

REPRINT

**REPORT OF THE VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS**

**Report on Midwifery
Licensing Entity
(Chapter 201, 2021 SSI)**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 12

**COMMONWEALTH OF VIRGINIA
RICHMOND
2021**



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

Department of Health Professions

Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367- 4400
FAX (804) 527- 4475

TO: The Honorable Ralph S. Northam
Governor of Virginia

Members of the Senate of Virginia
c/o The Honorable Susan Clarke Schaar

Members of the House of Delegates
c/o The Honorable Suzette Denslow

FROM: David E. Brown, D.C. *David Brown (D.E.B.)*
Director, Department of Health Professions

DATE: October 29, 2021

RE: **Report on the licensure and regulation of midwives in Virginia**

Attached is the report of the work group convened to study the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals. The report is prepared pursuant to an enactment clause in Chapter 200 of the 2021 Acts of the Assembly.

Should you have questions about this report, please feel free to contact me at david.brown@dhp.virginia.gov or (804) 367-4450.

**REPORT ON
MIDWIFERY LICENSING ENTITY:
HB1953**

NOVEMBER 8, 2021

VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

9960 MAYLAND DRIVE, SUITE 300
HENRICO, VIRGINIA 23233-1463
(804) 367-4400
WWW.DHP.VIRGINIA.GOV

Table of Contents

I.	Executive Summary.....	1
II.	Background	2
	A. Current Regulation of Midwives in Virginia	2
	1. Certified Nurse Midwife.....	2
	2. Licensed Midwife	2
	3. Certified Midwife	3
	B. Regulation of Midwives in Other States	3
III.	Potential Regulatory Structures.....	4
IV.	Workgroup Discussion and Findings.....	4
V.	Conclusion.....	5

I. Executive Summary

In the 2021 Special Session I of the Virginia General Assembly, HB 1953, patroned by Delegate Gooditis, established a new category of midwife, (Licensed Certified Midwife), and contained the following enactment clause:

That the Department of Health Professions (the Department) shall convene a work group to study the licensure and regulation of certified nurse midwives, certified midwives, and certified professional midwives to determine the appropriate licensing entity for such professionals. The Department shall report its findings and conclusions to the Governor and the General Assembly by November 1, 2021.

The midwifery workgroup met on September 8, 2021 and September 27, 2021 with the following representatives:

Certified Midwife

Karen Kelly
Elle Schnetzler

Certified Nurse Midwife

Katie Page
Kwuan Paruchabutr

Licensed Midwife (Certified Professional Midwife)

Becky Banks
Tammi McKinley

Office of the Secretary of Health

Vanessa Walker Harris

Board of Nursing

Jay Douglas

Board of Medicine

William Harp

Professional Midwifery Associations

Becky Bowers-Lanier
Julianne Condrey

Department of Health Professions

Barbara Allison-Bryan
David Brown

II. Background

A. Current Regulation of Midwives in Virginia.

The Code of Virginia authorizes three types of midwives in Virginia.

1. Certified Nurse Midwife:

There are approximately 400 certified nurse midwives (CNM) licensed in Virginia. These midwives are licensed as nurse practitioners in the category of certified nurse midwives, are eligible for prescriptive authority, and must pass the national certification examination administered by the [American Midwifery Certification Board](#), and practice in accordance with the Standards for the Practice of Midwifery defined by the American College of Nurse-Midwives. They must also hold a current, active Registered Nurse license. As a result of 2021 legislation (HB 1817) CNMs are able to practice autonomously after 1000 hours in a consultation agreement.

CNMs are regulated by the Committee of the Joint Boards of Medicine and Nursing. The Joint Boards consist of three members of the Board of Medicine and three members from the Board of Nursing, and regulate all categories of licensed nurse practitioners. There is no prescribed seat on the Joint Boards for a CNM, although currently a CNM is a member of the Advisory Committee to the Joint Boards. Fees are paid to the Board of Nursing, which administers activities of the Joint Boards. Relicensure fees for CNMs are \$80 for two years (a CNM must also maintain their RN license, which has a biennial renewal fee of \$140).

2. Licensed Midwife¹:

There are approximately 100 licensed midwives (LM) in Virginia. Also known as Certified Professional Midwives (CPM), LMs hold a certification from the North American Registry of Midwives (NARM) as a CPM. They must pass the NARM certification exam, cannot possess, administer or prescribe medications, but are able to practice autonomously. There are a number of educational paths for LMs, including apprenticeship, graduation from a Midwifery Education Accreditation Council program, certification as a CNM or Certified Midwife, or legal recognition in another jurisdiction.

¹ For the purpose of this report, midwives holding the Certified Professional Midwife certification will be referred as they are titled in the Virginia Code, Licensed Midwife.

LMs are regulated through the Advisory Board of Midwifery to the Board of Medicine (BOM). This advisory board is composed of three LMs, one physician or CNM, and one citizen member. It assists the BOM in both the regulatory process and the disciplinary process, with the decisions made by the BOM. The biennial relicensure fee for LMs is \$312.

3. Certified Midwife:

2021 legislation ([HB1953](#)) created a new category of licensure for midwives, the certified midwife (CM). CMs receive the same midwifery training as a CNM, and also must pass the American Midwifery Certification Board Exam. CMs are eligible for prescriptive authority, but must practice under a practice agreement. Like CNMs, they currently are regulated by the Committee of the Joint Boards of Medicine and Nursing, and regulations are in the process of being promulgated. Licensure fees are yet to be established.

B. Regulation of Midwives in Other States.

Certified Nurse Midwives are regulated in all 50 states and the District of Columbia. As an advanced practice registered nurse (APRN), in 44 jurisdictions they are regulated by the Board of Nursing. In the other seven states they are regulated within the Department of Health (New Mexico, Connecticut, Washington), by a Midwifery Board or Council (New York, Rhode Island), by Boards of Medicine (New Jersey, Pennsylvania), and Joint Committees of Medicine and Nursing (North Carolina, Virginia).

Licensed Midwives² are regulated in 34 states. In nine states they are regulated by the same body as Certified Nurse Midwives, in five states by a separate Board or Council, and in other states by Boards of Medicine, Departments of Health, or other state entities.

Certified Midwives are regulated in nine states. In five states, including Virginia, CMs are regulated by the same entity as CNMs, and in the other four states are regulated by Boards of Medicine, Departments of Health or other state entities.

All of Virginia's border states and the District of Columbia regulate Certified Nurse Midwives through the Board of Nursing. Licensed Midwives are regulated by the Board of Nursing in Kentucky and Maryland; by the Board of Medicine in DC; and by the Department of Health in Tennessee. Licensed Midwives are not recognized in North Carolina or West Virginia. Certified Midwives are licensed in Maryland, and are now licensed in D.C.

² Licensed Midwives (those holding the CPM certification) are variously titled in other states as Licensed Midwives, Direct Entry Midwives, Lay Midwives, Traditional Midwives and Certified Professional Midwives.

III. Potential Regulatory Structures

The Department presented the following policy options for the workgroup at the September 8th meeting:

1. Maintain the status quo, with LMs an advisory board to the Board of Medicine, and the CNMs and the CMs regulated by the Committee of the Joint Boards of Medicine and Nursing.
2. Consolidate of all three types of midwives into a single advisory board (under the Board of Medicine, Nursing, or the Joint Boards).
3. Establish a separate Board of Midwifery to regulate all three types of Midwives.

In addition, one of the CNM members, Katie Page, offered another structure:

4. Establish an advisory board on Midwifery to the Board of Nursing, including all three types of midwives, and add a CNM, LM and CM to the Board of Nursing.

At the September 27th meeting, another option was proposed:

5. Keep the LMs as an advisory board to the Board of Medicine, and establish an advisory board of midwifery to the Board of Nursing to regulate CNMs and CMs.

IV. Workgroup Discussion and Findings

This workgroup was focused on the charge from HB 1953, “...to determine the appropriate licensing entity for such professionals”, so did not discuss in detail other issues, such as prescriptive authority or scope of practice.

The status quo option (option 1) was seen as advantageous to the LMs, since they practice autonomously, are part of an advisory board which can discuss issues and make recommendations to the Board of Medicine, and participate (with a vote) in disciplinary cases. It also does not require legislative action. It was noted that the relicensure fee for LMs is higher than for other advisory boards, which was set higher in anticipation of relatively high disciplinary complaints³. The status quo option for CNMs and CM does not ensure representation on the Joint Boards, does not provide an advisory structure to discuss issues and make recommendations, and does not have formal representation in the disciplinary process⁴

There was significant interest from all of the midwifery groups in a separate board of midwifery (option 2), but this option could bring high licensure costs to support a board at DHP with so few licensees. Currently the Board of Optometry, DHP’s smallest board with approximately 2000 licensees, has an annual renewal fee of \$200⁵.

³ The rate of complaints filed against LMs is significantly higher than the rate for other professions regulated as an advisory board (from DHP biennial report, 2019-20).

⁴ A CNM expert may be utilized in disciplinary cases involving CNMs.

⁵ Fees referenced on page 2 are for two years.

All of the costs of operating a board (salaries, IT, investigations, hearings, etc.) must be covered by licensure fees. A Board of Midwifery, at this time, would have fewer than 600 licensees to cover the costs of operating a Board, so would likely have a higher annual relicensure fee than optometry. While licensure fees for free-standing midwifery boards throughout the country were presented, members of the workgroup expressed frustration that a more detailed estimate of costs for a midwifery board within DHP was not available.

Consolidation of all three midwifery professions into a single advisory board (option 3) was supported by CNMs and CMs, since it would give them the ability to have an advisory structure from which to discuss issues and make recommendations, and would have a direct role in the disciplinary process. LMs, on the other hand, were not interested in being part of a single board, because they feel the status quo works well for them, and because of concerns about possible changes to their autonomy that might occur during the legislative process.

Establishing an advisory board of Midwifery to the Board of Nursing and adding three midwife seats to the Board of Nursing (option 4) was not supported by DHP representatives. DHP's regulatory model is that a profession is either represented on a board (such as chiropractors and podiatrists on the Board of Medicine) or a profession may be represented through an advisory board (such as the Advisory Board of Massage Therapy to the Board of Nursing, and the Advisory Board of Midwifery to the Board of Medicine; there are 14 advisory boards at DHP). If the 600 midwives were to have an advisory board and three seats on the Board of Nursing, it would seem likely that the 8000 massage therapists would also want seats on the Board, which is already the second largest board at DHP with 14 members. In addition, other advisory boards at DHP might feel entitled to representation on the respective full board.

Establishing an advisory board of midwifery to the Board of Nursing for CNMs and CMs while keeping LMs as an advisory board to the Board of Medicine (option 5) was supported by all three categories of midwives. It has the advantage of option 3 for the CNMs and CMs, and the advantages of option 1 for the LMs.

V. Conclusion

All three types of midwives in Virginia support establishing an advisory board of midwifery to the Board of Nursing for CNMs and CMs while keeping LMs as an advisory board to the Board of Medicine, and are interested in an independent board of midwifery if the licensure fees are reasonable.

