
NEW JERSEY ADMINISTRATIVE CODE
TITLE 13
LAW AND PUBLIC SAFETY
CHAPTER 35
SUBCHAPTER 2A
LIMITED LICENSES: MIDWIFERY

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SUBCHAPTER 2A. LIMITED LICENSES: MIDWIFERY

13:35-2A.1 PURPOSE AND SCOPE

- a) The rules in this subchapter are intended to protect the health and safety of the public through licensure of midwives, pursuant to N.J.S.A. 45:10-1 et seq.

- a) This subchapter prescribes standards for midwifery licensure and for the renewal, suspension or revocation of that licensure.

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:

"Board" means the New Jersey State Board of Medical Examiners.

"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.

"Certified professional midwife (CPM)" means a person who holds certification from the North American Registry of Midwives (NARM) or its successor.

"Clinical guidelines" means a document, which sets forth patterns of care and which provides for consultation, collaboration, management and referral as indicated by the health status of a woman receiving care from a licensee.

"Committee" means the Midwife Liaison Committee of the New Jersey State Board of Medical Examiners.

“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.

"Licensee" means any person who holds a license from the Board to practice as a midwife.

"Midwife" means a person licensed by the Board as a certified midwife (CM), certified nurse midwife (CNM) or certified professional midwife (CPM).

13:35-2A.3 MIDWIFERY LIAISON COMMITTEE

- a) The Midwifery Liaison Committee shall consist of eight members who shall serve as consultants to the Board and who shall be appointed by the Board. The Committee shall include at least one certified nurse midwife, at least one certified professional midwife, at least one certified midwife, and two other midwives, all of whom shall hold licensure from the Board. The Committee shall also include one certified nurse midwife who is a member of the Board and two physicians, one of whom shall be a member of the Board of Medical Examiners and one of whom shall be Board-certified by either the American Board of Obstetrics and Gynecology, the American Osteopathic Board of Obstetrics and Gynecology or any other certification organization with comparable standards.
- b) The Board shall appoint each member for a term of three years. Committee members may be reappointed.
- c) Functions of the Committee shall include the following:
 - 1) Advising and assisting the Board in the evaluation of applicants for midwifery licensure and certified nurse midwife applicants for prescriptive authorization;
 - 2) Investigating complaints against licensees and unlawful conduct by licensees;
 - 3) Approving professional education programs; and
 - 4) Advising and assisting the Board in drafting and reviewing rules to govern midwifery practice.

13:35-2A.4 APPLICATION FOR LICENSURE

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

- 1) A completed application for licensure requesting information regarding the applicant's address, telephone number, date of birth and social security number;
 - 2) Proof that the applicant is 18 years old or older;
 - 3) An official transcript from a midwifery program, accredited by the Accreditation Commission for Midwifery Education (ACME), ACC or the Midwifery Education Accreditation Council (MEAC), or their predecessors or successors;
 - 4) A notarized copy of Certification from either ACNM, AMCB, NARM, or their predecessors or successors;
 - 5) The applicant's curriculum vitae;
 - 6) Three photographs of the applicant, signed, dated and notarized; and
 - 7) The application fee pursuant to N.J.A.C. 13:35-6.13.
- b) Once the applicant has been approved, he or she shall submit the initial license fee pursuant to N.J.A.C. 13:35-6.13.

13:35-2A.5 INDEPENDENT PRACTICE

- a) Certified nurse midwife and certified midwife practice shall include the provision of maternity care and well woman care within a health care system which provides for consultation, referral and collaboration, and:
 - 1) For licensees without prescriptive authority, administering or dispensing those medications listed in the clinical guidelines; or
 - 2) For licensees with prescriptive authority pursuant to N.J.A.C. 13:35-2A.14, prescribing, ordering, administering or dispensing medications.
- b) Certified nurse midwives and certified midwives shall conduct their practice pursuant to standards set forth by the ACNM in Standards for the Practice of Midwifery 2003, as amended and supplemented, available from the American College of Nurse-Midwives, 8403 Colesville Rd., Suite 1550, Silver Spring, MD 20910, which is incorporated herein by reference as part of this rule.

- c) Certified professional midwife practice shall include the provision of maternity care within a health care system which provides for consultation, referral and collaboration with a licensed physician and the administration or dispensing of those medications listed in the clinical guidelines.
- 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 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) Holds hospital privileges in operative obstetrics/gynecology;
 - 2) Has a binding agreement with a physician who holds operative privileges in operative obstetrics/gynecology; or
 - 3) Holds hospital privileges in gynecology, if a licensee limits his or her practice to non-obstetrical.
- b) The licensee shall establish written clinical guidelines with the consulting physician which outlines the licensee's scope of practice.
- c) The clinical guidelines shall set forth:
 - 1) An outline of routine care;
 - 2) Procedures the licensee will perform or provide;
 - 3) Procedures to follow if one of the risk factors from N.J.A.C. 13:35-2A.9 and 2A.11 is encountered;
 - 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) If the licensee is a certified nurse midwife with prescriptive authority pursuant to N.J.A.C. 13:35-2A.12, a formulary listing the categories of drugs, which may include controlled dangerous substances, the certified nurse midwife may order, prescribe, administer or dispense;
 - 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) The manner by which emergency care for newborns will be provided.
- 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) The Board shall send a notice of renewal to each licensee at the address registered with the Board at least 60 days prior to the expiration of the license. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.
- c) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee

and a late fee, as set forth in N.J.A.C. 13:35-6.13. During this 30-day period, the license shall be valid, and the licensee shall not be deemed to be practicing without a license.

- d) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice and shall be subject to the penalties prescribed by N.J.S.A. 45:9-22 for practicing without a license.
- e) A licensee whose license has been automatically suspended for five years or less for failure to renew pursuant to (d) above may be reinstated by the Board upon completion of the following:
 - 1) Payment of the reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:35-6.13; and
 - 2) Submission of an affidavit of employment listing each job held during the period of suspended license which includes the name, address, and telephone number of each employer.
- f) In addition to the fulfilling the requirements set forth in (e) above, a licensee whose license has been automatically suspended for more than five years who wishes to return to practice shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while suspended may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.
- g) Renewal applications shall provide the licensee with the option of either active or inactive status. A licensee electing inactive status shall pay 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 ACNM, AMCB, or NARM.
- i) In addition to the fulfilling the requirements set forth in (h) above, a licensee who has been on inactive status for more than five years who wishes to return to practice shall reapply for licensure and shall demonstrate that he or she has maintained proficiency. An applicant who fails to demonstrate to the satisfaction of the Board that he or she has maintained proficiency while on inactive status may be subject to an examination or other requirements as determined by the Board prior to reinstatement of his or her license.

13:35-2A.8 ANTEPARTUM MANAGEMENT

- a) A licensee's scope of practice during antepartum stages includes:
 - 1) Ordering medical, therapeutic and diagnostic measures in accordance with clinical guidelines; and
 - 2) Identifying women with medical, obstetrical or gynecological risk factors outlined in N.J.A.C. 13:35-2A.9.

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) Frequency of physician visits;
 - ii) Timing of indicated diagnostic and evaluative procedures;
 - iii) Specific parameters for consultation; and
 - iv) A proposed plan for the birth, including the type, place and provider.

- 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) Acute and/or chronic hypertension;
 - ii) Congenital or acquired heart disease;
 - iii) Anti-phospholipid syndrome;
 - iv) HIV positive or AIDS;
 - v) Chronic renal disease;
 - vi) Seizure disorder requiring medications;
 - vii) Chronic hemoglobinopathy with a history of transfusion;
 - viii) Diabetes mellitus;
 - ix) Any psychoactive substance addiction;
 - x) Psychosis;
 - 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) Any connective tissue disorder;
 - xiii) Multiple sclerosis;
 - 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) Incompetent cervix;
 - ii) Two or more second or third trimester fetal losses;
 - iii) Preterm delivery;
 - iv) Grand multiparity;
 - v) Previous cesarean delivery;
 - vi) Surgery involving the uterine wall;
 - vii) Previous placental abruption or accreta;
 - viii) Previous postpartum blood transfusion;
 - 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) Obstructive uterine myomata;
 - ii) Polyhydramnios or oligohydramnios;
 - iii) Isoimmunization;

- iv) Multiple gestation;
- v) Intrauterine growth restriction;
- vi) Current evidence of fetal chromosome disorder confirmed by amniocentesis and/or congenital anomaly;
- vii) Gestational diabetes;
- viii) Maternal age less than 14 years or more than 40 years;
- 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) Preeclampsia.

13:35-2A.10 INTRAPARTUM MANAGEMENT

- a) A licensee's scope of practice during intrapartum stages includes:
 - 1) Managing labor and birth for women not classified as being at increased risk pursuant to N.J.A.C. 13:35-2A.11, in accordance with clinical guidelines;
 - 2) Performing immediate screening of the newborn and resuscitation of the newborn when necessary. The licensee shall refer newborns with acute medical conditions to a physician trained in the care of a newborn;
 - 3) Performing an episiotomy;
 - 4) Repairing first and second degree episiotomies and lacerations;
 - 5) Using local anesthesia; and

- 6) In a health care facility licensed by the Department of Health, administering or facilitating the administration of nitrous oxide for pain relief.
- b) Every licensee shall ensure that at the birth site:
- 1) There is a person who is certified in Basic Life Support (BLS) and in Neonatal Resuscitation Program (NRP) by the American Academy of Pediatrics; and
 - 2) The following equipment is present:
 - i) Oxygen;
 - ii) A neonatal bag and mask;
 - iii) An adult oxygen mask;
 - iv) Suction equipment;
 - v) IV fluids; and
 - vi) Oxytoxics.
- 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) Repair fourth degree lacerations under the direct supervision of a physician who has hospital obstetrical privileges; and
 - 3) Administer pudendal anesthesia in a licensed healthcare facility, which includes birthing centers. No licensee shall administer pudendal anesthesia in any other setting.

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) Assessment of infant weight less than 2,500 grams or more than 4,500 grams;
 - 4) Vaginal birth after previous cesarean delivery;
 - 5) The need for prescriptive medication to induce or augment labor;
 - 6) Post-datism (greater than 42 weeks gestation);
 - 7) Multiple gestation;
 - 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) Non-reassuring fetal heart pattern, unresponsive to conservative measures;
 - 3) Prolapse of cord;
 - 4) Intrapartum hemorrhage;
 - 5) Multiple gestation;

- 6) Non-vertex presentation; or
- 7) Any condition requiring operative intervention.

13.35-2A.12 POSTPARTUM CARE

- a) A licensee's scope of practice during the postpartum stage includes:
 - 1) Assessment and treatment;
 - 2) Contraceptive services; and
 - 3) In a health care facility licensed by the Department of Health, administering or facilitating the administration of nitrous oxide for pain relief.

13:35-2A.13 WELL WOMAN CARE

- a) A certified nurse midwife or certified midwife may provide well woman care throughout the life cycle which shall include:
 - 1) Gynecological and primary health care screening, assessment and treatment; and
 - 2) Contraceptive services.

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) Current registration with the Board;
 - 2) A.C.N.M. or A.C.C. certification in good standing; and
 - 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 pharmaco-kinetics; and
 - ii) One contact hour on issues concerning prescription opioid drugs, including responsible prescribing practices, alternative to opioids for managing and treating pain, and the risks and signs of opioid abuse, addiction, and diversion.
- b) If the 30 contact hours in pharmacology required pursuant to (a)3 above was included as part of the midwifery program the CNM completed pursuant to N.J.A.C. 13:35-2A.4(a)3, the CNM shall have graduated from the midwifery program within the two years immediately preceding the date on which the application for prescriptive authority is made.
- c) If the 30 contact hours in pharmacology required pursuant to (a)3 above was not part of the midwifery program the CNM completed pursuant to N.J.A.C. 13:35-2A.4(a)3, the CNM shall have completed the pharmacology course within the two years immediately preceding the date on which the application for prescriptive authority is filed.
- d) Notwithstanding (a), (b) and (c) above, a CNM who holds prescriptive authorization in another state shall be authorized 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; and
 - 2) Has completed 30 contact hours in pharmacology, which meets the requirements of (a)3 above.
- e) Notwithstanding (a), (b) and (c) above, a CNM who also holds certification as an advanced practice nurse from the New Jersey Board of Nursing shall be authorized to prescribe drugs pursuant to N.J.S.A. 45:10-17 et seq., if the CNM submits proof to the Committee that he or she:
- 1) Holds current, unencumbered certification as an advanced practice nurse from the New Jersey Board of Nursing; and
 - 2) Has completed 30 contact hours in pharmacology, which meets the requirements of (a)3 above.
- f) A CNM who is authorized to prescribe drugs may prescribe only those drugs which are categorized in the formulary of drugs established in the clinical guidelines.

- g) A CNM's authorization to prescribe drugs, medicine, or devices may, upon notice and an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., be revoked or otherwise limited by the Board if the CNM:
- 1) Fails to maintain current licensure and registration with the Board;
 - 2) Fails to maintain certification in good standing with the ACNM or ACC, or their successors;
 - 3) Uses prescriptive authorization for other than therapeutic purposes; or
 - 4) Uses prescriptive authorization to prescribe substances or devices not included in the formulary of drugs established in the CNM's clinical guidelines.
- h) Prescriptions written by a CNM shall conform to the dictates of N.J.S.A. 45:14-14 et seq. and N.J.A.C. 13:35-7.2.
- i) When prescribing controlled dangerous substances, a CNM shall comply with all of the requirements and limitations as set forth in N.J.A.C. 13:35-7.6 and 13:45H.

13:35-2A.15 LIMITED ULTRASOUND EXAMINATION

- a) A licensee who has completed a course as required in (b) below may perform a limited ultrasound examination. For purposes of this section, "limited ultrasound" shall mean the use of ultrasound to assess any of the following: fetal number, fetal cardiac activity, fetal position and presentation, placental location, amniotic fluid parameters, biophysical profile parameters, uterine position, uterine size, the number and size of early gestational sac and the presence and length of embryonic poles.
- b) A licensee who wishes to perform limited ultrasound shall complete a 12-hour course given by a college or university accredited by an accrediting association recognized by the U.S. Department of Education or an organization which grants ACNM, American College of Obstetrics and Gynecology (ACOG), American Osteopathic Association (AOA) or American Medical Association-Physicians Recognition Award (AMA-PRA) category one continuing education credits.
- c) Limited ultrasound course instruction shall include:
- 1) Ultrasound instrumentation;
 - 2) Accountability of the licensee;

- 3) Components of informed consent;
 - 4) Principles of anatomy and physiology relevant to limited ultrasound examinations;
 - 5) Elements of antepartum and intrapartum fetal surveillance;
 - 6) Components of ultrasound examination:
 - i) Fetal number;
 - ii) Fetal cardiac activity;
 - iii) Fetal position and presentation;
 - iv) Placental location;
 - v) Amniotic fluid evaluation; and
 - vi) Biophysical profile parameters;
 - 7) Components of gynecological ultrasound examination:
 - i) Identification of uterine position;
 - ii) Evaluation of uterine size;
 - iii) Assessment of number, size and location of early gestational sac(s) and presence and length of embryonic pole(s); and
 - iv) Recognition of early fetal cardiac activity; and
 - 8) Formulation of a plan of care based on assessments made, including the need for consultation, referral and follow-up.
- d) A licensee who intends to perform limited ultrasound examinations pursuant to (a) above shall amend the clinical guidelines to include circumstances when the licensee may perform limited ultrasound examinations.

13:35-2A.16 COLPOSCOPIES

- a) A CNM or CM who has completed a course as required by (b) below and clinical experience required by (c) below may perform colposcopies for the purposes of evaluating and diagnosing abnormal cervical findings.
- 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) A CNM or CM who intends to perform colposcopies independently shall first complete 50 colposcopies under the supervision of a CNM or CM who has met the requirements of this section or an individual who has received education and training substantially similar to that required by this section.
- d) A CNM or CM who has successfully completed a colposcopy course shall maintain a certificate from the sponsor of the colposcopy course indicating that the CNM or CM has completed the course.
- e) A CNM or CM who intends to perform colposcopy pursuant to (a) above shall amend the clinical guidelines to include circumstances when the midwife may perform colposcopy.

13:35-2A.17 CIRCUMCISIONS

- a) A licensee who has completed a course as required by (b) below and clinical experience as outlined in (c) below may perform circumcisions.
- b) A licensee who intends to perform circumcisions shall complete a course given by a licensed physician or licensed midwife who has privileges to perform circumcisions in a licensed health care facility. The circumcision course shall include:
 - 1) The theory of circumcisions, including the procedure's benefits and risks, and alternatives to the procedure;
 - 2) Providing informed consent to the parents;
 - 3) Indications and contraindications for circumcision; and
 - 4) Potential complications.

- c) Prior to performing any circumcisions independently as permitted by this section, the licensee shall observe five circumcisions and perform 20 circumcisions under the direct supervision of a licensed physician or a midwife qualified to perform independently pursuant to this section. For purposes of this subsection, "direct supervision" means the presence of, and observation of the procedure by, a licensed physician, or midwife qualified to perform circumcisions, in the location where the circumcision is being performed.
- d) A licensee who intends to perform circumcisions pursuant to (a), (b) and (c) above shall maintain, as part of the licensee's records, documentation which indicates that the licensee has met the education requirements of (b) and (c) above.
- e) A licensee who intends to perform circumcisions pursuant to (a), (b) and (c) above shall amend the clinical guidelines to include circumstances when the licensee may perform circumcisions.

13:35-2A.18 TELEMEDICINE: PURPOSE AND SCOPE

- a) The purpose of N.J.A.C. 13:35-2A.18 through 2A.26 is to implement the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.), which authorizes healthcare providers to engage in telemedicine and telehealth.
- b) N.J.A.C. 13:35-2A.19 through 2A.26 and this section shall apply to all persons who are licensed by the Board as midwives.
- c) Pursuant to N.J.S.A. 45:1-62, a midwife must hold a license issued by the Board if he or she:
 - 1) Is located in New Jersey and provides health care services to any patient located in or out of New Jersey by means of telemedicine or telehealth; or
 - 2) Is located outside of New Jersey and provides health care services to any patient located in New Jersey by means of telemedicine or telehealth.
- d) Notwithstanding N.J.S.A. 45:1-62, a healthcare provider located in another state who consults with a licensee in New Jersey through the use of information and communications technologies, but does not direct patient care, will not be considered as providing health care services to a patient in New Jersey and will not be required to obtain licensure in New Jersey in order to provide such consultation.

13:35-2A.19 TELEMEDICINE: DEFINITIONS

The following words and terms, when used in N.J.A.C. 13:35-2A.18 through 2A.26, shall have the following meanings, unless the context clearly indicates otherwise.

"Asynchronous store-and-forward" means the acquisition and transmission of images, diagnostics, data, and medical information either to or from an originating site or to or from the licensee at a distant site, which allows for the patient to be evaluated without being physically present.

"Cross-coverage service" means a licensee who engages in a remote medical evaluation of a patient, without in-person contact, at the request of another licensee who has established a proper licensee-patient relationship with the patient.

"Distant site" means a site at which a licensee is located while providing health care services by means of telemedicine or telehealth.

"On-call" means a licensee is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the licensee has temporarily assumed responsibility, as designated by the patient's primary care provider or other health care provider of record.

"Originating site" means a site at which a patient is located at the time that health care services are provided to the patient by means of telemedicine or telehealth.

"Telehealth" means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.).

"Telemedicine" means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care licensee who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening licensee, and in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.). "Telemedicine" does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

13:35-2A.20 TELEMEDICINE: STANDARD OF CARE

- a) Prior to providing services through telemedicine or telehealth, a licensee shall determine whether providing those services through telemedicine or telehealth would be consistent with the standard of care applicable for those services when provided in-person.
- b) If a licensee determines, either before or during the provision of services, that services cannot be provided through telemedicine or telehealth in a manner that is consistent with in-person standards of care, the licensee shall not provide services through telemedicine or telehealth.
- c) A licensee who determines that services cannot be provided through telemedicine or telehealth pursuant to (b) above shall advise the patient to obtain services in-person.
- d) A licensee who provides a diagnosis, treatment, or consultation recommendation, including discussions regarding the risk and benefits of a patient's treatment options, through telemedicine or telehealth shall be held to the same standard of care or practice standards as are applicable to in-person settings.

13:35-2A.21 TELEMEDICINE: LICENSEE-PATIENT RELATIONSHIP

- a) Prior to providing services through telemedicine or telehealth, a licensee shall establish a licensee-patient relationship by:
 - 1) Identifying the patient with, at a minimum, the patient's name, date of birth, phone number, and address. A licensee may also use a patient's assigned identification number, Social Security number, photo, health insurance policy number, or other identifier associated directly with the patient; and
 - 2) Disclosing and validating the licensee's identity, license, title, and, if applicable, specialty and board certifications.
- b) Prior to an initial contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, a licensee shall review the patient's history and any available records.
- c) Prior to initiating contact with a patient for the purpose of providing services through telemedicine or telehealth, a licensee shall determine whether he or she will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in person. The licensee shall make this determination prior to each unique patient encounter.

- d) Notwithstanding (a), (b), and (c) above, service may be provided through telemedicine or telehealth without a proper licensee-patient relationship if:
- 1) The provision of services is for informal consultations with another healthcare provider performed by a licensee outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
 - 2) The provision of services is during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a licensee in this State;
 - 3) A licensee furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or
 - 4) A substitute licensee, who is acting on behalf of an absent licensee in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent licensee has designated the substitute licensee as an on-call licensee or cross-coverage service provider.

13:35-2A.22 TELEMEDICINE: PROVISION OF SERVICES THROUGH TELEMEDICINE OR TELEHEALTH

- a) As long as a licensee has satisfied the requirements of N.J.A.C. 13:35-2A.21, a licensee may provide health care services to a patient through the use of telemedicine and may engage in telehealth to support and facilitate the provision of health care services to patients.
- b) Prior to providing services through telemedicine or telehealth, a licensee shall determine the patient's originating site and record this information in the patient's record.
- c) A licensee providing healthcare services through telemedicine shall use interactive, real-time, two-way communication technologies, which shall include, except as provided in (e) below, a video component that allows a licensee to see a patient and the patient to see the licensee during the provision of services.
- d) A licensee providing services through telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of:
 - 1) Images;
 - 2) Diagnostics;

- 3) Data; and
- 4) Medical information.
- e) If, after accessing and reviewing the patient's records, a licensee determines that he or she is able to meet the standard of care for such services if they were being provided in-person without using the video component described in (c) above, the licensee may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without a video component.
- f) During the provision of services through telemedicine or telehealth, and after the provision of services, a licensee, or another designated licensee, shall provide his or her name, professional credentials, and contact information to the patient. Such contact information shall enable the patient to contact the licensee for at least 72 hours following the provision of services, or for a longer period if warranted by the patient's circumstances and accepted standards of care.
- g) Prior to providing services through telemedicine or telehealth, a licensee shall review any history or records provided by a patient as follows:
 - 1) For an initial encounter with a patient, history and records shall be reviewed prior to the provision of services through telemedicine or telehealth; and
 - 2) For any subsequent interactions with a patient, history and records shall be reviewed either prior to the provision of services through telemedicine or telehealth or contemporaneously with the encounter with the patient.
 - 3) After the provision of services through telemedicine or telehealth, a licensee shall provide the patient, upon request, with his or her records created due to the services provided.
- h) A licensee shall provide, upon a patient's written request, the patient's information to the patient's primary care provider or to other health care providers.
- i) A licensee engaging in telemedicine or telehealth shall refer a patient for follow-up care when necessary.

13:35-2A.23 TELEMEDICINE: PRESCRIPTIONS

- a) Notwithstanding requirements for in-person interaction in N.J.A.C. 13:35-7, a certified nurse midwife (CNM) with prescriptive authority pursuant to N.J.A.C. 13:35-2A.14 providing services through telemedicine or telehealth may issue a prescription to a patient, as long as the issuance of such a prescription is consistent with the standard of care or practice standards applicable to the in-person setting.
- b) A CNM with prescriptive authority pursuant to N.J.A.C. 13:35-2A.14 shall not issue a prescription based solely on responses provided in [page=896] an online questionnaire, unless the CNM has established a proper licensee-patient relationship pursuant to N.J.A.C. 13:35-2A.21.
- c) Notwithstanding (a) above, and except as provided in (d) below, a CNM with prescriptive authority pursuant to N.J.A.C. 13:35-2A.14 shall not issue a prescription for a Schedule II controlled dangerous substance unless the CNM has had an initial in-person examination of the patient and a subsequent in-person visit with the patient at least every three months for the duration of the time the patient is prescribed the Schedule II controlled dangerous substance.
- d) The prohibition of (c) above shall not apply when a CNM with prescriptive authority pursuant to N.J.A.C. 13:35-2A.14 prescribes a stimulant for a patient under the age of 18 years, as long as the CNM is using interactive, real-time, two-way audio and video technologies and the CNM has obtained written consent for a waiver of in-person examination requirements from the patient's parent or guardian.

13:35-2A.24 TELEMEDICINE: RECORDS

A licensee who provides services through telemedicine or telehealth shall maintain a record of the care provide to a patient. Such records shall comply with all applicable State and Federal statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a patient's record.

13:35-2A.25 TELEMEDICINE: PREVENTION OF FRAUD AND ABUSE

- a) In order to establish that a licensee has made a good faith effort to prevent fraud and abuse when providing services through telemedicine or telehealth, a licensee must establish written protocols that address:
 - 1) Authentication and authorization of users;
 - 2) Authentication of the patient during the initial intake pursuant to N.J.A.C. 13:35-2A.21(a)1;

- 3) Authentication of the origin of information;
- 4) The prevention of unauthorized access to the system or information;
- 5) System security, including the integrity of information that is collected, program integrity, and system integrity;
- 6) Maintenance of documentation about system and information usage;
- 7) Information storage, maintenance, and transmission; and
- 8) Synchronization and verification of patient profile data.

13:35-2A.26 TELEMEDICINE: PRIVACY AND NOTICE TO PATIENTS

- a) Licensees who communicate with patients by electronic communications other than telephone or facsimile shall establish written privacy practices that are consistent with Federal standards under 45 CFR Parts 160 and 164, as amended and supplemented, which are incorporated herein by reference, relating to privacy of individually identifiable health information.
- b) Written privacy practices required by (a) above shall include privacy and security measures that assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient email, prescriptions, and laboratory results must be password protected, encrypted electronic prescriptions, or protected through substantially equivalent authentication techniques.
- c) A licensee who becomes aware of a breach in confidentiality of patient information, as defined in 45 CFR 164.402, shall comply with the reporting requirements of 45 CFR Part 164.
- d) Licensees, or their authorized representatives, shall provide a patient, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the patient's written acknowledgement of receipt of the notice.
- e) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.

- f) When telemedicine or telehealth is unable to provide all pertinent clinical information that a licensee exercising ordinary skill and care would deem reasonably necessary to provide care to a patient, the licensee shall inform the patient of this prior to the conclusion of the provision of care through telemedicine or telehealth and shall advise the patient regarding the need for the patient to obtain an additional in-person medical evaluation reasonably able to meet the patient's needs.
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