

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Health Occupations Revision Act of 1985 to provide for the licensure and regulation of certified professional midwives and certified nurse-midwives, and to provide requirements for maternity centers and Medicaid reimbursement; to amend Part B of the Department of Health Functions Clarification Act of 2001 to establish and provide duties for a 7-member Advisory Committee on Certified Professional Midwives; and to amend the District of Columbia Health Professional Recruitment Program Act of 2005 to include certified professional midwives in the definition of other health professionals.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Certified Professional Midwife Amendment Act of 2020”.

Sec. 2. The District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), is amended as follows:

(a) The Table of Contents is amended by adding new titles VI-E and VI-F to read as follows:

“TITLE VI-E
“MATERNITY CENTERS’ CERTIFICATION; OPERATIONS
ADMINISTRATION

“Sec. 661. Definitions.

“Sec. 662. Certification of maternity centers.

“Sec. 663. Maternity center operating procedures.

“Sec. 664. Administration of medications.

“TITLE VI-F
MEDICAID REIMBURSEMENT.

“Sec. 671. Reimbursement for certified professional midwives.”.

(b) Title I is amended as follows:

(1) Section 101 (D.C. Official Code § 3-1201.01) is amended as follows:

(A) Existing paragraph (1C) is redesignated as paragraph (1).

(B) New paragraphs (1C), (1D), (1E), (1F), (1G), and (1H) are added to

read as follows:

“(1C) “Certified professional midwife” or “CPM” means a person licensed in the District under this act to practice certified professional midwifery who holds a valid certification from the North American Registry of Midwives.

“(1D) “Certified nurse-midwife” means a qualified registered nurse who holds a valid certification from the American Midwifery Certification Board.

“(1E) “MBC” means a Midwifery Bridget certificate issued by the North American Registry of Midwives that documents completion of accredited continuing education for Certified Professional Midwives based upon identified areas to address education in emergency skills and other competencies set by the International Confederation of Midwives.

“(1F) “MEAC” means the Midwifery Education Accreditation Council, the U.S. Department of Education-recognized commission that provides accreditation for programs and institutions that meet the International Confederation of Midwives competencies and the North American Registry of Midwives skills and standards for midwifery practice.

“(1G) “National Association of Certified Professional Midwives” or “NACPM” means the national professional and standard setting association specific to Certified Professional Midwives.

“(1H) “Patient-client” means a person under the care of a midwife and such person's fetus or newborn.”.

(2) Section 102 (D.C. Official Code § 3-1201.02) is amended as follows:

(A) Paragraphs (7A) and (7B) are redesignated, respectively, as paragraphs (7B) and (7C).

(B) A new paragraph (7A) is added to read as follows:

“(7A)(A) “Practice of certified professional midwifery” means the provision of primary maternity care and well-women care by a certified professional midwife licensed under this act to a patient-client during the preconception, antepartum, intrapartum, and postpartum periods. The practice of certified professional midwifery includes:

“(i) Discussing any general or specific risk factors pertaining to the health and circumstances of the patient-client associated with the provision of primary maternity care and well-women care;

“(ii) Consulting with the patient-client regarding the conditions under which consultation, transfer of care, or transport are necessary;

“(iii) Obtaining the patient-client’s health history;

“(iv) Performing a physical examination of the patient-client;

“(v) Developing a written plan of care specific to the patient-client to ensure continuity of care throughout the antepartum, intrapartum, and postpartum periods, including an emergency birth plan;

“(vi) Consulting, collaborating, referring, or transferring care to appropriate health care professionals;

“(vii) Providing care during the antepartum, intrapartum, postpartum, and newborn periods, including:

“(I) Monitoring and evaluating the condition of the patient-client;

“(II) Conducting the delivery of a fetus in an out-of-hospital setting;

“(III) Suturing episiotomy or first and second-degree lacerations, including the administration of a local anesthetic; and

“(IV) Performing emergency procedures, including:

“(aa) Administering approved medications;

“(bb) Administering intravenous fluids for stabilization; and

“(cc) Performing an emergency episiotomy;

“(V) Providing routine care for a newborn, including immediate care at birth, the performance of newborn examination, and the administration of intramuscular vitamin K and eye ointment for prevention of ophthalmia neonatorum; and

“(VI) Providing limited care in between pregnancies to facilitate the continuity of care, including the provision of:

“(aa) Breastfeeding support and counseling;

“(bb) Family planning services, but only to the extent that such services will be limited to natural family planning and the provision of cervical caps and diaphragms in consultation with an appropriate health care provider as necessary; and

“(cc) Pap smears, but only to the extent that a patient-client with an abnormal pap smear result will be referred to an appropriately-licensed health care provider.

“(B) Subparagraph (A) of this paragraph shall not be interpreted to set, establish, define, enumerate, or otherwise lower the applicable standard of care for a licensed physician, licensed naturopathic physician, certified professional midwife, certified nurse midwife, or licensed basic or advanced emergency medical technician.

“(C) Subparagraph (A) of this paragraph shall not be construed as preventing or restricting the practices, services, or activities of:

“(i) A licensed physician, licensed naturopathic physician, certified nurse-midwife, or licensed basic or advanced emergency medical technician;

“(ii) A member of an American Indian community who provides traditional midwife services to the member’s community;

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“(iii) Any person who, in good faith, engages in the practice of the religious tenets of any church or in any religious act if no fee is contemplated, charged, or received;

“(iv) Any person rendering aid in an emergency; or

“(v) A student midwife currently enrolled in an accredited midwifery education program and providing services to patient-clients under the direct, on-site, in-person supervision of a certified professional midwife.

“(D) Subparagraph (A) of this paragraph shall not be construed to authorize an individual licensed under this act to practice certified professional midwifery to:

“(i) Provide pharmacological induction or augmentation of labor;

“(ii) Conduct surgical delivery or any surgery except an emergency episiotomy;

“(iii) Utilize forceps or a vacuum extractor; except, that an individual licensed under this act to practice certified professional midwifery shall be authorized to administer a local anesthetic;

“(iv) Administer any kind of narcotic analgesic; or

“(v) Administer any prescription medication in a manner that violates the requirements of this act.

(c) Section 203 (D.C. Official Code § 3-1202.03) is amended as follows:

(1) The section heading is amended by striking the phrase “Trauma Technologists, and Athletic Trainers.” and inserting the phrase “Trauma Technologists, Athletic Trainers, and Certified Professional Midwives.” in its place.

(2) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended by striking the phrase “and the practice of trauma technologists with the advice of the Advisory Committee on Trauma Technologists, and the practice of athletic trainers with the advice of the Advisory Committee on Athletic Trainers.” and inserting the phrase “the practice of trauma technologists with the advice of the Advisory Committee on Trauma Technologists, the practice of athletic trainers with the advice of the Advisory Committee on Athletic Trainers, and the practice of certified professional midwives with the advice of the Advisory Committee on Certified Professional Midwives.” in its place.

(B) Paragraph (8) is amended as follows:

(i) Subparagraph (F) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(ii) Subparagraph (G) is amended by striking the period and inserting the phrase “; and” in its place.

(iii) A new subparagraph (H) is added to read as follows:

“(H) The practice of certified professional midwifery in accordance with guidelines issued by the Advisory Committee on Certified Professional Midwives.”.

(d) Section 504 (D.C. Official Code § 3-1205.04) is amended by adding a new subsection

(t) to read as follows:

“(t)(1) An individual applying for a license to practice midwifery under this act shall establish to the satisfaction of the Board of Medicine that the individual:

“(A) Holds a current certification as a certified professional midwife issued by the North American Registry of Midwives (“NARM”) or its successor organization;

“(B) Has successfully completed a midwifery education and training program, either through an accredited educational program or non-accredited educational program; except, that an individual who has successfully completed an educational program accredited by NARM shall be deemed to have completed an accredited educational program;

“(C) Is at least 21 years of age by the date of the licensure application;

“(D) Has completed a criminal history background check in accordance with section 522 of this act;

“(E) That the individual holds a current cardiopulmonary resuscitation certification for healthcare providers issued by the American Red Cross or the American Heart Association; and

“(F) That the individual holds a current neonatal resuscitation program certification issued by the American Academy of Pediatrics.

“(2) Beginning October 1, 2020, individuals seeking a license to practice midwifery shall:

“(A) Successfully complete an educational pathway accredited by MEAC;

“(B) In the event an individual has successfully completed a non-accredited education pathway and obtained the individual’s CPM credential prior to October 1, 2020, the individual must obtain an MBC to be eligible for licensure as a certified professional midwife and complete:

“(i) Fourteen hours of obstetric emergency skills training such as birth emergency skills training or an advanced life-saving in obstetrics course; and

“(ii) A course in pharmacology approved by NARM or an accredited university or program to be eligible for licensure a certified professional midwife; or

“(C) In the event an individual is licensed to practice midwifery in a state that does not require the successful completion of an accredited educational pathway as a prerequisite to obtain a license to practice midwifery, the individual shall have been licensed for at least one year prior to attempting to obtain an MBC from NARM to practice in the District.”.

(e) New titles VI-E and VI-F are added to read as follows:

“TITLE VI-E.

“MATERNITY CENTERS CERTIFICATIONS; OPERATIONS; ADMINISTRATION.

“Sec. 661. Definitions.

“For the purposes of this title, the term:

“(1) “Applicant” means an organization petitioning the Director of the Department of Health to become a certified maternity center.

“(2) “Maternity center” means a facility or other place, other than a hospital or the mother's home, that provides antepartal, intrapartal, and postpartal care for both mother and newborn infant during and after a normal, uncomplicated pregnancy.

“Sec. 662. Certification of maternity centers.

“(a) Upon receipt of satisfactory proof from the applicant, the Mayor shall certify that the following services will be provided at a maternity center by or under the supervision of a certified nurse-midwife or a certified professional midwife that has a licensed physician is available at all times:

“(1) Diagnostic services for screening at-risk maternity patient-clients and newborn infants;

“(2) Referral for care of at-risk maternity patient-clients and newborn infants; and

“(3) Midwifery services for the care of at-risk maternity patient-clients and newborn infants.

“(b)(1) An individual or entity shall be appointed by the maternity center to develop and maintain a written organizational plan and be responsible for the appointment of a certified nurse-midwife or a CPM as director of the maternity center and a qualified physician as Director of Medical Affairs.

“(2) A maternity center shall not be required to employ a director of medical affairs if the maternity center is able to produce demonstrative evidence that the maternity center has access to appropriate consultation and transfer of care with an obstetrician within an appropriate distance from the birthing center.

“(c) If midwifery services are provided by a maternity center, a certified nurse midwife, CPM, or the director of a maternity center shall be appointed director of midwifery services.

“Sec. 663. Maternity center operating procedures.

“(a)(1) Each maternity center, regardless of size, shall have written practice guidelines establishing procedures for both normal and emergency care. The practice guidelines shall be consistent with the Practice Guidelines of the American College of Nurse-Midwives, Standards of Practice of the National Association of Certified Professional Midwives, and District of Columbia laws and regulations relating to midwifery practices. The practice guidelines shall indicate the areas of responsibility of medical, certified nurse-midwife and certified professional midwifery, and nursing personnel and the extent to which the responsibility of physicians can be delegated. The practice guidelines shall be available to all members of the center and shall be reviewed annually. The practice guidelines shall not be interpreted to set, establish, define, enumerate, or otherwise lower the applicable standard of care for a certified professional midwife or a certified nurse midwife.

“(2) Delivery practice guidelines shall be consistent with the current professional standards of the National Association of Childbearing Centers, the Commission for the Accreditation of Birth Centers, the National Association of Certified Professional Midwives, and the American College of Nurse Midwives.

“(b) A certified nurse-midwife, certified professional midwife, or physician with special training in obstetrics shall attend each patient-client in labor from the time of admission, during labor, during birth and through the immediate postpartum period; except, that attendance may be delegated to another certified nurse-midwife, a CPM, or physician. At least 2 attendants shall be present at every birth, one of whom is a certified nurse-midwife, CPM, or physician with special training in obstetrics. Both attendants shall be certified in adult cardiopulmonary resuscitation (“CPR”), equivalent to the American Heart Association Class C basic life support, and neonatal CPR, equivalent to the American Academy of Pediatrics or American Heart Association standards. Qualified personnel, including a certified nurse-midwife, CPM, or a Board-certified physician shall always be on duty when patient-clients are admitted, whether on the premises or on call.

“Sec. 664. Administration of medications.

“(a) The practice guidelines governing drugs and medications shall provide for legal authorization, storage, administration, and record keeping, including requiring that:

“(1) Medications be ordered by a certified-nurse midwife, CPM, physician, or other member of the staff who is licensed to write such orders;

“(2) Medication orders be recorded in the patient-client’s chart and signed by the ordering person with his or her full signature; and

“(3) Medications be administered by a physician, nurse midwife, CPM, registered nurse or licensed practical nurse and in accordance with the approved practice guidelines by the Board of Medicine.

“TITLE VI-F. MEDICAID REIMBURSEMENT.

“Sec. 671. Reimbursement for certified professional midwives.

“(a) A health benefit plan or health insurance provided through Medicaid shall provide coverage for services rendered by a certified professional midwife for services within the scope of the practice of certified professional midwifery, regardless of the location where such services are provided.

“(b) Coverage for services provided by a certified professional midwife shall not be subject to any greater copayment, deductible, or coinsurance than is applicable to any other similar benefits provided by the health benefit plan or health insurance coverage provided through Medicaid.

“(c) A health benefit plan may require that maternity services be provided by a certified professional midwife under contract with the health benefit plan.

“(d)(1) For the purposes of this section, the term “health benefit plan” means any accident and health insurance policy or certificate, hospital and medical services corporation contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement, or plan provided by another benefit arrangement.

“(2) The term “health benefit plan” does not include:

“(A) Accident-only coverage, credit, or disability insurance;

“(B) Coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government;
“(C) Medicare supplement or long-term care insurance;
“(D) Dental only or vision only insurance;
“(E) Specified-disease insurance;
“(F) Hospital confinement indemnity coverage;
“(G) Limited benefit health coverage;
“(H) Coverage issued as a supplement to liability insurance;
“(I) Insurance arising out of a workers’ compensation or similar law;
“(J) Automobile medical payment insurance;
“(K) Medical expense and loss of income benefits; or
“(L) Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.”

Sec. 3. The Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-741.01 *et seq.*), is amended by adding a new section 4949 to read as follows:

“Sec. 4949. Advisory Committee on Certified Professional Midwives.

“(a)(1) There is established an Advisory Committee on Certified Professional Midwives to consist of 7 members as follows:

“(A) The Director of the Department of Health, or designee;

“(B) Three certified professional midwives, as that term is defined in section 101(1C) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01(1C));

“(C) One licensed physician who is an obstetrician certified by the American Board of Obstetrics and Gynecology and who has professional experience working with certified professional midwives or other community-based midwives;

“(D) One certified nurse-midwife who has worked in a non-hospital setting or who has had professional experience working with certified professional midwives; and

“(E) A former consumer of midwifery services as the consumer member.

“(2) Individuals appointed in accordance with paragraph (1) of this subsection who are required to be licensed shall be licensed to practice their respective professions in the District.

“(b) Of the appointees to the Advisory Committee on Certified Professional Midwives other than the Director of the Department of Health, 3 shall serve an initial term of 2 years and 3 shall serve an initial term of 3 years. Subsequent appointments shall be for terms of 3 years.

“(c)(1) The Advisory Committee on Certified Professional Midwives shall develop and

submit to the Board guidelines for licensing certified professional midwives and regulating the practice of certified professional midwifery in the District.

“(2) Guidelines submitted pursuant to paragraph (1) of this subsection shall:

“(A) Be consistent with the standards of practice and ethical conduct established by the National Association of Certified Professional Midwives and the North American Registry of Midwives (“NARM”);

“(B) Define expected standards of practice and conduct;

“(C) Specify a process for a certified professional midwife to obtain appropriate screening and testing for clients, including laboratory tests, urinalysis, and ultrasounds;

“(D) Specify a process for a certified professional midwife to obtain and administer antihemorrhagic agents, including:

“(i) Pitocin, oxytocin, misoprostol, and methergine;

“(ii) Intravenous fluids, neonatal injectable vitamin K, newborn antibiotic eye prophylaxis, oxygen, intravenous antibiotics for Group B Streptococcal antibiotic prophylaxis, Rho (D) immune globulin, local anesthetic, epinephrine, and terbutaline for non-reassuring fetal heart tones and cord prolapse pending transport;

“(iii) Globulin, local anesthetic, and epinephrine; and

“(iv) Other pharmaceutical agents, consistent with either the scope of the practice of midwifery, or a prescription issued by a health professional for a patient-client of a midwife, that are approved by the Board of Medicine;

“(E) Authorize medical device distributors and manufacturers to issue breast pumps, compression stockings and belts, and maternity belts to CPMs;

“(F) Require a CPM to provide each client with a signed informed consent form that describes the CPM’s qualifications, education, a copy of the CPM’s emergency plan, whether the CPM carries professional liability insurance, and the benefits and risks of birth in the setting of choice of the patient-client, and maintain a record of each patient-client’s signed informed consent form;

“(G) Require a CPM, subject to the consent of the patient-client, to report the patient-client’s data to a national data registry, such as the Midwives Alliance of North America Statistical Registry or the AABC Perinatal Registry;

“(H) Adopt professional continuing education requirements for certified professionals consistent with those required by NARM for recertification;

“(I) Establish requirements for peer review consistent with those required by NARM for recertification under which information disclosed for peer review shall be protected in accordance with section 6 of the Medical Records Act of 1978, effective September 29, 1978 (D.C. Law 2-112; D.C. Official Code § 44-805); and

“(J) Require the CPM to file a birth certificate for each live birth attended by a certified professional midwife, in accordance with section 108 of the Vital Records

Modernization Amendment Act of 2018, effective October 30, 2018 (D.C. Law 22-164; D.C. Official Code § 7-231.08).

“(3) Guidelines currently approved by the Board of Medicine under section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), shall remain in effect until revised guidelines are submitted to and approved by the Board of Medicine.

“(4) The Advisory Committee on Certified Professional Midwives shall submit revised guidelines to the Board of Medicine by October 1, 2020.”.

Sec. 4. Section 2(6) of the District of Columbia Health Professional Recruitment Program Act of 2005, effective March 8, 2006 (D.C. Law 16-71; D.C. Official Code § 7-751.01(6)), is amended by striking the phrase “nurse midwives, certified registered nurse practitioners” and inserting the phrase “nurse midwives, certified professional midwives, certified registered nurse practitioners” in its place.

Sec. 5. Rules.

The Mayor, pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

Sec. 6. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 7. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 8. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia