

42 N.J.R. 1214(a)

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RULE ADOPTIONS

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

42 N.J.R. 1214(a)

Adopted Amendments: [N.J.A.C. 13:35-2A.4](#) and [2A.14](#)

Certified Midwives: Application for Licensure; Prescriptive Authorization

Proposed: June 1, 2009 at [41 N.J.R. 2204\(a\)](#).

Adopted: September 9, 2009 by the State Board of Medical Examiners, Paul Mendelowitz, M.D., President.

Filed: May 19, 2010 as R.2010 d.099, **with a technical change** not requiring additional public notice and comment (see [N.J.A.C. 1:30-6.3](#)).

Authority: [N.J.S.A. 45:9-2](#) and [45:10-22](#).

Effective Date: June 21, 2010.

Expiration Date: Pursuant to Executive Order No. 1 (2010), the expiration date of [N.J.A.C. 13:35](#) is extended from March 17, 2010, until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule is readopted pursuant to the Administrative Procedure Act, [N.J.S.A. 52:14B-1](#) et seq.

Summary of Public Comments and Agency Responses:

The official comment period ended July 31, 2009. The Board received four comments from the following individuals:

1. Stacy Launer
2. Linda Perry, CM, ACNM, NYSALM, MANA
3. Dawn Durain, CNM, MPH, FACNM, American College of Nurse-Midwives

4. Joanna M. King, Esq., Director, Government Relations, American College of Nurse-Midwives

[page=1215] 1. COMMENT: Three commenters support the amendments to [N.J.A.C. 13:35-2A.4](#) and [2A.14](#). One of these commenters believes that the amendments will make it easier for certified nurse midwives to apply for prescriptive authority in New Jersey. The commenter also believes that it is appropriate to recognize that some certified nurse midwives are also nurse practitioners and have obtained their pharmacology education as part of their nurse practitioner education.

RESPONSE: The Board thanks the commenters for their support.

2. COMMENT: One commenter recommends that the Board insert a hyphen between "nurse" and "midwife" as the trademarked and copyrighted term is "nurse-midwife."

RESPONSE: The Board points out that the term "nurse midwife" is used in [N.J.S.A. 45:10-1](#) et seq. without a hyphen. The Board will continue to use the term as it appears in the statute.

3. COMMENT: A commenter points out that [N.J.A.C. 13:35-2A.3](#) calls for a certified midwife member on the Midwifery Liaison Committee. The commenter points out that there has been no such member for the last two years. The commenter contends that this is negligence on the Committee's part.

RESPONSE: The Board points out that [N.J.A.C. 13:35-2A.3](#) is not part of the amendments that are the subject of this rulemaking.

4. COMMENT: One commenter contends that certified nurse midwife education programs are accredited by the American Commission for Midwifery Education, not the American College of Nurse-Midwives Certification Council (ACC) or Midwifery Education Accreditation Council (MEAC).

RESPONSE: The Board recognizes that the ACC and MEAC do not accredit certified nurse midwifery education programs. These entities accredit education programs for certified midwives and certified professional midwives and it is necessary to recognize these entities in [N.J.A.C. 13:35-2A.4](#). The Board recognizes that the American Commission for Midwifery Education is the new entity that accredits certified nurse midwife education programs. The Board will amend N.J.A.C. 13:35-2A to specifically recognize this new entity in a future rulemaking, but notes that this entity is recognized in the rule by virtue of the phrase "or their successors."

5. COMMENT: One commenter points out that MEAC accredits certified professional midwifery programs and that certified professional midwives do not have prescriptive authority in New Jersey. The commenter contends that it is inappropriate to refer to MEAC in the amendments.

RESPONSE: The Board believes that the commenter misunderstood the amendments to [N.J.A.C. 13:35-2A.4](#). This rule deals with licensure requirements for all midwives and it is necessary for this rule to refer to accrediting entities for certified professional midwives. The rule has nothing to do with prescriptive authority as the commenter contends.

6. COMMENT: A commenter would like to see the Board revise midwife prescription blanks to eliminate the requirement that the name and phone number of a midwife's affiliated

physician appear on the blank. The commenter contends that this is not a Federal requirement. The commenter also suggests that the application for a New Jersey controlled dangerous substance registration not ask for a midwife's affiliated physician.

RESPONSE: The requirements referred to by the commenter are not imposed by Board rules. They are imposed by [N.J.A.C. 13:45A-27.8\(i\)](#).

7. COMMENT: One commenter asks why certified midwives were not addressed in the amendments to [N.J.A.C. 13:35-2A.14](#). The commenter contends that certified midwives have the same education, pass the same examinations and meet the same continuing education requirements as certified nurse midwives. The commenter also contends that it is the position of ACNM that certified midwives and certified nurse midwives be treated equally and that legislation include certified nurse midwives and certified midwives together.

RESPONSE: [N.J.S.A. 45:10-18](#) provides that only certified nurse midwives may obtain prescriptive authority in New Jersey. This statute does not provide prescriptive authority to certified midwives and, absent a statutory change, the Board cannot grant such authority to certified midwives.

8. COMMENT: One commenter encourages the Board to support legislative attempts to amend [N.J.S.A. 45:10-18](#) to extend prescriptive authority to certified midwives.

RESPONSE: The Board is unaware of any current legislative attempts to amend [N.J.S.A. 45:10-18](#) and cannot respond to the commenter's speculations as to future legislative actions. If and when a bill is introduced to amend [N.J.S.A. 45:10-18](#) to include certified midwives as the commenter suggests, the Board may review any proposed legislation and, if appropriate, take a position or comment upon the proposed legislation.

Federal Standards Statement

A Federal standards statement is not required because there are no Federal standards or requirements applicable to the requirements of the adopted amendments.

Summary of Agency-Initiated Change:

During review of the proposed new rule [N.J.A.C. 13:35-2A.14](#) prior to adoption, the Board discovered a typographical error in subsection (b). The notice of proposal referred to "graduation from a midwifery course." This reference should have been to the entire midwifery program, not a midwifery course. The Board is changing [N.J.A.C. 13:35-2A.14](#) upon adoption to correct this typographical error.

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks ***thus***; deletion from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 2A. LIMITED LICENSES: MIDWIFERY

13:35-2A.4 Application for licensure

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

1.-2. (No change.)

3. An official transcript from a midwifery program, accredited by the ACNM, ACC or the

Midwifery Education Accreditation Council (MEAC), or their successors;

4.-7. (No change.)

(b) (No change.)

13:35-2A.14 Prescriptive authorization

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

1.-2. (No change.)

3. Evidence of satisfactory completion of a minimum of 30 contact hours in pharmacology, which included instruction in fundamentals of pharmacology and therapeutics, including principles and terminology of pharmaco-dynamics and pharmaco-kinetics, which was either:

i. Part of the midwifery program the CNM completed pursuant to [N.J.A.C. 13:35-2A.4\(a\)](#)³; or

ii. 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.

(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 **[course]** ***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:

[page=1216] 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.

Recodify existing (c)-(e) as (f)-(h) (No change in text.)