OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget Office

**H.B. 496**
**134th General Assembly**

# Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Koehler

Elizabeth Molnar, Attorney

CORRECTED VERSION*

## SUMMARY

- Regulates the practice of certified midwives and certified professional midwives, including by requiring such midwives to be licensed by the Ohio Board of Nursing in order to practice in this state.
- Expands the Board of Nursing's existing authority to regulate licensed certified nurse-midwives, including by establishing conditions on their provision of certain midwifery services.
- Authorizes licensed certified midwives and certified professional 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 licensed certified midwife, like a certified nurse-midwife holding a Board-issued license under current law, to practice in collaboration with a physician and to enter into a standard care arrangement with the collaborating physician.
- Creates within the Board of Nursing the Midwifery Advisory Council to advise and make recommendations to the Board regarding the practice and regulation of nurse-midwives and midwives.

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* This version corrects technical errors in the following sections of the analysis: "**Unauthorized practice of midwifery**, **exemptions**"; "**Informed consent**"; "**Adverse incidents**"; and "**Disciplinary actions**."

# DETAILED ANALYSIS

H.B. 496 regulates the practice of certified midwives and certified professional midwives, including by (1) requiring such midwives to be licensed by the Ohio Board of Nursing in order to practice in this state, (2) specifying the activities in which they may engage, and

(3) establishing conditions on the provision of midwifery services.[1] At present, Ohio law does not recognize the practice of certified midwives or certified professional 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.[2]

## Unauthorized practice of midwifery

The bill generally prohibits an individual from knowingly practicing as a certified midwife or certified professional midwife unless the individual holds a current, valid license to do so issued by the Board of Nursing.[3] In the event of a violation, 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.[4] Note that the bill delays the application of this prohibition and its criminal penalties until January 1, 2025.[5] The bill also maintains current law prohibiting an APRN, including a certified nurse-midwife, from knowingly practicing as such without a Board-issued license.[6]

### Exemptions

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

- A physician, physician assistant, registered nurse, licensed practical nurse, or APRN, including a certified nurse-midwife, who is licensed to practice in Ohio;
- 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 engaging in good faith in the practice of the religious tenets of any church or in any religious act;

[1] R.C. Chapter 4723.

[2] R.C. 4723.41.

[3] R.C. 4723.54

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

[5] Section 6.

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

- A member of a Native American community who provides midwifery services without a license to other members of the community.[7]

## License applications and renewals

An individual seeking an initial license to practice as a certified midwife or certified professional midwife must file an application, which includes submitting a $45 fee, with the Board of Nursing in the manner prescribed by the Board.[8] If the Board determines that an applicant meets the eligibility criteria outlined in the bill, the Board must issue the applicant a license.[9] Each license is valid for a two-year period, unless revoked or suspended, and may be renewed on application to the Board, which includes submitting a $20 renewal fee.

### 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;
- 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.[10]

And 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.[11]

#### 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.[12] The bill also requires the course's instruction to include all of the following elements:

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[7] R.C. 4723.54.

[8] R.C. 4723.08 and 4723.55.

[9] R.C. 4723.56.

[10] R.C. 4723.55.

[11] R.C. 4723.56.

[12] R.C. 4723.551.

- 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.

### Certified professional midwives – eligibility criteria

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

- 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 CPR.[13]

In lieu of demonstrating graduation from a MEAC-accredited education program or NARM certification, an applicant may demonstrate the following:

- 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 is certified by NARM and holds a midwifery bridge certificate.

And to be eligible to renew a license to practice as a certified professional midwife, an applicant must demonstrate that he or she has maintained CPR certification and has satisfied NARM's continuing education requirements.[14]

## Permitted and prohibited activities

The bill specifies the activities that a licensed certified midwife or certified professional midwife may perform as well as those that are prohibited.[15] In the case of a certified nurse-midwife, the bill retains the activities that a nurse-midwife may perform under current

[13] R.C. 4723.55.

[14] R.C. 4723.56.

[15] R.C. 4723.57.

law, but also specifies that the nurse-midwife has the authority to attend births in hospitals, homes, medical offices, and freestanding birthing centers.[16]

## Certified midwives

Under the bill, a licensed certified midwife 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 first 28 days of life;
- Providing initial and ongoing comprehensive assessment, diagnosis, and treatment;
- Conducting physical examinations;
- Ordering and interpreting laboratory and diagnostic tests;
- Providing care that includes health promotion, disease prevention, and individualized wellness education and counseling.

But, to engage in the foregoing activities, the licensed 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 licensed certified midwife to prescribe drugs and devices, including schedule II controlled substances.[17] Note that a licensed 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;

[16] R.C. 4723.43.

[17] R.C. 4723.481 and 4723.50.

- The prescription is for an amount that does not exceed the amount necessary for the patient's use in a single, 72-hour period.

But, 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;
- 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 residential care facility.

### *Ohio Automated Rx Reporting System (OARRS)*

Like a certified nurse-midwife under current law, the bill requires a licensed 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.[18] 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.[19]

### *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; naloxone; or glucagon.[20] The bill extends this authority to a certified midwife holding a Board-issued license to practice as a certified midwife.

## Certified professional midwives

Under the bill, a licensed certified professional midwife may engage in all of the following activities:

- Offering care, education, counseling, and support to women and their families during pregnancy, birth, and the postpartum period;
- Attending births in hospitals, homes, medical offices, and freestanding birthing centers;
- Providing ongoing care throughout pregnancy and hands-on care during labor, birth, and the immediate postpartum period;
- Providing maternal and well-baby care 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 physical examinations;
- Ordering and interpreting laboratory and diagnostic tests, including without a physician's order.[21]

### Administering drugs

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

- Antihemorrhagic agents, including tranexamic acid, pitocin, oxytocin, misoprostol, and methergine;

[18] R.C. 4723.487.

[19] R.C. 4723.488.

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

[21] R.C. 4723.57.

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

A licensed certified professional midwife also may obtain, without a physician's order, one or more supplies necessary to administer the foregoing drugs.[22]

### Prohibited activities

The bill prohibits a licensed certified professional 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, perineal, vaginal, or labial repairs, and clamping or cutting the umbilical cord.[23]

The bill also specifies that it does not authorize a licensed certified professional midwife to prescribe, personally furnish, obtain, or administer any controlled substance or a drug or device to perform or induce an abortion.[24]

## Medical records

The bill requires a licensed certified midwife or certified professional 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.

[22] R.C. 4723.57.

[23] R.C. 4723.57.

[24] R.C. 4723.57.

## Collaboration and standard care arrangements

The bill extends to a licensed certified midwife the existing law requiring a licensed 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.[25]

The bill maintains the existing law definition of "collaboration," meaning that one or more physicians with whom the licensed 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 licensed certified midwife.[26]

Like a physician who collaborates with a licensed certified nurse-midwife, the bill requires a physician collaborating with a licensed certified midwife to enter into a standard care arrangement with the midwife.[27]

### Failure to maintain a standard care arrangement

Under the bill, a licensed 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.[28]

## Informed consent

The bill specifically requires a licensed certified nurse-midwife, certified midwife, or certified professional midwife to obtain a patient's informed consent before engaging in any of the activities permitted under current law (nurse-midwife) or the bill (midwife or professional midwife), including attending a home birth or providing care during a high-risk pregnancy.[29]

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;

[25] R.C. 4723.431 and 4723.57.

[26] R.C. 4723.01.

[27] R.C. 4731.27.

[28] R.C. 4723.28 and 4731.22.

[29] R.C. 4723.58.

- 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;
- A description of the midwife's peer review process;
- 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;
- 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 to adopt rules establishing the circumstances in which a licensed certified nurse-midwife, certified midwife, and certified professional midwife are prohibited from attending a home birth, including a high risk pregnancy.[30]

In adopting the rules, the Board 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 a physician or other health care provider and together with the physician or provider determines whether referral is appropriate;

[30] R.C. 4723.581.

- The midwife satisfies any other conditions required in rules adopted by the Board.

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

### 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 certified professional midwife must refer the patient to the physician or other health care provider. If the patient refuses the referral, the certified nurse-midwife, certified midwife, or certified professional 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 licensed certified nurse-midwife, certified midwife, or certified professional 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.[31] 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 and other facilities that are appropriately equipped to provide emergency care, obstetrical care, and newborn care;
- 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 patient information may be rapidly transmitted to each hospital or facility;
- Each hospital's or facility's preferences regarding the registration of a patient prior to transfer as well as the hospital's or facility's procedures for confirming such a transfer;
- 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 or facility's preferred method of accessing care by the hospital's or facility's designated provider on call;
- Any other information required in rules adopted by the Board.

[31] R.C. 4723.582.

When it becomes necessary to transfer a patient, the licensed midwife must notify the receiving provider, hospital, or facility 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 rules adopted by the Board. The midwife must also provide a brief relevant clinical history to the provider, hospital, or facility.

While en route to the hospital or facility, the licensed 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.

On arrival at the hospital or facility, the licensed 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, hospital, or facility;
- Satisfy any other requirement established in Board rules.

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

## Adverse incidents

Beginning July 1, 2023, the bill requires a licensed certified nurse-midwife, certified midwife, and 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 Board of Nursing and the Ohio Perinatal Quality Collaborative within 15 days after the adverse incident occurs.[32] The Board is required to adopt rules governing the reporting of adverse incidents and to develop a form to be used when making reports.

Under the bill, the Board must review each adverse incident report and determine, in consultation with the Midwifery Advisory Council, whether to impose professional discipline on the midwife.

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

[32] R.C. 4723.584.

- 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 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 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 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 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.[33]

## Annual reports

Beginning on the date that is one year after the bill's effective date, the bill requires each licensed certified nurse-midwife, certified midwife, or certified professional midwife to report annually to the Board of Nursing 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;
- The planned delivery setting and actual setting;
- Any other information required by Board rule.

[33] R.C. 4723.583.

The bill also requires the Board 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 licensed certified midwife or certified professional midwife, including on the following grounds:

- Impairment due to substance use or physical or mental disability;
- In the case of a certified midwife, 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 midwifery license, otherwise disciplining a license holder, and imposing a fine of not more than $500 per violation.[34]

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

## Rulemaking authority

The bill requires the Board of Nursing to adopt rules establishing standards and procedures for the licensure and regulation of certified midwives and certified professional midwives, including those establishing license application and renewal procedures.[35] 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, including rules requiring the completion of criminal records checks or addressing licensure by endorsement.

## Midwifery Advisory Council

The bill creates within the Board of Nursing the Midwifery Advisory Council and requires it to advise and make recommendations to the Board regarding the practice and regulation of nurse-midwives and midwives.[36] The Council consists of the following nine members:

[34] R.C. 4723.28.

[35] R.C. 4723.59.

[36] R.C. 4723.60.

- Two certified nurse-midwives or certified midwives, including, if applicable, the certified nurse-midwife or certified midwife appointed to the Board of Nursing;
- Three certified professional midwives, including, if applicable, the certified professional midwife appointed to the Board;
- 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 physician with experience providing care to families, mothers, and infants and 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 certified midwife and certified professional midwife members, the bill requires each of them to obtain licensure as a certified midwife or certified professional midwife not later than January 1, 2025.

## Appointments, vacancies, and organization

The Board 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 Board does not receive any nominations or receives an insufficient number of nominations, it must appoint members and fill vacancies on its own advice.

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 Board 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. Five 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 Board is responsible for Council expenses.

### Board duties

The bill requires the Board to consider the Council's advice and recommendations when adopting any rules governing the practice of nurse-midwifery or midwifery, including rules to address the following:

- Circumstances in which attending a home birth is prohibited;
- Limitations on providing care during a high-risk pregnancy;
- Adverse incident reporting and annual reporting;
- Obtaining informed consent;
- Creating an individualized transfer of care;
- Satisfying continuing education requirements.

## Board membership

The bill increases to 15 (from 13) the number of members of the Board of Nursing. Of the 15 members, two must be a certified nurse-midwife, certified midwife, or certified professional midwife, with one practicing in an urban setting and the other in a rural setting.[37]

## Conforming changes

Because the bill charges the Board of Nursing with licensing and regulating certified midwives and certified professional midwives, it makes conforming changes to the laws governing the Board and its existing regulation of other health professionals.[38]

# HISTORY

| Action | Date |
|---|---|
| Introduced | 11-29-21 |

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[37] R.C. 4723.02.

[38] 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).