

REQUEST FOR TECHNICAL CHANGE

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0101

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

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 call our office to inquire concerning the staff recommendation.

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

Line 2 – add an empty line after Line 1

Line 3 – add comma after “10A”

Line 7 – delete the comma before “who” and add a comma after “who”

Line 8 – replace “is” with “shall be”

Line 8 – add a comma after “collaboration”

Line 9 – add a comma after “midwife”

Line 13 – add “he or she is” after “if”

Line 15 – replace “physician(s)” with “physicians”

Line 19 – replace “physician(s)” with “physician”

Line 23 – add “he or she is” after “if”

Line 26 – add a comma after “sequels”

Line 26 – delete “but not limited to”

Line 26 – add a comma after “gynecology”

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

Jason Thomas
Commission Counsel

Date submitted to agency: Tuesday, September 25, 2018

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

2 **21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS**

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

6 (b) Definitions:

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

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

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

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30 History Note: Authority G.S. 90-178.4;

31 Eff. February 1, 1984;

32 Amended Eff. July 1, 2000; October 1, 1988.

33 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).

6

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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0103

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

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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 call our office to inquire concerning the staff recommendation.

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

Line 2 – add an empty line after Line 1

Line 5 – replace “requires” with “shall require”

Line 6 – replace “physician(s)” with “physicians”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Tuesday, September 25, 2018

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

2 **21 NCAC 33 .0103 APPLICATION**

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

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

8

9 *History Note: Authority G.S. 90-178.4(b); 90-178.5;*

10 *Eff. February 1, 1984;*

11 *Amended Eff. March 1, 2017; January 1, 1989.*

12 *Readopted Eff. November 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0104

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

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

Line 2 – add an empty line after Line 1

Line 3 – delete “, satisfactory to the committee,”

Line 5 – delete “, required by the committee,”

Line 7 – replace “the rendering of” with “rendering”

Line 8 – replace “Evidence to be provided to the committee shall include:” with Such evidence shall include:”

Line 9 – replace “which” with “that”

Line 10 – replace “physician(s)” with “physicians”

Line 11 – replace “which” with “that”

Line 12 – replace “physician(s)” with “physicians”

Line 13 – replace “e.g.” with either “such as” or “including” depending on what is meant.

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

Jason Thomas
Commission Counsel
Date submitted to agency: Tuesday, September 25, 2018

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

2 **21 NCAC 33 .0104 PHYSICIAN SUPERVISION**

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

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

16
17 History Note: Authority G.S. 90-178.4(b);

18 Eff. February 1, 1984;

19 Amended Eff. July 1, 2000; October 1, 1988; April 1, 1985.

20 Readopted Eff. November 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0105

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

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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 call our office to inquire concerning the staff recommendation.

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

Line 2 – add an empty line after Line 1

Line 3 – revise as follows:

- (a) Denial, revocation, or suspension of an approval to practice midwifery shall be governed by G.S. 990-178.6 and this Chapter. The applicant

Line 11 – add a comma after “address”

Line 11 – replace the semicolon with a period

Lines 12-13 – revise as follows:

- (2) The complaint shall be delivered to the Committee administrative office by mail, private carrier, facsimile, electronic mail, or in person.

Line 14 – replace “consists” with “shall consist”

Line 15 – add a comma after “file”

Line 15 – replace the semicolon with a period

Line 17 – replace the semicolon with a period

Line 20 – replace the “; and” with a period

Line 21 – replace the semicolon with a period

Line 23 – do you mean “may” or “shall”? If “may,” what standards, factors, or circumstances determine whether an informal conference will be scheduled?

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Commission Counsel

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Line 29 – replace the “; and” with a period

Line 31 – replace “As soon as possible, but at least within 60 days of a hearing” with “No later than 60 days after a hearing”

Line 32 – add commas after “decision” and “writing”

Line 36 – delete Paragraph (a) because it seems to repeat the substance of lines 4-5.

Page 2, line 1 – do you mean “may” or “shall”? If “may,” what standards, factors, or circumstances determine which sanction will be used?

Page 2, line 1 – replace “utilized” with “used”

Page 2, lines 2-7 – do not capitalize any of the words on these lines.

Page 2, line 9 – add a comma after “clinics”

Page 2, line 11 – what does this phrase mean: “; or possible chemical abuse, or incompetent or unethical behavior”?

Page 2, line 12 – capitalize “State” if you mean North Carolina.

Page 2, line 12 – replace “applicants” with “approved midwives who have been” if that is what is meant.

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

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

2 **21 NCAC 33 .0105 DUE PROCESS**

3 (a) The privilege to practice midwifery may be denied, revoked, or suspended for the reasons set forth in G.S. 90-178.6.
4 The applicant aggrieved by a decision of the Committee shall be entitled to a hearing pursuant to the provisions of G.S.
5 150B, Article 3A.

6 (b) Complaints.

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

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

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

11 (C) the name, mailing address and phone number of the person filing the complaint;

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

14 (c) Action on a Complaint. Action on a complaint consists of the following:

15 (1) The Committee shall receive and acknowledge complaints, open a file and initiate complaint tracking;

16 (2) Complaints shall be screened to determine jurisdiction and the type of response appropriate for the
17 complaint;

18 (3) Investigation:

19 (A) If the facts clearly indicate a Midwifery Practice Act violation, the Committee shall
20 commence an investigation; and

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

22 (4) Formal and Informal Hearings:

23 (A) The Committee, after review of an investigative file, may schedule an informal meeting.

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

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

27 (i) investigation;

28 (ii) informal hearing; or

29 (iii) formal hearing; and

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

31 (5) Final Orders: As soon as possible, but at least within 60 days of a hearing, the Committee shall issue
32 its final decision in writing specifying the date on which it shall take effect. The Committee shall
33 serve one copy of the decision on each party to the hearing.

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

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

37 (e) Disciplinary Sanctions.

1 (1) The following types of disciplinary sanctions may, among others, be utilized by the Committee:

2 (A) Letter of Reprimand;

3 (B) Probation;

4 (C) Suspension of approval;

5 (D) Nonrenewal of Approval;

6 (E) Revocation of approval; and

7 (G) Injunction.

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

11 (3) The Committee shall provide notice of sanction taken by it to other public entities as necessary to
12 ensure that other state Boards and enforcement authorities receive the names of applicants disciplined.

13
14 History Note: Authority G.S. 90-178.6;

15 Eff. February 1, 1985;

16 Amended Eff. August 1, 2002; October 1, 1988.

17 Readopted Eff. November 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0110

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

Line 2 – add an empty line after Line 1

Lines 3, 10, and 13 – what is your statutory authority for allowing DHHS to make reports to the committee? Do you mean that the committee shall accept such reports if provided by DHHS?

Line 11 – replace “where” with “if”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Tuesday, September 25, 2018

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

2 **21 NCAC 33 .0110 REPORTING CRITERIA**

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

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

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

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

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

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

17

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

19 Eff. May 1, 2016;

20 Amended Eff. December 1, 2017.

21 Readopted Eff. November 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0111

DEADLINE FOR RECEIPT: Tuesday, October 9, 2018

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

Line 2 – add an empty line after Line 1

Line 3 – move “midwifery” to immediately after “practice”

Line 3 – replace “the midwife” with “a midwife”

Line 8 – add “of continuing education” after “Documentation”

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

Jason Thomas
Commission Counsel
Date submitted to agency: Tuesday, September 25, 2018

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

2 **21 NCAC 33 .0111 CONTINUING EDUCATION (CE)**

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

10

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

12 *Eff. March 1, 2017.*

13 *Readopted Eff. November 1, 2018.*