CHAPTER 33 - MIDWIFERY JOINT COMMITTEE

SECTION .0100 – MIDWIFERY JOINT COMMITTEE

21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS

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

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

(1) "Primary Supervising Physician" means a physician with an active unencumbered license with the North Carolina Medical Board who, by signing the midwife application, shall be held accountable for the on-going supervision, consultation, collaboration, and evaluation of the medical acts performed by the midwife, as defined in the site specific written clinical practice guidelines. A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician. A physician in a graduate medical education program who is also practicing in a non-training situation may supervise a midwife in the non-training situation if he or she is fully licensed.

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

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

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

21 NCAC 33 .0102 FEES

(a) The fee for a new application and initial approval shall be one hundred dollars ($100.00).
(b) The fee for annual renewal shall be fifty dollars ($50.00).
(c) The fee for reinstatement for an expired approval shall be five dollars ($5.00).

History Note: Authority G.S. 90-178.4(b);
Eff. February 1, 1984;
Amended Eff. July 1, 2000;
Readopted Eff. November 1, 2018;

21 NCAC 33 .0103 APPLICATION AND ANNUAL RENEWAL

(a) To be eligible for an approval to practice as a midwife, 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;
(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) submit the approval to practice application fee as established in 90-178.4(b)(1);

(4) have an unencumbered registered nurse license and midwifery license or approval to practice in all jurisdictions in which a license/approval to practice is or has ever been held;

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

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

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

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

(b) Each midwife shall annually renew their approval to practice with the Committee no later than the last day of the midwife's birth month by:

(1) submitting a completed application for renewal, 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. Applications are located on the Board of Nursing's website at www.ncbon.com;

(2) attest to having completed the requirements of the Certificate Maintenance Program of the American College of Nurse Midwives, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Section;

(3) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2).

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

21 NCAC 33 .0104 PHYSICIAN SUPERVISION

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.

History Note: Authority G.S. 90-178.4(b);
21 NCAC 33 .0105  DISCIPLINARY ACTION
(a) The midwife 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 registered nurse.
(b) After an investigation is completed, the Committee may recommend one of the following:
   (1) dismiss the case;
   (2) issue a private letter of concern;
   (3) enter into negotiation for a Consent Order;
   (4) a disciplinary hearing in accordance with G.S. 150B, Article 3A.

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

21 NCAC 33 .0106  NURSE MIDWIFE APPLICANT STATUS (REPEALED)

History Note:  Authority G.S. 90-178.2; 90-178.5;
               Eff. March 1, 1991;
               RRC Objection Eff. May 18, 2000 due to lack of statutory authority;
               RRC returned rule to agency on June 19, 2000;

21 NCAC 33 .0107  NURSE MIDWIFE APPLICANT STATUS

History Note:  Authority G.S. 90-178.2; 90-178.3; 90-178.5; 90-171.83;
               Eff. April 1, 2001;

21 NCAC 33 .0108  SUSPENSION OF AUTHORITY TO EXPEND FUNDS
In the event the Midwifery Joint Committee's authority to expend funds is suspended pursuant to G.S. 93B-2(d), the Committee shall continue to issue and renew licenses and all fees tendered shall be placed in an escrow account maintained by the Committee for this purpose. Once the Committee's authority is restored, the funds shall be moved from the escrow account into the general operating account.

History Note:  Authority G.S. 93B-2;
               Eff. May 1, 2011;

21 NCAC 33 .0109  TERMINATION OF APPROVAL TO PRACTICE

History Note:  Authority G.S. 90-178.2; 90-178.3; 90-178.4; 90-178.5;
               Emergency Adoption Eff. June 18, 2012;
               Emergency Adoption expired August 31, 2012.

21 NCAC 33 .0110  REPORTING CRITERIA
(a) The Department of Health and Human Services ("Department") may report to the Committee information regarding the prescribing practices of those midwives ("prescribers") whose prescribing:
   (1) falls within the top two percent of those prescribing 100 morphine milligram equivalents ("MME") per patient per day; or
(2) falls within the top two of those prescribing 100 MMEs per patient per day in combination with any benzodiazepine and who are within the top one percent of all controlled substance prescribers by volume.

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

(c) The Department may report to the Committee information regarding prescribers who meet three or more of the following criteria, if there are a minimum of five patients for each criterion:

1. at least 25 percent of the prescriber's patients receiving opioids reside 100 miles or greater from the prescriber's practice location;
2. the prescriber had more than 25 percent of patients receiving the same opioids and benzodiazepine combination;
3. the prescriber had 75 percent of patients receiving opioids self-pay for the prescriptions;
4. the prescriber had 90 percent or more of patients in a three-month period that received an opioid prescription that overlapped with another opioid prescription for at least one week;
5. more than 50 percent of the prescriber's patients received opioid doses of 100 MME or greater per day excluding office based treatment medications;
6. the prescriber had at least 25 percent of patients who used three or more pharmacies within a three-month period to obtain opioids regardless of the prescriber.

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

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

History Note: Authority G.S. 90-113.74; 90-178.4;
Eff. May 1, 2016;
Amended Eff. December 1, 2017;
Readopted Eff. November 1, 2018;

21 NCAC 33 .0111 CONTINUING EDUCATION (CE)
In order to maintain approval to practice midwifery, a midwife shall meet the requirements of the Certificate Maintenance Program of the American College of Nurse-Midwives, including continuing education requirements. Every midwife who prescribes controlled substances shall complete at least one hour of continuing education (CE) hours annually consisting of CE designated specifically to address controlled substances prescribing practices, signs of the abuse or misuse of controlled substances, and controlled substance prescribing for chronic pain management. Documentation of continuing education shall be maintained by the midwife for the previous five calendar years and made available upon request to the Committee.

History Note: Authority: G.S. 90-5.1; 90-14(a)(15); 90-178.5(2); S.L. 2015-241, s. 12F .16(b);
Eff. March 1, 2017;

21 NCAC 33 .0112 RESERVED FOR FUTURE CODIFICATION

21 NCAC 33 .0113 COVID-19 DRUG PRESERVATION RULE

History Note: Authority G.S. 90-5.1; 90-8.2; 90-12.5; 90-171.23; 90-171.49;
Emergency Adoption Eff. April 21, 2020;
Emergency Adoption Expired on June 18, 2020 pursuant to G.S. 150B-21.1A(d)(3).