



SPONSOR: Rep. Maier & Sen. Blevins;  
Reps. Hudson, Wagner; Sen. Henry

HOUSE OF REPRESENTATIVES  
144th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1  
FOR  
HOUSE BILL NO. 106

AN ACT TO AMEND TITLE 24 AND TITLE 29 OF THE DELAWARE CODE RELATING TO MIDWIVES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Title 24 of the Delaware Code by inserting a new Chapter as follows:

“Chapter 6. Certified Professional Midwives

§ 601. Short Title.

This Act may be cited as the Delaware Certified Professional Midwife Licensure Act. At the time of the introduction of this Bill, the State of Delaware has the second highest infant mortality rate in the country and is experiencing a decline in the number of obstetrical care providers serving Delaware’s women and families. Access to care with Certified Professional Midwife (CPM) will address both of these major challenges facing Delaware’s maternity care system, while providing demonstrated high-quality care for mothers and babies in the State.

§ 602. Definitions.

As used in this Act:

- (1) ‘Certified Professional Midwife’ or ‘CPM’ means a person who has met the standards for certification set by the North American Registry of Midwives or its successor, and has been awarded this credential.
- (2) ‘Council’ mean Certified Professional Midwifery Council.
- (3) ‘Licensed midwife’ means a person who is licensed under this Act.
- (4) ‘North American Registry of Midwives’ or ‘NARM’ means the international agency, or its successor, that has established and has continued to administer certification for the credential of Certified Professional Midwife.
- (5) ‘Certified Professional Midwife Certification’ means the credential issued by the North American Registry of Midwives (NARM, or its successor,) after completion of the CPM credential process. The CPM credential is recognized internationally.

- (6) 'Recertification of the CPM' means the process outlined by NARM to demonstrate continued competency and proficiency which is required every three (3) years.
- (7) 'National Association of Certified Professional Midwives' or 'NACPM' means the professional organization for Certified Professional Midwives that establishes a scope of practice and standards for the profession.
- (8) 'Midwifery' means the provision of care, support, and education to women and their families during the childbearing cycle, including antepartum, intrapartum and postpartum care for women, newborn assessment, care of newborns, referral for pediatric care; and well-woman gynecology and family planning, as established by the current North American Registry of Midwives' current job description for the profession and the National Association of Certified Professional Midwives' scope of practice. When needed, this care occurs in consultation with and referral to members of the health care system.
- (9) 'Collaborative Agreement' means a written document that outlines the process for consultation, referral and transfer of care between a Certified Professional Midwife and a Delaware licensed physician in current practice with obstetrical hospital privileges.
- (10) 'Consultation' means the process whereby a Certified Professional Midwife seeks the advice or opinion of a physician or other health professional.
- (11) 'Referral' means the process whereby a Certified Professional Midwife directs the client (woman or baby) to appropriate professionals when either needs care outside his/her scope of practice or expertise.
- (12) 'Transfer of Care' means the process whereby a midwife transfers the care of a client to the care of a physician.
- (13) 'Peer review' means an educational review process in accordance with the current NARM peer review standards, which includes a certificate of participation document.
- (14) 'Informed consent' means a document that includes, but is not limited to disclosure of the midwife's education, skill level, scope of practice and written plan for medical emergencies.
- (15) 'Midwifery Model of Care' means a philosophy of care that is based on the fact that pregnancy and birth are normal life processes. The Midwifery Model of Care includes monitoring the physical, psychological, and social well-being of the mother throughout the childbearing cycle; providing the mother with individualized education, counseling, and prenatal care, continuous hands-on assistance during labor and delivery, and postpartum support; minimizing technological interventions; and identifying and referring women who fall outside his/her scope of practice.

(16) 'Delaware Association of Midwives' (DAM) refers to the professional organization of Delaware Midwives and student Midwives that work in the home setting. DAM seeks to provide a forum for peer review, continuing education opportunities, development of practice guidelines and policies and procedures for licensed Midwives, as well as coordination of public education and awareness building about homebirth and midwifery services.

§ 603. Findings and Purpose.

(a) This Act is intended to establish a licensure procedure for Certified Professional Midwives in Delaware.

§ 604. License Required.

Beginning September 30, 2007, no person shall practice midwifery in this State without a license under this Chapter, except as provided in § 605 of this Chapter.

(a) No person shall use in connection with the person's name any letter, words, or insignia indicating or implying that the person is a licensed midwife unless the person is licensed in accordance with this Chapter.

§ 605. Exemptions.

(a) Nothing in this Chapter shall be construed to prohibit or to require licensure under this Chapter, with regard to:

(1) The gratuitous rendering of services;

(2) The rendering of services by a person if such attendance is in accordance with the person's religious faith and is rendered to persons with a similar religious faith;

(3) Certified Nurse Midwives authorized under the Advanced Practice Nursing Board to practice in Delaware;

(4) Licensed physicians or other licensed health care providers authorized to provide maternity care; and

(5) A student of Midwifery which is included in the study of Certified Professional Midwifery as defined by NARM.

§ 606. Delaware State Certified Professional Midwifery Council.

There shall be established a Certified Professional Midwifery Council composed of five (5) members appointed by the Governor. The appointed members of the Council shall include two (2) Certified Professional Midwives and two (2) consumers who shall be previous recipients of Certified Professional Midwifery services, and one (1) member of the Board of Medical Practices. Of the members first appointed to the State Certified Professional Midwifery Council by the Governor, two (2) members shall be appointed for a term of three (3) years, two (2) members shall be appointed for a term

of two (2) years, and one (1) member for a term of one (1) year. Thereafter, all members shall service three-year terms. In making the appointments to the Council, the Governor shall consider the recommendations of individuals and organizations directly involved with Certified Professional Midwifery in the State. A vacancy in an unexpired term shall be filled in the same manner as the original appointment. The Governor may remove a Council member for misconduct, incapacity, or neglect of duty, but only after notice and public hearing, unless the notice and hearing are waived by the member in writing. The Council shall elect from its membership a Chairperson. The Council may meet as needed but shall meet at least twice a year.

§ 607. Certified Professional Midwifery Council Powers.

The Certified Professional Midwifery Council is authorized to:

- (a) License individuals who qualify for licensure;
- (b) Conduct hearings and disciplinary conferences upon disciplinary charges of those licensed; and
- (c) Liaison with the Delaware Association of Midwives and communicate with the Delaware Association of Midwives with regard to Delaware Association of Midwives Practice Guidelines, Policies and Procedures or any other business that is related to the practice of licensed midwifery in the State.

§ 608. Immunity of Suit.

The members of the Council are immune from suit in any action based upon any disciplinary proceedings or other acts performed as members of the Council, except those involving willful or wanton misconduct.

§ 609. Education Requirements. High School Graduate or GED Required.

Certified Professional Midwives must meet the educational requirements as put forth by their certifying organization, NARM, to obtain the credential of Certified Professional Midwife (CPM). The Certified Professional Midwives' credential is a competency-based education (CBE) designed to ensure that students attain a specific level and range of competence in the field of Midwifery with an emphasis on achievement of specified objectives. The clinical component includes well women, prenatal, intrapartal, postpartal and newborn care and is equivalent to 1350 clinical hours and requires documentation of competent supervised performance of over 750 skills. In addition, CPMs must maintain certification in neonatal resuscitation/infant CPR and adult CPR.

§ 610. Certified Professional midwife Certification.

The credential issued by the North American Registry of Midwives (NARM, or its successor), after completion of the CPM credential process is available to those individuals who complete the CPM process. This includes the completion of the CPM educational process, the passing of the hands-on skills assessment and an eight-hour written exam administered by NARM.

§ 611. Recertification Requirements.

Recertification as a Certified Professional Midwife is required by NARM every three (3) years. This process includes peer review evaluation and continuing education units. In lieu of the continuing education units, a CPM may demonstrate continued competency by retaking the NARM written exam.

§ 612. Eligibility for Licensure.

A person is eligible to be licensed as a midwife if that person meets the following qualifications:

- (a) Has the credential Certified Professional Midwife (CPM); and
- (b) Is in good standing with the North American Registry of Midwives (NARM).

§ 613. Scope of Practice.

A licensed midwife may perform any of the midwifery services and skills as established by the North American Registry of Midwives' current job description for the profession and the National Association of Certified Professional Midwives' scope of practice, including, but not limited to antepartum, intrapartum, and postpartum care of women; newborn assessment and care of newborns; and well-woman gynecology and family planning.

In the absence of specific direction in these regulations as to standard and scope of practice or professional ethics, the Delaware Association of Midwives Practice Guidelines, the North American Registry of Midwives' current job description for the profession and the National Association of Certified Professional Midwives' philosophy, standards and scope of practice are adopted as standards of practice and are incorporated by reference herein.

§ 614. Collaborative Agreement.

At least one (1) physician in each county with obstetrical privileges in Delaware must be willing to enter into a formal written collaborative agreement with Certified Professional Midwives (who currently do not have formal written collaborative agreements) within three (3) months of the written request. The written collaborative agreement would create guidelines for referral, consultation and transfer of care in accordance with the Midwives Model of Care. If the Certified Professional Midwives are unable to establish formal written collaborative agreements within the allotted time (3 months), the requirement for a formal written collaborative agreement will become null and void and the Certified Professional Midwives would use the information consultation, referral and transfer of care model utilized among other healthcare providers. The Certified Professional Midwives must send out all requests for a formal written collaborative agreement via certified mail.

§ 615. Reporting Requirements.

(a) Birth Registration. The licensed midwife must complete a Delaware Certificate of Live Birth Registration and file it with the Office of Vital Statistics of the Division of Public Health, Department of Health and Social Services, within thirty (30) days of the birth of any child in the State of Delaware.

(b) Mortality – Immediate Reporting. The licensed midwife must report within 48 hours to the Division of Public Health any neonatal or maternal mortality in clients for whom she has cared in the perinatal period.

(c) Reportable Diseases. The licensed midwife must report any reportable contagious disease to the public health officer pursuant to the Division of Public Health guidelines.

(d) Newborn Metabolic Screen. The licensed midwife must offer a State of Delaware Newborn Metabolic Screen to all clients to be completed within the first two (2) weeks after the birth and returned to the State, or obtain a waiver from clients who choose not to have this testing.

§ 616. Applications for and Issuance of Licenses.

A person shall apply to the Council on a form furnished by the Council for licensure as a midwife. The application shall be accompanied by payment of the fee specified in § 618 of this Chapter and evidence that the person meets the eligibility requirements of this Chapter.

§ 617. Renewals.

A midwife license must be renewed every three (3) years. License renewal shall be contingent upon maintaining a Certified Professional Midwife certification. An applicant for renewal shall submit to the Council the following:

(a) A renewal application on the prescribed form furnished by the Council; and

(b) A renewal fee as prescribed by the Council not to exceed \$300.

§ 618. Fees.

Persons seeking licensure shall pay the required license fee of \$300 for each three-year period.

§ 619. Penalties.

A person who knowingly violates any of the provisions of this Chapter is guilty of a class A misdemeanor.

§ 620. Parents' rights regarding the birth of the baby.

Parents have a right to give birth where and with whom they choose. This Chapter shall not prohibit the attendance at birth of the mother's choice of family, friends, and other persons.

§ 621. Denial of Liability/Immunity.

No person other than the licensed midwife who provided care to the patient shall be liable for the midwife's negligent, grossly negligent or willful and wanton acts or omissions.

A doctor of medicine or osteopathy, nurse, prehospital emergency medical person, or hospital personnel, or agents thereof, shall not be deemed to have established a business relationship or relationship of agency, employment, partnership, or joint venture with the licensed midwife solely by providing consultation to or accepting referral from the midwife.

Except as otherwise provided by law, no other licensed midwife, doctor of medicine or osteopathy, nurse, prehospital emergency medical personnel, or hospital personnel, or agents thereof, shall be exempt from liability (i) for their own subsequent and independent negligent, grossly negligent or willful and wanton acts or omissions or (ii) if such person has a business relationship with the licensed midwife who provided care to the patient.

However, this Section shall not prevent or prohibit any licensed midwife from delegating to an apprentice or personnel in his/her personal employ and supervised by his/her such activities or functions that are nondiscretionary and that do not require the exercise of professional judgment for their performance, if such activities or functions are authorized by and performed for the licensed midwife and responsibility for such activities or functions is assumed by the licensed midwife.”.

Section 2. The Council shall promulgate rules in accordance with the Delaware Administrative Procedures Act, Title 29, Chapter 101 for the licensure of Certified Professional Midwives by September 30, 2007.

Section 3. Amend § 8807(a), Title 29 of the Delaware Code by deleting “and” as it appears at the end of paragraph (30) thereof, by replacing the period at the end of paragraph (31) thereof with “; and” and by adding thereto the following:

“(32) Certified Professional Midwifery Council.”.

Section 4. Amend §10161(a), Title 29 of the Delaware Code by adding a new Section 40 to read as follows:

“(49) Certified Professional Midwifery Council.”.

#### SYNOPSIS

The intent of this Act is to encourage and enable the practice of Certified Professional Midwives (via providing a mechanism for licensure) for the benefit of mothers, babies and families in the State of Delaware. Access to prenatal care and delivery services is limited by the inadequate number of providers of such services and the regulated practice of midwifery may help to reduce this shortage and improve maternal and infant morbidity and mortality rates and outcomes. There is broad and substantial support among the citizens of the State of Delaware for women to have the freedom to choose the manner, cost, type of birth attendant and setting for giving birth; Certified Professional Midwifery services should be available to everyone who chooses the option of out-of-hospital birth.

The Midwifery Model of Care is fundamentally different than the Medical Maternity Model of Care. The Midwifery Model of Care recognizes that birth is a normal and healthy event in the life of a woman and her family and has physical, emotional, spiritual and social dimensions. Certified Professional Midwives apply the Midwifery Model of Care to provide sound care for birthing women in an out-of-hospital setting. The application of this woman-centered, cost-effective model of care has been proven to reduce the incidence of birth injury, trauma, and cesarean section and has been shown to be as safe or safer for healthy mothers and babies as hospital birth.