midwife.org/Re-entry-Guidelines-for-CNMs/CMs>.

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

Temporary Adoption Eff. October 1, 2023.

Eff. October 1, 2024.

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0116

DEADLINE FOR RECEIPT: September 16, 2024

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:

Line 8: Reviewed by whom?

Lines 13-14: It is unclear whether the agreement can expand the scope of midwifery provided by law.

Lines 16-17: Is it the agency's intention that this requirement be part of the agreement? Or is the agency adding a requirement in general which would seem out of place in a rule which deals with the agreement.

Lines 16-17: It is unclear when they shall be available to one another. 24-7?

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

William W. Peaslee
Commission Counsel
Date submitted to agency: August 31, 2024

21 NCAC 33 .0116 is adopted as published in NCR 38:14, page 1647, 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, to ensure that the CNM and collaborating provider continue to practice under the terms of the agreement, and determine whether any changes to the agreement are necessary. 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 in-person communication or telecommunication.

(c) The CNM shall maintain copies of all collaborative provider agreements executed within the previous five years and make available to the Committee upon request.

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

Temporary Adoption Eff. October 1, 2023.

Eff. October 1, 2024.

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0117

DEADLINE FOR RECEIPT: September 16, 2024

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:

Line 6: Change “must” to “shall.”

Line 16: Change “may” to “shall.”

Line 24: There is no “Part (c)(3)(A) in this Rule.

Line 25: Who is required to enter this in the patient record?

Line 27: Here you use “patient chart.” In Line 25 you use the term “patient record.” Are these the same thing?

Line 29-33: Line 29 places a requirement on what the “prescription...shall contain.” However, in Subparagraph (f)(3) the rule addresses what must be on the “prescription form.” It does not appear that (f)(3) belongs under Paragraph (f).

Line 36: Should this not be “A CNM shall not prescribe controlled substances for or for any person with whom the CNM is having a sexual relationship.”

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

21 NCAC 33 .0117 is adopted as published in NCR 38:24, page 1647, 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 to prescribe controlled substances.

(c) To act as a collaborating provider for a CNM, the DEA registration of the collaborating provider shall include the same schedule or schedules of controlled substances as the CNM practicing under a collaborative provider agreement.

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

(1) The collaborative provider agreement outlined in rule .0116 of this Chapter shall include the ~~Drugs~~ drugs and devices that the CNM may prescribe.

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

(3) Refills may be issued consistent with Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Act.

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

(5) 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.

(e) All prescribing requirements 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.

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

(1) the name of the patient;

(2) the CNM's name, approval to practice number issued by the Committee, and telephone number; and

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

(g) 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 CNM, or the use of any person with whom the CNM is having a sexual relationship. As used in this Paragraph, "immediate

1 family" means a spouse, parent, child, sibling, parent-in-law, son-in-law or daughter-in-law, brother-in-law or sister-
2 in-law, step-parent, step-child, or step-sibling.

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4 History Note: Authority G.S. 90-18.8; 90-178.3;
5 Temporary Adoption Eff. October 1, 2023.
6 Eff. October 1, 2024.

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0118

DEADLINE FOR RECEIPT: September 16, 2024

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:

Generally, to the Rule: It appears to me that Subparagraphs (a)(3) and (4) should be their own paragraphs.

Line 4: Consider striking "be required to..." In any event, make sure it is consistent with Line 4-5.

Line 18: Consider striking "The CNM." In any event, make sure it is consistent with Line 4-5.

Lines 31-32: Isn't this already covered under another rule? It seems oddly placed for a rule dealing with "birth outside a hospital setting."

Lines 31-32: Maintained by whom?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

21 NCAC 33 .0118 is adopted as published in NCR 38:24, page 1648, as follows:

21 NCAC 33 .0118 BIRTH OUTSIDE HOSPITAL SETTING

(a) 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 details:
 - (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) when and if deemed necessary by the CNM, an acknowledgment by the patient to consent to transfer to a health care facility licensed under Chapter 122C or Chapter 131E of the General Statutes that has at least one operating room; and
 - (F) a disclosure that the CNM is not covered under a policy of liability insurance, if applicable.
- (2) The CNM shall provide a detailed, written plan of care consistent with G.S. 90-178.4(a2).
- (3) After a decision of 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 immediately transfer care by making a reasonable effort, dependent upon the circumstances and nature of the emergency, to contact the health care professional or facility to whom the patient or patients 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:
 - (A) transporting the patient(s) by private vehicle; or
 - (B) calling 911 and reporting the need for immediate transfer.

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

(c) In addition to the requirements in this Rule, a CNM who attends and provides midwifery services for a planned home birth are prohibited from providing services in the following settings/situations:

- (1) fetal, malpresentation;
- (2) multiple gestation; and
- (3) prior cesarean.

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

3 Temporary Adoption Eff. October 1, 2023.

4 Eff. October 1, 2024.

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0119

DEADLINE FOR RECEIPT: September 16, 2024

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:

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

21 NCAC 33 .0119 is adopted as published in NCR 38:24, page 1648, as follows:

21 NCAC 33 .0119 PETITIONING FOR RULEMAKING

(a) Any person wishing to submit a petition to the Midwifery Joint Committee requesting the adoption, amendment, or repeal of a rule shall file the petition with the Midwifery Joint Committee's Chair. Petitions shall be mailed to the Midwifery Joint Committee at Post Office Box 2129, Raleigh, NC 27602-2129.

(b) The petition shall contain the following information:

(1) a proposed draft of the rule to be adopted, amended, or a citation to the rule to be repealed;

(2) a statement of the reason for the proposal including statutory authority;

(3) effect of the proposed rule change on the practice of midwifery;

(4) any data supporting the proposal including cost factors; and

(5) name, address, and telephone number of each petitioner.

(c) The Midwifery Joint Committee shall determine whether the public interest would be served by the adoption, amendment, or repeal of the requested rule. Prior to making this determination, the Midwifery Joint Committee may:

(1) request additional information from the petitioner;

(2) contact interested persons or those likely to be affected by the proposed rule and request comments;

and

(3) use any other method for obtaining information on which to base its determination. It shall consider all the contents of the petition submitted plus any other information obtained by the means described herein.

(d) The Midwifery Joint Committee shall act on a petition within the timeframe outlined in G.S. 150B-20.

History Note: Authority G.S. 150B-20; 90-171.23(b)(3);

Adopted Eff. October 1, 2024.

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0120

DEADLINE FOR RECEIPT: September 16, 2024

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:

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

21 NCAC 33 .0120 is adopted as published in NCR 38:24, page 1648, as follows:

21 NCAC 33 .0120 CONTACT

The mailing address for the Midwifery Joint Committee is Post Office Box 2129, Raleigh, NC, 27602-2129.

History Note: Authority G.S. 150B-20; 90-171.23(b)(3)

Adopted Eff. October 1, 2024.