

1 **21 NCAC 33 .0101 is readopted, with changes, as published in 33:1 NCR 8-9 as follows:**

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3 **21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS**

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

7 (b) Definitions:

8 (1) "Primary Supervising Physician" means the licensed ~~physician, who~~ **physician who**, by signing the  
9 certified nurse-midwife application, ~~is shall be~~ held accountable for the on-going supervision,  
10 consultation, ~~collaboration~~ **collaboration**, and evaluation of the medical acts performed by the certified  
11 ~~nurse-midwife~~ **nurse-midwife**, as defined in the site specific written clinical practice guidelines. A  
12 physician in a graduate medical education program, whether fully licensed or holding only a resident's  
13 training license, shall not be named as a primary supervising physician. A physician in a graduate  
14 medical education program who is also practicing in a non-training situation may supervise a certified  
15 nurse-midwife in the non-training situation if ~~he or she is~~ fully licensed.

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

28 (3) "Obstetrics" means a branch of medical science that deals with birth and with its antecedents and  
29 ~~sequels~~ **sequels**, including ~~but not limited to~~ prenatal, intrapartum, postpartum, newborn, ~~gynecology~~  
30 **gynecology**, and otherwise unspecified primary health services for women.

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32 *History Note: Authority G.S. 90-178.4;*  
33 *Eff. February 1, 1984;*  
34 *Amended Eff. July 1, 2000; October 1, 1988.*  
35 *Readopted Eff. November 1, 2018.*

1 **21 NCAC 33 .0102 is readopted as published in 33:1 NCR 8-9 as follows:**

2 **21 NCAC 33 .0102 FEES**

3 (a) The fee for a new application and initial approval shall be one hundred dollars (\$100.00).

4 (b) The fee for annual renewal shall be fifty dollars (\$50.00).

5 (c) The fee for reinstatement for a lapsed approval shall be five dollars (\$5.00).

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7 History Note: Authority G.S. 90-178.4(b);

8 Eff. February 1, 1984;

9 Amended Eff. July 1, 2000.

10 Readopted Eff. November 1, 2018.

1 **21 NCAC 33 .0103 is readopted, with changes, as published in 33:1 NCR 8-9 as follows:**

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3 **21 NCAC 33 .0103 APPLICATION**

4 (a) The application to obtain approval to practice as a midwife is electronically available from the Committee on the  
5 North Carolina Board of Nursing website, www.ncbon.com.

6 (b) The application requires shall require information on the applicant's education, evidence of the applicant's  
7 certification by the American College of Nurse Midwives, identification of the physician(s) physician or physicians  
8 who will supervise the applicant, and the sites where the applicant intends to practice midwifery.

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10 *History Note: Authority G.S. 90-178.4(b); 90-178.5;*  
11 *Eff. February 1, 1984;*  
12 *Amended Eff. March 1, 2017; January 1, 1989.*  
13 *Readopted Eff. November 1, 2018.*

1 **21 NCAC 33 .0104 is readopted, with changes, as published in 33:1 NCR 8-9 as follows:**

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3 **21 NCAC 33 .0104 PHYSICIAN SUPERVISION**

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

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

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20 *History Note: Authority G.S. 90-178.4(b);*  
21 *Eff. February 1, 1984;*  
22 *Amended Eff. July 1, 2000; October 1, 1988; April 1, 1985.*  
23 *Readopted Eff. November 1, 2018.*

1 21 NCAC 33 .0105 is readopted, **with changes**, as published in 33:1 NCR 8-9 as follows:

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3 **21 NCAC 33 .0105 DUE PROCESS**

4 (a) ~~The privilege to practice midwifery may be denied, revoked, or suspended for the reasons set forth in G.S. 90-178.6.~~  
5 ~~Denial, revocation, or suspension of an approval to practice midwifery shall be governed by G.S. 90-178.6 and this~~  
6 ~~Chapter.~~ The applicant aggrieved by a decision of the Committee shall be entitled to a hearing pursuant to the provisions  
7 of G.S. 150B, Article 3A.

8 (b) Complaints.

9 (1) A complaint regarding a violation of the Midwifery Practice Act or Rules shall be submitted in writing  
10 and document:

11 (A) the name of the certified nurse-midwife or other person involved;

12 (B) a description of the alleged behavior or incident; and

13 (C) the name, mailing ~~address address~~, and phone number of the person filing the ~~complaint;~~  
14 ~~complaint.~~

15 (2) The complaint shall be delivered to the Committee administrative office by mail, private ~~carrier~~  
16 ~~carrier, facsimile, electronic mail~~, or in person. ~~Complaints transmitted by facsimile or electronic mail~~  
17 ~~shall be accepted.~~

18 (c) Action on a Complaint. Action on a complaint ~~consists shall consist~~ of the following:

19 (1) The Committee shall receive and acknowledge complaints, open a ~~file file~~, and initiate complaint  
20 ~~tracking; tracking.~~

21 (2) Complaints shall be screened to determine jurisdiction and the type of response appropriate for the  
22 ~~complaint; complaint.~~

23 (3) Investigation:

24 (A) If the facts clearly indicate a Midwifery Practice Act violation, the Committee shall  
25 commence an ~~investigation; and investigation.~~

26 (B) A report of each investigation shall be prepared for the Committee's ~~review; review.~~

27 (4) Formal and Informal Hearings:

28 (A) The Committee, after review of an investigative ~~file, file and upon request by a licensee, may~~  
29 ~~shall~~ schedule an informal meeting.

30 (B) If the matter cannot be resolved informally, then a formal hearing shall be held.

31 (C) No Committee member shall participate in more than one of the following steps in the  
32 enforcement process:

33 (i) investigation;

34 (ii) informal hearing; or

35 (iii) formal ~~hearing; and hearing.~~

36 (D) Members of the Committee shall not make ex-parte communication with parties to a hearing.

1 (5) Final Orders: ~~As soon as possible, but at least within~~ No later than 60 days ~~of after~~ a hearing, the  
2 Committee shall issue its final ~~decision~~ decision, in ~~writing~~ writing, specifying the date on which it  
3 shall take effect. The Committee shall serve one copy of the decision on each party to the hearing.

4 (6) Compliance: The Committee Chair shall cause a follow-up inquiry to determine that the orders of the  
5 Committee are being obeyed.

6 ~~(d) Formal Hearing. Formal hearings shall be conducted in accordance with G.S. 150B.~~

7 ~~(e)~~(d) Disciplinary Sanctions.

8 (1) The following types of disciplinary sanctions may, among others, be ~~utilized~~ used by the ~~Committee~~:  
9 Committee when a violation of 90-178.6(a) is found:

10 (A) ~~Letter~~ Letter of ~~Reprimand; reprimand;~~

11 (B) ~~Probation; probation;~~

12 (C) ~~Suspension~~ suspension of approval;

13 (D) ~~Nonrenewal~~ nonrenewal of ~~Approval; approval;~~

14 (E) ~~Revocation~~ revocation of approval; and

15 ~~(G)(F)~~ Injunction; injunction.

16 (2) The Committee may request information from professional associations, professional review  
17 organizations (PROs), hospitals, ~~clinics~~ clinics, or other institutions in which a certified nurse-midwife  
18 performs professional ~~services, or possible chemical abuse, or incompetent or unethical behavior.~~  
19 services.

20 (3) The Committee shall provide notice of sanction taken by it to other public entities as necessary to  
21 ensure that other state Boards and enforcement authorities receive the names of ~~applicants~~ certified  
22 nurse midwives who have been disciplined.

23  
24 *History Note: Authority G.S. 90-178.6;*  
25 *Eff. February 1, 1985;*  
26 *Amended Eff. August 1, 2002; October 1, 1988.*  
27 *Readopted Eff. November 1, 2018.*

1 **21 NCAC 33 .0110 is readopted as published in 33:1 NCR 8-9 as follows:**

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3 **21 NCAC 33 .0110 REPORTING CRITERIA**

4 (a) The Department of Health and Human Services ("Department") may report to the Committee information  
5 regarding the prescribing practices of those midwives ("prescribers") whose prescribing:

6 (1) falls within the top two percent of those prescribing 100 morphine milligram equivalents  
7 ("MME") per patient per day; or

8 (2) falls within the top two of those prescribing 100 MME's per patient per day in combination with  
9 any benzodiazepine and who are within the top one percent of all controlled substance prescribers  
10 by volume.

11 (b) In addition, the Department may report to the Committee information regarding midwives who have had two or  
12 more patient deaths in the preceding 12 months due to opioid poisoning where the prescribers authorized more than  
13 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

14 (c) The Department may submit these reports to the Committee upon request and may include the information  
15 described in G.S. 90-113.73(b).

16 (d) The reports and communications between the Department and the Committee shall remain confidential pursuant  
17 to G.S. 90-113.74.

18  
19 History Note: Authority G.S. 90-113.74; 90-178.4;

20 Eff. May 1, 2016;

21 Amended Eff. December 1, 2017.

22 Readopted Eff. November 1, 2018.

1 21 NCAC 33 .0111 is readopted, **with changes**, as published in 33:1 NCR 8-9 as follows:

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3 **21 NCAC 33 .0111 CONTINUING EDUCATION (CE)**

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

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12 *History Note: Authority: G.S. 90-5.1; 90-14(a)(15); 90-178.5(2); S.L. 2015-241, s. 12F .16(b);*

13 *Eff. March 1, 2017.*

14 *Readopted Eff. November 1, 2018.*