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# OHIO LEGISLATIVE SERVICE COMMISSION

Wendy Zhan, Director

Office of Research  
and Drafting

Legislative Budget  
Office

**H.B. 545\***  
**135<sup>th</sup> General Assembly**

## Occupational Regulation Report

[Click here for H.B. 545's Bill Analysis / Fiscal Note](#)

**Primary Sponsors:** Reps. McClain and Miller

**Impacted Profession:** Midwives

Paul Luzzi, Attorney

Nelson V. Lindgren, Senior Economist

LSC is required by law to issue a report for each introduced bill that substantially changes or enacts an occupational regulation. The report must: (1) explain the bill's regulatory framework in the context of Ohio's statutory policy of using the least restrictive regulation necessary to protect consumers, (2) compare the regulatory schemes governing the same occupation in other states, and (3) examine the bill's potential impact on employment, consumer choice, market competition, and cost to government.<sup>1</sup>

## LEAST RESTRICTIVE REGULATION COMPARISON

### Ohio's general regulatory policy

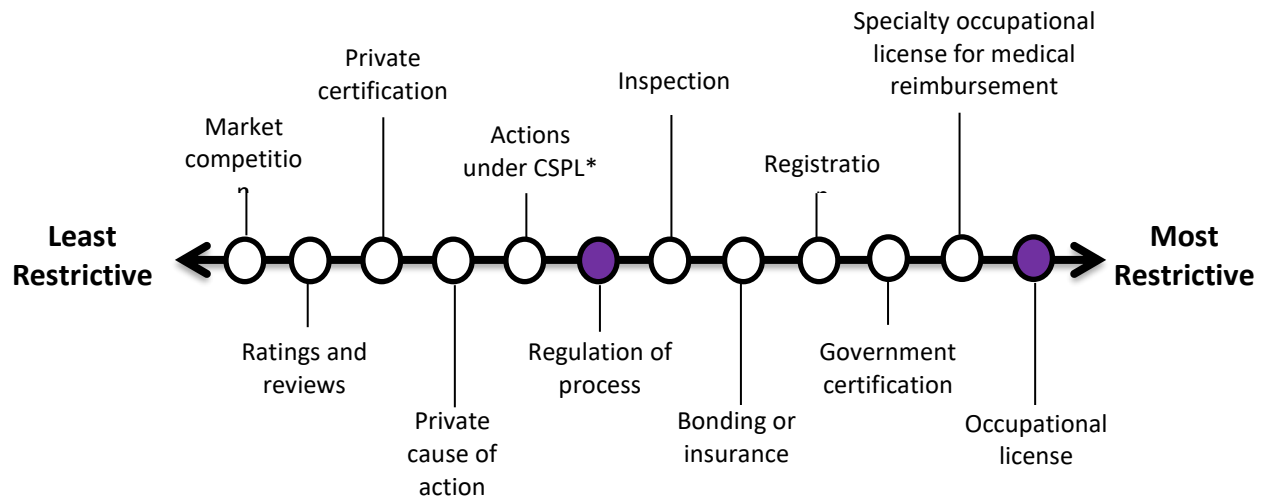
The general policy of the state is reliance on market competition and private remedies to protect the interests of consumers in commercial transactions involving the sale of goods or services. For circumstances in which the General Assembly determines that additional safeguards are necessary to protect consumers from "present, significant, and substantiated harms that threaten health, safety, or welfare," the state's expressed intent is to enact the "least restrictive regulation that will adequately protect consumers from such harms."<sup>2</sup>

The degree of "restrictiveness" of an occupational regulation is prescribed by statute. The following graphic identifies each type of occupational regulation expressly mentioned in the state's policy by least to most restrictive:

\* This report addresses the "As Introduced" version of H.B. 545. It does not account for changes that may have been adopted after the bill's introduction.

<sup>1</sup> R.C. 103.26, not in the bill.

<sup>2</sup> R.C. 4798.01 and 4798.02, neither in the bill.



\*CSPL – The Consumer Sales Practices Law

The bill creates the certified midwife license, issued by the Ohio Board of Nursing, and the licensed midwife license, issued by the Department of Commerce. The bill specifies the activities that a certified midwife or licensed midwife may perform, including obtaining or administering certain drugs.<sup>3</sup>

Currently, Ohio law does not recognize the practice of a certified midwife or licensed midwife. It does, however, recognize the practice of a certified nurse-midwife (CNM) licensed by the Board of Nursing. The bill retains the CNM license.

The bill also establishes regulations related to the process of providing midwifery services.

## Necessity of regulations

Representative Riordan McClain, one of the bill's joint sponsors, testified the bill recognizes and provides a new license for midwives who wish to practice but allows traditional midwives to continue operating, provided they receive informed consent from clients to provide limited care. According to Representative McClain, maternity health care deserts are increasing in rural areas, and he hopes the bill will help address those issues. He stated that it is difficult for many midwives to be recognized and "practice their skills as they have been trained." Representative Melanie Miller, who is also a joint sponsor, testified the bill will allow women who want to use a midwife during pregnancy to choose between different providers and different levels of care.<sup>4</sup>

<sup>3</sup> R.C. 4723.56, 4723.481, 4723.50, 4724.04, and 4724.05.

<sup>4</sup> [Representative Riordan McClain Proponent Testimony](#) and [Representative Melanie Miller Proponent Testimony](#), which are available on the General Assembly's website, [legislature.ohio.gov](http://legislature.ohio.gov), by searching for "HB545" and looking under the "Committee Activity" tab.

## Restrictiveness of regulations

### Licensure

Licensure is the most restrictive of all regulatory options identified within the state's continuum of regulations. Accordingly, the state's policy prescribes a narrow range of situations in which required licensure is appropriate; specifically, when all the following circumstances are present:

- The occupation involves providing a service regulated by both state and federal law;
- The licensing framework allows individuals licensed in other states and territories to practice in Ohio; and
- The licensing requirement is based on uniform national laws, practices, and examinations that have been adopted by at least 50 U.S. states and territories.<sup>5</sup>

It does not appear that the bill satisfies the state policy's first and third criteria. Midwives are not regulated by federal law. However, an aspect of the practice of certified midwives is subject to state and federal law: prescribing drugs. Thus, the licensure of certified midwives may satisfy the first criterion. Additionally, uniform laws and practices for the licensure of nonnurse-midwives have not been adopted by at least 50 U.S. states and territories.<sup>6</sup>

As for the second criterion, certified midwives and licensed midwives appear to satisfy it. The bill does not expressly address an individual licensed as a certified midwife in another state or territory to practice in Ohio. It does, however, allow an individual licensed as a licensed midwife in another state that the Department has determined that the other state's requirements for licensure are substantially similar to Ohio's under the bill to substitute that license in lieu of demonstrating certification by the North American Registry of Midwives (NARM), International Registry of Midwives (IRM), or another Department-approved certifying organization. Additionally, Ohio's Occupational Licenses for Out-of-State Applicants Law<sup>7</sup> applies to midwives and requires the Nursing Board and the Department of Commerce to issue licenses to applicants who hold analogous out-of-state licenses.<sup>8</sup>

When assessing the restrictiveness of the bill's licensure requirement, it should be noted the bill contains several significant exceptions. An unlicensed individual who has entered the midwifery profession through an apprenticeship program with an experienced practicing midwife (referred to in the bill as a "traditional midwife") may provide midwifery services, provided the individual discloses to each client in writing that the individual is not a licensed midwife.<sup>9</sup> The bill

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<sup>5</sup> R.C. 4798.02, not in the bill.

<sup>6</sup> See [The Regulation of Professional Midwifery in the United States](#), which may be accessed by conducting a keyword "midwifery regulation United States" search on the Journal of Nursing Regulation website: [journalofnursingregulation.com](http://journalofnursingregulation.com).

<sup>7</sup> R.C. Chapter 4796.

<sup>8</sup> R.C. 4796.01 and 4796.03, not in the bill.

<sup>9</sup> R.C. 4723.54(B)(5) and 4724.02(B)(10).

is unclear with respect to a traditional midwife's scope of practice, though it does not appear that a traditional midwife is permitted to prescribe drugs.

The bill also permits an unlicensed individual who is privately certified by either NARM or IRM (referred to in the bill as a "certified professional midwife" and a "certified international midwife," respectively) to provide most of the midwifery services provided by a licensed individual. A certified professional midwife and certified international midwife may not, however, obtain or administer drugs or perform surgical suturing.<sup>10</sup>

Engaging in the activities that a certified midwife or licensed midwife may perform without a license or exception is a fifth degree felony on the first offense and a fourth degree felony on any subsequent offense. Knowingly using the title of certified midwife or licensed midwife without a license or an exception applying is a first degree misdemeanor.<sup>11</sup>

See "**Summary of proposed regulations**," below for a comparison between certified midwife and licensed midwife license requirements and scope of practice.

### **Regulation of process**

The state's occupational regulation policy does not provide specific guidance as to when a regulation of process is the best means of protecting the health, safety, and welfare of consumers. However, the policy suggests that regulations of process are the most preferred method of regulation when market competition, ratings and reviews, private certifications, private causes of action, and actions under the state's Consumer Sales Practices Law do not provide sufficient protection.<sup>12</sup>

The process regulations created by the bill may provide additional protections to purchasers of midwifery services that are unavailable under current law. Whether these protections are necessary is a policy decision.

The bill establishes several process regulations that apply to persons engaged in midwifery services, including all the following:

- Requires a certified midwife's activities to be conducted in collaboration with a physician with whom the midwife has entered a standard of care arrangement (the same requirement applies to a CNM under continuing law);<sup>13</sup>
- Requires a certified midwife or a licensed midwife to maintain appropriate medical records regarding patient history, treatment, and outcomes;<sup>14</sup>

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<sup>10</sup> R.C. 4724.02(B)(12).

<sup>11</sup> R.C. 4723.99 and 4724.99.

<sup>12</sup> R.C. 4798.01, not in the bill.

<sup>13</sup> R.C. 4723.431 and 4723.57.

<sup>14</sup> R.C. 4723.57(B) and 4724.05.

- Requires a certified midwife, licensed midwife, or CNM to obtain the patient’s informed consent before engaging in licensed professional activities;<sup>15</sup>
- Requires a certified midwife, licensed midwife, or CNM to create a transfer of care plan for each patient;<sup>16</sup>
- Requires, beginning July 1, 2025, a certified midwife, licensed midwife, or CNM to report events related to any adverse incidents that occur outside a hospital;<sup>17</sup>
- Requires a certified midwife or CNM to submit annually to the Department of Health information on patients served in the preceding year;<sup>18</sup>
- Requires licensed midwives to submit annually to the Licensed Midwifery Advisory Council information on patients served in the preceding year.<sup>19</sup>

### **Other regulatory policies**

The Revised Code does not currently include any express references to certified midwives or licensed midwives. Midwives are referenced several times in the licensing regulations for health care facilities.<sup>20</sup> However, nonnurse-midwives currently are not subject to statutory regulation. Consequently, there is no general policy prescribing the state’s intent regarding regulating services rendered by nonnurse-midwives.

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## **IMPACT STATEMENT**

### **Opportunities for employment**

The bill creates two new forms of licensure and certification: the licensed midwife license and the certified midwife license. It also specifies that the bill does not affect the existing certification of CNMs licensed by the Board of Nursing, nor does it impact other medical professionals such as physicians, physician assistants, registered nurses, or other practitioners currently licensed in Ohio. Additionally, the bill clarifies that the prohibitions against practicing as a licensed or certified midwife without the appropriate licensure or certification do not apply to other individuals such as traditional midwives, or in the case of licensed midwives, any individuals providing services that are religiously motivated or individuals who are members of a Native American community and providing midwifery services without a license to other members of that community.

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<sup>15</sup> R.C. 4723.58 and 4724.07.

<sup>16</sup> R.C. 4723.582 and 4724.09.

<sup>17</sup> R.C. 4723.584 and 4724.10.

<sup>18</sup> R.C. 4723.584.

<sup>19</sup> R.C. 4724.10.

<sup>20</sup> Ohio Administrative Code 3701-83-56.

Due to the explicit clarifications of the bill's scope, the bill would not be expected to decrease opportunities for employment for any of the various individuals described previously. The bill would be expected to, in creating the licensed midwife license and the certified midwife license, increase opportunities for employment for each of these professions. For individuals with the necessary qualifications to obtain one of these licenses, the bill would be expected to increase their opportunity to provide their services to pregnant and postpartum women.

### **Consumer choice and market competition**

As was stated previously, the bill explicitly clarifies that it does not impact the current practice of other types of practitioners. Due to the bill, licensed midwives and certified midwives will be eligible for licensure and entitled to present themselves as possessing their respective licenses, which should increase consumer choice for patients. Pregnant or postpartum patients seeking support and service would have access to two new types of licensed practitioners who they could choose to involve in their pregnancy care. By creating two new licenses, the bill would also be expected to increase market competition by creating a market for the services of both certified midwives and licensed midwives.

### **Cost to government**

For costs to government, please see the [LSC fiscal note \(PDF\)](#).

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## **SUMMARY OF PROPOSED REGULATIONS**

The following table highlights differences between a certified midwife license and a licensed midwife license with respect to education and certification requirements, scope of practice, and authority to prescribe and administer medication.

Topic	Certified midwife (CM)	Licensed midwife (LM)
<b>Education</b>	Under the bill, a CM must (1) hold a master's degree or higher, (2) have graduated from a midwifery education program accredited by the Accreditation Commission for Midwifery Education, and (3) have completed a course of study in advanced pharmacology ( <i>R.C. 4723.55</i> ).	Under the bill, an LM must (1) hold a high school degree or equivalent, (2) have completed a course of study in breech births, and (3) have completed a course of study in pharmacology ( <i>R.C. 4724.03</i> ).
<b>Private certification</b>	Under the bill, a CM must be certified by the American Midwifery Certification Board ( <i>R.C. 4723.55</i> ).	Under the bill, an LM must be certified by NARM, IRM, or another certifying organization approved by the Department of Commerce ( <i>R.C. 4724.03</i> ).
<b>Physician collaboration</b>	Under the bill, a CM also must practice (1) in collaboration with a physician who practices in a specialty similar to nurse-midwifery and (2) in accordance with a standard care arrangement entered into with the collaborating physician ( <i>R.C. 4723.431 and 4723.57</i> ).	The bill does not generally address the role of a physician in the practice of an LM ( <i>R.C. 4724</i> ).

Topic	Certified midwife (CM)	Licensed midwife (LM)
<b>Scope of practice</b>	<p>The bill permits a CM to engage in certain activities, including the following:</p> <ul style="list-style-type: none"> <li>▪ Providing primary health care services for women, including the independent provision of gynecologic and family planning services, preconception care, and care during pregnancy, childbirth, and the postpartum period;</li> <li>▪ Attending births in hospitals, homes, medical offices, and freestanding birthing centers;</li> <li>▪ Providing care for normal newborns during the first 28 days of life (<i>R.C. 4723.57</i>).</li> </ul>	<p>The bill permits an LM to engage in certain activities, including:</p> <ul style="list-style-type: none"> <li>▪ Offering care, education, counseling, and support to women and their families during pregnancy, birth, and the postpartum period;</li> <li>▪ Attending births in hospitals, homes, medical offices, and freestanding birthing centers;</li> <li>▪ Providing ongoing care throughout pregnancy and hands-on care during labor, birth, and the immediate postpartum period;</li> <li>▪ Providing maternal and well-baby care for the six- to eight-week period following delivery (<i>R.C. 4724.05</i>).</li> </ul> <p>The bill also prohibits an LM from doing the following:</p> <ul style="list-style-type: none"> <li>▪ Administering cytotec or oxytocics, including pitocin and methergine, except when indicated during the postpartum period;</li> <li>▪ Using forceps or vacuum extraction to assist with birth;</li> <li>▪ 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 (<i>R.C. 4724.05</i>).</li> </ul>
<b>Prescriptive authority</b>	Under the bill, a CM's prescriptive authority is the same as a CNM's ( <i>R.C. 4723.481 and 4723.50</i> ).	The bill does not grant an LM prescriptive authority ( <i>R.C. 4724.05</i> ).
<b>Medication administration</b>	The bill does not specifically authorize a CM to administer medications ( <i>R.C. 4723.57</i> ).	The bill authorizes an LM to obtain and administer certain medications ( <i>R.C. 4724.05</i> ).

For more information on the licenses and process regulations created by the bill, including scope of practice, see the [LSC bill analysis \(PDF\)](#).

## COMPARISON TO OTHER STATES

The table below summarizes the licensure of midwives in the states that border Ohio. All those states license nurse-midwives using standards similar to those used by Ohio to license CNMs under current law. Three of the states (Indiana, Kentucky, and Michigan) issue nonnurse-midwife licenses similar to the licenses created by the bill.

Of the states surrounding Ohio, only Pennsylvania allows practice by unlicensed traditional midwives, certified professional midwives, and certified international midwives. These midwives are required to order certain tests after an infant is born.<sup>21</sup>

Midwife Regulations in the Surrounding States					
	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
<b>May nonnurse-midwives practice?</b>	Yes, but must be licensed as a “certified direct entry midwife” <i>(Ind. Code Ann. 25-23.4-3-1)</i>	Yes, but must be licensed as a “certified professional midwife” <i>(Ky. Rev. Stat. 314.408)</i>	Yes, but must have a “midwife license” <i>(Mich. Comp. Laws 333.17105)</i>	No; nursing license only <i>(63 P.S. 171 and 422.35)</i>	No; nursing license only <i>(W. Va. Code 30-7-2)<sup>22</sup></i>
<b>Minimum age</b>	At least 21 years of age <i>(Ind. Code. Ann. 25-23.4-3-1)</i>	N/A	N/A	N/A	N/A
<b>Education</b>	Must attain a bachelor’s degree (of any kind) or an associate degree in nursing, midwifery, or other similar	One of the following: <ul style="list-style-type: none"> <li>▪ Complete an educational program</li> </ul>	One of the following: <ul style="list-style-type: none"> <li>▪ Complete an educational program or pathway accredited</li> </ul>	N/A	N/A

<sup>21</sup> See 35 P.S. 622 and 623.

<sup>22</sup> See also [H.B. 5491](#) and [S.B. 748](#) of the W. Va. Legislature 2024 Regular Session, both of which are available at [wvlegislature.gov](http://wvlegislature.gov).



Midwife Regulations in the Surrounding States					
	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
	<p>science-related associate degree</p> <p>Must complete curriculum approved by the Midwifery Education Accreditation Council (MEAC) or an equivalent curriculum approved by the Medical Licensing Board</p> <p><i>(Ind. Code Ann. 25-23.4-3-1)</i></p>	<p>accredited by MEAC;</p> <ul style="list-style-type: none"> <li>▪ Certified by NARM before January 1, 2020, and earn the Midwifery Bridge Certificate through NARM;</li> <li>▪ Licensed in another state that does not require an accredited education and earn the Midwifery Bridge Certificate through NARM</li> </ul> <p><i>(Ky. Rev. Stat. 314.404; 201 Ky. Admin. Regs. 20:620)</i></p>	<p>by MEAC or another approved accrediting agency;</p> <ul style="list-style-type: none"> <li>▪ Certified by NARM before January 1, 2020, and earn the Midwifery Bridge Certificate through NARM;</li> <li>▪ Licensed in another state that does not require an accredited education and earn the Midwifery Bridge Certificate through NARM</li> </ul> <p>Temporary license available to applicants who have not yet met education requirement</p> <p><i>(Mich. Comp. Laws 333.17115, 333.17116, and 333.17119; Mich. Admin. Code R. 338.17121 and 338.17123)</i></p>		

Midwife Regulations in the Surrounding States					
	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
<b>Experience</b>	<p>Must acquire and document practical experience outlined in the certified professional midwife credentialing process under the standards of NARM</p> <p>Must comply with birth requirements outlined in the NARM certified professional midwife credentialing process, plus observe an additional 20 births, attend an additional 20 births conducted by a physician, assist with an additional 20 births, and act as the primary attendant for an additional 20 births</p> <p><i>(Ind. Code Ann. 25-23.4-3-1)</i></p>	N/A	N/A	N/A	N/A

Midwife Regulations in the Surrounding States					
	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
<b>Other qualifications</b>	<p>Must obtain certified professional midwife credential from NARM</p> <p>Must obtain adult and neonatal CPR certifications</p> <p>Must maintain liability insurance covering at least \$100,000 per incident and \$300,000 yearly aggregate</p> <p><i>(Ind. Code. Ann. 25-23.4-3-1; 844 Ind. Admin. Code 17-1-3)</i></p>	<p>Must obtain certification through NARM</p> <p>Must obtain American Heart Association Basic Life Support (BLS) certification for health care providers</p> <p>Must obtain Neonatal Resuscitation Program (NRP) certification</p> <p>Must complete a pediatric abusive head trauma course and a domestic violence course</p> <p><i>(Ky. Rev. Stat. 314.404; 201 Ky. Admin. Regs. 20:620)</i></p>	<p>Must obtain certified professional midwife credential through NARM or an equivalent credential from another midwifery organization approved by the Board of Nursing</p> <p><i>(Mich. Comp. Laws 333.17115)</i></p>	N/A	N/A
<b>Continuing education</b>	<p>15 hours every year, including one hour per year in pharmacology and one hour every two</p>	<p>Must maintain NARM certification, which requires five peer-reviewed contact hours, 25 nonpeer-reviewed contact</p>	<p>30 hours of continuing education every two years (met by maintaining NARM certification), one hour of</p>	N/A	N/A

Midwife Regulations in the Surrounding States					
	Indiana	Kentucky	Michigan	Pennsylvania	West Virginia
	years in each of the following: <ul style="list-style-type: none"> <li>▪ Emergency life support procedures;</li> <li>▪ Identification of high-risk births for mothers;</li> <li>▪ Identification of potential complications during labor</li> </ul> <i>(Ind. Code Ann. 25-23.4-3-4; 844 Ind. Admin. Code 17-1-6)</i>	hours, plus a cultural awareness workshop for every three-year application cycle  Must maintain BLS and NRP certifications  <i>(Ky. Rev. Stat. 314.404; 201 Ky. Admin. Regs. 20:620)<sup>23</sup></i>	continuing education in pain and symptom management, two hours of continuing education on cultural awareness or qualifying implicit bias training, and one hour of continuing education in pharmacology  <i>(Mich. Admin. Code R. 338.17141)</i>		
<b>Initial license fee</b>	\$50  <i>(844 Ind. Admin. Code 17-1-4)</i>	\$500  <i>(Ky. Rev. Stat. 314.404; 201 Ky. Admin. Regs. 20:620)</i>	\$492.60 <sup>24</sup>	N/A	N/A

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<sup>23</sup> See also [Recertification](#), which may be accessed on the North American Registry of Midwives' website, [narm.org](http://narm.org), by clicking the "Recertification" option on the "Certification/Recertification" tab.

<sup>24</sup> See page 1 of [Michigan Midwife Licensing Guide \(PDF\)](#), which may be accessed on the Michigan Bureau of Licensing and Regulatory Affairs' website, [michigan.gov/lara](http://michigan.gov/lara), by doing a keyword search for "Midwife Licensing Guide."