

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Enrolled

House Bill 758 (Delegate Bagnall)
 Health and Government Operations Education, Health, and Environmental Affairs

Maryland Licensure of Certified Midwives Act

This bill establishes a licensing and regulatory system for a “licensed certified midwife” to “practice certified midwifery” under the State Board of Nursing (BON). BON must (1) establish standards for the practice of certified midwifery; (2) maintain a list of all licensed certified midwives; (3) set applicable fees; and (4) initiate specified disciplinary action. The BON Safe Practice Committee must evaluate licensed certified midwives who request participation in the program and report to the board the name and license number of any licensed certified midwife who is expelled from the program for failure to comply with the conditions of the program. On request of the board, an employer must report the name and license number of each employee licensed to practice certified midwifery.

Fiscal Summary

State Effect: Special fund revenues increase, likely beginning in FY 2023, from licensure fees, as discussed below. BON special fund expenditures increase by at least \$20,700 in FY 2022 and \$18,900 in FY 2023 for contractual staff. Future years reflect elimination of the contractual position.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	\$0	-	-	-	-
SF Expenditure	\$20,700	\$18,900	-	-	-
Net Effect	(\$20,700)	(\$18,900)	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

“Licensed certified midwife” means an individual who has been issued a license by BON to practice certified midwifery. Licensed certified midwife does not include a licensed direct-entry midwife or a licensed nurse certified as a nurse-midwife.

“Practice certified midwifery” means the management and care of essentially normal newborns and of essentially normal women antepartally, intrapartally, and postpartally. Practice certified midwifery includes (1) family planning and well woman reproductive care; (2) the prescribing of substances commonly used in the practice of midwifery; (3) the prescribing of Schedules II through V controlled dangerous substances (CDS) commonly used in the practice of midwifery; and (4) dispensing of the substances prescribed in the course of treating a patient at a specified medical facility or clinic.

“ACME” means the Accreditation Commission for Midwifery Education, or a successor organization that is an accrediting agency for midwifery education programs and institutions and is approved by the U.S. Department of Education.

“AMCB” means the American Midwifery Certification Board, or a successor organization that is a certifying agency for midwifery education programs and is approved by the National Commission for Certifying Agencies.

Certified Midwife Licensure

To qualify for a certified midwife license, an applicant must (1) be of good moral character; (2) submit to a criminal history records check (CHRC); (3) hold a current, valid certification as a certified midwife from AMCB; (4) have graduated from a graduate-level accredited program for midwifery education approved by ACME; (5) have completed coursework in health and sciences, as specified; and (6) have passed the AMCB examination. An applicant must submit an application and pay the required fee.

The bill specifies procedures BON must follow with respect to criminal history records information of an applicant for licensure as a certified midwife and prohibits BON from issuing a license if such information has not been received.

The board must issue a certified midwife license to any applicant who meets specified requirements. BON must electronically record each license in the board’s database and on the board’s website. A license expires on a date set by the board, unless the license is

renewed for an additional term. A license may not be renewed for a term longer than two years.

At least three months before a license expires, the board must send the licensee a renewal notice that states (1) the date on which the current license expires; (2) the date by which the renewal application must be received by the board; and (3) the amount of the renewal fee. Before a license expires, the licensee must submit a renewal application and satisfactory evidence of current certification as a certified midwife by AMCB. If a licensee requires a CHRC prior to renewal, the board must send information regarding how the licensee may complete the required CHRC. BON may grant a 30-day extension beyond a license's expiration date so that the licensee may renew the license prior to expiration.

A licensee must notify the board of any change in the licensee's name or address within 60 days after the change occurred. Otherwise, the board may impose an administrative penalty of \$100.

Reinstatement

If a license was suspended or revoked for more than one year, or if more than one year has passed since a license was surrendered, the board may reinstate the license if the licensee (1) applies for reinstatement; (2) meets renewal requirements; and (3) submits to a CHRC. The board must reinstate the license, reinstate the license with specified terms and conditions, or deny reinstatement of the license.

Application and Renewal Fees

BON must set reasonable fees for the issuance and renewal of licenses and other services provided to licensed certified midwives. The fees charged must be set to produce funds to approximate the cost of maintaining the licensing program and other services provided to licensed certified midwives. The collected fees must be used exclusively to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the board to regulate certified midwives.

Disciplinary Action

Subject to hearing provisions, the board may deny a license or grant a license, including a license subject to a reprimand, probation, or suspension, to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the licensee violates specified disciplinary grounds.

After a hearing, if the board finds that there are grounds to suspend or revoke a license to practice certified midwifery, to reprimand a licensee, or to place a licensee on probation,

the board may impose a penalty of up to \$5,000 and/or suspend or revoke the license, reprimand the licensee, or place the licensee on probation. The board may also require a licensee to comply with specified terms and conditions.

Any person aggrieved by a final decision of the board in a contested case may petition for judicial review as allowed by the Administrative Procedure Act. An individual may not appeal to the Secretary of Health but may take a direct judicial appeal. A board decision may not be stayed while judicial review is pending.

Examination by a Health Care Provider

The bill requires BON, in specified circumstances, to require an applicant for license as a certified midwife or a licensed certified nurse midwife to submit to an appropriate examination by a health care provider.

Prohibited Actions

Unless authorized to practice certified midwifery, an individual may not represent to the public by title, description of service, method, procedure, or otherwise, that the individual is authorized to practice certified midwifery in the State. A licensee may not advertise in a manner that is unreasonable, misleading, or fraudulent. An individual may not practice, attempt to practice, or offer to practice as a licensed certified midwife unless licensed by BON to practice as a licensed certified midwife. An individual may not use the abbreviation “CM” or use the designation “Certified Midwife” with the intent to represent that the individual practices certified midwifery in the State. An individual may not use the designation “Midwife” unless they are authorized to practice certified midwifery or they are a licensed certified nurse-midwife or a licensed direct-entry midwife.

Current Law: In general, an individual must be licensed as a certified nurse-midwife to practice nurse midwifery in the State or licensed as a direct-entry midwife in order to practice direct-entry midwifery in the State.

Certified Nurse-midwife

BON provides advanced practice registered nurse certification to nurse-midwives who must also be a licensed RN. “Practice nurse midwifery” means the management of care of essentially normal newborns and essentially normal women antepartally, intrapartally, and postpartally. Practice nurse midwifery includes (1) family planning and well woman reproductive care; (2) the prescribing of substances commonly used in the practice of midwifery; (3) the prescribing of Schedule II through V CDS commonly used in the practice of midwifery; and (4) dispensing of the substances prescribed in the course of treating a patient at a specified medical facility or clinic.

Under BON regulations, an applicant for certification as a nurse-midwife must hold a current RN license and complete a program in a clinical nurse specialty area accredited by a national certifying body that is specified or recognized by the board. Certified nurse-midwives are considered independent practitioners.

An applicant for an advance practice certification must (1) be a licensed RN or have a privilege to practice under the Nurse Licensure Compact; (2) complete an education program approved by BON; (3) submit a completed application for each area in which certification is sought; and (4) submit documentation that the applicant has graduated from a graduate-level accredited program for advanced practice registered nursing and of certification as an advanced practice RN by a national certifying body recognized by BON.

Direct-entry Midwife

Direct-entry midwifery refers to an educational path that does not require prior nursing training to enter the profession. “Practice direct-entry midwifery” means providing maternity care that is consistent with a midwife’s training, education, and experience as well as identifying and referring patients who require medical care to an appropriate health care provider. “Practice direct-entry midwifery” includes (1) providing the necessary supervision, care, and advice to a patient during a low-risk pregnancy, labor, delivery, and postpartum period and (2) newborn care that is consistent with national direct-entry midwifery standards and based on the acquisition of clinical skills necessary for the care of pregnant women and newborns, including antepartum, intrapartum, and postpartum care.

The practice of direct-entry midwifery does not include (1) induction or augmentation of labor with pharmaceuticals or artificial rupture of membranes prior to the onset of labor; (2) surgical delivery or any surgery except an emergency episiotomy; (3) use of forceps or vacuum extractor; (4) administration of an anesthetic, other than a local anesthetic; (5) administration of any kind of narcotic pain reliever; or (6) administration of any prescription medication, as specified.

An applicant for licensure as a direct-entry midwife must:

- be age 21 or older and of good moral character;
- be a high school graduate or have completed equivalent education;
- submit to a CHRC;
- be certified to perform cardiopulmonary resuscitation;
- have completed, in the past two years, the American Academy of Pediatrics/American Heart Association neonatal resuscitation program;

- hold a valid Certified Professional Midwife credential granted by the North American Registry of Midwives; and
- have completed a midwifery education program accredited by the Midwifery Education and Accreditation Council or ACME.

State Revenues: The bill specifies that initial and renewal fees for a licensed certified midwife must be set to produce funds to approximate the cost of maintaining the licensing program and the other services provided to licensed certified midwives. However, BON advises that initial and renewal license fees will likely be approximately \$150.

BON estimates that the initial number of licenses issued under the bill will be minimal. Additionally, based on information provided by BON on a previous bill, it will likely take at least nine months to develop regulations for certified midwives, Thus, licenses are not likely issued before fiscal 2023. *For illustrative purposes only*, if 10 individuals seek a certified midwife license under the bill, special fund revenues increase by approximately \$1,500 in fiscal 2023. Special fund revenues increase an additional \$1,500 biennially beginning in fiscal 2025 to account for renewal fees.

Typically, license fee revenues are set to cover the administrative costs incurred by a health occupations board. However, as the number of certified midwives anticipated to seek licensure is low, the Department of Legislative Services (DLS) advises that expenditures incurred by BON to issue certified midwife licenses exceed licensure revenues.

Any impact on special fund revenues from the imposition of existing penalties or fines is anticipated to be minimal.

State Expenditures: Special fund expenditures increase by at least \$20,712 in fiscal 2022, which accounts for the bill’s October 1, 2021 effective date. BON has determined that one regular full-time position is needed to implement this bill. However, DLS advises that the added responsibilities incurred by this legislation are likely not permanent given the small number of anticipated new licensees and the similarities between the practice of certified midwifery and nurse midwifery, and, thus, may be performed by a contractual employee. This estimate reflects the cost of hiring one part-time contractual administrative specialist to develop regulations in fiscal 2022 and process initial certified midwife license applications in fiscal 2023. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

	<u>FY 2022</u>	<u>FY 2023</u>
Contractual Position	0.5	0
Salary and Fringe Benefits	\$15,376	\$18,612
Operating Expenses	<u>5,336</u>	<u>328</u>
Total Board of Nursing Expenditures	\$20,712	\$18,940

Future years reflect elimination of the contractual position at the end of fiscal 2023.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

To the extent that additional individuals wish to obtain licensure as a certified midwife, BON special fund expenditures increase to maintain additional staff to oversee the licensure program. Additionally, once certified midwife licenses are issued, to the extent complaints are received, special fund expenditures may increase further to hire a contractual investigator and an assistant attorney general on a part-time basis to investigate complaints and take disciplinary actions as needed, though these duties may be absorbed by existing resources within BON. Any such cost has not been factored into this estimate.

Additional Comments: Individuals who have received certification by AMCB may be licensed as a certified midwife in [Delaware](#). Additionally, legislation has been introduced in [Virginia](#) to allow certified nurse midwives to practice consistent with the Standards for the Practice of Midwifery set by the American College of Nurse-Midwives.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 684 (Senator Lam) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2021
an/jc Third Reader - March 29, 2021
Revised - Amendment(s) - March 29, 2021
Enrolled - May 5, 2021

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