

# RULES AND REGULATIONS FOR LICENSING OF MIDWIVES

[R23-13-MID]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

March 1978

***As Amended:***

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the provisions of §42-35-4.1 of the Rhode  
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***INTRODUCTION***

These amended *Rules and Regulations for Licensing of Midwives* [R23-13-MID] are promulgated pursuant to the authority conferred under RIGL §23-13-9 and §23-1-1, 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 RIGL §42-35-3(a)(3) and §42-35.1-4, consideration was given to: (1) alternative approaches to the regulations; (2) duplication or overlap with other state regulation; and (3) significant economic impact on small business. Based on the available information, no known alternative approach, duplication or overlap was identified.

Upon promulgation of these amendments, these amended regulations shall supersede all previous *Rules and Regulations for Licensing of Midwives* promulgated by the Rhode Island Department of Health and filed with the Secretary of State.

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## PRELIMINARY PUBLIC HEARING DRAFT - REVISED 27 MARCH 2014

### Section 1.0 *Definitions*

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

- 1.1 *"Act"* means RIGL §23-13-9 entitled, "Licensing and Regulation of Midwives – Penalty for Violations".
- 1.2 *"Accredited educational program in midwifery"* means an academic and practical program of midwifery accredited by the Accreditation Commission for Midwifery Education (ACME) or the Midwifery Education Accreditation Council (MEAC).
- 1.3 *"Certified Midwife (CM)"* means a person who has successfully completed an accredited educational program in midwifery, holds a current certification as a midwife by the American Midwifery Certification Board (AMCB), and is licensed to practice midwifery in Rhode Island
- 1.4 *"Certified Nurse-Midwife (CNM)"* means a person who has successfully completed an accredited educational program in midwifery, holds a current certification as a nurse-midwife by the American Midwifery Certification Board (AMCB), and is licensed to practice midwifery in Rhode Island.
- 1.5 *"Certified Professional Midwife (CPM)"* means a person who has successfully completed an accredited educational program in midwifery, holds a current certification as a certified professional midwife by the North American Registry of Midwives (NARM), and is licensed to practice midwifery in Rhode Island.
- 1.6 *"Council"* means the Advisory Council on Midwifery as established by these Regulations.
- 1.7 *"Department"* means the Rhode Island Department of Health.
- 1.8 *"Director"* means the Director of the Rhode Island Department of Health.
- 1.9 *"General supervision"* of a newly-graduated midwife, pursuant to §7.4 of these Regulations, means that a licensed midwife, an obstetrician/gynecologist, or a family practice physician is readily available for consultation.
- 1.10 *"Midwife"* means a person who has successfully completed an accredited educational program in midwifery, holds a current certification as a certified nurse-midwife (CNM), certified midwife (CM), or certified professional midwife (CPM), and is licensed to practice midwifery in Rhode Island. [See §§ 1.3, 1.4 & 1.5]
- 1.11 *"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.
- 1.12 *"Physician"* means an individual licensed under the provisions of RIGL Chapter 5-37 to practice medicine with current obstetrical privileges in a licensed hospital.

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- 1.13 **"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.
- 1.14 **"RIGL"** means the General Laws of Rhode Island, as amended.
- 1.15 **"These Regulations"** means mean all parts of the Rhode Island *Rules and Regulations for Licensing of Midwives* [R23-13-MID].

**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 provided in these Regulations, 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 Rhode Island 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 the Act and these Regulations.

**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 qualifications, issuance and renewal, denial or revocation of licenses, and the development of rules and regulations.

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### Section 5.0 *Administration*

5.1 The Department shall be responsible for the administrative functions required to implement the provisions of the Act and these Regulations including such duties as: maintaining a register of all licensed midwives; maintaining all records pertaining to the licensing of midwives; 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 accredited educational program in midwifery and has evidence of certification.. 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 of these Regulations. 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 §7.1 of these Regulations;
- (c) Payment of required fee as stipulated in §7.2.1 and §7.3 of these Regulations.

### Section 7.0 *Licensing of Midwives*

7.1 **By Education and Examination:** Applicants for a license to practice midwifery in Rhode Island shall have successfully completed an accredited educational program in midwifery that is accredited by the Accreditation Commission for Midwifery Education (ACME) or the Midwifery Education Accreditation Council (MEAC), Further, applicants shall be required to pass an examination that is administered by the American Midwifery Certification Board (AMCB) or the North American Registry of Midwives (NARM).

7.2 **By Endorsement:** If an applicant was licensed as a midwife 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 as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*, provides acceptable evidence of being currently licensed under the laws of other states of the United States or the District of Columbia and presents evidence of meeting the requirements of §7.1 of these Regulations 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 Rhode Island 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.

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- 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 meeting the standard set by the International Confederation of Midwifery (ICM), along with the non-refundable, non-returnable application fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*, and of holding a license in midwifery from the given foreign country. In addition, the applicant shall be required to successfully complete the examination administered by the American Midwifery Certification Board (AMCB) or, if a CPM, attend a Midwifery Education Accreditation Council (MEAC) accredited school and successfully complete the examination administered by the North American Registry of Midwifery (NARM).

### Section 8.0 **Renewal of License**

- 8.1 On or before the first (1<sup>st</sup>) day of August of every odd-numbered year, the Department shall mail a renewal of license notice 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.
- 8.2 Upon receipt of the application, the non-refundable, non-returnable renewal fee as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*, and the accompanying attestation of continuing education and continued national certification required by these Regulations, the accuracy of the application shall be verified and the Director may grant a license renewal effective 1 September and expiring the thirty-first (31<sup>st</sup>) 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 as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*, along with the accompanying data as required by these Regulations 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 the Act.

### **Continuing Education Requirements**

- 8.5 An application for renewal shall include an attestation statement of twenty (20) hours of continuing education in a two (2) year period, including four (4) hours in pharmacology.
- 8.6 It shall be the sole responsibility of the midwife to obtain documentation (e.g., course descriptions, proof of attendance) from the sponsoring organization, agency, or institution of

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his/her participation in a continuing education program and/or activity. These documents shall be retained by each licensee for no less than two (2) years and are subject to random audit by the Department.

- 8.7 A licensee who fails to complete the continuing education requirements described in these Regulations may be subject to disciplinary action pursuant to §12.1 of these Regulations.
- 8.8 A license may be denied to any applicant who fails to provide satisfactory evidence of completion of continuing education relevant to the practice of a midwife as required by these Regulations.
- 8.9 A midwife initially licensed by examination after the August 31<sup>st</sup> renewal date shall be exempt from the continuing education requirements stated in these Regulations until the date of the next renewal cycle (i.e., September 1<sup>st</sup> of the next odd-numbered year).
- 8.10 An extension of time to complete the continuing education requirements may be granted to a midwife solely at the discretion of the Council for reasons of hardship or other extenuating circumstances.

### 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 and the National Association of Certified Professional Midwives referenced in these Regulations.
- 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: RIGL §23-13-4, "Ophthalmia Neonatorum"; RIGL §23-13-12, "Phenylketonuria"; RIGL §23-13-19, "HIV"; RIGL §23-13-13 "Testing for Hearing Impairments"; RIGL §23-13-14 "Newborn Screening"; and RIGL §23-3-10, "Birth Registration".

### Section 10.0 *Prescription Privileges of Licensed Nurse-Midwives*

- 10.1 Pursuant to the provisions of the Act, a licensed nurse-midwife is permitted to prescribe all legend medications and those controlled substances cited in §10.2 of these Regulations.
  - 10.1.1 The licensed nurse-midwife shall prescribe any medication(s) referenced in §10.1 of these Regulations in accordance with the guidelines available at the practice site.
- 10.2 Licensed nurse-midwives may apply for authorization to prescribe drugs classified under RIGL 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 as set forth

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in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health* 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 as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*.
- 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 RIGL Chapter 21-28.
- 10.4 A certified professional midwife (CPM) shall not have the ability for prescriptive authority but may carry emergency medications essential to carry for a safe out-of-hospital birth. These are to include:
- Intravenous solution and equipment
  - misoprostol
  - oxygen
  - pitocin
  - Vitamin K
  - Erythromycin ophthalmic ointment
  - Methergine
  - Lidocaine
  - Epi-Pen (adult)

### 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 RIGL §23-3-26 except in the case of minors [seventeen (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;

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- (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 RIGL Chapter 21-28 and these Regulations;

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- (r) Failure to furnish the Director, his/her investigator or representatives, information legally requested;
- (s) Violation of any provision(s) of RIGL Chapter 23-13 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 the Act and these Regulations, 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 RIGL Chapter 42-35 and the *Rules and Regulations Pertaining to Practices and Procedures Before the Rhode Island Department of Health (R42-35-PP)* [Reference 1].

12.4 Furthermore, when it appears to the Director after due process that a person is violating any provisions of the Act or any of these Regulations, 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 Regulations or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of these Regulations which can be given effect, and to this end the provisions of these Regulations are declared to be severable.

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### REFERENCES

1. *Rules and Regulations Pertaining to Practices and Procedures Before the Rhode Island Department of Health [R42-35-PP]*, Rhode Island Department of Health, July 2013.
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, September 2012.
3. "Licensing and Regulation of Midwives – Penalty for Violations," RIGL §23-13-9. Available online: <http://www.rilin.state.ri.us/Statutes/TITLE23/23-13/23-13-9.HTM>
4. *Standards for the Practice of Midwifery*, American College of Nurse-Midwives, 2011. Available online: [http://www.midwife.org/ACNM/files/ACNMLibraryData/UPLOADFILENAME/000000000051/Standards for Practice of Midwifery Sept 2011.pdf](http://www.midwife.org/ACNM/files/ACNMLibraryData/UPLOADFILENAME/000000000051/Standards%20for%20Practice%20of%20Midwifery%20Sept%202011.pdf)
5. *Rules and Regulations for the Termination of Pregnancy*, Rhode Island Department of Health, March 2000
6. *The Core Competencies for Basic Midwifery Practice*, American College of Nurse-Midwives, June 2012. Available online: <http://www.midwife.org/ACNM/files/ACNMLibraryData/UPLOADFILENAME/000000000050/Core%20Competencies%20June%202012.pdf>
7. *Joint Statement of Practice Relations Between Obstetrician-Gynecologists and Certified Nurse-Midwives/Certified Midwives*, American College of Nurse-Midwives, February 2011. Available online: <http://www.midwife.org/ACNM/files/ACNMLibraryData/UPLOADFILENAME/0000000000224/ACNM.ACOG%20Joint%20Statement%203.30.11.pdf>
8. *Position Statement: Collaborative Agreement between Physicians and Certified Nurse-Midwives and Certified Midwives* American College of Nurse-Midwives, December 2011. Available online: <http://www.midwife.org/ACNM/files/ACNMLibraryData/UPLOADFILENAME/0000000000057/Collaborative%20Agreement%20between%20Physicians%20and%20CNMs.CMs%20Dec%20202011.pdf>

The revision dates of all regulations cited above were current when these amended regulations were filed with the Secretary of State. Current copies of all regulations issued by the RI Department of Health may be downloaded at no charge from the RI Secretary of State's Final Rules and Regulations Database website: <http://www.sos.ri.gov/rules/>