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MONDAY, **JANUARY 6, 2003**
RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

STATE BOARD OF MEDICAL EXAMINERS
CERTIFIED NURSE MIDWIVES; PRESCRIPTIVE AUTHORITY

Adopted Amendment: N.J.A.C. 13:35-2A.11

Proposed: December 3, 2001 at 33 N.J.R. 4063(a).

Adopted: May 8, 2002 by the State Board of Medical Examiners, William V. Harrer, President.

Filed: November 27, 2002 as R.2003 d.1, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:9-2 and 45:10-22.

Effective Date: January 6, 2003.

Expiration Date: September 20, 2004.

Summary of Public Comments and Agency Responses:

The official comment period ended February 1, 2002 and the Board received 43 comments from the following individuals.

1. Trinisha Chapman, MPH, SM
2. Tanya Lewellyn
3. Karen Jefferson, CM, NYU, Bellevue, Gouverneur Midwifery Service
4. Christopher Mulhauser, Engineering Technician
5. Jeffrey Cassaro
6. Emily Zuzik
7. Whitney Hall, Student CM
8. Diane M. Presnick, CNM, BS
9. Benjamin Ratliff
10. Ann J. Aulisi
11. Marcus Kettles, Program Director Unity of New York
12. Shauna M. Batty
13. Rose Pach
14. Judy Berk Levine, CNM
15. Peter Beeton
16. Anthony Yadao, MD
17. John Cahill, MD
18. Erica Ciancia, CNM
19. Rizza Cea, CNM
20. Lesley Sansolo, CNM
21. Laurie Silberstein, CM
22. Sarah Seroussi, Graphic Designer

23. Dawn Sheggeby, Director, Post Production A Day in the Life of Africa
24. Deborah Cibelli, CNM
25. Jennifer Castle, Concerned Citizen
26. Russel S. Medbery, Jr., MSN, FNP, CNM
27. Angela Ferrari, CNM
28. Sage Clark, CM, MS
29. Bevin Cahill, CM
30. Katherine Carr, CNM, PhD, Faculty, State University of New York, Downstate Midwifery Education Program
31. Nancy Campau, MS, CNM
32. Leslie Cashon, CNM
33. Rochel Lieberman, CM
34. Sabrina Hellman, CNM
35. Carol Bues, CNM
36. Jennifer Drawbridge, CNM, MSN, Secretary, Maine Chapter, American College of Nurse-Midwives
37. Emalie Gibbons-Baker, CNM, MSM
38. Sadie Jones, Student Nurse Midwife, SUNY Downstate Medical Center
39. Susanna Westbrook, Student Nurse Midwife, Yale School of Nursing
40. Harriet W. McKinley, CNM
41. Susan Brockmann, CM, MPH
42. Monika Narweska
43. Elizabeth Emma

COMMENT: The commenters believe that the Board should allow certified midwives (CM) to obtain prescriptive authority. The commenters contend that a CM meets all the requirements of the amended rule, except for being a registered professional nurse. The commenters argue that the American College of Nurse-Midwives, the American Certifying Council of the American College of Midwives and the American College of Obstetricians and Gynecologists consider a CM as equal to a certified nurse midwife (CNM). The education, certifying mechanism and scope of practice are the same for CMs and CNMs. The commenters argue that other states that license CMs have given them prescriptive authority and that the Drug Enforcement Agency provides DEA numbers to CMs. The commenters request that the Board provide CMs with prescriptive authority.

RESPONSE: N.J.S.A. 45:10-17 et seq. authorizes CNMs, who meet the statutory requirements, to prescribe drugs. The statute specifically states that certified nurse midwives may be granted prescriptive authority. The statute is silent as to certified midwives. Absent specific legislative authorization, the Board may not grant prescriptive authority to certified midwives as the commenters request.

Summary of Agency-Initiated Changes:

Upon review of the proposal, the Board has decided to not adopt the deletion of the phrases "(as defined by the National Task Force on the Continuing Education Unit)" or "pharmacology or" in N.J.A.C. 13:35-2A.11(a). These phrases are included in N.J.S.A. 45:10-19, and the Board believes that the rule should mirror the language in that statute.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendment does not involve any Federal standards or requirements.

Full text of the adoption follows:

<< NJ ADC 13:35-2A.11 >>

13:35-2A.11 Prescriptive authorization (a) A CNM who is currently registered with the Board of Medical Examiners may apply for authorization to prescribe drugs (as used within this section, the term "drugs" shall include drugs, medicine and devices). The CNM shall make application on forms prescribed by the Board and shall demonstrate:

1.-2. (No change.)

3. Evidence of satisfactory completion of a minimum of 30 contact hours << + (as defined by the National Task Force on the Continuing Education Unit)+>> in << +pharmacology or+>> a pharmacology course offered by a college or university accredited by an accrediting association recognized by the U.S. Department of Education. The pharmacology course shall include instruction in fundamentals of pharmacology and therapeutics including principles and terminology of pharmacodynamics and pharmaco-kinetics. The pharmacology course shall have been completed within the two years immediately preceding the date on which the application is made.

(b) Notwithstanding (a) above, a CNM who holds prescriptive authorization in another state shall be authorized to prescribe drugs in New Jersey, even if the pharmacology course was completed more than two years prior to the date on which the certified nurse midwife makes application for authorization to prescribe drugs in New Jersey, if the CNM submits proof to the Committee that he or she:

1. Holds current prescriptive authorization, without disciplinary restrictions, in another state;

2. Is a registered professional nurse in New Jersey;

3. Is licensed as a CNM in New Jersey; and

4. Has completed 30 contact hours in a pharmacology course offered by a college or university accredited by an accrediting association recognized by the U.S. Department of Education.

(c) Prescriptive authorization obtained pursuant to (a) above shall be valid for a period of two years. In order to renew prescriptive authorization, a CNM shall make application for renewal on forms provided by the Board and shall demonstrate:

1. Current registration with the Board as a CNM; and

2. A.C.N.M. or A.C.C. certification. Recodify existing (c)-(e) as (d)-(f) (No change in text.)

(g) A CNM shall provide the following on all prescription blanks:

1.-8. (No change.)

9. Every prescription blank shall be imprinted with the words "substitution permissible" and "do not substitute" and shall contain space for the CNM's initials next to the chosen option, in addition to the space required for the signature in (g)8

 above.