

51 N.J.R. 878(a)

VOLUME 51, ISSUE 11, JUNE 3, 2019

RULE ADOPTIONS

Reporter

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Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > STATE BOARD OF MEDICAL EXAMINERS

Administrative Code Citation

Adopted Amendments: N.J.A.C. 13:35-2A.2, 2A.4, 2A.5, 2A.6, 2A.7, 2A.9, 2A.10, 2A.11, 2A.14, and 2A.16

Text

Limited Licenses: Midwifery

Proposed: June 4, 2018, at 50 N.J.R. 1338(a).

Adopted: October 10, 2018, by the State Board of Medical Examiners, J. Paul Carniol, M.D., F.A.C.S., President.

Filed: April 30, 2019, as R.2019 d.053, **without change**.

Authority: N.J.S.A. 45:9-2.

Effective Date: June 3, 2019.

Expiration Date: April 3, 2025.

Summary of Public Comments and Agency Responses:

The official comment period ended August 3, 2018. The Board received 10 comments from the following individuals:

1. Louise Aucott, CNM-Ret.

2. Linda Sloan Locke, CNM, MPH, LSW, FACNM, President, New Jersey Affiliate, American College of Nurse-Midwives.

3. Elisa Weatherbee, Student Midwife, Student Representative of ACNM NJ Affiliate.

4. Lonnie Morris, ND, CNM, FACNM, Childbirth and Women's Wellness Center.

5. Lisa Lederer, CNM, President, Midwives of New Jersey, LLC.

6. Paola A. Escobar, MSN, MBA-HCM, CNM, NJ Affiliate of ACNM Treasurer.

7. Barbara B. Lutz, CNM, Membership Chair, ACNM NJ Affiliate.

8. Catherine McCabe.

9. Jennifer Santos, CNM, WHNP-BC.

10. Donna Roosa, CNM, MS.

1. COMMENT: The majority of the commenters support the changes to N.J.A.C. 13:35-2. They believe that the changes keep practice guidance in line with scientific developments. They support changing the term "affiliated physician" to "consulting physician" and the amendments to the definitions of "certified midwife" and "certified nurse midwife," which clarify that these midwives meet the same standards and have the same scope of practice.

RESPONSE: The Board thanks the commenters for their support.

2. COMMENT: A commenter contends that the term "non-reassuring fetal heart pattern, unresponsive to conservative measures" at N.J.A.C. 13:35-2A.11(b)2 is ambiguous and should not be used. The commenter recommends that this phrase be changed to "persistent category II tracings which are not responsive to in utero resuscitation measures and Category III tracings." The commenter contends that phrase was established by the National Institute of Child Health and Human Development.

RESPONSE: The Board points out that the commenter's recommendation addresses solely electronic fetal monitoring and does not address other methods of fetal heart monitoring. As such, it would not be appropriate to change N.J.A.C. 13:35-2A.11(b)2 as the commenter recommends.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted amendments.

Regulations

Full text of the adoption follows:

SUBCHAPTER 2A. LIMITED LICENSES: MIDWIFERY

13:35-2A.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

...

"Certified midwife (CM)" means a person who is or ever was certified by the American Midwifery Certification Board (AMCB) or its successors as a certified midwife.

"Certified nurse midwife (CNM)" means a person who is a registered nurse and who is or ever was certified by the American College of Nurse Midwives (ACNM) or the AMCB or their successors as a certified nurse midwife.

...

"Consulting physician" means a person who holds a plenary license to practice medicine and surgery in New Jersey, issued by the Board, who adheres to clinical guidelines with a licensed midwife.

...

13:35-2A.4 Application for licensure

(a) An applicant for licensure as a midwife shall submit to the Committee:

1.-3. (No change.)

4. A notarized copy of Certification from either ACNM, AMCB, NARM, or their predecessors or successors;

5.-7. (No change.)

(b) (No change.)

13:35-2A.5 Independent practice

(a) - (c) (No change.)

(d) Certified professional midwives shall conduct their practice pursuant to standards set forth in the Midwives Alliance of North America Core Competencies (2014), available from the Midwives Alliance of North America, PO Box 373, Montvale, NJ 07645, which is incorporated herein by reference, as amended and supplemented, as part of this rule.

13:35-2A.6 Consulting physicians; clinical guidelines

- (a) Prior to beginning practice as a midwife, a licensee shall enter into a consulting agreement with a physician who is licensed in New Jersey and who:
- 1.-3. (No change.)
- (b) The licensee shall establish written clinical guidelines with the consulting physician that outlines the licensee's scope of practice.
- (c) The clinical guidelines shall set forth:
- 1.-3. (No change.)
 4. The circumstances under which consultation, collaborative management, referral, and transfer of care of women between the licensee and the consulting physician are to take place, and the manner by which each is to occur;
 5. (No change.)
 6. If the licensee does not hold prescriptive authority pursuant to N.J.A.C. 13:35-2A.14, a list of all medications the licensee may dispense or administer pursuant to the directions of the consulting physician;
 7. A mechanism for determining the availability of the consulting physician, or a substitute physician, for consultation and emergency assistance or medical management when needed; and
 8. (No change.)
- (d) A licensee shall provide clinical guidelines and the identity of his or her consulting physician(s) to the Board upon request.
- (e) The clinical guidelines shall include provisions for periodic conferences with the consulting physician for review of patient records and for quality improvements.
- (f) A licensee who practices without establishing clinical guidelines with a consulting physician commits professional misconduct as proscribed by N.J.S.A. 45:1-21.e.
- 13:35-2A.7 Licensure; biennial license renewal; license suspension; reinstatement of suspended license; inactive status; return from inactive status
- (a) All licenses issued by the Board shall be issued for a two-year biennial licensure period. A licensee who seeks renewal of the license shall submit a completed renewal application, proof that he or she is

currently certified by the ACNM, AMCB, or NARM, and the renewal fee as set forth in N.J.A.C. 13:35-6.13 prior to the expiration date of the license.

(b) - (f) (No change.)

(g) Renewal applications shall provide the licensee with the option of either active or inactive status. A licensee electing inactive status shall pay [page=879] the inactive license fee set forth in N.J.A.C. 13:35-6.13 and shall not engage in practice. A licensee electing inactive status shall not be required to submit proof that he or she is currently certified by the ACNM, AMCB, or NARM.

(h) A licensee who elected inactive status and has been on inactive status for five years or less may be reinstated by the Board upon completion of the following:

1. Payment of the reinstatement fee;
2. Submission of an affidavit of employment listing each job held during the period the licensee was on inactive status, which includes the name, address, and telephone number of each employer; and
3. Submission of proof that he or she is currently certified by the ACNM, AMCB, or NARM.

(i) (No change.)

13:35-2A.9 Management of antepartum women at increased risk

(a) A licensee may participate in the management of antepartum patients at increased risk under the following conditions:

1. The consulting physician and licensee shall have agreed to include the woman at increased risk in the caseload;
2. The consulting physician and licensee shall have established and documented a management plan for all women identified as at increased risk, which shall delineate the role of both the consulting physician and the licensee in the care of the woman. The management plan shall set forth the following:
i.-iv. (No change.)

3. The management plan shall be reviewed periodically by the licensee and the consulting physician and revised when necessary.

(b) The following are risk factors that require management as outlined in (a) above:

1. Maternal health status:

i.-vi. (No change.)

vii. Chronic hemoglobinopathy with a history of transfusion;

viii. (No change.)

ix. Any psychoactive substance addiction;

x. (No change.)

xi. Severe asthma as defined in the December 12, 2013 International ERS/ATS Guidelines on Definition, Evaluation and Treatment of Severe Asthma, published by the European Respiratory Society/American Thoracic Society, 25 Broadway, New York, NY 10004, incorporated herein by reference, as amended and supplemented;

xii.-xiii. (No change.)

xiv. History of cerebrovascular accident;

xv. History of cancer;

xvi. Hepatitis with abnormal liver function and/or detectable viral loads; or

xvii. Body Mass Index (BMI) over 40.

2. Maternal reproductive health history:

i.-ii. (No change.)

iii. Preterm delivery;

iv. Grand multiparity;

v.-vi. (No change.)

vii. Previous placental abruption or accreta;

viii. (No change.)

ix. Previous cervical surgeries including Loop Electrosurgical Excision Procedures (LEEP), cone biopsies, or three or more surgical cervical dilations, unless the patient has had a subsequent term pregnancy; or

x. Intra-uterine growth restriction.

3. Current maternal obstetrical status:

i.-viii. (No change.)

- ix.** Cervical dysplasia requiring colposcopy;
- x.** Placenta previa persisting past 28 weeks gestation;
- xi.** Evidence of placenta accreta and/or abruption;
- xii.** Pre-term labor with cervical change; or
- xiii.** (No change in text.)

13:35-2A.10 Intrapartum management

(a) - (b) (No change.)

(c) In addition to the tasks outlined in (a) above, a Certified Nurse Midwife (CNM) or Certified Midwife (CM) may:

1. Repair third degree lacerations upon the direction of the consulting physician;
- 2.-3. (No change.)

13:35-2A.11 Management of intrapartum women at increased risk

(a) If a woman receiving care from a licensee evidences any of the following conditions, the licensee shall only participate in the birth if it takes place in a licensed hospital:

1. Pre-term labor less than 37 weeks gestation. If pre-term labor is less than 34 weeks gestation, a consulting physician shall be present at the birth;
2. Premature rupture of membranes more than 48 hours before onset of regular contractions;
- 3.-5. (No change.)
6. Post-datism (greater than 42 weeks gestation);
7. (No change.)
8. Non-vertex presentation;
9. Evidence of chorioamnionitis; or
10. Hypertensive disorder of pregnancy and/or Hemolysis, Elevated Liver Enzymes, and Low Platelet (HELLP) syndrome.

(b) If a woman receiving care from a licensee evidences the following during the intrapartum phase the licensee shall arrange for the presence of a consulting physician at the hospital; or, if

the woman is not in a hospital, arrange for the immediate transfer of the woman to a hospital obstetric unit:

1. Severe preeclampsia and/or Hemolysis, Elevated Liver Enzymes, and Low Platelet (HELLP) syndrome;
- 2.-5. (No change.)
6. Non-vertex presentation; or
7. (No change.)

13:35-2A.14 Prescriptive authorization

(a) A CNM who is licensed 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 in pharmacology, which was either part of the midwifery program the CNM completed pursuant to N.J.A.C. 13:35-2A.4(a)3 or a pharmacology course offered by, or affiliated with, a college or university accredited by an accrediting association recognized by the U.S. Department of Education. The 30 contact hours shall include:
 - i. Instruction in fundamentals of pharmacology and therapeutics, including principles and terminology of pharmacodynamics and pharmacokinetics; and
 - ii. One contact hour on issues concerning prescription opioid drugs, including responsible prescribing practices, alternatives to opioids for managing and treating pain, and the risks and signs of opioid abuse, addiction, and diversion.

(b) - (i) (No change.)

13:35-2A.16 Colposcopies

(a) (No change.)

(b) A CNM or CM who wishes to perform colposcopies shall complete a 20-hour colposcopy course, given by a college or university accredited by an accrediting association recognized by the U.S. Department of Education or given by an organization recognized by either the American Society of Colposcopy and Cervical Pathology, the American College of Obstetrics and Gynecology, the American College of Nurse Midwives, or the National Association of Nurse Practitioners in Women's Health.

(c) - (e) (No change.)