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H.B. 537
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. McClain and M. Miller

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SUMMARY

- Regulates the practice of certified midwives and licensed midwives, including by requiring them to be licensed by the Ohio Board of Nursing (certified midwives) or the Department of Commerce (licensed midwives).
- Expands the Board of Nursing's existing authority to regulate certified nurse-midwives, including by establishing conditions on their provision of certain midwifery services.
- Authorizes certified midwives and licensed midwives to engage in specified activities, including attending births in hospitals, homes, medical offices, and freestanding birthing centers, and in the case of certified midwives, prescribing drugs.
- Requires a certified midwife, like a certified nurse-midwife, to practice in collaboration with a physician and to enter into a standard care arrangement with the collaborating physician.
- Permits a traditional midwife to practice without a license and establishes a scope of practice.
- Requires specific information to be exchanged in writing and signed by a traditional midwife and the midwife's patient.
- Creates the Licensed Midwifery Advisory Council to advise and make recommendations to the Department of Commerce regarding the practice and regulation of licensed midwives.
- Requires the Director of Health's freestanding birthing center quality standards to specify that a physician, certified nurse-midwife, certified midwife, or certified midwife must attend each birth.

- Requires a hospital with a maternity unit that accepts Medicaid to enter into a transfer agreement with any freestanding birthing center located within a 30-mile radius that requests one.
- Requires the Director of Health's freestanding birthing center quality standards to specify that a physician, certified nurse-midwife, or certified midwife must serve as the director of patient services.
- Designates May 5 as the "Day of the Midwife."

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DETAILED ANALYSIS

H.B. 537 regulates the practice of certified midwives and licensed midwives, including by (1) requiring such midwives to be licensed by the Ohio Board of Nursing (certified midwives) or Department of Commerce (licensed midwives), (2) specifying the activities in which they may engage, and (3) establishing conditions on the provision of certain midwifery services.[1] The bill also regulates traditional midwives by establishing a scope of practice and requiring traditional midwives to exchange certain information in writing with a patient.[2] At present, Ohio law does not recognize the practice of certified midwives, licensed midwives, or traditional midwives, but does recognize that of certified nurse-midwives, a type of advanced practice registered nurse (APRN) licensed by the Board who holds both of the following: a master's or doctoral degree in a nursing specialty or related field and certification in nurse-midwifery from a national certifying organization approved by the Board.[3]

Unauthorized practice as a certified midwife or licensed midwife

The bill generally prohibits an individual from knowingly practicing as a certified midwife unless the individual holds a current, valid license to do so issued by the Board of Nursing.[4] It also generally prohibits an individual from knowingly practicing as a licensed midwife unless the individual holds a current, valid license to do so issued by the Department of Commerce.[5]

In the event of a violation of either prohibition, the individual is guilty of a fifth degree felony on a first offense, which is punishable by a fine of not more than $2,500 and a jail term of six to 12 months and a fourth degree felony on each subsequent offense, which is punishable by a fine of not more than $5,000 and a jail term of six to 18 months.[6] Note that the bill delays the

[1] R.C. Chapter 4723 and 4724.

[2] R.C. 4724.14 and 4724.15.

[3] R.C. 4723.41.

[4] R.C. 4723.54

[5] R.C. 4724.02.

[6] R.C. 4723.99 and 4724.99. *See also* R.C. 2929.14 and 2929.18, neither in the bill.

application of each prohibition and its criminal penalties until January 1, 2028.[7] The bill also maintains current law prohibiting an APRN, including a certified nurse-midwife, from knowingly practicing as such without a Board-issued license.[8]

Exemptions

The bill specifies that the prohibition on knowingly practicing as a ***certified midwife*** without a license does not apply to any of the following individuals:

- A physician, physician assistant, registered nurse, licensed practical nurse, APRN, including a certified nurse-midwife, or licensed midwife who is licensed to practice in Ohio;
- A traditional midwife;
- A student who is participating in a midwifery education program accredited by the accreditation commission for midwifery education and who provides midwifery services under the auspices of the program and under the supervision of a certified midwife serving for the program as a faculty member, instructor, teaching assistant, or preceptor.[9]

The bill also specifies that the prohibition on knowingly practicing as a ***licensed midwife*** without a license does not apply to any of the following individuals:

- A physician, physician assistant, registered nurse, licensed practical nurse, APRN, including a certified nurse-midwife, or certified midwife who is licensed to practice in Ohio;
- A traditional midwife;
- A student who is participating in a professional midwifery education program and who provides midwifery services under the auspices of the program and under the supervision of a licensed midwife serving for the program as a faculty member, instructor, teaching assistant, or preceptor;
- An individual who is participating in a professional midwifery apprenticeship and who provides midwifery services as part of the apprenticeship program and under the supervision of a licensed midwife serving for the program as an instructor, teaching assistant, or preceptor;
- An individual who provides midwifery services without a license while engaging in good faith in the practice of a church's religious tenets or in any religious act;
- An individual who is not engaged in the practice of the religious tenets of any church or in any religious act, but who provides midwifery services without a license to others

[7] Section 3.

[8] R.C. 4723.03, not in the bill.

[9] R.C. 4723.54.

engaging in good faith in the practice of the religious tenets of any church or in any religious act;

- A member of a Native American community who provides midwifery services without a license to other members of the community;
- An individual who is participating in a midwifery apprenticeship under the supervision of a traditional midwife and who provides midwifery services as part of the apprenticeship program under the supervision of a traditional midwife;
- A certified professional midwife or certified international midwife, but only if the certified professional midwife or certified international midwife does not, as a part of the midwife's practice, obtain or administer drugs or perform surgical suturing.[10]

Traditional midwives

The bill exempts a ***traditional midwife*** from the prohibition against practicing as a certified midwife or licensed midwife without holding a license.[11] Under the bill, a traditional midwife may engage in the following activities:

- Offering care, education, counseling, and support during pregnancy, birth, and the postpartum period;
- Attending births in locations other than hospitals;
- Providing ongoing and routine prenatal care throughout pregnancy and hands-on care during labor, birth, and the immediate postpartum period;
- Providing maternal and newborn assessment for the six-week to eight-week period following delivery;
- Recognizing abnormal or dangerous conditions requiring consultations with or referrals to licensed health care professionals.[12]

Before providing services as a traditional midwife, the traditional midwife and the patient must sign a document that includes the following information:

- The traditional midwife's name;
- The patient's name, address, telephone number, and primary care provider, if the patient has one;
- A description of the traditional midwife's education, training, and experience in midwifery;
- The traditional midwife's practice philosophy;

[10] R.C. 4724.02.

[11] R.C. 4724.02 and 4723.54.

[12] R.C. 4724.14.

- A promise to provide the patient, upon request, with separate documents describing a traditional midwife's scope of practice;
- A written plan for medical consultation and transfer of care;
- A description of any hospital care and procedures that may be necessary in the event of an emergency transfer of care;
- A description of the services provided to the patient by the traditional midwife;
- Whether the traditional midwife is covered by professional liability insurance;
- Any other information required in rules adopted by the Department of Commerce.

The traditional midwife is responsible for retaining a copy of the signed document for at least four years. The bill specifies that the rights and liabilities arising from the provision of traditional midwifery services is governed exclusively by this document.[13]

Note on certified professional midwives and certified international midwives

The bill also exempts a ***certified professional midwife*** and ***certified international midwife*** from the prohibition against practicing as a licensed midwife without holding a license, thereby appearing to allow such a midwife to perform many of the same midwifery services as a licensed midwife. To be eligible for the exemption, the certified professional midwife and certified international midwife must not, as part of the midwife's practice, obtain or administer drugs or perform surgical suturing.[14]

The bill defines a certified professional midwife to mean an individual who is certified by the North American Registry of Midwives but is not a licensed midwife. A certified international midwife is defined by the bill to mean an individual who is certified by the International Registry of Midwives but is not a licensed midwife.[15] Thus, the primary difference between a certified professional midwife or certified international midwife and a licensed midwife is that the licensed midwife holds a license issued by the Department of Commerce while the other two do not. Note that under the bill a licensed midwife must be certified as a professional midwife by the North American Registry of Midwives, as an international midwife by the International Registry of Midwives, or certified as a midwife by another certifying organization approved by the Department.

Use of titles

The bill prohibits a person from knowingly using the title "certified nurse-midwife," "certified midwife," or "licensed midwife" or any other title implying that the person is a certified nurse-midwife, certified midwife, or licensed midwife without holding a current, valid license

[13] R.C. 4724.15.

[14] R.C. 4724.02.

[15] R.C. 4724.01.

issued by the Board of Nursing (certified nurse-midwife or certified midwife) or Department of Commerce (licensed midwife).[16] An individual who violates the prohibition is guilty of a misdemeanor of the first degree, which is generally punishable by a jail term of not more than 180 days and a fine of not more than $1,000.[17] In the case of a violation for knowingly using the title "licensed midwife" or otherwise implying that the person is a licensed midwife, the bill specifies that an individual violator is subject to a $1,000 fine and a jail term of not more than 180 days.[18]

License applications and renewals

An individual seeking an initial license to practice as a certified midwife must file an application with the Board of Nursing in the manner prescribed by the Board.[19] If the Board determines that an applicant meets the eligibility criteria outlined in the bill, the Board must issue the applicant a license.[20] Each license is valid for a two-year period, unless revoked or suspended, and may be renewed on application to the Board. The fees for licensure and renewal are equal to the fees to apply for and renew an advanced practice registered nurse license, which are currently set at $150 and $135, respectively.[21]

Similarly, an individual seeking an initial license to practice as a licensed midwife must file an application with the Department of Commerce in the manner prescribed by the Department, with the application fee to be set in rule, with the amount not to exceed $45.[22] If the Department determines that an applicant meets the eligibility criteria outlined in the bill, the Department must issue the applicant a license.[23] Each license is valid for a two-year period, unless revoked or suspended, and may be renewed on application to the Department, with the renewal fee to be established in rule, with the amount not to exceed $20.

Certified midwives – eligibility criteria

To be eligible for an initial license to practice as a certified midwife, an applicant must meet all of the following requirements:

- Be at least 18 years old;
- Have attained a master's degree or higher;

[16] R.C. 4723.03 and 4724.02.

[17] R.C. 4723.99 and 4724.99. *See also* R.C. 2929.24 and 2929.28, neither in the bill.

[18] R.C. 4724.99.

[19] R.C. 4723.55.

[20] R.C. 4723.56.

[21] R.C. 4723.08(A).

[22] R.C. 4724.03.

[23] R.C. 4724.04.

- Have graduated from a midwifery education program accredited by the Accreditation Commission for Midwifery Education;
- Be certified by the American Midwifery Certification Board;
- Be certified in adult and neonatal cardiopulmonary resuscitation (CPR);
- Have successfully completed a course of study in advanced pharmacology.[24]

To be eligible to renew a license to practice as a certified midwife, an applicant must demonstrate that he or she has maintained CPR certification and has satisfied the continuing education requirements of the American Midwifery Certification Board.[25]

Note on advanced pharmacology

With respect to the mandatory advanced pharmacology course of study, the bill requires the course to meet the following conditions: (1) be completed not more than five years before the application for initial licensure is filed, (2) include at least 45 contact hours, (3) be approved by the Board, and (4) be specific to the practice of midwifery.[26] The bill also requires the course's instruction to include all of the following elements:

- A minimum of 36 contact hours of instruction in advanced pharmacology that includes pharmacokinetic principles and clinical application and the use of drugs and therapeutic devices in the prevention of illness and maintenance of health;
- Instruction in the fiscal and ethical implications of prescribing drugs and therapeutic devices;
- Instruction in the state and federal laws that apply to the authority to prescribe;
- Instruction that is specific to schedule II controlled substances.

Licensed midwives – eligibility criteria

To be eligible for an initial license to practice as a licensed midwife, an applicant must satisfy all of the following requirements:

- Be at least 18 years old;
- Have attained a high school degree or equivalent;
- Be certified by the North American Registry of Midwives, International Registry of Midwives, or another certifying organization approved by the Department of Commerce in rules;
- Be certified in neonatal and adult CPR;

[24] R.C. 4723.55.

[25] R.C. 4723.56.

[26] R.C. 4723.551.

- Have successfully completed a course of study in breech births and a course of study in pharmacology, each approved by the Department in rules.[27]

In lieu of demonstrating certification by the North American Registry of Midwives, International Registry of Midwives, or another Department-approved certifying organization, an applicant may demonstrate the following:

- That the applicant holds a current, valid license to practice as a licensed midwife in another state and the Department has determined that the other state's requirements for licensure are substantially similar to those described in the bill;
- That the applicant is certified by NARM and holds a midwifery bridge certificate.

And to be eligible to renew a license to practice as a licensed midwife, an applicant must demonstrate that he or she has maintained CPR certification and certification with the North American Registry of Midwives, International Registry of Midwives, or another Department-approved certifying organization.[28]

Permitted and prohibited activities

The bill specifies the activities that a certified midwife or licensed midwife may perform as well as those that are prohibited.[29] In the case of a certified nurse-midwife, the bill retains the activities that a nurse-midwife may perform under current law, but also specifies that the nurse-midwife has the authority to (1) attend births in hospitals, homes, medical offices, and freestanding birthing centers, (2) provide care to normal newborns during the period consistent with the scope of practice for certified nurse-midwives established by the American College of Nurse-Midwives (ACNM), and (3) treat an abnormal condition within the ACNM scope of practice.[30]

Certified midwives

Under the bill, a certified midwife holding a Board-issued license may engage in all of the following:

- Providing primary health care services for women from adolescence and beyond menopause, including the independent provision of gynecologic and family planning services, preconception care, and care during pregnancy, childbirth, and the postpartum period;
- Attending births in hospitals, homes, medical offices, and freestanding birthing centers;
- Providing care for normal newborns during the period consistent with the scope of practice established by ACNM;

[27] R.C. 4724.03.

[28] R.C. 4724.04.

[29] R.C. 4723.57.

[30] R.C. 4723.43.

- Providing initial and ongoing comprehensive assessment, diagnosis, and treatment;
- Conducting physical examinations;
- Ordering and interpreting laboratory and diagnostic tests;
- Administering medications, treatments, and executing regimens;
- Providing care that includes health promotion, disease prevention, and individualized wellness education and counseling.

But, to engage in the foregoing activities, the certified midwife must practice in collaboration with one or more physicians and enter into a standard care arrangement with each collaborating physician (see "**Collaboration and standard care arrangements**" below).

Prescriptive authority

Like certified nurse-midwives under current law, the bill authorizes a certified midwife to prescribe drugs and devices, including schedule II controlled substances.[31] Note that a certified midwife's prescriptive authority cannot exceed that of the midwife's collaborating physician. The midwife also is prohibited from prescribing any drug or device included on the Board of Nursing's exclusionary formulary. Under existing law that the bill extends to certified midwives, the formulary is prohibited from permitting the prescribing or furnishing of a drug to perform or induce an abortion.

Note on controlled substances

The bill authorizes a certified midwife to prescribe to a patient a schedule II controlled substance only if all of the following are the case:

- The patient has a terminal condition;
- A physician initially prescribed the substance for the patient;
- The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, 72-hour period.

A certified midwife, like a certified nurse-midwife, is not subject to the foregoing restrictions on prescribing schedule II controlled substances if the certified midwife issues the prescription from any of the following locations:

- A hospital;
- An entity owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;
- A health care facility operated by the Department of Mental Health and Addiction Services or the Department of Developmental Disabilities;

[31] R.C. 4723.481 and 4723.50.

- A nursing home;
- A county home or district home that is certified under the Medicare or Medicaid program;
- A hospice care program;
- A community mental health services provider;
- An ambulatory surgical facility;
- A freestanding birthing center;
- A federally qualified health center or federally qualified health center look-alike;
- A health care office or facility operated by a board of health;
- A site where a medical practice is operated, but only if the practice is comprised of one or more physicians who also are owners of the practice; the practice is organized to provide direct patient care; and the certified midwife providing services at the site has a standard care arrangement and collaborates with at least one of the physician owners who practices primarily at that site;
- A site where a behavioral health practice is operated, but only if the practice is organized to provide outpatient services for the treatment of mental health conditions, substance use disorders, or both, and the certified midwife providing services at the site has a standard care arrangement and collaborates with at least one physician who is employed by that practice;
- A residential care facility.

Ohio Automated Rx Reporting System (OARRS)

Like a certified nurse-midwife under current law, the bill requires a certified midwife to review the State Board of Pharmacy's drug database, often referred to as OARRS, before issuing an initial prescription for an opioid analgesic as well as periodically if the patient's course of treatment with the drug continues for more than 90 days after the initial report is requested.[32] The bill also requires the certified midwife to certify to the Board of Nursing that the midwife has been granted access to the database by the Board of Pharmacy.[33]

Other drugs

Under existing law, an APRN, including a certified nurse-midwife, may prescribe or personally furnish the following drugs without having examined the individual to whom the drug may be administered: epinephrine; a drug to treat chlamydia, gonorrhea, or trichomoniasis;

[32] R.C. 4723.487.

[33] R.C. 4723.488.

naloxone; or glucagon.[34] The bill extends this authority to a certified midwife holding a Board-issued license to practice as a certified midwife.

Licensed midwives

Under the bill, a licensed midwife may engage in all of the following activities during the antepartum, postpartum, and newborn period:

- Offering care, education, counseling, and support to women and newborns during pregnancy, birth, and the postpartum period;
- Attending births in hospitals, homes, medical offices, and freestanding birthing centers;
- Providing ongoing and routine prenatal care throughout pregnancy and hands-on care during labor, birth, and the immediate postpartum period;
- Providing maternal and newborn assessment for the six- to eight-week period following delivery;
- Providing initial and ongoing comprehensive assessment, diagnosis, and treatment;
- Recognizing abnormal or dangerous conditions requiring consultations with or referrals to other licensed health care professionals;
- Conducting maternal and newborn physical examinations;
- Ordering and interpreting laboratory and diagnostic tests without a physician's order.[35]

Administering drugs

For the purpose of engaging in the activities described above, the bill permits a licensed midwife to purchase, obtain, possess, and administer the following:

- Antihemorrhagic agents or devices, including tranexamic acid, pitocin, oxytocin, misoprostol, and methergine;
- Intravenous fluids to stabilize the laboring or postpartum patient or as necessary to administer another drug authorized by this division;
- Neonatal injectable vitamin K;
- Newborn antibiotic eye prophylaxis;
- Oxygen;
- Intravenous antibiotics for group B streptococcal prophylaxis;
- Rho (D) immune globulin;
- Local anesthesia;

[34] R.C. 4723.483, 4723.484, 4723.4810, and 4723.4811.

[35] R.C. 4724.05.

- Epinephrine;
- A drug prescribed for the patient by a physician.

A licensed midwife also may obtain, without a physician's order, one or more supplies necessary to administer the foregoing drugs.[36]

Prohibited activities

The bill prohibits a licensed midwife from doing any of the following:

- Administering cytotec or oxytocics, including pitocin and methergine, except when indicated during the postpartum period;
- Using forceps or vacuum extraction to assist with birth;
- Performing any operative procedures or surgical repairs other than the artificial rupture of membranes, episiotomies, first or second degree perineal, vaginal, or labial repairs, clamping or cutting the umbilical cord, and frenotomies.[37]

The bill also specifies that it does not authorize a licensed midwife to prescribe, personally furnish, obtain, or administer any controlled substance or a drug or device to perform or induce an abortion.[38]

Medical records

The bill requires a certified midwife or licensed midwife to maintain appropriate medical records regarding patient history, treatment, and outcomes when the midwife engages in any of the activities permitted under the bill.[39]

Collaboration and standard care arrangements

The bill extends to a certified midwife the existing law requiring a certified nurse-midwife to (1) practice in collaboration with one or more physicians and (2) enter into a standard care arrangement with each collaborating physician.[40]

The bill maintains the existing law definition of "collaboration," meaning that one or more physicians with whom the certified midwife has entered into a standard care arrangement are continuously available to communicate with the midwife either in person or by electronic communication. The bill also retains the current law definition of "standard care arrangement," meaning a written, formal guide for planning and evaluating a patient's health care that is developed by one or more collaborating physicians and a certified midwife.[41]

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[36] R.C. 4724.05.

[37] R.C. 4724.05.

[38] R.C. 4724.05.

[39] R.C. 4723.57 and 4724.05.

[40] R.C. 4723.431 and 4723.57.

[41] R.C. 4723.01.

Like a physician who collaborates with a certified nurse-midwife, the bill requires a physician collaborating with a certified midwife to enter into a standard care arrangement with the midwife.[42]

Failure to maintain a standard care arrangement

Under the bill, a certified midwife and collaborating physician each may be subject to professional discipline for the following:

- In the case of a certified midwife, failing to maintain a standard care arrangement or practice in accordance with one;
- In the case of a physician, failing to enter into a standard care arrangement with a certified midwife with whom the physician collaborates.[43]

Informed consent

The bill establishes a process by which a certified nurse-midwife, certified midwife, or licensed midwife, under certain circumstances, must obtain a patient's informed consent. In the case of certified nurse-midwife or certified midwife, informed consent must be obtained in accordance with the bill's process when providing treatment in a setting other than a hospital or facility. In the case of a licensed midwife, that process for obtaining consent must be followed before engaging in any of the activities permitted under the bill, including attending a home birth or providing care during a high-risk pregnancy.[44]

When obtaining informed consent, the bill directs the midwife and patient to exchange in writing the following information:

- The midwife's name and license number;
- The patient's name, address, telephone number, and primary care provider, if the patient has one;
- A description of the midwife's education, training, and midwifery experience;
- The midwife's practice philosophy;
- A promise to provide the patient, upon request, with separate documents describing the rules governing the practice of midwifery, including a list of conditions indicating the need for consultation, referral, transfer, or mandatory transfer and the midwife's personal written practice guidelines;
- A written plan for medical consultation and transfer of care;

[42] R.C. 4731.27.

[43] R.C. 4723.28 and 4731.22.

[44] R.C. 4723.58 and 4724.07.

- A description of any hospital care and procedures that may be necessary in the event of an emergency transfer or care;
- A description of the services provided by the midwife to the patient;
- That the midwife holds a current, valid license to practice;
- The availability of a grievance process;
- Whether the midwife is covered by professional liability insurance;
- Any other information required in rules adopted by the Board.

After the foregoing information has been exchanged and the patient consents to treatment, the bill requires the midwife and patient to sign a written document indicating the exchange and consent to treatment. The midwife must retain a copy of the document for at least four years.

Home births and high risk pregnancies

The bill requires the Board of Nursing and Department of Commerce to each adopt rules establishing the circumstances in which a certified nurse-midwife, certified midwife, or licensed midwife is prohibited from attending a home birth, including a high risk pregnancy.[45]

In adopting the rules, the Board and Department must allow a midwife to attend a vaginal birth after cesarean (VBAC), birth of twins, or breech birth as a home birth, but only if the following conditions are satisfied:

- The midwife obtains the patient's written informed consent for the VBAC, birth of twins, or breech birth, including a description of risks associated with the procedure;
- The midwife consults with another health care provider and together with the provider determines whether referral is appropriate. A certified nurse-midwife or certified midwife must consult with a physician, and a licensed midwife must consult with a physician, certified-nurse midwife, or certified midwife;
- The midwife satisfies any other conditions required in rules adopted by the Board.

At present, Ohio law prohibits a certified nurse-midwife – regardless of where a birth occurs – from delivering breech or face presentation, except in emergencies, and the bill maintains this prohibition for nonhome births.[46]

The bill also requires the Board and Department, when adopting the rules, to (1) consider any relevant peer-reviewed medical literature and (2) to specify the content and format of the document to be used when obtaining informed consent. In the case of the Department, the bill requires it to also adhere to the recommendations of the Licensed Midwifery Advisory Council (see "**Licensed midwifery advisory council**" below).

[45] R.C. 4723.581 and 4724.08.

[46] R.C. 4723.43.

Note on referrals

If a referral is determined to be appropriate and the patient consents to the referral, the certified nurse-midwife, certified midwife, or licensed midwife must refer the patient to the physician, or in the case of a licensed midwife, must make a referral to a physician, certified nurse-midwife, or certified midwife. If the patient refuses the referral, the certified nurse-midwife, certified midwife, or licensed midwife must document the refusal and may continue to provide care to the patient, including attending the VBAC, birth of twins, or breech birth at home.

Transfer of care plans and home births

For any pregnancy in which a certified nurse-midwife, certified midwife, or licensed midwife provides care and a home birth is planned, the bill requires the midwife to create an individualized transfer of care plan with each patient.[47] It also requires the midwife to assess the status of the patient, fetus, and newborn throughout the maternity care cycle and determine when or if a transfer to a hospital is necessary.

Under the bill, the transfer of care plan must contain all of the following information:

- The name and location of geographically adjacent hospitals that are appropriately equipped to provide emergency care, obstetrical care, and newborn care;
- The approximate travel time to each hospital;
- A list of the modes of transport services available, including an emergency medical service organization available by calling 911;
- The requirements for activating each mode of transportation;
- The mechanism by which medical records and other patient information may be rapidly transmitted to each hospital;
- Confirmation that the midwife has recommended that the patient pre-register with the hospital closest to the patient's home that is appropriately equipped to provide emergency, obstetrical, and newborn care;
- Contact information for either a health care provider or practice group that has agreed in advance to accept patients in transfer, or a hospital's preferred method of accessing care by the hospital's designated provider on call;
- Any other information required in rules adopted by the Board or Department.

When it becomes necessary to transfer a patient, the midwife must notify the receiving provider or hospital of all of the following: the incoming transfer, the reason for the transfer, the planned mode of transport, the expected time of arrival, and any other information required in

[47] R.C. 4723.582 and 4724.09.

rules adopted by the Board or Department. The midwife must also provide a brief relevant clinical history to the provider or hospital.

While en route to the hospital, a certified nurse-midwife or certified midwife must continue to provide routine or urgent care in coordination with any emergency medical services personnel or emergency medical service organization and must address the psychosocial needs of the patient during the change of birth setting. A licensed midwife may continue to provide routine or urgent care, and when care is provided the midwife must address the psychosocial needs of the patient.

On arrival at the hospital, the midwife is required by the bill to do all of the following:

- Provide a verbal report that includes details on the patient's current health status and the need for urgent care;
- Provide a legible copy of relevant prenatal and labor medical records;
- Transfer clinical responsibility to the receiving provider or hospital;
- Satisfy any other requirement established in Board or Department rules.

If the patient chooses, the midwife may remain at the hospital to provide continuous support. The midwife also may continue to provide midwifery services, but only if the hospital has granted the midwife clinical privileges. Whenever possible, the patient and her newborn must be together during the transfer and after admission to the hospital.

Time, place, and manner of delivery

The bill specifies that its provisions do not abridge, change, or limit in any way the right of a parent to deliver the parent's baby where, when, how, and with whom the parent chooses, regardless of the bill's licensure requirements.[48]

Adverse incidents

Beginning July 1, 2027, the bill requires a certified nurse-midwife, certified midwife, and licensed midwife who attends a birth planned for a facility or setting other than a hospital to report any adverse incident, along with a medical summary of events, to the Ohio Perinatal Quality Collaborative within 15 days after the adverse incident occurs.[49] In the case of a certified nurse-midwife or certified midwife, the adverse incident also must be reported within 15 days to the Department of Health, while a licensed midwife must report to the Licensed Midwifery Advisory Council. Departments of Health and Commerce are each required to adopt rules governing the reporting of adverse incidents and to develop a form to be used when making reports.

For purposes of the bill, an adverse incident is defined as an incident over which a certified nurse-midwife, certified midwife, or licensed midwife could exercise control, that is associated

[48] R.C. 4723.60 and 4724.12.

[49] R.C. 4723.584 and 4724.10.

with an attempted or completed birth in a setting or facility other than a hospital, and that results in one or more of the following injuries or conditions:

- A maternal death that occurs during delivery or within 42 days after delivery;
- The transfer of a maternal patient to a hospital intensive care unit;
- A maternal patient experiencing hemorrhagic shock or requiring a transfusion of more than two units of blood or blood products;
- A fetal or neonatal death, including a stillbirth, associated with an obstetrical delivery;
- A transfer of a newborn to a neonatal intensive care unit due to a traumatic physical or neurological birth injury, including any degree of a brachial plexus injury;
- A transfer of a newborn to a neonatal intensive care unit within the first 72 hours after birth if the newborn remains in such unit for more than 72 hours;
- Any other condition determined by Board or Department rule.

Immunity from civil liability

The bill specifies that emergency medical service personnel or an emergency medical service organization, hospital, facility, or physician that provides services or care following a certified nurse-midwife's, certified midwife's, or licensed midwife's adverse incident or transfer of care is not liable in damages in a tort or other civil action for injury or loss to person or property allegedly arising from the services or care, unless provided in a manner that constitutes willful or wanton misconduct.[50]

Annual reports

Beginning July 1, 2027, the bill requires each certified nurse-midwife, certified midwife, or licensed midwife to report annually to the Department of Health or Licensed Midwifery Advisory Council the following information regarding cases in which the midwife provided services when the intended place of birth at the onset of care was in a facility or setting other than a hospital:

- The total number of patients provided midwifery services at the onset of care;
- The number of live births attended as a midwife;
- The number of cases of fetal demise, newborn deaths, and maternal deaths attended as a midwife at the discovery of the demise or death;
- The number, reason for, and outcome of each transport of a patient in the antepartum, intrapartum period, or immediate postpartum period;
- A brief description of any complications resulting in the morbidity or mortality of a maternal patient or newborn;

[50] R.C. 4723.583 and 4724.16.

- The planned delivery setting and actual setting;
- Any other information required by Department rule.[51]

The bill also requires the Departments to adopt rules governing the annual reports and to develop a form to be used when making reports.

Disciplinary actions

Like the other professionals it regulates, the Board of Nursing may, under the bill, take disciplinary action against a certified midwife, including on the following grounds:

- Impairment due to substance use or physical or mental disability;
- Failing to prescribe drugs in accordance with the bill's provisions;
- Failing to practice in accordance with prevailing standards of safe midwifery care;
- Engaging in activities that exceed those permitted under the bill.

Disciplinary action may include revoking, suspending, or placing restrictions on a license, otherwise disciplining a license holder, and imposing a fine of not more than $500 per violation.[52]

Note that the bill does not establish separate procedures for imposing discipline on certified midwives, instead relying on existing procedures used by the Board when imposing discipline on its current license and certificate holders, including certified nurse-midwives.

In the case of licensed midwives, the bill requires the Department of Commerce to limit, revoke, or suspend an individual's license to practice as a licensed midwife, refuse to issue, renew, reinstate, or restore a license, or reprimand or place on probation a holder's license for any reasons to be specified by the Department in rules.[53] The rules also must address procedures for conducting disciplinary investigations.[54]

Rulemaking authority

Board of Nursing

The bill requires the Board of Nursing to adopt rules establishing standards and procedures for the licensure and regulation of certified midwives, including those establishing license application and renewal procedures.[55] The rules must be adopted in accordance with Ohio's Administrative Procedure Act, or Chapter 119 of the Revised Code.

The bill also authorizes the Board to adopt any other rules it considers necessary to implement and administer the bill's provisions relating to certified midwives and certified nurse-

[51] R.C. 4723.584 and 4724.10.

[52] R.C. 4723.28.

[53] R.C. 4724.06.

[54] R.C. 4724.11.

[55] R.C. 4723.59.

midwives, including rules requiring the completion of criminal records checks or addressing licensure by endorsement.

Department of Commerce

The bill requires the Department to adopt rules, in accordance with Ohio's Administrative Procedure Act, establishing all of the following:

- Standards and procedures for applying for and renewing a license to practice as a licensed midwife and for reinstating or restoring an expired or inactive license to practice as a licensed midwife;
- License application, renewal, reinstatement, and restoration fee amounts, with the application fee amount not to exceed $45 and the renewal fee amount not to exceed $20;
- Standards and procedures for approving and successfully completing a course of study in breech births and a course of study in pharmacology;
- Standards and procedures for approving certifying organizations, under the condition that such an organization's certification requirements must meet or exceed those of the North American Registry of Midwives or International Registry of Midwives;
- Grounds for taking disciplinary action against a licensed midwife;
- Conditions that must be satisfied before the Department reinstates or restores an expired or inactive license;
- Procedures for reporting license holder misconduct to the Department;
- Procedures for conducting disciplinary investigation.[56]

The bill also authorizes the Department to adopt any other rules it considers necessary to implement and administer the bill's provisions regarding licensed midwives, including rules requiring the completion of criminal records checks.

Licensed Midwifery Advisory Council

The bill creates the Licensed Midwifery Advisory Council within the Department of Commerce and requires it to advise and make recommendations to the Department regarding the practice and regulation of licensed midwives.[57] The Council consists of the following nine members:

- One certified nurse-midwife and one certified midwife or certified nurse-midwife, preferably with experience attending a birth in a setting or facility other than a hospital;
- Four licensed midwives, including one practicing in an urban setting and one serving a plain Amish or Mennonite community;

[56] R.C. 4724.11.

[57] R.C. 4724.13.

- One physician who is board-certified in obstetrics and gynecology and with experience consulting with midwives who provide midwifery services in locations other than hospitals;
- One physician who is board-certified in neonatal medicine and with experience consulting with midwives who provide midwifery services in locations other than hospitals;
- One member of the public who has experience utilizing or receiving midwifery services in locations other than hospitals.

With respect to the members who are licensed midwives, the bill requires each of them to obtain licensure as a certified midwife or licensed midwife not later than January 1, 2028.

Appointments, vacancies, and organization

The Department is charged with appointing the Council's members. In doing so, it may solicit nominations for initial appointments and for filling any vacancies from individuals or organizations with an interest in midwifery services. If the Department does not receive any nominations or receives an insufficient number of nominations, it must appoint members and fill vacancies on its own advice. In the case of the Council's physician appointments, if the Department does not receive any nominations for physicians with experience consulting with midwives who provide midwifery services in locations other than hospitals, the Department must appoint physician members without such experience, but only if the Department determines that each physician otherwise satisfies the bill's requirements for membership.

The bill requires initial appointments to be made not later than ninety days after the bill's effective date. Of the initial appointments, four are for three year terms and five are for four year terms. Thereafter, terms are for four years, with each term ending on the same day of the same month as did the term that it succeeds.

Vacancies are to be filled in the same manner as appointments. When the term of any member expires, the Department must appoint a successor in the same manner as the initial appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed is to hold office for the remainder of that term. A member is required to continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of 60 days has elapsed, whichever occurs first. Under the bill, a member may be reappointed.

The bill requires the Council to organize by selecting a chairperson from among its members. The Council may select a new chairperson at any time. Four members constitute a quorum for the transaction of official business. Members serve without compensation but are to receive payment for their actual and necessary expenses incurred in the performance of official duties. The Department is responsible for Council expenses.

Department duties

The bill requires the Department to adhere to the Council's advice and recommendations when adopting any rules governing the practice of licensed midwives, including rules to address the following:

- Circumstances in which attending a home birth is prohibited;
- Limitations on providing care during a high-risk pregnancy, including when a home birth is planned;
- Adverse incident reporting and annual reporting;
- Obtaining a patient's informed consent;
- Creating an individualized transfer of care plan.

Board of Nursing membership

The bill increases to 15 (from 13) the number of members of the Board of Nursing. Of the 15 members, one must be a certified nurse-midwife or a certified midwife practicing in an urban setting, and the other must be a certified nurse-midwife or a certified midwife practicing in a rural setting.[58]

Conforming changes

Because the bill charges the Board of Nursing with licensing and regulating certified midwives, it makes conforming changes to the laws governing the Board and its existing regulation of other health professionals.[59]

Freestanding birthing center standards

The bill requires quality standards for freestanding birth centers adopted by the Director of Health to require at least one of the following to attend each birth: (1) a physician, (2) a certified nurse-midwife, (3) a certified midwife, or (4) a licensed midwife. The Director is also required to adopt rules ensuring that each freestanding birthing center has a director of patient services who is either (1) a physician or (2) a certified nurse-midwife or certified midwife who has contracted with a collaborating physician.[60] Existing administrative rules require a physician or certified nurse-midwife to attend each birth at a freestanding birthing center, and require the director of patient services to be a physician or a certified nurse-midwife.[61]

The bill requires a hospital that is a Medicaid provider and that operates a maternity unit to agree to a transfer agreement with any freestanding birthing center within a 30-mile radius that requests one. The transfer agreement needs to specify an effective procedure for the safe and immediate transfer of a patient from the birthing center to the hospital. Transfers occur

[58] R.C. 4723.02.

[59] R.C. 3701.351 (hospital staff membership), 4723.06 (Board powers and duties), 4723.07 (Board administrative rules), 4723.271 (replacement copies of licenses), 4723.282 (practice deficiencies and improvement), 4723.33 (protection against retaliatory actions), 4723.34 (reporting misconduct), 4723.341 (immunity), 4723.35 (substance use disorder monitoring program), 4723.432 (cooperation in investigations), and 4723.91 (effect of child support default).

[60] R.C. 3702.30.

[61] Ohio Administrative Code 3701-83-38, not in the bill.

when medical care is needed beyond the care that can be provided at the center, including when emergency situations or medical complications arise. The center is responsible for filing a copy of the transfer agreement with the Director.[62] An identical provision was enacted in H.B. 96, the 136th General Assembly's biennial budget bill, but was vetoed by the Governor.

Designation

The bill designates May 5 as the "Day of the Midwife."[63]

HISTORY

Action	Date
Introduced	10-21-25

ANHB0537IN-136/sb

[62] R.C. 3722.15.

[63] R.C. 5.2324.