

21 NCAC 33 .0101 is proposed to be amended, **with changes**, as published in NCR 34:12, page 1143, as follows:

21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS

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

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

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

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

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

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

1 *Readopted Eff. November 1, ~~2018.~~ 2018.*
2 *Amended Eff. April 1, 2020.*

1 21 NCAC 33 .0103 is proposed to be amended, **with changes**, as published in NCR 34:12, pages 1143 – 1144, as
2 follows:

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4 **21 NCAC 33 .0103 APPLICATION AND ANNUAL RENEWAL**

5 (a) ~~The application to obtain~~ To be eligible for an approval to practice as a midwife is electronically available from
6 ~~the Committee on the North Carolina Board of Nursing website, www.ncbon.com.~~ midwife, an applicant shall:

7 (1) submit a completed application for approval to practice, attesting under oath or affirmation that the
8 information on the application is true and complete, and authorizing the release to the Committee of
9 all information pertaining to the application. Application is posted on the Board of Nursing's website at
10 www.ncbon.com;

11 (2) ~~The application shall require~~ submit information on the applicant's education, evidence of the applicant's
12 certification by the American College of Nurse Midwives, identification of the physician or physicians
13 who will supervise the applicant, and the sites where the applicant intends to practice midwifery;

14 (3) submit the approval to practice application fee as established in 90-178.4(b)(1);

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

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

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

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

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

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

33 (1) submitting a completed application for renewal, attesting under oath or affirmation that the information
34 on the application is true and complete, and authorizing the release to the Committee of all information
35 pertaining to the application. Applications are located on the Board of Nursing's website at
36 www.ncbon.com;

- 1 (2) attest to having completed the requirements of the Certificate Maintenance Program of the American
2 College of Nurse Midwives, including continuing education requirements, and submit evidence of
3 completion if requested by the Committee as specified in Rule .0111 of this Section;
4 (3) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2).

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6 *History Note: Authority G.S. 90-178.4(b); 90-178.5;*

7 *Eff. February 1, 1984;*

8 *Amended Eff. March 1, 2017; January 1, 1989;*

9 *Readopted Eff. November 1, ~~2018.~~ 2018.*

10 *Amended Eff. April 1, 2020.*

1 21 NCAC 33 .0105 is proposed to be amended, with changes, as published in NCR 34:12, pages 1144-1145, as
2 follows:

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4 **21 NCAC 33 .0105 DUE PROCESS DISCIPLINARY ACTION**

5 ~~(a) Denial, revocation, or suspension of an approval to practice midwifery shall be governed by G.S. 90-178.6 and
6 this Chapter. The applicant aggrieved by a decision of the Committee shall be entitled to a hearing pursuant to the
7 provisions of G.S. 150B, Article 3A.~~

8 ~~(b) Complaints.~~

9 ~~(1) A complaint regarding a violation of the Midwifery Practice Act or Rules shall be submitted in
10 writing and document:~~

11 ~~(A) the name of the certified nurse midwife or other person involved;~~

12 ~~(B) a description of the alleged behavior or incident; and~~

13 ~~(C) the name, mailing address, and phone number of the person filing the complaint.~~

14 ~~(2) The complaint shall be delivered to the Committee administrative office by mail, private carrier,
15 facsimile, electronic mail, or in person.~~

16 ~~(c) Action on a Complaint. Action on a complaint shall consist of the following:~~

17 ~~(1) The Committee shall receive and acknowledge complaints, open a file, and initiate complaint
18 tracking.~~

19 ~~(2) Complaints shall be screened to determine jurisdiction and the type of response appropriate for the
20 complaint.~~

21 ~~(3) Investigation:~~

22 ~~(A) If the facts clearly indicate a Midwifery Practice Act violation, the Committee shall
23 commence an investigation.~~

24 ~~(B) A report of each investigation shall be prepared for the Committee's review.~~

25 ~~(4) Formal and Informal Hearings:~~

26 ~~(A) The Committee, after review of an investigative file and upon request by a licensee, shall
27 schedule an informal meeting.~~

28 ~~(B) If the matter cannot be resolved informally, then a formal hearing shall be held.~~

29 ~~(C) No Committee member shall participate in more than one of the following steps in the
30 enforcement process:~~

31 ~~(i) investigation;~~

32 ~~(ii) informal hearing; or~~

33 ~~(iii) formal hearing.~~

34 ~~(D) Members of the Committee shall not make ex parte communication with parties to a
35 hearing.~~

1 ~~(5) Final Orders: No later than 60 days after a hearing, the Committee shall issue its final decision, in~~
2 ~~writing, specifying the date on which it shall take effect. The Committee shall serve one copy of the~~
3 ~~decision on each party to the hearing.~~

4 ~~(6) Compliance: The Committee Chair shall cause a follow up inquiry to determine that the orders of~~
5 ~~the Committee are being obeyed.~~

6 ~~(d) Disciplinary Sanctions:~~

7 ~~(1) The following types of disciplinary sanctions may, among others, be used by the Committee when~~
8 ~~a violation of G.S. 90-178.6(a) is found:~~

9 ~~(A) Letter of reprimand;~~

10 ~~(B) probation;~~

11 ~~(C) suspension of approval;~~

12 ~~(D) nonrenewal of approval;~~

13 ~~(E) revocation of approval; and~~

14 ~~(F) injunction.~~

15 ~~(2) The Committee may request information from professional associations, professional review~~
16 ~~organizations (PROs), hospitals, clinics, or other institutions in which a certified nurse midwife~~
17 ~~performs professional services.~~

18 ~~(3) The Committee shall provide notice of sanction taken by it to other public entities as necessary to~~
19 ~~ensure that other state Boards and enforcement authorities receive the names of certified nurse~~
20 ~~midwives who have been disciplined.~~

21 ~~(b)~~ (a) The midwife is subject to G.S. 90-171.37; 90-171.48 and 21 NCAC 36 .0217 by virtue of the license to
22 practice as a registered nurse.

23 ~~(c)~~ (b) After an investigation is completed, the Committee may recommend one of the following:

24 (1) dismiss the case;

25 (2) issue a private letter of concern;

26 (3) enter into negotiation for a Consent Order; [or,]

27 (4) a disciplinary hearing in accordance with G.S. 150B, Article 3A.

28 (c) Upon a finding of violation, the Committee may utilize the following range of disciplinary sanctions:

29 (1) Public Letter of Concern

30 (2) Letter of Reprimand;

31 (3) Probation;

32 (4) Suspension of approval;

33 (5) Nonrenewal of approval;

34 (6) Revocation of approval; and

35 (7) Injunction.]

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37 *History Note: Authority G.S. 90-178.6;*

1 *Eff. February 1, 1985;*
2 *Amended Eff. August 1, 2002; October 1, 1988;*
3 *Readopted Eff. November 1, ~~2018.~~2018.*
4 *Amended Eff. April 1, 2020.*

1 21 NCAC 33 .0110 is proposed to be amended, with changes, as published in NCR 34:12, pages 1145-1146, as
2 follows:

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4 **21 NCAC 33 .0110 REPORTING CRITERIA**

5 (a) The Department of Health and Human Services ("Department") may report to the Committee information
6 regarding the prescribing practices of those midwives ("prescribers") whose prescribing:

- 7 (1) falls within the top two percent of those prescribing 100 morphine milligram equivalents ("MME")
8 per patient per day; or
9 (2) falls within the top two of those prescribing 100 MME's MMEs per patient per day in combination
10 with any benzodiazepine and who are within the top one percent of all controlled substance
11 prescribers by volume.

12 (b) In addition, the The Department may report to the Committee information regarding midwives who have had two
13 or more patient deaths in the preceding 12 months due to opioid poisoning where the prescribers authorized more than
14 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

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

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

28 ~~(d) In addition, the Department may report to the Committee information regarding prescribers who authorize a~~
29 ~~prescription for opioids to at least one patient where the prescribing meets the following criteria:~~

- 30 (1) ~~the prescription is for 100 MME or greater;~~
31 (2) ~~the prescription is for 30 or more days;~~
32 (3) ~~the patient has not had a prescription for an opioid from any prescriber dispensed in the six months~~
33 ~~prior to the prescription in question.]~~

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

36 ~~(d)(f)~~(c) The reports and communications between the Department and the Committee shall remain confidential
37 pursuant to G.S. 90-113.74.

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History Note: Authority G.S. 90-113.74; 90-178.4;
Eff. May 1, 2016;
Amended Eff. December 1, 2017;
Readopted Eff. November 1, ~~2018.~~ 2018;
Amended Eff. April 1, 2020.