

Burgos, Alexander N

From: Peaslee, William W
Sent: Monday, September 23, 2024 2:23 PM
To: Angela Ellis
Cc: Meredith Parris; Burgos, Alexander N
Subject: 21 NCAC 33 .0104

Importance: High

Good afternoon,

I received a call from a Commissioner who raised a good point.

In the above captioned rule, lines 36-37, the eligibility for a licensed doctor is less restrictive than in G.S. 90-178.2(1a). It will need to match the statute but query whether Paragraph (d) is necessary pursuant to GS 150-21.9(a)(3).

Please reply by COB Tuesday.'

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Peaslee, William W
Sent: Wednesday, September 18, 2024 4:16 PM
To: Rules, Oah
Cc: Meredith Parris; Angela Ellis; Burgos, Alexander N
Subject: 21 NCAC 33 .0119 and .0120 Midwifery Committee

Good afternoon,

It is my intention to recommend approval of the above captioned rules as submitted for review to the RRC.

William W. Peaslee
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Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC .0112
Attachments: 21 NCAC 33 .0112 Scope of Practice.docx

From: Angela Ellis <angela@ncbon.com>
Sent: Thursday, September 19, 2024 9:33 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: [External] Re: 21 NCAC .0112

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1. has graduated from any program accredited by ACME; and

Line 7 on my copy reads above and is formatted with "from". I've reattached above in case I included the incorrect rule before.

Angela Ellis

Chief Administrative Officer

Office: (984)-238-7644
Fax: (919) 781-9461

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Pronouns: She/Her/Hers



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1 21 NCAC 33 .0112 is adopted **with changes** as published in NCR 38:24, page 1646, as follows:

2
3 **21 NCAC 33 .0112** **SCOPE OF PRACTICE**

4 **(a)** ~~[Pursuant to G.S. 90-178.2, the]~~ The CNM's scope of practice ~~[is defined by:]~~ is midwifery, interconceptional care,
5 intrapartum care, newborn care, postpartum care and prenatal care, each as defined in G.S. 90-178.2, provided that
6 the CNM:

7 **(1)** ~~[academic educational preparation]~~ has graduated from ~~[a]~~ any program accredited by ~~[the~~
8 ~~Accreditation and Commission for Midwifery Excellence (ACME);]~~ **ACME;** and

9 **(2)** has ~~[national]~~ current certification by the AMCB or its successor; and

10 **(3)** ~~[maintained]~~ maintains professional competence. ~~[Evidence of competence is Certificates of~~
11 ~~Completion from continuing education courses in certified nurse midwifery practice.]~~

12 **(b)** ~~[The CNM's scope of practice is defined by academic educational preparation and national certification and~~
13 ~~maintained competence. Scope of practice is set by the ACNM at~~

14 ~~[17 **\(1\)** ~~—~~ diagnosing, treating, and managing a full range of primary health care services to the patient
18 ~~throughout the lifespan, including gynecologic care, family planning services, preconception care,~~
19 ~~pregnancy and postpartum care, childbirth, and care of the newborn;\]~~](https://www.midwife.org/acnm/files/acnmlibrarydata/uploadfilename/000000000266/Definition%20Midwifery%20
15 Scope%20of%20Practice_2021.pdf, is available at no cost, and is hereby incorporated by reference, including
16 subsequent amendments and editions. Scope of practice includes:</p></div><div data-bbox=)~~

20 **(2)(4)** ~~—~~ Interconceptional care as defined in G.S. 90-187.2(1c). ~~[which]~~ includes treating patients and their
21 ~~partners for sexually transmitted~~ ~~[diseases and reproductive health;]~~ **infections;**

22 **(3)** ~~—~~ providing care in home, hospital, birth center, and a variety of ambulatory care settings including
23 ~~private offices and community and public health clinics;~~

24 **(4)(2)** ~~—~~ prescribing, administering, and dispensing therapeutic measures, tests, and procedures, and drugs;
25 ~~procedures in accordance with Paragraph (a) of this rule;~~

26 **(5)** ~~—~~ planning for situations beyond the CNM's scope of practice and expertise by collaborating,
27 ~~consulting with, and referring to other health care providers as appropriate; and~~

28 **(6)** ~~—~~ evaluating health outcomes.}

29
30 *History Note:* *Authority* G.S. 90-18.8; **90-178.2;** 90-178.3;

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

32 *Eff. October 1, 2024.*

Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC .0105

Importance: High

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Thursday, September 19, 2024 9:05 AM

To: Angela Ellis <angela@ncbon.com>; Meredith Parris <mparris@ncbon.com>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: [External] Re: 21 NCAC .0105

Importance: High

In the above captioned rule:

On line 7 of the above captioned rule “disciplinary” was struck. This was not the subject of a request for change. If not disciplinary action, what kind of action might the Committee take? Paragraph (c)?

On line 33: Who is the Committee making a recommendation to?

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

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Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC .0112
Attachments: 21 NCAC 33 .0105 Disciplinary Action.docx; 21 NCAC 33 .0112 Scope of Practice.docx

From: Angela Ellis <angela@ncbon.com>
Sent: Wednesday, September 18, 2024 5:34 PM
To: Meredith Parris <mparris@ncbon.com>; Peaslee, William W <bill.peaslee@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: [External] Re: 21 NCAC .0112

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Please find attached revised rules .0105 and .0112.

Angela Ellis

Chief Administrative Officer

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1 21 NCAC 33 .0105 is adopted **with changes** as published in NCR 38:24, pages 1645 – 1646, as follows:

2
3 **21 NCAC 33 .0105 DISCIPLINARY ACTION**

4 (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
5 practice as ~~a an registered nurse. RN.~~

6 (b) After notice and hearing in accordance with provisions of G.S. 150B, Article 3A, the Committee **may shall** take
7 **disciplinary** action if it finds one or more of the following:

- 8 (1) practicing without a valid approval to practice as a CNM;
- 9 (2) presenting false information to the Committee in procuring or attempting to procure an approval to
10 practice as a CNM;
- 11 (3) the CNM is adjudicated mentally incompetent by a court of competent jurisdiction or the CNM's
12 mental or physical condition renders the CNM unable to safely function as a CNM;
- 13 (4) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the
14 prevailing standards for CNMs as set forth by ACNM;
- 15 (5) conviction of a criminal offense where the CNM has deceived or defrauded the public;
- 16 (6) soliciting or attempting to solicit payments for the CNM practice with false representations;
- 17 (7) failure to maintain professional competence as a CNM such that the CNM would no longer be
18 eligible for certification by the ACMB or the ACNM;
- 19 (8) exploiting the [patient, including the promotion of the sale of services, appliances, or drugs,] patient
20 for the financial gain of the CNM or of a third [party,] party, including the promotion of the sale of
21 services, appliances or drugs;
- 22 (9) failure to respond to inquiries of the Committee for investigation and discipline;
- 23 (10) the CNM has engaged or attempted to engage in the performance of midwifery acts other than
24 according to the collaborative provider agreement or without being approved by the Committee to
25 practice independently;
- 26 (11) failure to obtain a written, informed consent agreement from a [patient,] patient pursuant G.S. 90-
27 187.4(a1) and rule .0118 of this Chapter;
- 28 (12) practiced or offered to practice beyond the scope of CNM practice as defined in rule .0112 of this
29 Chapter;
- 30 (13) failure to comply with any order of the Committee;
- 31 (14) violating any term of probation, condition, or limitation imposed on the CNM by the Committee; or
- 32 (15) any violation within this Chapter.

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

- 34 (1) dismiss the case;
- 35 (2) issue a private letter of concern;
- 36 (3) enter into negotiation for a Consent Order; or
- 37 (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~~ shall utilize the range of disciplinary options as enumerated in G.S. 90-178.6 and
3 90-178.7.

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.*

21 NCAC 33 .0112 is adopted **with changes** as published in NCR 38:24, page 1646, as follows:

21 NCAC 33 .0112 SCOPE OF PRACTICE

(a) ~~[Pursuant to G.S. 90-178.2, the]~~ The CNM's scope of practice ~~[is defined by:]~~ is midwifery, interconceptional care, intrapartum care, newborn care, postpartum care and prenatal care, each as defined in G.S. 90-178.2, provided that the CNM:

(1) ~~[academic educational preparation] from [a] any program accredited by [the Accreditation and Commission for Midwifery Excellence (ACME);] ACME; and~~

(2) ~~has [national] current certification by the AMCB or its successor; and~~

(3) ~~[maintained] maintains professional competence. [Evidence of competence is Certificates of Completion from continuing education courses in certified nurse midwifery practice.]~~

(b) ~~[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/acnmlibrarydata/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)(4)] Interconceptional care as defined in G.S. 90-187.2(1c), [which] includes treating patients and their partners for sexually transmitted [diseases and reproductive health;] infections;~~

~~[(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)(2) — prescribing, administering, and dispensing therapeutic measures, tests, and procedures, and drugs; procedures in accordance with Paragraph (a) of this rule;~~

~~[(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; 90-178.2; 90-178.3;

Temporary Adoption Eff. October 1, 2023.

Eff. October 1, 2024.

Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC .0112

From: Meredith Parris <mparris@ncbon.com>
Sent: Wednesday, September 18, 2024 4:15 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Angela Ellis <angela@ncbon.com>
Subject: RE: [External] Re: 21 NCAC .0112

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Thank you, Bill.

Looking at .0112, can I resubmit with the succinct changes we discussed as below (but not formatted correctly)?

- (a) The CNM's scope of practice is midwifery, interconceptional care, intrapartum care, newborn care, postpartum care and prenatal care, each as defined in G.S. 90-178.2, provided that the CNM
 - a. Has graduated from any program accredited by the Accreditation and Commission for Midwifery Excellent (ACME); (Why isn't this in Rule .0103? I think this is a substantial change.)
 - b. Has current certification by the AMCB or its successor; and
 - c. Maintains professional competence.
- (b) Interconceptional care as defined in G.S. 90-187.2(1c), which includes treating patients and their partners for sexually transmitted infections.

Meredith Parris JD

Chief Legal Officer

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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, September 18, 2024 4:10 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Meredith Parris <mparris@ncbon.com>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Angela Ellis <angela@ncbon.com>
Subject: FW: [External] Re: 21 NCAC .0112

Good afternoon,

Please be advised that it is my intention to recommend approval of the attached rules as revised at the September RRC meeting.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
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Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC .0105

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, September 18, 2024 4:08 PM
To: Angela Ellis <angela@ncbon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>
Subject: RE: [External] Re: 21 NCAC .0105

On line 20 of the above captioned rule the word “party” is duplicated. One should be struck.

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From: Angela Ellis <angela@ncbon.com>
Sent: Wednesday, September 18, 2024 1:14 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>
Subject: Re: [External] Re: 21 NCAC .0112

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Attached are the revised rules .0101, .0105 and .0114 as requested.

We will await further direction on the remaining rules and submit by COB today. Thank you so much for all your assistance!

Angela Ellis
Chief Administrative Officer

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Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC .0112
Attachments: 21 NCAC 33 .0101 Administrative Body and Definitions.docx; 21 NCAC 33 .0105 Disciplinary Action.docx; 21 NCAC 33 .0114 Annual Renewal.docx

From: Angela Ellis <angela@ncbon.com>
Sent: Wednesday, September 18, 2024 1:14 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>
Subject: Re: [External] Re: 21 NCAC .0112

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Attached are the revised rules .0101, .0105 and .0114 as requested.

We will await further direction on the remaining rules and submit by COB today. Thank you so much for all your assistance!

Angela Ellis
Chief Administrative Officer

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1 21 NCAC 33 .0101 is adopted **with changes** as published in NCR 38:24, pages 1642 – 1643, as follows:

2
3 **21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS**

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

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

9 (1) ~~"Primary Supervising Physician" means a physician with an active unencumbered license with the~~
10 ~~North Carolina Medical Board who, by signing the midwife application, shall be held accountable~~
11 ~~for the on going supervision, consultation, collaboration, and evaluation of the medical acts~~
12 ~~performed by the midwife, as defined in the site specific written clinical practice guidelines. A~~
13 ~~physician in a graduate medical education program, whether fully licensed or holding only a~~
14 ~~resident's training license, shall not be named as a primary supervising physician. A physician in a~~
15 ~~graduate medical education program who is also practicing in a non training situation may supervise~~
16 ~~a midwife in the non training situation if he or she is fully licensed. "American Midwifery~~
17 ~~Certification Board (AMCB)" means the national certifying body for candidates in nurse-midwifery~~
18 ~~and midwifery who have received their graduate level education in programs accredited by the~~
19 ~~Accreditation Commission for Midwifery Education.~~

20 (2) ~~"Back up Primary Supervising Physician" means a physician licensed by the North Carolina~~
21 ~~Medical Board who, by signing an agreement with the midwife and the primary supervising~~
22 ~~physician or physicians shall be held accountable for the supervision, consultation, collaboration,~~
23 ~~and evaluation of medical acts by the midwife in accordance with the site specific written clinical~~
24 ~~practice guidelines when the primary supervising physician is not available. The signed and dated~~
25 ~~agreements for each back up primary supervising physician or physicians shall be maintained at~~
26 ~~each practice site. A physician in a graduate medical education program, whether fully licensed or~~
27 ~~holding only a resident's training license, shall not be named as a back up primary supervising~~
28 ~~physician. A physician in a graduate medical education program who is also practicing in a non~~
29 ~~training situation may be a back up primary supervising physician to a midwife in the non training~~
30 ~~situation if he or she is fully licensed and has signed an agreement with the midwife and the primary~~
31 ~~supervising physician. "Accreditation Commission for Midwifery Education (ACME)" means an~~
32 ~~accreditation agency established to advance and promote midwifery education.~~

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

36 (4) "American College of Obstetricians and Gynecologists (ACOG)" means the professional
37 membership organization for obstetrician-gynecologists that produces practice guidelines for health

1 care professionals and educational materials for patients, provides practice management and career
2 support, facilitates program and initiatives to improve women’s health, and advocates for members
3 and patients.

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

7 (6) “Professional competence” means the continuing education courses required for the CNM to
8 maintain their national certification. It also includes the additional continuing education courses
9 which provide education and skills specific to midwifery practice.

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

21 NCAC 33 .0105 is adopted **with changes** 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 an registered nurse. RN.~~

(b) After notice and hearing in accordance with provisions of G.S. 150B, Article 3A, the Committee **may shall** 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,** patient for the financial gain of the CNM or of a third **party;** party, including the promotion of the sale of **services, appliances or drugs;**
- (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;** patient pursuant G.S. 90-187.4(a1) and rule .0118 of this Chapter;
- (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 shall** 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~~ shall utilize the range of disciplinary options as enumerated in G.S. 90-178.6 and
3 90-178.7.

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.*

1 21 NCAC 33 .0114 is adopted, **with changes**, as published in NCR 38:24, page 1646, as follows:

2
3 **21 NCAC 33 .0114** **ANNUAL RENEWAL**

4 (a) The CNM shall **renew** **apply for renewal of** the approval to practice annually no later than the last day of the
5 applicant's birth month by:

6 (1) maintaining an active, unencumbered North Carolina RN license or privilege to practice;

7 (2) submitting a completed application as outlined in rule .0103 of this Chapter for renewal, attesting
8 under oath or affirmation that the information on the application is true and complete, and
9 authorizing the release to the Committee of all information pertaining to the application;

10 (3) attesting to having completed the requirements of the Certificate Maintenance Program of the
11 **[American Midwifery Certification Board] AMCB** or its successor, including continuing education
12 requirements, and submit evidence of completion if requested by the Committee as specified in rule
13 .0111 of this Chapter; and

14 (4) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2) and this
15 Chapter.

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

18 (c) ~~If the CNM has not renewed by end of his or her birth month and submitted the annual fee, the approval to~~
19 ~~practice shall expire.~~ **Each CNM's approval to practice expires annually on the last day of the CNM's birth month**
20 **unless previously renewed by the Committee pursuant to rule .0103 of this Chapter.**

21
22 *History Note:* *Authority G.S. 90-178.4(b); 90-178.5;*
23 *Temporary Adoption Eff. October 1, 2023.*
24 *Eff. October 1, 2024.*

Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC .0112

From: Meredith Parris <mparris@ncbon.com>
Sent: Wednesday, September 18, 2024 12:31 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Angela Ellis <angela@ncbon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Re: 21 NCAC .0112

You don't often get email from mparris@ncbon.com. [Learn why this is important](#)

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Yes, it's completion of a program accredited by ACME.

Meredith Parris JD

Chief Legal Officer

Office: (984) 238-7627

Fax: (919) 781-9461

4516 Lake Boone Trail Raleigh, NC 27607

P.O. Box 2129 Raleigh, NC 27602

Pronouns: She/Her/Hers



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Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC .0112

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Wednesday, September 18, 2024 12:08 PM

To: Angela Ellis <angela@ncbon.com>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>

Subject: RE: [External] Re: 21 NCAC .0112

Good afternoon,

I'm working on a draft of the above captioned rule for your consideration.

On line 5: What does "academic educational preparation" mean? Does this mean graduation from any program accredited by the ACME? It is unclear what is being required.

Thank you.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC 33 .0114

From: Meredith Parris <mparris@ncbon.com>
Sent: Wednesday, September 18, 2024 11:04 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Angela Ellis <angela@ncbon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] Re: 21 NCAC 33 .0114

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Thank you for your input and direction. Angela and I will be working on these today to provide you a response. I'm available if you need to discuss.

Best,
Meredith

Meredith Parris JD
Chief Legal Officer

Office: (984) 238-7627
Fax: (919) 781-9461

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Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC 33 .0114

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Wednesday, September 18, 2024 10:53 AM

To: Angela Ellis <angela@ncbon.com>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>

Subject: RE: [External] Re: 21 NCAC 33 .0114

In the above captioned Rule, consider: “(c) Each CNM’s approval to practice expires annually on the last day of the CNM’s birth month unless previously renewed by the Committee pursuant to 21 NCAC 33 .0103.”

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: 21 NCAC .0105

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Wednesday, September 18, 2024 10:36 AM

To: Angela Ellis <angela@ncbon.com>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>

Subject: 21 NCAC .0105

Good morning,

In Paragraph (b)8: If it meets the intention of the Committee consider “exploiting the patient for the financial gain of the CNM or a third party, including ...” If it does not, what is missing?

Thank you.

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: 21 NCAC 33 .0101

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, September 18, 2024 9:23 AM
To: Angela Ellis <angela@ncbon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>
Subject: 21 NCAC 33 .0101

Good afternoon,

Strike the second sentence of Paragraph (b)(3) in the above captioned rule. A “standard” meets the definition of a “rule” pursuant to G.S. 150B-2(8a) and the ACNM does not have authority to “set the standard” in North Carolina. Further, this sentence is unnecessary for identifying the ACNM.

Please reply no later than COB today.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: [External] Re: 21 NCAC 33
Attachments: Request for Technical Change Midwifery Rules Sept 2024.docx; 21 NCAC 33 .0101 Administrative Body and Definitions.docx; 21 NCAC 33 .0103 Eligibility and Application.docx; 21 NCAC 33 .0104 Provider Collaboration Required.docx; 21 NCAC 33 .0105 Disciplinary Action.docx; 21 NCAC 33 .0111 Continuing Education (CE).docx; 21 NCAC 33 .0112 Scope of Practice.docx; 21 NCAC 33 .0114 Annual Renewal.docx; 21 NCAC 33 .0116 Collaborative Provider Agreement.docx; 21 NCAC 33 .0117 Prescribing Authority.docx; 21 NCAC 33 .0118 Birth Outside Hospital Setting.docx; 21 NCAC 33 .0119 Petitioning for Rulemaking.docx; 21 NCAC 33 .0120 Contact.docx

From: Angela Ellis <angela@ncbon.com>
Sent: Monday, September 16, 2024 3:29 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Meredith Parris <mparris@ncbon.com>
Subject: Re: [External] Re: 21 NCAC 33

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Good afternoon,

Attached are the following:

- Responses to the Request for Technical Change
- 21 NCAC 33 .0101 Administrative Body and Definitions
- 21 NCAC 33 .0103 Eligibility and Application
- 21 NCAC 33 .0104 Provider Collaboration Required
- 21 NCAC 33 .0105 Disciplinary Action
- 21 NCAC 33 .0111 Continuing Education (CE)
- 21 NCAC 33 .0112 Scope of Practice
- 21 NCAC 33 .0114 Annual Renewal
- 21 NCAC 33 .0116 Collaborative Provider Agreement
- 21 NCAC 33 .0117 Prescribing Authority
- 21 NCAC 33 .0118 Birth Outside Hospital Setting
- 21 NCAC 33 .0119 Petitioning for Rulemaking
- 21 NCAC 33 .0120 Contact

In addition, this is written notification that the Midwifery Joint Committee withdraws 21 NCAC 33 .0115 Inactive Status at this time due to requirement for substantive changes.

Please confirm receipt of this email. Thank you!

Angela Ellis

Chief Administrative Officer

Office: (984)-238-7644

Fax: (919) 781-9461

4516 Lake Boone Trail Raleigh, NC 27607

P.O. Box 2129 Raleigh, NC 27602

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**Request for Changes Pursuant to
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency's consideration which the agency may find preferable and clarifying.

To properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov and copy RRC Counsel. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: "~~a~~Association"
 - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
 - Wrong: "day~~,~~ and"
 - Right: "~~day,~~ day, and"
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

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

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

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

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.

Revised.

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

No. The definition for AMCB comes straight from their organization and specifies that the candidates are required (by AMCB) to have a graduate level education in accredited programs.

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...?"

Revised.

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

Yes, some are referenced in statute but not defined. This clarifies for CNMs and the general public where standards are set and official credentialing bodies.

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

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?

Added "for approval to practice as a CNM". Also added reference to G.S. 90-178.5 which addresses qualifications for independent practice vs. practicing with a collaborating provider.

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

Revised. "The application shall contain the following:"

Page 1, Line 17: Define "independently."

Revised language to distinguish from the need from supervision of a collaborating provider.

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

Revised.

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

Clarified by change in line 27.

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

Revised.

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

Revised. Added "as a CNM"

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.

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

This language comes directly from how the statute is written in G.S. 90-178.3(b1) and 90-178.5. There are two types of CNMs created under this law: CNM with Independent Approval to Practice and a CNM approval with a Collaborating Provider.

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

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

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

Page 3, Line 9: Consider "educational institution" rather than "primary source."
Revised. A primary source is considered one of the following: directly from the educational institution, from National Student Clearinghouse, or from Parchment.

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

Commented [SG1]: Should we cite this in the rules for each type of CNM practice?

Commented [MP2R1]: I am going to add the "pursuant to ..." language. @Angela Ellis

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

Revised. When there is a change in collaborative providers.

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

Stricken.

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

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**

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 4-5: Why is this necessary?

A CNM must have an RN license, and their conduct is therefore subject to the laws/rules in the Nursing Practice Act.

Page 1, Line 6: What Committee?

Pursuant to G.S. 90-187.4.

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.

Revised.

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

This applies when the licensee has a diagnosis that impairs their ability to practice or acknowledges a diagnosis.

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

Professional competence refers to the continuing education courses required for the CNM to maintain their national certification. Competency also refers to the education and skills required for the area of practice. For example: CNMs can work beyond delivering babies in hospitals – there are standard competencies to maintain the national certification, but there may be different or additional competencies required for a CNM depending on the practice setting. Added a definition of “professional competence” for clarity.

Page 1, Line 19: What constitutes exploiting?

Fact patterns that demonstrate the definition of exploiting or taking advantage of a patient. Includes a whole manner of factual situations like having a patient co-sign on your loan, patient buys you a car, gives you money, credit cards, etc.

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

Commented [MP3]: [@Angela Elia](#) added this language to the rule.

Page 1, Line 21: Is there a rule requiring them to respond?
As an RN, they are required to respond under the Nursing Practice Act.

Page 1, Line 25: Is there a rule which requires an agreement with the patient?
The Statue requires this under 90-178.4(a1). This is also found in Rule .0118 Birth Outside of Hospital Setting.

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

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

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

Commented [SG4]: Again consider citing this

Commented [MP5R4]: @Angela Ellis Added this language.

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

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 23: What kind of documentation is necessary?
Evidenced by a Certificate of Completion.*

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

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**

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: **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?

This rule does not seek to expand scope of practice. G.S. 90-178.2(1) specifies that the CNM practice in accordance with ... Core Competencies for Basic Midwifery Practice, Standards, etc of ACNM. What is listed are the highlights of practice referenced by ACNM.

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.*

Revised and clarified what educational preparation is required, the certification necessary, and evidence of maintained competence.

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

Deleted.

Line 9: *Define "primary healthcare services."*

Deleted.

Line 10: *Whose "lifespan?"*

Added "patient's".

Commented [SG6]: https://www.midwife.org/acnm/files/acnmlibrarydata/uploadfilename/00000000266/Definition%20Midwifery%20Scope%20of%20Practice_2021.pdf

Commented [KL7]: AZ scope of practice rules for CNMs
[FAQ Final questiong CNM 6.1.20 \(1\).pdf \(azbn.gov\)](https://www.azbn.gov/faq-final-questioning-cnm-6.1.20-1.pdf)

Commented [KL8]: Va joint-reg of CNMs rule language for scope
<https://law.lis.virginia.gov/vacode/title54.1/chapter29/section54.1-2957/#:~:text=H.%20Every%20certified,o%20the%20patient.>

William W. Peaslee
Commission Counsel

Date submitted to agency: August 31, 2024

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

Revised and referenced G.S. 90-178.2(1c).

Line 13: Define "care."

Midwifery pursuant to 90-178.2(c).

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.

Revised and added reference to G.S. 90-18.8(b). Also separated out "writing prescriptions" from other measures for clarity.

Line 18: Define "health outcomes."

Deleted.

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

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**

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

Revised.

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

The CNM is only required to submit one application. Rule .0103(a) contains all the requirements for a standard application. Then (b) and (c) speak to the pathway - whether the CNM is eligible for Independent Practice or is required to have a collaborating provider.

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

Revised.

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

Yes, the approval does expire automatically if the CNM fails to submit the application in time or fails to pay the fee in time (the last day of their birth month). Prior to this expiration, our licensure system sends emails notifying licensees in advance that their license is set to expire (90, 60, 30, and so on... days in advance). This practice is consistent with RN/LPN licensure as well.

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

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

AGENCY: Midwifery Joint Committee

RULE CITATION: 21 NCAC 33 .0115

Commented [MP9]: @Angela Ellis

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.

A CNM elects to end their ability to practice (as opposed to naturally expiring) by requesting Inactive Status. They don't apply to go on inactive status. They send in written notification that they no longer wish to hold an approval to practice.

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?

There isn't a different application process for "reapplying". "Inactive" signifies a status by which the CNM has entered consciously, similar to "Retired".

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

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?

Revised. Added reviewed by the CNM and the CP.

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

Revised. It does not expand their scope. The CPA ensures that the CNM and CP have agreed on what the CNM can do within their scope which the CP has agreed to monitor.

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.

Yes, the plan should be in the CPA. Added reference to the plan in G.S. 90-178.4(a2).

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

Revised and included as needed. Yes, given the nature of their practice and the intent behind supervisory practice.

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

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."

Revised.

Line 16: Change "may" to "shall."

Revised.

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

Revised. Should read (d)(5)(A).

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

Revised.

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

Revised for consistency. Patient record.

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).

Revised. Each prescription must contain these 3 things.

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."

Revised.

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

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.

Reformatted.

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

Revised.

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

Revised.

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."

Revised by adding reference to statute in 90-178.4(a1) and (a2). A birth outside a hospital setting requires both forms. The intent of this language is to ensure that the forms are in the patient's record and available to the Committee.

Lines 31-32: Maintained by whom?

Revised. By the CNM.

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

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.

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

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

1 21 NCAC 33 .0101 is adopted **with changes** as published in NCR 38:24, pages 1642 – 1643, as follows:

2
3 **21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS**

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

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

9 (1) ~~"Primary Supervising Physician" means a physician with an active unencumbered license with the~~
10 ~~North Carolina Medical Board who, by signing the midwife application, shall be held accountable~~
11 ~~for the on going supervision, consultation, collaboration, and evaluation of the medical acts~~
12 ~~performed by the midwife, as defined in the site specific written clinical practice guidelines. A~~
13 ~~physician in a graduate medical education program, whether fully licensed or holding only a~~
14 ~~resident's training license, shall not be named as a primary supervising physician. A physician in a~~
15 ~~graduate medical education program who is also practicing in a non training situation may supervise~~
16 ~~a midwife in the non training situation if he or she is fully licensed. "American Midwifery~~
17 ~~Certification Board (AMCB)" means the national certifying body for candidates in nurse-midwifery~~
18 ~~and midwifery who have received their graduate level education in programs accredited by the~~
19 ~~Accreditation Commission for Midwifery Education.~~

20 (2) ~~"Back up Primary Supervising Physician" means a physician licensed by the North Carolina~~
21 ~~Medical Board who, by signing an agreement with the midwife and the primary supervising~~
22 ~~physician or physicians shall be held accountable for the supervision, consultation, collaboration,~~
23 ~~and evaluation of medical acts by the midwife in accordance with the site specific written clinical~~
24 ~~practice guidelines when the primary supervising physician is not available. The signed and dated~~
25 ~~agreements for each back up primary supervising physician or physicians shall be maintained at~~
26 ~~each practice site. A physician in a graduate medical education program, whether fully licensed or~~
27 ~~holding only a resident's training license, shall not be named as a back up primary supervising~~
28 ~~physician. A physician in a graduate medical education program who is also practicing in a non~~
29 ~~training situation may be a back up primary supervising physician to a midwife in the non training~~
30 ~~situation if he or she is fully licensed and has signed an agreement with the midwife and the primary~~
31 ~~supervising physician. "Accreditation Commission for Midwifery Education (ACME)" means an~~
32 ~~accreditation agency established to advance and promote midwifery education.~~

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

36 (4) "American College of Obstetricians and Gynecologists (ACOG)" means the professional
37 membership organization for obstetrician-gynecologists that produces practice guidelines for health

1 care professionals and educational materials for patients, provides practice management and career
2 support, facilitates program and initiatives to improve women’s health, and advocates for members
3 and patients.

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

7 (6) “Professional competence” means the continuing education courses required for the CNM to
8 maintain their national certification. It also includes the additional continuing education courses
9 which provide education and skills specific to midwifery practice.

10
11 *History Note: Authority G.S. 90-178.4;*
12 *Eff. February 1, 1984;*
13 *Amended Eff. July 1, 2000; October 1, 1988;*
14 *Readopted Eff. November 1, 2018;*
15 *Amended Eff. April 1, 2020.*
16 *Temporary Amendment Eff. October 1, 2023.*
17 *Eff. October 1, 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 for approval to practice as a CNM in accordance with G.S. 90-178.5 are posted on the Board of Nursing's website at www.ncbon.com. [The following information shall appear on the application:] The application shall contain the following:

- (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] for independent practice without a collaborating provider 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] ("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;

1 ~~(7)~~ attest by oath or affirmation to completion of at least 24 months experience and 4,000 practice hours
2 as a CNM. Documentation of successful completion of this requirement shall be provided to the
3 Committee upon request; and

4 ~~(5)(8)~~ have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant
5 shall provide a written explanation and any investigative report or court documents evidencing the
6 circumstances of the crime(s) if requested by the Committee. The Committee **may shall** use these
7 documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6
8 and ~~90-171.37; 90-178.6.~~

9 ~~(6)~~ submit a written explanation and all related documents if the midwife has ever been listed as a nurse
10 aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The
11 Committee may take these findings into consideration when determining if an approval to practice
12 should be denied pursuant to G.S. 90-178.6. In the event findings are pending, the Committee may
13 withhold taking any action until the investigation is completed; and

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

15 ~~In the event that any of the information required in accordance with this Paragraph should indicate a concern~~
16 ~~about the applicant's qualifications, an applicant may be required to appear in person for an interview with~~
17 ~~the Committee if the Committee determines in its discretion that more information is needed to evaluate the~~
18 ~~application.~~

19 ~~(b)(c)~~ Each midwife shall annually renew their An applicant seeking approval to practice with the Committee no later
20 than the last day of the midwife's birth month by: as a CNM with less than 24 months experience and 4,000 hours of
21 practice as a CNM is required to practice in collaboration with a collaborating provider pursuant to G.S. 90-178.3(b1)
22 and shall:

23 (1) ~~submitting a completed~~ submit an application for ~~renewal, an approval to practice,~~ attesting under
24 oath or affirmation that the information on the application is true and complete, and authorizing the
25 release to the Committee of all information pertaining to the application. ~~Applications are located~~
26 ~~on the Board of Nursing's website at www.nebon.com;~~

27 (2) ~~attest to having completed the requirements of the Certificate Maintenance Program of the American~~
28 ~~College of Nurse Midwives, including continuing education requirements, and submit evidence of~~
29 ~~completion if requested by the Committee as specified in Rule .0111 of this Section; submit the~~
30 ~~approval to practice application fee as established in 90-178.4(b) and rule .0102 of this chapter;~~

31 (3) ~~submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2).~~ hold an
32 unencumbered license or privilege to practice in all jurisdictions in which a license is or has ever
33 been held;

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

35 (5) hold an unencumbered CNM license or an approval to practice in all jurisdictions in which a license
36 or an approval to practice is or has ever been held;

1 (6) provide an official copy of the education transcript and certificate from ~~[American Midwifery~~
2 ~~Certification Board;] AMCB;~~

3 (7) submit the name and licensure number of the collaborating provider with whom the applicant will
4 collaborate;

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

9 (d) Once a CNM has attained 24 months experience and 4,000 hours of practice as a CNM, the CNM shall apply for
10 independent practice by submitting an application attesting under oath or affirmation that the information on the
11 application is true and complete, and authorizing the release to the Committee of all information pertaining to the
12 application and required fee.

13 (e) ~~[All educational transcripts and certifications]~~ Educational transcripts shall be submitted directly to the Committee
14 from ~~[the primary source.]~~ the educational institution, National Student Clearinghouse or Parchment. National
15 certification for CNMs shall be submitted directly to the Committee from AMCB.

16 (f) An applicant shall be required to appear in person for an interview with the Committee if there is a discrepancy in
17 the information submitted.

18
19 *History Note: Authority G.S. 90-178.4(b); 90-178.5;*
20 *Eff. February 1, 1984;*
21 *Amended Eff. March 1, 2017; January 1, 1989;*
22 *Readopted Eff. November 1, 2018;*
23 *Amended Eff. April 1, 2020.*
24 *Temporary Amendment Eff. October 2023.*
25 *Eff. October 1, 2024.*

21 NCAC 33 .0104 is adopted **with changes** 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) **When there is a change in collaborative providers, [The] 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.*

1 21 NCAC 33 .0105 is adopted **with changes** as published in NCR 38:24, pages 1645 – 1646, as follows:

2
3 **21 NCAC 33 .0105 DISCIPLINARY ACTION**

4 (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
5 practice as ~~a an registered nurse. RN.~~

6 (b) After notice and hearing in accordance with provisions of G.S. 150B, Article 3A, the Committee **may** shall take
7 **disciplinary** action if it finds one or more of the following:

- 8 (1) ~~practicing without a valid approval to practice as a CNM;~~
- 9 (2) ~~presenting false information to the Committee in procuring or attempting to procure an approval to~~
10 ~~practice as a CNM;~~
- 11 (3) ~~the CNM is adjudicated mentally incompetent by a court of competent jurisdiction or the CNM's~~
12 ~~mental or physical condition renders the CNM unable to safely function as a CNM;~~
- 13 (4) ~~unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the~~
14 ~~prevailing standards for CNMs as set forth by ACNM;~~
- 15 (5) ~~conviction of a criminal offense where the CNM has deceived or defrauded the public;~~
- 16 (6) ~~soliciting or attempting to solicit payments for the CNM practice with false representations;~~
- 17 (7) ~~failure to maintain professional competence as a CNM such that the CNM would no longer be~~
18 ~~eligible for certification by the ACMB or the ACNM;~~
- 19 (8) ~~exploiting the patient, including the promotion of the sale of services, appliances, or drugs, for the~~
20 ~~financial gain of the CNM or of a third party;~~
- 21 (9) ~~failure to respond to inquiries of the Committee for investigation and discipline;~~
- 22 (10) ~~the CNM has engaged or attempted to engage in the performance of midwifery acts other than~~
23 ~~according to the collaborative provider agreement or without being approved by the Committee to~~
24 ~~practice independently;~~
- 25 (11) ~~failure to obtain a written, informed consent agreement from a **patient;** patient pursuant G.S. 90-~~
26 ~~**187.4(a1) and rule .0118 of this Chapter;**~~
- 27 (12) ~~practiced or offered to practice beyond the scope of CNM practice as defined in rule .0112 of this~~
28 ~~Chapter;~~
- 29 (13) ~~failure to comply with any order of the Committee;~~
- 30 (14) ~~violating any term of probation, condition, or limitation imposed on the CNM by the Committee; or~~
- 31 (15) ~~any violation within this Chapter.~~

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

- 33 (1) dismiss the case;
- 34 (2) issue a private letter of concern;
- 35 (3) enter into negotiation for a Consent Order; ~~or~~
- 36 (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~~ shall utilize the range of disciplinary options as enumerated in G.S. 90-178.6 and
3 90-178.7.

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.*

1 21 NCAC 33 .0111 is adopted, **with changes**, as published in NCR 38:24, page 1646 as follows:

2
3 **21 NCAC 33 .0111 CONTINUING EDUCATION (CE)**

4 (a) In order to maintain an approval to practice midwifery, a midwife CNM shall meet the requirements of the
5 Certificate Maintenance Program of the **American College of Nurse-Midwives, [Midwifery-Certifying Board,]**
6 **AMCB,** including continuing education requirements. ~~Every midwife who prescribes controlled substances shall~~
7 ~~complete at least one hour of continuing education (CE) hours annually consisting of CE designated specifically to~~
8 ~~address controlled substances prescribing practices, signs of the abuse or misuse of controlled substances, and~~
9 ~~controlled substance prescribing for chronic pain management. Documentation of continuing education shall be~~
10 ~~maintained by the midwife for the previous five calendar years and made available upon request to the Committee.~~
11 These requirements are hereby incorporated by reference, including subsequent amendments or editions, and may be
12 accessed at no cost at: <https://www.amcbmidwife.org/certificate-maintenance-program/purpose-objectives>.

13 (b) Prior to prescribing Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal
14 Controlled Substances Act, CNMs shall complete a minimum of one CE hour within the preceding 12 months on one
15 or more of the following topics:

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

20 (c) CNMs who complete the federally required training under the Medication Access and Training Expansion Act
21 (MATE) shall be deemed in compliance with the controlled substance prescribing requirements of this rule for the
22 two year CE period in which the MATE training is completed.

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

25
26 *History Note: Authority: G.S. 90-5.1; 90-14(a)(15); 90-178.5(2); S.L. 2015-241, s. 12F .16(b);*
27 *Eff. March 1, 2017;*
28 *Readopted Eff. November 1, 2018.*
29 *Temporary Amendment Eff. October 1, 2023.*
30 *Eff. October 1, 2024.*

21 NCAC 33 .0112 is adopted **with changes** as published in NCR 38:24, page 1646, as follows:

21 NCAC 33 .0112 SCOPE OF PRACTICE

(a) Pursuant to G.S. 90-178.2, the CNM's scope of practice is defined by:

(1) academic educational preparation from a program accredited by the Accreditation and Commission for Midwifery Excellence (ACME); and

(2) national certification by the AMCB or its successor; and

(3) maintained competence. Evidence of competence is Certificates of Completion from continuing education courses in certified nurse midwifery practice.

(b) ~~[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/acnmlibrarydata/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)](1) Interconceptional care as defined in G.S. 90-187.2(1c), which includes treating patients and their partners for sexually transmitted [diseases and reproductive health;] infections;~~

~~[(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)](2) prescribing, administering, and dispensing therapeutic measures, tests, and [procedures, and drugs;] procedures in accordance with Paragraph (a) of this rule;~~

~~[(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; **90-178.2**; 90-178.3;*

Temporary Adoption Eff. October 1, 2023.

Eff. October 1, 2024.

1 21 NCAC 33 .0114 is adopted, **with changes**, as published in NCR 38:24, page 1646, as follows:

2
3 **21 NCAC 33 .0114** **ANNUAL RENEWAL**

4 (a) The CNM shall **renew** apply for renewal of the approval to practice annually no later than the last day of the
5 applicant's birth month by:

6 (1) maintaining an active, unencumbered North Carolina RN license or privilege to practice;

7 (2) submitting a completed application as outlined in rule .0103 of this Chapter for renewal, attesting
8 under oath or affirmation that the information on the application is true and complete, and
9 authorizing the release to the Committee of all information pertaining to the application;

10 (3) attesting to having completed the requirements of the Certificate Maintenance Program of the
11 [American Midwifery Certification Board] AMCB or its successor, including continuing education
12 requirements, and submit evidence of completion if requested by the Committee as specified in rule
13 .0111 of this Chapter; and

14 (4) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2) and this
15 Chapter.

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

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

20
21 *History Note:* *Authority G.S. 90-178.4(b); 90-178.5;*
22 *Temporary Adoption Eff. October 1, 2023.*
23 *Eff. October 1, 2024.*

1 21 NCAC 33 .0116 is adopted **with changes** as published in NCR 38:14, page 1647, as follows:

2
3 **21 NCAC 33 .0116** **COLLABORATIVE PROVIDER AGREEMENT**

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

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

8 (2) be reviewed **by the CNM and collaborating provider** at least annually, to ensure that the CNM and
9 collaborating provider continue to practice under the terms of the agreement, and determine whether
10 any changes to the agreement are necessary. This review shall be acknowledged by a dated signature
11 sheet, signed by both the collaborating provider and the CNM, appended to the collaborative
12 provider agreement, and available for inspection by the Committee;

13 (3) include mutually agreed upon written clinical practice guidelines for the drugs, devices, medical
14 treatments, tests, and procedures that may be prescribed, ordered, and performed by the **[CNM;**
15 **CNM, [all of] which are within the scope of practice for the CNM pursuant to rule .0112 of this**
16 **Chapter; and**

17 (4) include a pre-determined plan for emergency **[services-] services** in accordance with G.S. 90-
18 **178.4(a2).**

19 (b) The collaborating provider and the CNM shall be available to each other **as needed** for consultation by in-person
20 communication or telecommunication.

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

23
24 *History Note:* Authority G.S. 90-18.8; 90-178.3; 90-178.4; 90-178.5;

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

26 *Eff. October 1, 2024.*

1 21 NCAC 33 .0117 is adopted **with changes** as published in NCR 38:24, page 1647, as follows:

2
3 **21 NCAC 33 .0117 PRESCRIBING AUTHORITY**

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

6 (b) A CNM **[must]** **shall** possess a valid United States Drug Enforcement Administration ("DEA") registration in
7 order to prescribe controlled substances.

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

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

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

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

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

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

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

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

24 (B) The written or verbal order as described in Part ~~[(e)(3)(A)] (d)(5)(A)~~ of this rule shall be
25 entered into the patient record **by the CNM** with a notation that it is issued on the specific
26 order of a collaborating provider and signed by the CNM and the collaborating provider.

27 (e) All prescribing requirements shall be written in the patient's **[chart]** **record** and shall include the medication and
28 dosage, the amount prescribed, the directions for use, the number of refills, and the signature of the CNM.

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

30 (1) the name of the patient;

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

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

34 (g) A CNM shall not prescribe controlled substances for the CNM's own use, the use of the CNM's collaborating
35 provider, the use of the CNM's immediate family, the use of any other person living in the same residence as the CNM,
36 or **for** 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.

3

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

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

6 *Eff. October 1, 2024.*

21 NCAC 33 .0118 is adopted **with changes** 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:** ~~shall:~~

- (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)~~ (b) After a decision of non-emergent transfer care has been made, the CNM shall:

- ~~(A)~~(1) call the relevant receiving health care facility to notify them of transfer;
- ~~(B)~~(2) provide a copy of the patient's medical record to the receiving health care facility; and
- ~~(C)~~(3) 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)~~(c) 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)~~(1) transporting the patient(s) by private vehicle; or
- ~~(B)~~(2) calling 911 and reporting the need for immediate transfer.

~~(b)~~(d) Copies of the informed consent agreement **developed in accordance with G.S. 90-178.4(a2)** and emergent and non-emergent transfer of care plans **developed pursuant to G.S. 90-178.4(a2)** shall be maintained **by the CNM** in the patient's record and provided to the Committee upon request.

~~(e)~~(e) 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

1 (3) prior cesarean.

2

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

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

5 *Eff. October 1, 2024.*

1 21 NCAC 33 .0119 is adopted as published in NCR 38:24, page 1648, as follows:
2

3 **21 NCAC 33 .0119 PETITIONING FOR RULEMAKING**

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

7 (b) The petition shall contain the following information:

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

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

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

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

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

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

15 (1) request additional information from the petitioner;

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

17 and

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

21 (d) The Midwifery Joint Committee shall act on a petition within the timeframe outlined in G.S. 150B-20.
22

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

24 Adopted Eff. October 1, 2024.

1 21 NCAC 33 .0120 is adopted as published in NCR 38:24, page 1648, as follows:

2

3 **21 NCAC 33 .0120 CONTACT**

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

5

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

7

Adopted Eff. October 1, 2024.

Burgos, Alexander N

To: Peaslee, William W
Subject: RE: [External] Midwifery Rules - response to technical changes question

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From: Meredith Parris <mparris@ncbon.com>
Sent: Wednesday, September 11, 2024 10:19 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Angela Ellis <angela@ncbon.com>
Subject: [External] Midwifery Rules - response to technical changes question

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning, Bill,

Thank you again for speaking with me the other day. Your insight helped me work through the issue with which we are struggling, and I appreciate your time.

Regarding respecting your time... we are fastidiously working on the MJC Response to Technical Changes. Prior to submitting them for your review, would it be possible to schedule a time to meet with you, perhaps Friday? Rule .0112 Scope of Practice is presenting several challenges, and I also have a few minor questions on other rules we are working to revise in accordance with your suggestions. It is my hope that a phone call with you will help us provide clear responses to the Request for Technical Changes (and limit your frustration when reviewing our response!).

I will make myself available any time on Friday if that day works with your schedule. Thank you!

Best,
Meredith

Meredith Parris JD
Chief Legal Officer

Office: (984) 238-7627
Fax: (919) 781-9461

4516 Lake Boone Trail Raleigh, NC 27607
P.O. Box 2129 Raleigh, NC 27602

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Burgos, Alexander N

From: Peaslee, William W
Sent: Saturday, August 31, 2024 4:42 PM
To: Angela Ellis
Cc: Burgos, Alexander N
Subject: RE: [External] Re: 21 NCAC 33
Attachments: 2024.09 - Midwifery Joint Committee - Request for Technical Change 21 NCAC 33.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon,
Attached please find the request for changes on the above captioned rules which will be considered at the September 2024 RRC meeting.

As always if you have any questions please let me know.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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From: Angela Ellis <angela@ncbon.com>
Sent: Friday, August 30, 2024 11:26 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Re: 21 NCAC 33

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning!

My apologies. Attached are the corrected Form 400 for the Midwifery rules.

Please let me know if you need anything further.

Angela Ellis

Chief Administrative Officer

Office: (984)-238-7644

Fax: (919) 781-9461

4516 Lake Boone Trail Raleigh, NC 27607

P.O. Box 2129 Raleigh, NC 27602

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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, August 30, 2024 10:25 AM
To: Angela Ellis <angela@ncbon.com>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 21 NCAC 33

Good morning,

The form 400 for each of the rules submitted states that the rule-Making Agency is the Board of Nursing. I believe you intended the Midwifery Joint Committee. Please revise and re-submit.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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