

MD 10037 2010 CITATION: COMAR 10.27.05.01 thru .07, .09, .10, .11, .12, .13
AGENCY: Department of Health and Mental Hygiene/Board of Nursing
VERSION: Proposed Rule
VERSION DATE: 01/29/2010

Subtitle 27 BOARD OF NURSING

10.27.05 Practice of Nurse Midwifery

Authority: Health Occupations Article, §§8-205(a)(1)—(5) and 8-602,

Annotated Code of Maryland

Notice of Proposed Action

The Secretary of Health and Mental Hygiene proposes to amend Regulation **.01**, repeal existing Regulation **.02**, adopt new Regulations **.02—05** and **.11**, amend and recodify existing Regulations **.05—07**, **.09**, and **.10** to be Regulations **.06—08**, **.10**, and **.12**, and recodify existing Regulations **.08** and **.11** to be Regulations **.09** and **.13** under **COMAR 10.27.05 Practice of Nurse Midwifery**. This action was considered by the Maryland Board of Nursing at a public meeting held on November 17, 2009, notice of which was given by publication on the board's website under Board news on November 1, 2009 and by the Maryland Board of Physicians on November 18, 2009, notice of which was given by publication in 36:23 Md. R. 1841 (November 6, 2009), pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to eliminate the requirement for a signed collaborative agreement between a Certified Nurse Midwife and a Physician and replace that requirement with a written collaborative plan with a physician; change existing language to comply with this proposal; change any obsolete language; and make technical changes.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Director, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499, or email to regs@dhhm.state.md.us, or fax to 410-333-7687. Comments will be accepted through March 1, 2010. A public hearing has not been scheduled.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "~~ACC AMCB~~" means the ~~American College of Nurse-Midwives Certification Council~~ American Midwifery Certification Board.

~~(1-1)~~ (2) "ACNM" means the American College of Nurse-Midwives.

~~(1-2)~~ (3) "Board" means the Board of Nursing.

~~(2)~~ (4) "Certified nurse-midwife" means a registered nurse who is ~~certified by~~:

(a) Certified by one of the following:

(i) By the ~~ACC AMCB~~, any; or

(ii) By any other certifying body approved by the Board; and ~~certified~~

(b) Certified by the Board.

~~(5) "Joint committee" means the Joint Committee on Nurse-Midwifery composed of an equal number of members appointed by the Board and the MBP.~~

(5) "Clinical practice guidelines" means written standards using guidelines such as those established by the ACNM or any other certifying body approved by the Board or any other guidelines approved by the Board that the nurse-midwife has adopted and follows in practicing as a midwife.

(6) "Collaborative plan" means the development and implementation of a plan:

(a) For consultation and collaboration with and referral to a physician and other health care providers to address complications;

(i) During a pregnancy; and

(ii) Beyond the educational preparation and scope of practice of the certified nurse-midwife that require the consultation or attendance of a physician or other health care provider; and

(b) That includes an assurance that a client can be transferred, whenever required, to the care of a physician with admitting privileges to a facility with an OB/GYN unit located in the client's geographic area.

~~(3)~~ (7) "Delegated medical functions" means those functions that come within the definition of "practice medicine" ~~of in~~ the Health Occupations Article, §14-101(i), Annotated Code of Maryland, that have been delegated to a certified nurse midwife to perform ~~and that are specified in the written agreement.~~

~~(4)~~ (8) "Formulary" means an approved list of the categories of substances commonly used in the practice of nurse midwifery as determined by the Board in consultation with the MBP and the Maryland Board of Pharmacy.

~~(6)~~ (9)—~~(10)~~ (13) (text unchanged)

~~(11)~~ "Protocol" means a written document approved by both the Maryland certified nurse midwife and the physician that details the procedures, management, and delegated medical nursing functions that the a Maryland certified nurse midwife will follow.

~~(12)~~ "Written agreement" means the development and implementation of a written document between a certified nurse midwife and a physician concerning the performance of delegated medical functions authorized by these regulations.

~~(14)~~ "Review committee" means the Review Committee on Nurse Midwifery composed of an equal number of members appointed by the Board and the MBP.

.02 Certification.

An applicant for certification as a nurse midwife shall:

A. Hold a current license to practice registered nursing in Maryland;

B. Hold current certification as a nurse midwife from the AMCB or any other certifying body approved by the Board;

C. Complete the application for certification as a nurse midwife;

D. Submit an affidavit that the applicant is in compliance at all times with the clinical practice guidelines as defined in Regulation .01B of this chapter; and

E. Pay all fees.

.03 Collaborative Plan.

A. A certified nurse midwife may not practice in Maryland unless the Board has approved a collaborative plan submitted by the nurse midwife to the Board which includes:

(1) The name of the collaborating physician; and

(2) An attestation by the nurse midwife that the:

(a) Patient has agreed to the collaborating physician; and

(b) Physician has agreed to collaborate in the care of the patient.

B. A certified nurse midwife seeking authorization to practice shall submit a collaborative plan to the Board that has attached to it an affidavit that the certified nurse midwife has developed clinical practice guidelines for the practice of midwifery that:

(1) Is on the form required by the Board;

(2) Fully describes:

(a) Delegated medical functions, if any, to be performed by the nurse midwife;

(b) The parameters of service;

(c) A comprehensive plan for transfer of care when needed;

(d) Practice guidelines for every specialty area of practice including, but not limited to:

(i) Client selection criteria;

(ii) Parameters and methods for assessing client health status;

(iii) Parameters for risk management; and

(iv) Parameters for consultation, collaboration, and referral;

(e) Appropriate interventions including treatment, medication, and any devices; and

(f) The categories of substances selected from the approved formulary that may be prescribed and dispensed by the certified nurse midwife.

C. The Review Committee shall review the collaborative plan and make recommendations to the Board as to whether the agreement should be revised or approved as submitted.

D. The approved collaborative plan shall be maintained by the Board and shall be made available to the MBP upon request.

E. If a certified nurse midwife will perform deliveries, the nurse midwife shall submit to the Board a collaborative plan with a physician who has:

(1) An active unencumbered Maryland license; and

(2) Unrestricted privileges to practice obstetrics and gynecology in a hospital in the geographic area in which the certified nurse midwife will practice.

F. If a certified nurse midwife will not be performing deliveries, and the consulting physician does not have privileges to practice obstetrics in a hospital in the geographic area in which the nurse midwife will practice, the Review Committee shall obtain an opinion from the Maryland Board of Physicians as to whether the physician has sufficient training and expertise in obstetrics and gynecology to perform his responsibilities under the collaborative plan.

G. A certified nurse midwife who is otherwise in full compliance with this chapter and who joins a practice of certified nurse midwives who have an approved collaborative plan on file with the Board shall submit, on the required form, an affidavit to that effect.

.04 Duties of the Board.

The Board shall:

A. Maintain an up-to-date list of all certified nurse midwives in this State; and

B. Include on the nurse midwife's registered nursing license an indication that the licensee is certified as a nurse midwife.

.05 Required Documentation.

A. A certified nurse midwife shall complete an individual care plan for each patient that includes plans for:

(1) Emergency consultation;

(2) Transfer of care; and

(3) When needed, admission to a hospital within the client's geographic area.

B. A certified nurse midwife shall have available at all times for examination by the Board, written clinical practice guidelines that cover all aspects of care, practice, and quality assurance.

.05 .06 Practice Before State Certification.

A. A registered nurse who meets the qualifications to sit for the ~~ACC~~ AMCB national certifying examination or any other certifying examination approved by the Board who has taken that examination and is waiting for the results of it may practice as a nurse midwife graduate before certification if the:

(1)—(2) (text unchanged)

(3) Nurse midwife graduate files with the Board a copy of the admission slip to the Board-approved certifying examination and a copy of the signed supervision agreement; ~~there shall also be submitted to the Board on the required form an affidavit signed by the collaborating physician stating that the physician agrees to the nurse midwife graduate's supervised practice according to the certified nurse midwife's agreement and protocols.~~

B. A nurse midwife graduate who has entered into ~~such~~ a supervision agreement under this regulation shall immediately notify the Board; and the supervising certified nurse midwife ~~and the physician~~ of the results of the Board-approved certifying examination.

C. A nurse midwife graduate may not continue to practice under ~~that a~~ supervision agreement under this regulation for more than 1 year from the filing of all documents required under §A of this regulation, or after the denial of ~~ACC~~ AMCB or other Board-approved certification, whichever occurs first.

.06 .07 Scope of Practice.

A. A certified nurse midwife who meets the requirements of Regulation .02 of this chapter may perform the following functions:

(1) Independent management of clients appropriate to the skill and ~~knowledge~~ educational preparation of the certified nurse midwife and the nurse midwife's ~~agreement and protocols~~ clinical practice guidelines;

- (2) Management, in collaboration with a physician, of clients with medical complications;
- (3) ~~Referral of~~ Refer clients with complications beyond the scope of practice of the certified nurse midwife to a licensed physician; and
- (4) ~~Consultations~~ Consult with and ~~referral~~ refer to other health care professions in the delivery and evaluation of health care.

B. (text unchanged)

C. A certified nurse midwife shall immediately advise the Board if the ~~written agreement~~ collaborative plan is ended by either party ~~and the Board shall immediately notify the MBP.~~

D. A certified nurse midwife has the right and obligation to refuse to perform any delegated medical act, oral or written, if, in the certified nurse midwife's judgment, it is unsafe or an invalidly prescribed medical act or beyond the competence of the certified nurse midwife, in which case the nurse midwife shall notify the physician at once.

~~.07 Joint~~ **.08 Review Committee on Nurse Midwifery.**

A. The Board in consultation with the MBP shall establish a ~~Joint~~ Review Committee to:

- (1) Develop a written framework ~~to be used in writing written agreements~~ for collaborative plans;
- (2) Make recommendations to the Board regarding approval ~~or of written agreements~~ —Collaborative plans submitted for review; ~~provided, however, a written agreement may not be approved by the Board unless the MBP reviews and approves the physician's role with regard to delegated medical functions;~~
- (3) Formulate standardized criteria to be used by the certified nurse midwife and physician in developing ~~protocols~~ clinical practice guidelines, taking into account the variations in size, scope, setting, and population of each individual or group practice; and
- (4) Be available to the Board ~~or the MBP, or both,~~ to review ~~protocols~~ clinical practice guidelines when requested and perform any duties delegated to it by the Board ~~and the MBP.~~

B. The ~~Joint~~ Review Committee shall be composed of any equal number of certified nurse midwife members appointed by the Board and physicians appointed by MBP.

C. A member of the Review Committee shall be appointed for a 3-year term and may be reappointed for one additional 3-year term.

~~C~~ D. Members of the ~~Joint~~ Review Committee may be members of the Board or the MBP or may be designees of each appointing board.

E. The members appointed by the Board shall be certified nurse midwives and the members appointed by the MBP shall be obstetricians.

F. The Board shall meet monthly if necessary and may conduct business with a majority of the committee present.

~~.09~~ **.10 Renewal of Certification.**

A. (text unchanged)

B. Before a nurse midwife's certification expires, the midwife may renew annually if the nurse midwife:

(1)—(2) (text unchanged)

(3) Submits to the Board:

(a) (text unchanged)

(b) Proof of enrollment in the Continuing Competency Assessment Program of the A.C.N.M. or, if initially certified after January 1, 1996, proof of enrollment in the ~~ACC~~ AMCB Certification Maintenance Program or other program approved by the Board.

.11 Compliance.

The certified nurse midwife shall develop and comply with clinical practice guidelines as defined in Regulation .02B of this chapter.

~~.10~~.12 Unlawful Practices.

Pursuant to Health Occupations Article, §§8-602 and 8-710, Annotated Code of Maryland, an individual may not:

A. (text unchanged)

B. Use the title nurse midwife, certified nurse midwife, or any other similar designation unless certified by the ~~American College of Nurse-Midwives~~ AMCB, or other certifying body approved by the Board; or

C. (text unchanged)

JOHN M. COLMERS

Secretary of Health and Mental Hygiene