

RULES AND REGULATIONS

FOR

LICENSING OF MIDWIVES

(R23-13-MID)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

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with the provisions of section 42-35-
4.1 of the Rhode Island General Laws,
as amended)

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INTRODUCTION

These rules and regulations are promulgated pursuant to the authority conferred under sections 23-13-9 and 23-1-1 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting requirements pertaining to the composition of the Advisory Council on Midwifery, prescription privileges for certified nurse-midwives, consistent with statutory provisions, and for the purpose of adopting prevailing standards for the practice of midwifery in Rhode Island.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, the following were given consideration in arriving at the proposed amendments: (1) alternative approaches to the amendments; and (2) duplication or overlap with other state regulations.

These amended rules and regulations shall supersede all previous rules and regulations for licensing midwives promulgated by the Rhode Island Department of Health and filed with the Secretary of State.

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Section 1.0 *Definitions*

Wherever used in these regulations, the following terms shall be construed as follows:

- 1.1 **"Approved educational program in midwifery"** means an academic and practical program of midwifery approved by the American College of Nurse-Midwives.
- 1.2 **"Council"** means the Advisory Council on Midwifery as established by the rules and regulations herein.
- 1.3 **"Department"** means the Rhode Island Department of Health.
- 1.4 **"Director"** means the Director of the Rhode Island Department of Health.
- 1.5 **"General supervision"** of a newly-graduated midwife, pursuant to section 7.4 herein, means that a licensed midwife, an obstetrician/gynecologist, or a family practice physician is readily available for consultation.
- 1.6 **"Midwife"** means a person who has successfully completed an approved educational program in midwifery, holds a current certification as a midwife or nurse-midwife by the American College of Nurse-Midwives, and is licensed to practice midwifery in Rhode Island.
- 1.7 **"Midwifery"** means the independent management of cases of normal childbirth, including prenatal, intrapartum, postpartum, and normal newborn care, and well woman care including the management of common health problems.
- 1.8 **"Nurse-midwife"** means a person who has successfully completed an approved educational program in midwifery, holds a current certification as a nurse-midwife by the American College of Nurse-Midwives (ACNM), and is licensed to practice midwifery in Rhode Island.
- 1.9 **"Physician"** means an individual licensed under the provisions of Chapter 5-37 of the General Laws of Rhode Island, as amended, to practice medicine with current obstetrical privileges in a licensed hospital.
- 1.10 **"Regionally accredited"** means the official guarantee that a college or university or other educational institution is in conformity with the standards of education prescribed by a regional accrediting commission recognized by the U.S. Commissioner of Education.

Section 2.0 *License Requirements*

- 2.1 Any person practicing or offering to practice midwifery shall be required to submit evidence that such person is qualified to practice and shall be licensed as herein provided, in order to safeguard the life and health of the people.
- 2.2 It shall be unlawful for any person to practice or to offer to practice midwifery in this state or to use any title, abbreviation, sign, card or device to indicate that such a person is practicing

midwifery unless such person has been duly licensed as a midwife in accordance with section 23-13-9 of the General Laws of Rhode Island, as amended, and the rules and regulations herein.

Section 3.0 *Advisory Council on Midwifery*

- 3.1 Within the Department, the Director shall establish an Advisory Council on Midwifery that shall meet at least once a year, and consist of seven (7) members: two (2) physicians; three (3) midwives and two (2) consumers.
- 3.2 No member shall be appointed for more than two (2) consecutive full terms. A member appointed for less than a full term (originally, or to fill a vacancy) may serve two (2) full terms in addition to that part of a full term, and a former member shall again be eligible for appointment after a lapse of one (1) or more years. A full term shall be equal to three (3) years.
- 3.3 Successors to members of the Council whose term expires shall be appointed in such year by the Director to hold office for three (3) years or until their respective successors are appointed.
- 3.4 The Director may remove any member of the Council for neglect of duty or incompetency and may fill vacancies that occur for any purpose for the remainder of the unexpired term.

Section 4.0 *Functions of Advisory Council*

- 4.1 The Council shall serve in an advisory capacity to the Director in matters pertaining to the licensing of midwives and the practice of midwifery. The Council shall advise the Director on such matters as policies affecting examination, qualifications, issuance and renewal, denial or revocation of licenses, and the development of rules and regulations.

Section 5.0 *Administration*

- 5.1 The Department shall be responsible for the administrative functions required to implement the provisions of section 23-13-9 of the General Laws of Rhode Island, as amended, and the rules and regulations herein including such duties as: maintaining a register of all licensed midwives; maintaining all records pertaining to the licensing of midwives; approving certification examinations; reviewing American Midwifery Certification Board (AMCB) examination results, as needed; staffing the Council; and discharging such other duties as may be warranted.

Section 6.0 *Qualifications of Midwives*

- 6.1 An applicant for a license to practice midwifery in Rhode Island shall have successfully completed an approved educational program in midwifery that is accredited by the American College of Nurse-Midwives.

The Director shall require submission of such information as may be deemed necessary to evaluate the nature and scope of the applicant's academic and clinical preparation in

accordance with the requirements herein. Such information may include but not be limited to:

- a) transcripts of academic courses or other documented evidence of successful completion of an approved educational program in midwifery;
- b) documentation of successful completion of a written examination in accordance with the requirements of section 7.1 herein;
- c) payment of required fee as stipulated in section 7.2.1, 7.3, or 7.4 herein.

Section 7.0 *Licensing of Midwives--By Examination*

7.1 Applicants for a license to practice midwifery in Rhode Island shall have successfully completed an approved educational program in midwifery that is accredited by the American College of Nurse-Midwives.

Further, applicants shall be required to pass an examination that is administered by the American Midwifery Certification Board (AMCB) in order to test the qualifications of the applicant pursuant to the statutory and regulatory requirements herein.

7.2 *By Endorsement:*

If an applicant was licensed by examination in another state or territory, she/he may be issued a license to practice midwifery in Rhode Island, if, in the opinion of the Council, she/he meets the licensure qualifications in place in Rhode Island at the time of licensure in the other state or territory.

7.2.1 An applicant who submits an application along with the non-refundable, non-returnable application fee of ninety-three dollars and seventy-five cents (\$93.75) provides acceptable evidence of being currently licensed by an examination or endorsement under the laws of other states of the United States or the District of Columbia and presents evidence of meeting the requirements of section 7.2 (above) shall be provided with a dated receipt to work which shall be valid for ninety (90) days. Provided, however, the applicant shall be duly licensed in this state within ninety (90) days from the dated receipt to work issued by the Department. This interim work privilege shall not be extended or renewed beyond ninety (90) days.

7.3 *Foreign Trained Midwives:*

All midwives prepared in a midwifery program outside the United States of America shall submit evidence of having graduated from a midwifery program along with the non-refundable, non-returnable application fee of ninety-three dollars and seventy-five cents (\$93.75) and of holding a license in midwifery from a given foreign country and in addition shall be required to successfully complete the examination administered by the American Midwifery Certification Board (AMCB).

7.4 *New Graduate Midwives:*

Upon submission to the Department of a complete application form along with the non-refundable, non-returnable application fee of ninety-three dollars and seventy-five cents (\$93.75), including supporting documents of credentials for licensure and verification of registration to sit for a certification examination that is in accordance with the requirements of the American Midwifery Certification Board (AMCB), a new graduate of an approved educational program in midwifery shall receive a receipt to work that shall be valid for a period of ninety (90) days from the date of issuance or until examination results are reported.

This privilege to work 90 days shall not be extended or renewed. If the applicant fails the examination, all privileges to practice shall cease.

7.4.1 During this 90-day period, a new graduate midwife shall function under the general supervision of a midwife licensed in this state. If a licensed midwife is not present in the practice setting, a family practice physician or an obstetrician/gynecologist may provide this supervision. All health care records shall require the supervisor's co-signature.

7.4.2 The midwife shall have the results of the certification examination sent directly from the AMCB to the Advisory Council.

Section 8.0 *Renewal of License*

8.1 On or before the first day of August of every odd-numbered year, the Department shall mail an application for renewal of license to every midwife to whom a license has been issued or renewed for the period ending 1 September. Every person so licensed who intends to engage in the practice of midwifery during each ensuing two (2) years shall apply for a license by application to the Department.

8.1.1 Such renewal application shall include an attestation statement of fifty (50) hours of continuing education in a six (6) year period, including twenty (20) hours in pharmacology.

8.2 Upon receipt of the application, the non-refundable, non-returnable renewal fee of eighty-seven dollars and fifty cents (\$87.50) and the accompanying attestation of continuing education and continued national certification required herein, the accuracy of the application shall be verified and the Director may grant a license renewal effective 1 September and expiring the thirty-first day of August in the odd-numbered year following the issuance of such license and shall render the holder to be a legal practitioner of midwifery for the period stated on the license renewal unless sooner revoked or suspended.

8.3 Any licensee who allows his or her license to lapse by failing to renew the license by the appropriate date may be reinstated upon submission of an application and the non-refundable, non-returnable renewal fee of eighty-seven dollars and fifty cents (\$87.50) along with the accompanying data as required herein and as approved by the Director.

- 8.4 Any person practicing midwifery after lapse of licensure shall be considered an illegal practitioner and subject to the penalties of the provisions of section 23-13-9 of the General Laws of Rhode Island, as amended.

Section 9.0 *Practice of Midwifery*

- 9.1 The license to practice midwifery authorizes the holder to practice the independent management of cases of normal childbirth, including prenatal, intrapartum, postpartum, and normal newborn care, and well woman care including the management of common health problems that provides for consultation, collaborative management, or referral as indicated by the health status of the client in accordance with standards established by the American College of Nurse-Midwives of reference 4 herein.
- 9.2 Licensed midwives shall conform to all state laws pertaining to the conduct of childbirth and management of the newborn, including, but not limited to, the provisions of: section 23-13-4, "Ophthalmia Neonatorum"; 23-13-12, "Phenylketonuria"; 23-13-19, "HIV"; 23-13-13 "Testing for Hearing Impairments"; 23-13-14 "Newborn Screening"; and 23-3-10, "Birth Registration" of the General Laws of Rhode Island, as amended.
- 9.3 There shall be guidelines available at the practice site describing the practice of the licensed midwife. These guidelines shall include provisions for the prescription of controlled substances by licensed nurse-midwives cited in section 10.2 herein.

Section 10.0 *Prescription Privileges of Licensed Nurse-Midwives*

- 10.1 Pursuant to the provisions of section 23-13-9 of the General Laws of Rhode Island, as amended, a licensed nurse-midwife is permitted to prescribe all legend medications and those controlled substances cited in section 10.2 herein.
- 10.1.1 The licensed nurse-midwife shall prescribe any medication(s) referenced in section 10.1 in accordance with the guidelines available at the practice site.
- 10.2 Licensed nurse-midwives may apply for authorization to prescribe drugs classified under Chapter 21-28 as controlled substances in schedules II, III, IV, and V only.

In order to prescribe such drugs, a licensed nurse-midwife must:

- 10.2.1 Obtain a state registration for prescribing controlled substances by completing the application for registration, and submitting it with its specified filing fee to:
- Rhode Island Department of Health, Pharmacy Unit
Three Capitol Hill, Room 205
Providence, RI 02908-5097
- 10.2.2 Obtain a federal registration for controlled substances by completing application form DEA-224, or its successor form, and submitting it with its specified filing fee.

- 10.3 The Director will determine whether issuance of a registration is consistent with the public interest, and may refuse registration where the issuance of said registration would be inconsistent with the public interest, according to the provisions of Chapter 21-28 of the General Laws.

Section 11.0 *Records and Reports*

- 11.1 A medical record for each mother and newborn shall be maintained and shall include documentation of all care rendered.
- 11.2 All medical records shall be retained for a period of five (5) years in accordance with the provisions of section 23-3-26 of the General Laws of Rhode Island, as amended, except in the case of minors (17 years of age or under) which medical records shall be kept at least five (5) years after such minor has reached the age of eighteen (18) years.

Section 12.0 *Discipline of Licensees*

- 12.1 The Director is authorized to deny or revoke any license to practice midwifery or otherwise discipline a licensee upon proof that the person is guilty of unprofessional conduct which shall include, but not be limited to:
- (a) fraudulent or deceptive procuring or use of a license;
 - (b) all advertising of midwifery business which is intended or has a tendency to deceive the public;
 - (c) conviction of a crime involving moral turpitude; conviction of a felony; conviction of a crime arising out of the practice of midwifery;
 - (d) abandonment of patient;
 - (e) dependence upon controlled substances, habitual drunkenness or rendering professional services to a patient while the midwife is intoxicated or incapacitated by the use of drugs;
 - (f) promotion by the sale of drugs, devices, appliances, or goods or services provided for a patient in such a manner as to exploit the patient for the financial gain of the midwife;
 - (g) immoral conduct of a midwife in the practice of midwifery;
 - (h) willfully making and filing false reports or records in the practice of midwifery;
 - (i) willful omission to file or record, or willfully impeding or obstructing a filing or recording, or inducing another person to omit to file or record medical or other reports as required by law;

- (j) solicitation of professional patronage by agents or persons or profiting from acts of those representing themselves to be agents of the midwife;
- (k) division of fees or agreeing to split or divide the fees received for professional services for any person for bringing to or referring a patient;
- (l) willful misrepresentation in treatments;
- (m) practicing midwifery with an unlicensed midwife or aiding or abetting such unlicensed persons in the practice of midwifery;
- (n) gross and willful overcharging for services; including filing of false statements for collection of fees for which services are not rendered or willfully making or assisting in making a false claim or deceptive claim or misrepresenting a material fact for use in determining rights to health care or other benefits;
- (o) professional or mental incompetency;
- (p) incompetent, negligent or other willful misconduct in the practice of midwifery, which shall include the rendering of medically unnecessary services and/or any departure from or the failure to conform to the minimal standards of acceptable and prevailing midwifery practice. The Director need not establish actual injury to the patient in order to adjudge a midwife guilty of the named conduct;
- (q) surrender, revocation, suspension, limitation of privilege based on quality of care provided or any other disciplinary action against a license or authorization to practice midwifery in another state or jurisdiction, or surrender, revocation, suspension or any other disciplinary action relating to a membership on any medical staff or in any medical or professional association or society while under disciplinary investigation by and of those authorities or bodies for acts or conduct similar to acts or conduct which would constitute grounds for action as set forth in Chapter 21-28 of the General Laws and these rules and regulations;
- (r) failure to furnish the Director, his/her investigator or representatives, information legally requested;
- (s) violation of any provision(s) of Chapter 23-13 of the General Laws or any rules or regulations promulgated by the Director or of an action, stipulation or agreement of the Director;
- (t) cheating on or attempting to subvert the licensing examination;
- (u) violating any state or federal law or regulation relating to controlled substances;
- (v) malpractice.

- 12.1.1 If national certification is withdrawn for reason during licensure, current license would be automatically placed in license hold status after notice to the licensee and not renewed until national certification is reinstated.
- 12.1.2 Complaints charging a person with violation of any rule herein or state law, shall be maintained on file by the Department and shall be considered in rendering determination to deny or revoke the license of a midwife.
- 12.2 Upon receipt of a complaint charging a person with violations of the provisions of section 23-13-9 of the General Laws of Rhode Island, as amended and the rules and regulations herein, an investigation of the charges shall be initiated by the Department or the Director, thence referred to the Council for recommendation to the Director for appropriate action.
- 12.3 Whenever an action shall be proposed to deny or revoke the license, the Department shall notify the person by certified mail setting forth the reasons for the proposed action and the applicant or licensee shall be given an opportunity for a prompt and fair hearing in accordance with the provisions of Chapter 42-35 of the General Laws of Rhode Island, as amended, and the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*.
- 12.4 Furthermore, when it appears to the Director after due process that a person is violating any provisions of section 23-13-9 of the General Laws of Rhode Island, as amended, or any of the rules and regulations herein, the Director may initiate an action in accordance with the provisions of such statute.

Section 13.0 *Severability*

- 13.1 If any provision of these rules and regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.

REFERENCES

1. *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*, Rhode Island Department of Health, April 2004 and subsequent amendments thereto. Available online:
http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/DOH_2945.pdf
2. *Rules and Regulations for the Licensing of Professional (Registered), Certified Registered Nurse Practitioners, Certified Registered Nurse Anesthetists and Practical Nurses and Standards for the Approval of Basic Nursing Education Programs*, Rhode Island Department of Health, December 2004 and subsequent amendments thereto.
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4. *Standards for the Practice of Midwifery*, American College of Nurse-Midwives, 2003.
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7. *Joint Statement of Practice Relations Between Obstetrician-Gynecologists and Certified Nurse-Midwives/Certified Midwives*, American College of Nurse-Midwives, 2002.
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http://www.midwife.org/siteFiles/position/Requirements_for_Signed_Collaborative_Agreements_4.06.pdf?CFID=2207001&CFIDTOKEN=26489644