Clearinghouse Rule 06-096

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

---

| | | |
|---|---|---|
| IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE DEPARTMENT OF REGULATION AND LICENSING | : | PROPOSED ORDER OF THE DEPARTMENT OF REGULATION AND LICENSING ADOPTING RULES (CLEARINGHOUSE RULE 06- ) |

---

PROPOSED ORDER

An order of the Department of Regulation and Licensing to create chs. RL 180 to 183 and Appendix I, relating to the issuance and renewal of licenses, the issuance of temporary permits, standards of practice and grounds for discipline of licensed midwives.

Analysis prepared by the Department of Regulation and Licensing.

---

ANALYSIS

**Statutes interpreted:**

Subchapter XII of ch. 440, Stats.

**Statutory authority:**

Section 227.11 (2), Stats., and Subchapter XII of ch. 440, Stats., as created by 2005 Wisconsin Act 292.

**Explanation of agency authority:**

Subchapter XII of ch. 440, Stats., was enacted on April 10, 2006. Under subch. XII of ch. 440, Stats., the Department of Regulation and Licensing is authorized to promulgate rules relating to the issuance and renewal of licenses; the issuance of temporary permits; standards of practice, and grounds for discipline of a licensed midwife.

**Related statute or rule:**

Section 441.15, Stats., which relates to the licensure of nurse-midwives.

**Plain language analysis:**

Chapter RL 180 is being created to include definitions of several terms that are used in subch. XII of ch. 440, Stats., and in chs. RL 180 to 183. The proposed rules include definitions for administer, consultation, department, direct supervision, health care provider, licensed midwife, practice of midwifery and temporary permit.

Chapter RL 181 is being created to identify the requirements and procedures for submitting applications for licenses and renewal of licenses and applications for temporary permits.

Chapter RL 182 is being created to identify the standards of practice of midwifery. The standards of practice established by the National Association of Certified Professional Midwives are set forth in Appendix I. The proposed rules also include standards relating to informed consent, treatment measures and prohibited practices.

Chapter RL 183 is being created to identify the grounds for discipline of a licensed midwife.

**Summary of, and comparison with, existing or federal regulation:**

There are no federal laws that govern the licensing of midwives.

**Comparison with rules in adjacent states:**

**Minnesota:**

Minnesota licenses traditional midwives. A review of the applicable Minnesota statutes reflects that Minnesota has many requirements that are similar to the requirements for licensure and practice in Wisconsin. Several differences found in the Minnesota statutes include a requirement that licensees complete 30 hours of continuing education every 3 years; a requirement that licensees develop a medical consultation plan, and recordkeeping and reporting requirements.

**Michigan:**
Michigan does not currently have licensing requirements for certified professional midwives.

**Illinois:**
Illinois does not currently have licensing requirements for certified professional midwives.

**Iowa:**
Iowa does not currently have licensing requirements for certified professional midwives.

**Summary of factual data and analytical methodologies:**

The Department of Regulation and Licensing proposes to promulgate administrative rules relating to the regulation of licensed midwives pursuant to the provisions of 2005 Wisconsin Act 292. The provisions under the Act establish the requirements for obtaining licensure and state that practice rules promulgated shall be consistent with the standards of practice of midwifery established by the National Association of Certified

Professional Midwives (NACPM). Drug administration and procedures defined under the rules were written in accordance with NACPM's recommendations. For guidance on the development of the administrative rules, the department has appointed an advisory committee in accordance with the provisions under s. 440.987, Stats.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

The department proposes that the proposed rules will have minor or non-significant effect on small business as it does only initiate regulation on those currently practicing midwifery in the state of Wisconsin, though does so in consistence with the provisions of 2005 Wisconsin Act 292 and the department's charter in maintaining the protection of the public. The rules as written should not have a major or significant economic impact as they do not increase the standards for those already certified by the National Association of Certified Professional Midwives (NACPM).

2005 Wisconsin Act 292, which initiated promulgation of rules regulating licensed midwives, does not substantially increase existing standards for obtaining the midwife license, those standards being (primarily) a preexisting valid certification as a certified professional midwife or a valid nurse-midwife credential granted by the American College of Nurse Midwives. Furthermore, the rules promulgated only restrict practice of midwifery to the standards established by NACPM. Any additional restrictions established must be in accordance with those standards, and may not go against certain provisions under the statutes that may constitute a threat to their practice, which includes a prohibition on establishing the following requirements: a nursing degree; a midwife to practice under supervision or collaboration with a health care provider; a midwife to enter into an agreement with another health care provider; limit the location of where a midwife may practice; permit a midwife to use forceps or vacuum extraction.

Finally, the rules promulgated will regulate approximately 35 people, at least initially, who are currently practicing in Wisconsin under the aforementioned certifications. Additional costs on their practice will be the cost of licensure, or renewal, which is $56/biennium.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

**Fiscal estimate:**

The Department estimates that this rule will require staff time in the Divisions of Management Services, Professional Credentialing, and Enforcement. The one-time salary and fringe costs in the Division of Management Services and Professional Credentialing are estimated at $2,300. The on-going salary and fringe cost in the Division of Enforcement is estimated at $19,800.

**Anticipated costs incurred by private sector:**

The department finds that this rule has no significant fiscal effect on the private sector.

**Effect on small business:**

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

**Agency contact person:**

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone (608) 266-0495. Email: pamela.haack@drl.state.wi.us.

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935; email pamela.haack@drl.state.wi.us. Comments must be received on or before August 14, 2006, to be included in the record of rule-making proceedings.

---

TEXT OF RULE

SECTION 1. Chapters RL 180 to 183 are created to read:

Chapter RL 180

AUTHORITY AND DEFINITIONS

**RL 180.01 Authority**. The rules in chs. RL 180 to 183 are adopted under the authority of ss. 227.11 (2) and 440.08 (3), Stats., and subch. XII of ch. 440, Stats.

**RL 180.02 Definitions**. As used in chs. RL 180 to 183 and in subch. XII of ch. 440, Stats.:

(1) "Administer" means the direct provision of a prescription drug or device, whether by injection, ingestion or any other means, to the body of a client or patient by a person licensed in this state to prescribe and administer drugs or by his or her authorized agent.

Note: Licensed midwives do not possess prescriptive authority. A licensed midwife may legally administer prescription drugs or devices only as an authorized agent of a practitioner with prescriptive authority. For physicians and advanced practice nurses, an agent may administer pursuant to written standing orders and protocols.

(2) "Consultation" means discussing the aspects of an individual client's circumstance with other professionals to assure comprehensive and quality care for the client, consistent with the objectives in the client's treatment plan or for purposes of making adjustments to the client's treatment plan. Consultation may include, but is not limited to, history-taking, examination of the client, rendering an opinion concerning diagnosis or treatment, or offering service, assistance or advice.

(3) "Department" means the department of regulation and licensing.

(4) "Direct supervision" means immediate on-premises availability to continually coordinate, direct and inspect at first hand the practice of another.

(5) "Health care provider" means, as defined in s. 146.81 (1), Stats., a person licensed or issued a training permit as an emergency medical technician under s 146.50, Stats., or a person certified as a first responder under s. 146.50 (8), Stats.

(6) "Licensed midwife" means a person who has been granted a license under subch. XII of ch. 440, Stats., to engage in the practice of midwifery.

(7) "Practice of midwifery" means providing maternity care during the antepartum, intrapartum, and postpartum periods consistent with the standards of practice set forth in ch. RL 182.

(8) "Temporary permit" means a credential granted under s. RL 181.01 (4), to an individual to practice midwifery under the direct supervision of a licensed midwife pending successful completion of the requirements for a license under s. RL 181.01 (1).

## Chapter RL 181

## APPLICATIONS FOR LICENSURE, RENEWAL OF LICENSES AND TEMPORARY PERMITS

**RL 181.01 Applications**. (1) LICENSES. An individual who applies for a license as a midwife shall apply on a form provided by the department. An applicant who fails to comply with a request for information related to the application, or fails to meet all requirements for the license within 120 calendar days from the date of filing shall file a new application and fee if licensure is sought at a later date. The application shall include all of the following:

(a) The fee specified in s. 440.05 (1), Stats.

(b) Evidence satisfactory to the department of one of the following:

1. That the applicant holds a valid certified professional midwife credential granted by the North American Registry of Midwives or a successor organization.

2. That the applicant holds a valid certified nurse-midwife credential granted by the American College of Nurse Midwives or a successor organization.

(c) That the applicant, subject to ss. 111.321, 111.322 and 111.335, Stats., does not have an arrest or conviction record. An applicant who has a pending criminal charge or has been convicted of any crime or ordinance violation shall provide the department all related information necessary for the department to determine whether the circumstances of the arrest or conviction or other offense substantially relate to the circumstances of the licensed activity. The department may not grant a midwife license to a person convicted of an offense under s. 940.22, 940.225, 944.06, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, 948.11 or 948.12, Stats.

Note: Applications for licensure as a midwife are available from the Department of Regulation and Licensing, Bureau of Health Service Professions, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or from the department's website at: http://drl.wi.gov.

(2) RENEWAL OF LICENSES. (a) Except for temporary permits granted under sub. (4), the renewal date for licenses granted under subch. XII of ch. 440, Stats., is July 1 of each even-numbered year.

1. Renewal applications shall be submitted to the department on a form provided by the department and shall include the renewal fee specified in s. 440.08 (2) (a), Stats.

2. A licensed midwife shall, at the time that he or she applies for renewal of a license under subd. 1., submit proof satisfactory to the department that he or she holds a valid certified professional midwife credential from the North American Registry of Midwives or a successor organization, or a valid certified nurse-midwife credential from the American College of Nurse Midwives or a successor organization.

(3) LATE RENEWAL OF LICENSES. A licensed midwife who fails to renew a license by the renewal date may renew the license by submitting an application on a form provided by the department and satisfying the following requirements:

(a) If applying less than 5 years after the renewal date, satisfy the requirements under sub. (2), and pay the late renewal fee specified in s. 440.08 (3), Stats.

(b) If applying 5 years or more after the renewal date, satisfy the requirements under sub. (2); pay the late renewal fee specified in s. 440.08 (3), Stats., and submit proof of one or more of the following, as determined by the department to ensure protection of the public health, safety and welfare:

1. Successful completion of educational course work.

2. Successful completion of the national examination required by the North American Registry of Midwives for certification as a certified professional midwife or successful completion of the national examination required by the American College of Nurse Midwives for certification as a certified nurse-midwife.

(4) TEMPORARY PERMITS. (a) *Application*. An applicant seeking a temporary permit shall apply on a form provided by the department. An applicant who fails to comply with a request for information related to the application, or fails to meet all requirements for a permit within 120 calendar days from the date of filing shall submit a new application and fee if a permit is sought at a later date. The application shall include all of the following:

1. The fee specified in s. 440.05 (6), Stats.

2. Evidence satisfactory to the department of all of the following:

a. The applicant is actively engaged as a candidate for certification with the North American Registry of Midwives or a successor organization, or the American College of Nurse Midwives or a successor organization.

b. The applicant is currently enrolled in the portfolio evaluation process (PEP) program through the North American Registry of Midwives or a successor organization, or a certified professional midwife (CPM) or certified nurse-midwife (CNM) educational program accredited by the Midwifery Education Accreditation Council (MEAC) or by the American Midwifery Certification Board (CNM).

c. The applicant has received a written commitment from a licensed midwife to directly supervise his or her practice of midwifery during the duration of the temporary permit.

d. The applicant is currently certified by the American Red Cross or American Heart Association in neonatal resuscitation.

e. The applicant is currently certified by the American Red Cross or American Heart Association in adult cardiopulmonary resuscitation.

f. The applicant has attended at least 5 births as an observer.

g. The applicant, subject to ss. 111.321, 111.322 and 111.335, Stats., does not have an arrest or conviction record. An applicant who has a pending criminal charge or has been convicted of any crime or ordinance violation shall provide the department all related information necessary for the department to determine whether the circumstances of the arrest or conviction or other offense substantially relate to the circumstances of the licensed activity. The department may not grant a temporary permit to a person convicted of an offense under s. 940.22, 940.225, 944.06, 944.15, 944.17, 944.30, 944.31, 944.32, 944.33, 944.34, 948.02, 948.025, 948.06, 948.07, 948.075, 948.08, 948.09, 948.095, 948.10, 948.11 or 948.12, Stats.

(b) *Duration of permit*.

1. The duration of a temporary permit is for a period of 3 years or until the permit holder ceases to be currently registered or actively engaged as a candidate for certification as specified in par. (a) 2., whichever is shorter.

2. A licensed midwife with a written commitment to supervise the holder of a temporary permit shall notify the department immediately of a termination of the supervisory relationship.

3. Upon termination of a supervisory relationship, the temporary permit shall be automatically suspended until the permit holder obtains another written supervisory commitment that complies with par. (a) 2. b.

4. The department may in its discretion grant renewal of a temporary permit. Renewal shall be granted only once and for a period of no more than 3 years. A permit holder seeking renewal of a temporary permit shall submit documentation that he or she satisfies the requirements for an initial permit under par. (a).

Note: The North American Registry of Midwives may be contacted at 5257 Rosestone Dr., Lilburn, GA 30047, 1-888-842-4784. The American College of Nurse-Midwives may be contacted at 8403 Colesville Road, Suite 1550, Silver Spring, MD 20910-6374, (240) 485-1800.

## Chapter RL 182

## STANDARDS OF PRACTICE

**RL 182.01 Standards**. Licensed midwives shall comply with the standards of practice of midwifery established by the National Association of Certified Professional Midwives.

Note: The standards of the National Association of Certified Professional Midwives are set forth in Appendix I. The National Association of Certified Professional Midwives may be contacted at 243 Banning Road, Putney, VT 05346, (866) 704-9844.

**RL 182.02 Informed consent**. (1) DISCLOSURE OF INFORMATION TO CLIENT. A licensed midwife shall, at an initial consultation with a client, provide a copy of the rules promulgated by the department under subch. XII of ch. 440, Stats., and disclose to the client orally and in writing all of the following:

(a) The licensed midwife's experience and training.

(b) Whether the licensed midwife has malpractice liability insurance coverage and the policy limits of the coverage.

(c) A protocol for medical emergencies, including transportation to a hospital, particular to each client.

(d) A protocol for and disclosure of risks associated with vaginal birth after a cesarean section.

(e) The number of babies delivered and the number of clients transferred to a hospital since the time the licensed midwife commenced his or her practice of midwifery.

(2) ACKNOWLEDGEMENT BY CLIENT. A licensed midwife shall, at an initial consultation with a client, provide a copy of the written disclosures required under sub. (1), to the client and obtain the client's signature acknowledging that she has been informed, orally and in writing, of the disclosures required under sub. (1).

**RL 182.03 Practice**. (1) TESTING, CARE AND SCREENING. A licensed midwife shall:

(a) Offer each client routine prenatal care and testing in accordance with current American College of Obstetricians and Gynecologists guidelines.

(b) Provide all clients with a plan for 24 hour on call availability throughout pregnancy, intrapartum, and 6 weeks postpartum.

(c) Provide clients with labor support, fetal monitoring and routine assessment of vital signs once active labor is established.

(d) Supervise delivery of infant and placenta, assess newborn and maternal well being in immediate postpartum and perform Apgar scores.

(e) Perform routine cord management and inspect for appropriate number of vessels.

(f) Inspect the placenta and membranes for completeness.

(g) Inspect the perineum and vagina postpartum for lacerations and stabilize.

(h) Observe mother and newborn for 2 hours postpartum or until stable condition is achieved.

(i) Instruct the mother, father and other support persons, both verbally and in writing, of the special care and precautions for both mother and newborn in the immediate postpartum period.

(j) Reevaluate maternal and newborn well being within 36 hours of delivery or as indicated.

(k) Use universal precautions with all biohazard materials.

(L) Ensure that a birth certificate is accurately completed and filed in accordance with state law.

(m) Offer to obtain and submit a blood sample in accordance with the recommendations for metabolic screening of the newborn.

(n) Offer an injection of vitamin K for the newborn in accordance with the indication, dose and administration route set forth in sub. (3).

(o) Within one week of delivery, offer a newborn hearing screening to every newborn or refer the parents to a facility with a newborn hearing screening program.

(p) Within 2 hours of the birth offer the administration of antibiotic ointment into the eyes of the newborn, in accordance with state law on the prevention of infant blindness.

(q) Maintain adequate records of each client and provide records to collaborating health care providers in accordance with HIPPA regulations.

(2) PRESCRIPTION DRUGS AND PROCEDURES. A licensed midwife may administer the following during the practice of midwifery:

(a) Oxygen for the treatment of fetal distress.

(b) Eye prophylactics – 0.5% erythromycin ophthalmic ointment or 1% tetracycline ophthalmic ointment for the prevention of neonatal ophthalmia.

(c) Oxytocin, or pitocin, as a postpartum antihemorrhagic agent.

(d) Methyl-ergonovine, or methergine, for the treatment of postpartum hemorrhage.

(e) Vitamin K for the prophylaxis of hemorrhagic disease of the newborn.

(f) RHo (D) immune globulin for the prevention of RHo (D) sensitization in RHo (D) negative women.

(g) Intravenous fluids for maternal stabilization – 0.9% sodium chloride.

Note: Medical oxygen, 0.5% erythromycin ophthalmic ointment, tetracycline ophthalmic ointment, oxytocin (pitocin), methyl-ergonovine (methergine), injectable vitamin K and RHo (D) immune globulin are prescription drugs. See s. RL 180.02 (1).

(3) INDICATIONS, DOSE, ADMINISTRATION AND DURATION OF TREATMENT. The indications, dose, route of administration and duration of treatment relating to the administration of drugs and procedures identified under sub. (2) are as follows:

| **Medication** | **Indication** | **Dose** | **Route of Administration** | **Duration of Treatment** |
|---|---|---|---|---|
| Oxygen | Fetal distress | Maternal:<br>6-8 L/minute<br><br>Infant: 10-12 L/minute<br>2-4 L/minute | Mask<br><br>Bag and mask<br><br>Mask | Until delivery or transfer to a hospital is complete<br><br>20 minutes or until transfer to a hospital is complete |

| | | | | |
|---|---|---|---|---|
| 0.5% Erythromycin Ophthalmic Ointment<br><br>Or<br><br>1% Tetracycline Ophthalmic Ointment | Prophylaxis of Neonatal Ophthalmia | 1 cm ribbon in each eye from unit dose package<br><br>1 cm ribbon in each eye from unit dose package | Topical<br><br>Topical | 1 dose |
| Oxytocin (Pitocin) 10 units/ml | Postpartum hemorrhage only | 10-20 units, 1-2 ml | Intramuscularly only | 1-2 doses |
| Methyl-ergonovine (Methergine) 0.2 mg/ml or 0.2 mg tabs | Postpartum hemorrhage only | 0.2 mg | Intramuscularly<br><br>Orally | Single dose<br><br>Every 6 hours, may repeat 3 times Contraindicated in hypertension and Raynaud's Disease |
| Vitamin K 1.0 mg/0.5 ml | Prophylaxis of Hemorrhagic Disease of the Newborn | 0.5-1.0 mg, 0.25-0.5 ml | Intramuscularly | Single dose |
| RHo (D) Immune Globulin | Prevention of RHo (D) sensitization in RHo (D) negative women | Unit dose | Intramuscularly only | Single dose at any gestation for RHo (D) negative, antibody negative women within 72 hours of spontaneous bleeding.<br><br>Single dose at 26-28 weeks gestation for RHo (D) negative, antibody negative women<br><br>And |

| | | | | |
|---|---|---|---|---|
| | | | | Single dose for RHo (D) negative, antibody negative women within 72 hours of delivery of RHo (D) positive infant, or infant with unknown blood type |
| 0.9% sodium chloride (normal saline) | To achieve maternal stabilization during uncontrolled postpartum hemorrhage or anytime blood loss is accompanied by tachycardia, hypotension, decreased level of consciousness, pallor or diaphoresis | First liter run in at a wide-open rate, the second liter titrated to patient's condition | IV catheter 18 gauge or greater (2 if hemorrhage is severe) | Until maternal stabilization is achieved or transfer to a hospital is complete |

(4) CONSULTATION AND REFERRAL. (a) A licensed midwife shall consult with a physician or other licensed medical provider providing obstetrical care, whenever there are significant deviations, including abnormal laboratory results, relative to a client's pregnancy or to a neonate. If a referral to a physician is needed, the licensed midwife shall, if possible, remain in consultation with the physician until resolution of the concern.

Note: Consultation does not preclude the possibility of an out-of-hospital birth. It is appropriate for the licensed midwife to maintain care of the client to the greatest degree possible, in accordance with the client's wishes, during the pregnancy and, if possible, during labor, birth and the postpartum period.

(b) A licensed midwife shall consult with a physician or other licensed medical professional, with regard to any mother who presents with or develops the following risk factors or presents with or develops other risk factors that in the judgment of the licensed midwife warrant consultation:

1. Antepartum.

a. Pregnancy induced hypertension, blood pressure of 140/90 on 2 occasions greater than 6 hours apart.

b. Persistent, severe headaches, epigastric pain or visual disturbances.

c. Persistent symptoms of urinary tract infection.

d. Significant vaginal bleeding before the onset of labor not associated with uncomplicated spontaneous abortion.

e. Rupture of membranes prior to the 37$^{th}$ week gestation.

f. Noted abnormal decrease in or cessation of fetal movement.

g. Anemia resistant to supplemental therapy.

h. Fever of 102° F or 39° C or greater for more than 24 hours.

i. Non-vertex presentation after 38 weeks gestation.

j. Hyperemisis or significant dehydration.

k. Isoimmunization, Rh-negative sensitized, positive titers, or any other positive antibody titer, which may have a detrimental effect on mother or fetus.

l. Elevated blood glucose levels unresponsive to dietary management.

m. Positive HIV antibody test.

n. Primary genital herpes infection in the first trimester.

o. Symptoms of malnutrition or anorexia or protracted weight loss or failure to gain weight.

p. Deep vein thrombosis.

q. Documented placental anomaly or previa.

r. Documented low lying placenta in woman with history of previous cesarean delivery.

s. Labor prior to the 37th week of gestation.

t. History of prior uterine surgery.

u. Lie other than vertex at term.

v. Multiple gestation.

w. Known fetal anomalies that may be affected by the site of birth.

x. Marked abnormal fetal heart tones.

y. Abnormal non-stress test or abnormal biophysical profile.

z. Marked or severe poly- or oligo-dydramnios.

aa. Evidence of intrauterine growth restriction.

bb. Significant abnormal ultrasound findings.

cc. Gestation beyond 43 weeks by reliable confirmed dates.

2. Intrapartum.

a. Rise in blood pressure above baseline, more than 30/15 points or greater than 140/90.

b. Persistent, severe headaches, epigastric pain or visual disturbances.

c. Significant proteinuria or ketonuria.

d. Fever over 100.6° F or 38° C in absence of environmental factors.

e. Respiratory distress.

f. Ruptured membranes without onset of established labor after 18 hours.

g. Significant bleeding prior to delivery or any abnormal bleeding, with or without abdominal pain; evidence of placental abruption.

h. Lie not compatible with spontaneous vaginal delivery or unstable fetal lie.

i. Failure to progress after 5 hours of active labor or following 2 hours of active second stage labor.

j. Signs or symptoms of maternal infection.

k. Active genital herpes at onset of labor.

l. Fetal heart tones with non-reassuring patterns.

m. Signs or symptoms of fetal distress.

n. Thick meconium or frank bleeding with birth not imminent.

o. Client or licensed midwife desires physician consultation or transfer.

3. Postpartum.

a. Failure to void within 6 hours of birth.

b. Signs or symptoms of maternal shock.

c. Febrile: 102° F or 39° C and unresponsive to therapy for 12 hours.

d. Abnormal lochia or signs or symptoms of uterine sepsis.

e. Deep vein thrombosis.

f. Signs of clinically significant depression.

(c) A licensed midwife shall consult with a physician or other licensed medical professional, upon parental request and with regard to any neonate who is born with or develops the following risk factors:

1. Apgar score of 6 or less at 5 minutes without significant improvement by 10 minutes.

2. Persistent grunting respirations or retractions.

3. Persistent cardiac irregularities.

4. Persistent central cyanosis or pallor.

5. Persistent lethargy or poor muscle tone.

6. Abnormal cry.

7. Birth weight less than 2300 grams.

8. Jitteriness or seizures.

9. Jaundice occurring before 24 hours or outside of normal range.

10. Failure to urinate within 24 hours of birth.

11. Failure to pass meconium within 48 hours of birth.

12. Edema.

13. Prolonged temperature instability.

14. Significant signs or symptoms of infection.

15. Significant clinical evidence of glycemic instability.

16. Abnormal, bulging, or depressed fontanel.

17. Significant clinical evidence of prematurity.

18. Medically significant congenital anomalies.

19. Significant or suspected birth injury.

20. Persistent inability to suck.

21. Diminished consciousness.

22. Clinically significant abnormalities in vital signs, muscle tone or behavior.

23. Clinically significant color abnormality, cyanotic, pale or abnormal perfusion.

24. Abdominal distension, projectile vomiting.

25. Signs of clinically significant dehydration or failure to thrive.

(5) TRANSFER. (a) The following conditions shall require immediate consultation with a physician or immediate emergency transfer to a hospital. Transport via private vehicle is an acceptable method of transport if it is the most expedient and safest method for accessing medical services. The licensed midwife shall initiate immediate transport according to the licensed midwife's emergency plan; provide emergency stabilization until emergency medical services arrive or transfer is completed; accompany the client or follow the client to a hospital in a timely fashion; provide pertinent information to the receiving facility and complete an emergency transport record:

1. Seizures or unconsciousness.

2. Respiratory distress or arrest.

3. Evidence of shock.

4. Psychosis.

5. Symptomatic chest pain or cardiac arrhythmias.

6. Prolapsed umbilical cord.

7. Shoulder dystocia not resolved by Advanced Life Support in Obstetrics (ALSO) protocol.

8. Symptoms of uterine rupture.

9. Preeclampsia or eclampsia.

10. Severe abdominal pain inconsistent with normal labor.

11. Chorioamnionitis.

12. Clinically significant fetal heart rate patterns or other manifestation of fetal distress.

13. Presentation not compatible with spontaneous vaginal delivery.

14. Laceration requiring repair outside the scope of practice of the licensed midwife.

15. Hemorrhage non-responsive to therapy.

16. Uterine prolapse or inversion.

17. Persistent uterine atony.

18. Anaphylaxis.

19. Failure to deliver placenta after one hour if there is no bleeding and fundus is firm.

20. Sustained instability or persistent abnormal vital signs.

21. Other conditions or symptoms that could threaten the life of the mother, fetus or neonate.

(b) A licensed midwife may deliver a client with any of the complications or conditions set forth in par. (a), if no physician or other equivalent medical services are available and the situation presents immediate harm to the health and safety of the client; if the complication or condition entails extraordinary and unnecessary human suffering, or if delivery occurs during transport.

(6) PROHIBITED PRACTICES. A licensed midwife shall not do any of the following:

(a) Administer prescription pharmacological agents intended to induce or augment labor.

(b) Administer prescription pharmacological agents to provide pain management.

(c) Use vacuum extractors or forceps.

(d) Prescribe medications.

(e) Provide out-of-hospital care to a woman who has had a classical incision cesarean section.

(f) Perform surgical procedures including, but not limited to, cesarean sections and circumcisions.

(g) Knowingly accept responsibility for prenatal or intrapartum care of a client with the following risk factors:

1. Significant cardiac, pulmonary, renal or hepatic disease.

2. Malignant disease in an active phase.

3. Significant hematological disorders or coagulopathies, or pulmonary embolism.

4. Insulin-dependent diabetes mellitus.

5. Significant congenital abnormalities affecting childbirth.

6. Confirmed isoimmunization, Rh disease with positive titer.

7. Active tuberculosis.

8. Active syphilis or gonorrhea.

9. Active genital herpes infection at term.

10. Significant pelvic or uterine abnormalities, including tumors and malformations.

11. Alcoholism or abuse.

12. Drug addiction or abuse.

13. Confirmed AIDS status.

14. Current serious psychiatric illness.

15. Social or familial conditions unsatisfactory for out-of-hospital maternity care services.

16. Fetus with suspected or diagnosed congenital abnormalities that may require immediate medical intervention.

17. Other significant physical abnormality, social or mental function that affects pregnancy, parturition or the ability to safely care for a newborn.

Note: It is the responsibility of a licensed midwife to inform his or her client about the known maternal/fetal risks and benefits of continuing with midwifery care relative to the risk factors associated with the surgical procedures identified in par. (g)

and to recommend to the client that her situation be evaluated by another licensed medical provider who has current training and practices in obstetrics.

## Chapter RL 183

## GROUNDS FOR DISCIPLINE

**RL 183.01 Disciplinary proceedings and actions**. (1) Subject to the rules promulgated under s. 440.03 (1), Stats., the department may reprimand a licensed midwife or deny, limit, suspend, or revoke a license or temporary permit granted under subch. XII of ch. 440, Stats., if the department finds that the applicant or the licensed midwife has engaged in misconduct. Misconduct comprises any practice or behavior that violates the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a patient or the public. Misconduct includes, but is not limited to, the following:

(a) Submitting fraudulent, or deceptive or misleading information in conjunction with an application for a credential.

(b) Violating, or aiding and abetting a violation, of any law or rule substantially related to practice as a midwife. A certified copy of a judgment of conviction is prima facie evidence of a violation.

Note: Pursuant to s. RL 4.09, all credential holders licensed by the department need to report a criminal conviction within 48 hours after entry of a judgment against them. The department form for reporting convictions is available on the department's website at http://drl.wi.gov.

(c) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice as a midwife, which the granting jurisdiction limits, restricts, suspends, or revokes, or having been subject to other adverse action by a licensing authority, any state agency or an agency of the federal government, including but not limited to, the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct. A certified copy of a state or federal final agency decision is prima facie evidence of a violation of this provision.

(d) Failing to notify the department that a license, certificate, or registration for the practice of any profession issued to the midwife has been revoked, suspended, limited or denied, or subject to any other disciplinary action by the authorities of any jurisdiction.

(e) Violating or attempting to violate any term, provision, or condition of any order of the department.

(f) Performing or offering to perform services for which the midwife is not qualified by education, training or experience.

(g) Practicing or attempting to practice while the midwife is impaired as a result of any condition that impairs the midwife's ability to appropriately carry out his or her professional functions in a manner consistent with the safety of clients, patients, or the public.

(h) Using alcohol or any drug to an extent that such use impairs the ability of the midwife to safely or reliably practice, or practicing or attempting to practice while the midwife is impaired due to the utilization of alcohol or other drugs.

(i) Engaging in false, fraudulent, misleading, or deceptive behavior associated with the practice as a midwife, including but not limited to, advertising, billing practices, reporting, falsifying, or inappropriately altering patient records.

(j) Discriminating in practice on the basis of age, race, color, sex, religion, creed, national origin, ancestry, disability or sexual orientation.

(k) Revealing to other personnel not engaged in the care of a client or to members of the public information which concerns a client's condition unless release of the information is authorized by the client or required or authorized by law. This provision shall not be construed to prevent a credential holder from cooperating with the department in the investigation of complaints.

(L) Abusing a client or patient by any single or repeated act of force, violence, harassment, deprivation, neglect, or mental pressure which reasonably could cause physical pain or injury, or mental anguish or fear.

(m) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a client. For the purposes of this paragraph, an adult shall continue to be a client for 2 years after the termination of professional services. If the person receiving services is a minor, the person shall continue to be a client for the purposes of this paragraph for 2 years after termination of services, or for one year after the client reaches the age of majority.

(n) Obtaining or attempting to obtain anything of value from a client without the client's consent.

(o) Obtaining or attempting to obtain any compensation by fraud, misrepresentation, deceit or undue influence in the course of practice.

(p) Offering, giving or receiving commissions, rebates or any other forms of remuneration for a client referral.

(q) Failing to provide the client or client's authorized representative a description of what may be expected in the way of tests, consultation, reports, fees, billing, therapeutic regimen or schedule, or failing to inform a client of financial interests which might accrue to the midwife for referral to or for any use of service, product or publication.

(r) Failing to maintain adequate records relating to services provided a client in the course of a professional relationship.

(s) Engaging in a single act of gross negligence or in a pattern of negligence as a midwife, or in other conduct that evidences an inability to apply the principles or skills of midwifery.

(t) Failing to respond honestly and in a timely manner to a request for information from the department or with any other request for information by the department. Taking longer than 30 days to respond creates a rebuttable presumption that the response is not timely.

(u) Failing to report to the department or to institutional supervisory personnel any violation of the rules of this chapter by a midwife.

(v) Allowing another person to use a license granted under subch. XII of ch. 440, Stats.

(2) Subject to the rules promulgated under s. 440.03 (1), Stats., the department shall revoke a license granted under subch. XII of ch. 440, Stats., if the licensed midwife is convicted of any of the offenses specified in s. 440.982 (2), Stats.

# APPENDIX I

## Essential Documents of the National Association of Certified Professional Midwives

CONTENTS



Gender references: To date, most NACPM members are women. For simplicity, this document uses female pronouns to refer to the NACPM member, with the understanding that men may also be NACPM members.

## I. Introduction

The Essential Documents of the NACPM consist of the NACPM Philosophy, the NACPM Scope of Practice, and the Standards for NACPM Practice. They are written for Certified Professional Midwives (CPMs) who are members of the National Association of Certified Professional Midwives.

- They outline the understandings that NACPM members hold about midwifery.
- They identify the nature of responsible midwifery practice.

## II. Philosophy and Principles of Practice

NACPM members respect the mystery, sanctity and potential for growth inherent in the experience of pregnancy and birth. NACPM members understand birth to be a pivotal life event for mother, baby, and family. It is the goal of midwifery care to support and empower the mother and to protect the natural process of birth. NACPM members respect the biological integrity of the processes of pregnancy and birth as aspects of a woman's sexuality.

NACPM members recognize the inseparable and interdependent nature of the mother-baby pair.

NACPM members believe that responsible and ethical midwifery care respects the life of the baby by nurturing and respecting the mother, and, when necessary, counseling and educating her in ways to improve fetal/infant well-being.

NACPM members work as autonomous practitioners, recognizing that this autonomy makes possible a true partnership with the women they serve, and enables them to bring a broad range of skills to the partnership.

NACPM members recognize that decision-making involves a synthesis of knowledge, skills, intuition and clinical judgment.

NACPM members know that the best research demonstrates that out-of-hospital birth is a safe and rational choice for healthy women, and that the out-of-hospital setting provides optimal opportunity for the empowerment of the mother and the support and protection of the normal process of birth.
NACPM members recognize that the mother or baby may on occasion require medical consultation or collaboration.
NACPM members recognize that optimal care of women and babies during pregnancy and birth takes place within a network of relationships with other care providers who can provide service outside the scope of midwifery practice when needed.

III. Scope of Practice for the National Association of Certified Professional Midwives

The NACPM Scope of Practice is founded on the NACPM Philosophy. NACPM members offer expert care, education, counseling and support to women and their families throughout the caregiving partnership, including pregnancy, birth and the postpartum period. NACPM members work with women and families to identify their unique physical, social and emotional needs. They inform, educate and support women in making choices about their care through informed consent. NACPM members provide on-going care throughout pregnancy and continuous, hands-on care during labor, birth and the immediate postpartum period. NACPM members are trained to recognize abnormal or dangerous conditions needing expert help outside their scope. NACPM members each have a plan for consultation and referral when these conditions arise. When needed, they provide emergency care and support for mothers and babies until additional assistance is available. NACPM members may practice and serve women in all settings and have particular expertise in out-of-hospital settings.

IV. The Standards of Practice for NACPM Members

The NACPM member is accountable to the women she serves, to herself, and to the midwifery profession. The NACPM Philosophy and the NACPM Scope of Practice are the foundation for the midwifery practice of the NACPM member. The NACPM Standards of Practice provide a tool for measuring actual practice and appropriate usage of the body of knowledge of midwifery.

Standard One: The NACPM member works in partnership with each woman she serves. The NACPM member:

• Offers her experience, care, respect, counsel and support to each woman she serves
• Freely shares her midwifery philosophy, professional standards, personal scope of practice and expertise, as well as any limitations imposed upon her practice by local regulatory agencies and state law
• Recognizes that each woman she cares for is responsible for her own health and well-being
• Accepts the right of each woman to make decisions about her general health care and her pregnancy and birthing experience

• Negotiates her role as caregiver with the woman and clearly identifies mutual and individual responsibilities, as well as fees for her services
• Communicates openly and interactively with each woman she serves
• Provides for the social, psychological, physical, emotional, spiritual and cultural needs of each woman
• Does not impose her value system on the woman
• Solicits and respects the woman's input regarding her own state of health
• Respects the importance of others in the woman's life.

Standard Two: Midwifery actions are prioritized to optimize well-being and minimize risk, with attention to the individual needs of each woman and baby.

The NACPM member:

• Supports the natural process of pregnancy and childbirth
• Provides continuous care, when possible, to protect the integrity of the woman's experience and the birth and to bring a broad range of skills and services into each woman's care
• Bases her choices of interventions on empirical and/or research evidence, verifying that the probable benefits outweigh the risks
• Strives to minimize technological interventions
• Demonstrates competency in emergencies and gives priority to potentially life-threatening situations
• Refers the woman or baby to appropriate professionals when either needs care outside her scope of practice or expertise
• Works collaboratively with other health professionals
• Continues to provide supportive care when care is transferred to another provider, if possible, unless the mother declines
• Maintains her own health and well-being to optimize her ability to provide care.

Standard Three: The midwife supports each woman's right to plan her care according to her needs and desires. The NACPM member:

• Shares all relevant information in language that is understandable to the woman
• Supports the woman in seeking information from a variety of sources to facilitate informed decision-making
• Reviews options with the woman and addresses her questions and concerns
• Respects the woman's right to decline treatments or procedures and properly documents her choices
• Develops and documents a plan for midwifery care together with the woman
• Clearly states and documents when her professional judgment is in conflict with the decision or plans of the woman
• Clearly states and documents when a woman's choices fall outside the NACPM member's legal scope of practice or expertise
• Helps the woman access the type of care she has chosen

• May refuse to provide or continue care and refers the woman to other professionals if she deems the situation or the care requested to be unsafe or unacceptable
• Has the right and responsibility to transfer care in critical situations that she deems to be unsafe. She refers the woman to other professionals and remains with the woman until the transfer is complete.

Standard Four: The midwife concludes the caregiving partnership with each woman responsibly. The NACPM member:

• Continues her partnership with the woman until that partnership is ended at the final postnatal visit or until she or the woman ends the partnership and the midwife documents same
• Ensures that the woman is educated to care for herself and her baby prior to discharge from midwifery care
• Ensures that the woman has had an opportunity to reflect on and discuss her childbirth experience
• Informs the woman and her family of available community support networks and refers appropriately.

Standard Five: The NACPM member collects and records the woman's and baby's health data, problems, decisions and plans comprehensively throughout the caregiving partnership. The NACPM member:

• Keeps legible records for each woman, beginning at the first formal contact and continuing throughout the caregiving relationship
• Does not share the woman's medical and midwifery records without her permission, except as legally required
• Reviews and updates records at each professional contact with the woman
• Includes the individual nature of each woman's pregnancy in her assessments and documentation
• Uses her assessments as the basis for on-going midwifery care
• Clearly documents her objective findings, decisions and professional actions
• Documents the woman's decisions regarding choices for care, including informed consent or refusal of care
• Makes records and other relevant information accessible and available at all times to the woman and other appropriate persons with the woman's knowledge and consent
• Files legal documents appropriately.

Standard Six: The midwife continuously evaluates and improves her knowledge, skills and practice in her endeavor to provide the best possible care. The NACPM member:

• Continuously involves the women for whom she provides care in the evaluation of her practice
• Uses feedback from the women she serves to improve her practice
• Collects her practice statistics and uses the data to improve her practice

• Informs each woman she serves of mechanisms for complaints and review, including the NARM peer review and grievance process
• Participates in continuing midwifery education and peer review
• May identify areas for research and may conduct and/or collaborate in research
• Shares research findings and incorporates these into midwifery practice as appropriate
• Knows and understands the history of midwifery in the United States
• Acknowledges that social policies can influence the health of mothers, babies and families; therefore, she acts to influence such policies, as appropriate.

V. Endorsement of Supportive Statements

NACPM members endorse the Midwives Model of Care (© 1996-2004 Midwifery Task Force), the Mother Friendly Childbirth Initiative (© 1996 Coalition for Improving Maternity Services) and the Rights of Childbearing Women (© 1999 Maternity Center Association, Revised 2004). For the full text of each of these statements, please refer to the following web pages. Midwives Model of Care (MMOC)-
http://www.cfmidwifery.org/Citizens/mmoc/define.aspx
Mother Friendly Childbirth Initiative (MFIC) -http://www.motherfriendly.org/MFCI/
Rights of Childbearing Women - http://www.maternitywise.org/mw/rights.html
Copyright © 2004 National Association of Certified Professional Midwives, All Rights Reserved

---

(END OF TEXT OF RULE)

---

The rules adopted in this order shall take effect on May 1, 2007.

Dated _____ Agency _____

Celia M. Jackson, Secretary
Department of Regulation and Licensing

Chs. RL 180-183 CR06- (Licensed midwives) Draft to CH 7-17-06