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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Boyd and Hicks-Hudson

Elizabeth Molnar, Attorney

SUMMARY

Types of midwives

- Regulates the practice of certified professional midwives, including by requiring them to be licensed in order to practice in Ohio (R.C. Chapter 4754).

Licensing authority

- Establishes within the Ohio Department of Health the Council of Certified Professional Midwives and authorizes the Council to issue licenses to practice (R.C. 4754.02 and 4754.05).
- Specifies that the Council must consist of the following seven members, each appointed by the Governor with the advice and consent of the Senate: (1) four certified professional midwives, (2) two physicians, one board-certified in pediatrics and the other board-certified in obstetrics, and (3) one member of the public who represents the diversity, interests, and perspectives of childbearing women (R.C. 4754.02).
- In making appointments, requires the Governor to do so in a manner that ensures that all geographic areas of Ohio and its ethnic groups are represented (R.C. 4754.02).

Certified professional midwives – permitted activities

- Authorizes a licensed certified professional midwife to engage in any of the following activities:
 - Providing the necessary care and advice to clients during pregnancy, labor, and the postpartum period;
 - Conducting normal deliveries on the midwife's own responsibility;
 - Providing care for newly born infants;

- Recognizing the warning signs of abnormal conditions requiring referral to and collaboration with physicians;
- Attending to low-risk clients during pregnancy, labor, and the postpartum period with the clients' informed consent;
- Providing comprehensive care of pregnant clients during all phases of pregnancy and applying emergency care when necessary (R.C. 4754.07).
- For the purpose of engaging in one or more permitted activities, authorizes a certified professional midwife to obtain and administer the following:
 - Antihemorrhagic agents, including Pitocin, oxytocin, misoprostol, and methergine;
 - Intravenous fluids to stabilize the laboring client;
 - Neonatal injectable vitamin K;
 - Newborn antibiotic eye prophylaxis;
 - Oxygen;
 - Intravenous antibiotics for group B streptococcal prophylaxis;
 - Rho (D) immune globulin;
 - Local anesthesia;
 - Epinephrine;
 - A drug prescribed for the client by a physician;
 - Any other drug consistent with a certified professional midwife's scope of practice as outlined in the bill (R.C. 4754.09).

Certified professional midwives – prohibited activities

- Prohibits a certified professional midwife from engaging in any of the following activities:
 - 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, perineal, vaginal, or labial repairs, and clamping or cutting the umbilical cord (R.C. 4754.07).
- Specifies that the bill does not authorize a certified professional midwife to prescribe, personally furnish, obtain, or administer any controlled substance (R.C. 4754.09).

Code of ethics

- Requires a certified professional midwife to comply with the Code of Ethics adopted by the Midwives Alliance of North America, except to the extent the Code conflicts with Ohio's laws (R.C. 4754.17).

Unauthorized practice

- Prohibits an individual from knowingly practicing as a certified professional midwife unless he or she holds a current, valid license to do so issued by the Council of Certified Professional Midwives (R.C. 4754.04).
- Specifies that the prohibition does not apply to any of the following individuals:
 - A physician, physician assistant, registered nurse, licensed practical nurse, or advanced practice registered nurse, including a certified nurse midwife;
 - A person who provides midwifery services while engaging in good faith in the practice of a church's religious tenets or in any religious act if the person does not contemplate, charge, or receive a fee;
 - A person who is a member of a Native American community and provides midwifery services without a license to another member of the community (R.C. 4754.04).
- States that an individual who violates the prohibition is guilty of a fifth degree felony on a first offense (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 (punishable by a fine of not more than \$5,000 and a jail term of six to 18 months) (R.C. 4723.99 and R.C. 2929.14 and 2929.18, neither in the bill).

Eligibility for licensure

- To be eligible for a license to practice as a certified professional midwife, requires an applicant to meet all of the following:
 - Be at least 18 years old;
 - Have attained a high school degree or equivalent;
 - Have graduated from a midwifery education program accredited by the Midwifery Education Accreditation Council (MEAC);
 - Be certified by the North American Registry of Midwives (NARM);
 - Be certified in neonatal and adult cardiopulmonary resuscitation (CPR) (R.C. 4754.05).
- Also provides for two alternative criteria in lieu of NARM certification or graduation from a MEAC-accredited education program:
 - That the applicant holds a current, valid license to practice as a certified professional midwife in another state and remains in good standing with that state's licensing authority;

- That the applicant holds a midwifery bridge certificate issued by NARM and is scheduled by January 1, 2024 to graduate from a MEAC-accredited program and be NARM-certified (R.C. 4754.05).

Application procedures, license issuance, and validity

- Requires an individual seeking a license to practice as a certified professional midwife to file an application with the Council of Certified Professional Midwives in a manner prescribed by the Council (R.C. 4754.05).
- Requires the Council to review all applications it receives and to issue a license to each applicant it determines eligible for licensure (R.C. 4754.05).
- Specifies that a license is valid for a two-year period unless revoked or suspended, expires on the date that is two years after the date it was issued, and may be renewed for additional two-year periods (R.C. 4754.06).
- Establishes a \$45 fee for an initial license application (R.C. 4754.05).
- Requires the Council to adopt rules, including those establishing license application procedures (R.C. 4754.15).

License renewals

- Establishes a \$20 fee for a license renewal application (R.C. 4754.06).
- Requires the Council of Certified Professional Midwives to adopt rules, including those establishing license renewal procedures (R.C. 4754.15).
- Requires an applicant for renewal to do the following:
 - Demonstrate to the Council that the applicant has maintained CPR certification;
 - Satisfy the continuing education requirements of NARM (R.C. 4754.06).

Informed consent

- Specifically requires a certified professional midwife to obtain a client's informed consent before engaging in any of the activities permitted under the bill (R.C. 4754.07).
- In obtaining informed consent, requires the following information to be exchanged in writing between the certified professional midwife and client:
 - The midwife's name and license number;
 - The client's name, address, telephone number, and primary care provider, if the client has one;
 - A description of the midwife's education, training, and midwifery experience;
 - A description of the midwife's peer review process;
 - The midwife's practice philosophy;

- A promise to provide the client, upon request, with separate documents describing the rules governing the practice of midwifery, including a list of conditions indicating the need for consultation, collaboration, referral, transfer, or mandatory transfer and the midwife's personal written practice guidelines;
 - A written plan for medical consultation and transfer of care;
 - A description of the services provided by the midwife to the client;
 - 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 (R.C. 4754.07).
- After the foregoing information has been exchanged and the client consents to treatment, requires the midwife and client to sign a written document indicating the exchange and consent to treatment and requires the midwife to retain a copy of the document for at least four years (R.C. 4754.07).

High risk pregnancy

- In the case of pregnancy determined to be high risk, requires the certified professional midwife to obtain the client's consent for the midwife to be eligible to provide care during the pregnancy and childbirth, attend the birth, or provide care to the newborn (R.C. 4754.08).

Written transfer of care agreement

- For any pregnancy or childbirth in which a certified professional midwife provides care and a home birth is planned, requires the midwife and a hospital capable of rendering emergency obstetric care to enter into a written transfer of care agreement (R.C. 4754.08).
- When a home birth is planned, also requires the midwife to register the client with the hospital before the birth (R.C. 4754.08).
- Requires a written transfer of care agreement to contain all of the following:
 - The name and location of geographically adjacent hospitals and other facilities providing emergency care, obstetrical care, and newborn care;
 - The level of obstetrical or newborn care available;
 - The approximate travel time to each hospital or facility;
 - 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 client information may be rapidly transmitted to each hospital or facility;

- Each hospital's or facility's preferences regarding patient preregistration;
- Contact information for either a health care provider or practice group that has agreed in advance to accept clients in transfer, or a hospital's or facility's preferred method of accessing care by the hospital's or facility's designated provider on call (R.C. 4754.08).
- When it becomes necessary to transfer a client, requires the certified professional midwife to notify the receiving provider, hospital, or facility of all of the following:
 - The incoming transfer;
 - The reason for the transfer;
 - A brief, relevant clinical history;
 - The planned mode of transport;
 - The expected time of arrival (R.C. 4754.08).
- Requires the certified professional midwife to continue to provide routine or urgent care en route and in coordination with emergency medical service personnel or an emergency medical service organization and to address the psychosocial needs of the client during the change in birth setting (R.C. 4754.08).
- On arrival at the hospital or facility, requires the certified professional midwife to do the following:
 - Provide a verbal report that includes details on the client'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, hospital, or facility (R.C. 4754.08).
- Authorizes the midwife, if the client chooses, to remain to provide continuous support and, whenever possible, requires the client and newborn to be together during the transfer and after admission to the hospital or facility (R.C. 4754.08).

Adverse incidents

- Beginning July 1, 2023, requires a certified professional 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 Council of Certified Professional Midwives and the Ohio Perinatal Quality Collaborative within 15 days after the adverse incident occurs (R.C. 4754.10).
- Defines an adverse incident as an incident over which a certified professional midwife could exercise control, that is associated with an attempted or completed out-of-hospital birth, 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 client to a hospital intensive care unit;
 - A maternal client experiencing hemorrhagic shock or requiring a transfusion of more than four units of blood or blood products;
 - A fetal or newborn death, including a stillbirth, associated with an obstetrical delivery;
 - 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 injury as determined by the Council of Certified Professional Midwives by rule (R.C. 4754.10).
- Requires the Council to review each incident report and determine whether to impose sanctions on the midwife (see “**Disciplinary actions**” below) (R.C. 4754.10).
 - Requires the Council to adopt rules governing the reporting of adverse incidents and to develop a form to be used when making reports (R.C. 4754.10).

Immunity from civil liability

- Specifies that emergency medical service personnel or an emergency medical service organization, hospital, facility, or physician that provides services or care following an 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 (R.C. 4754.13).

Annual reports

- Requires each certified professional midwife to report annually to the Council of Certified Professional Midwives 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 clients;
 - The number of live births attended as a certified professional midwife;
 - The number of cases of fetal demise, newborn deaths, and maternal deaths attended as a certified professional midwife at the discovery of the demise or death;
 - The number, reason for, and outcome of each transport of a client in the antepartum or intrapartum period or in the period that is approximately three to four hours after birth;
 - A brief description of any complications resulting in the morbidity or mortality of a mother or newborn;
 - The planned delivery setting and actual setting;
 - Any other information the Council finds necessary (R.C. 4754.11).

Disciplinary actions

- Authorizes the Council of Certified Professional Midwives, upon the Council finding that a certified professional midwife violated any of the bill's provisions or the Midwives Alliance of North America's Code of Ethics, to order one or more disciplinary actions against the midwife (R.C. 4754.14 and 4754.17).
- Allows the Council to order the following forms of discipline: the issuance of a warning letter or reprimand, placing the certified professional midwife on probation, suspending or revoking the certified professional midwife's license, placing conditions on the midwife, or imposing a civil penalty (which may range between \$50 and \$1,000) (R.C. 4754.14).
- Establishes procedures by which a certified professional midwife may obtain an order of compliance, which demonstrates that the midwife has complied with or completed the ordered discipline, OR an order of modification, which allows for the terms of discipline to be modified under certain circumstances (R.C. 4754.14).

Advertising

- Authorizes a certified professional midwife to advertise the following:
 - Fixed fees for services;
 - A range of fees for services, but if doing so, must disclose the factors used in determining the actual fee;
 - Discount fees, but only if the fee is in fact lower than the customary fee and the midwife provides the same quality of service (R.C. 4754.16).
- Requires a certified professional midwife to identify in an advertisement any related services that may be required in conjunction with the advertised services for which additional fees may be charged (R.C. 4754.16).
- Requires a certified professional midwife to honor advertised fees for certain time periods (R.C. 4754.16).
- Specifies that certain acts or omissions in an advertisement constitute unprofessional conduct and will subject the midwife to disciplinary action (R.C. 4754.16).
- Requires a midwife to maintain recordings or copies of advertisements for at least two years and make them available for review upon the Council of Certified Professional Midwives' request (R.C. 4754.16).
- Specifies that a certified professional midwife who is a principal partner or officer of a midwifery practice is jointly and severally responsible for the form and content of any advertisement (R.C. 4754.16).
- Includes a severability clause (R.C. 4754.16).

Rulemaking authority

- Requires the Council of Certified Professional Midwives to adopt rules establishing standards and procedures for the licensure and regulation of certified professional midwives, including rules establishing the following:
 - Procedures for applying for and renewing licenses;
 - Standards for approving education and professional education programs;
 - Standards and procedures for hospital registrations and written transfer of care agreements;
 - Standards of practice for certified professional midwives, including those promoting safe and competent care;
 - Standards and procedures for physician consults and referrals for each stage of pregnancy and for every pregnancy risk status (R.C. 4754.15).
- Authorizes the Council to adopt any other rules it considers necessary to implement and administer the bill's provisions, including rules requiring the completion of criminal records checks (R.C. 4754.15).
- Requires Council rules to be consistent with the standards of practice and ethical conduct established by NARM and the National Association of Certified Professional Midwives (R.C. 4754.15).

Insurance coverage

- Requires the Medicaid program and private insurers to cover midwifery services provided by a certified professional midwife in accordance with the bill's provisions (R.C. 1739.05, 1751.671, 3923.631, 3923.641, and 5164.072).

Act name

- Names the act the Ohio Midwife Practice Act (Section 6).

HISTORY

Action	Date
Introduced	08-24-21
