Notice of Agency Rulemaking Proposal

AGENCY: Maine Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

CHAPTER NUMBER AND TITLE:
Chapter 1 Definitions (Amended)
Chapter 4-Licensure Requirement for Certified Professional Midwives (New)
Chapter 5 Standards for Continuing Professional Education for Acupuncturists, Naturopathic Doctors, Certified Professional Midwives and Certified Midwives (Amended)
Chapter 6-A Standards Relating to Certified Professional Midwives Authority to Obtain and Administer Drugs, Medical Devices and Scope of Practice (New)
Chapter 6-B Standards Relating to Certified Midwives’ Prescriptive Authority and Scope of Practice (New)
Chapter 7 Grounds for Discipline (Amended)

TYPE OF RULE (check one): X Routine Technical □ Major Substantive

PROPOSED RULE NUMBER (leave blank; to be assigned by Secretary of State):

BRIEF SUMMARY:
The principal purpose to implement the Public Law 2016 Chapter 502 that was enacted into law on April 29, 2016 (LD 690 An Act to Ensure the Safety of Home Birth). The proposed rules clarify certain terms used in the practice of professional midwifery, sets standards for licensing professional midwives and certified professional midwives, update continued professional education requirements to include certified professional midwives and certified midwives and clarifies continuing education hardship requests and carry over hours for all licensees licensed by the Board, standards for certified professional midwifery practice including authorization to order and interpret medical laboratory tests and ultrasound scanning and obtain equipment and supplies, standards relating to certified midwives’ prescriptive authority and scope of practice, and updates the grounds for discipline to include certified professional midwives and certified midwives.

Date, time and location of PUBLIC HEARING (if any): December 16, 2020, 9:00 a.m. EST
Location: Due to the current situation of the 2019 novel coronavirus (COVID-19) and the need to avoid public gatherings, maintain public distance, and for everyone’s safety this meeting will be held virtually. Information to listen in to this meeting will be posted on the Board’s website at Information to join the Zoom meeting online

COMMENT DEADLINE: December 28, 2020, 5:00 p.m. (EST)

CONTACT PERSON FOR THIS FILING (include name, mailing address, telephone, fax, TTY, email):
Geraldine L. Betts, Administrator, 35 State House Station, Augusta ME 04333, 207-624-8625, TTY users call Maine relay 711, Geraldine.L.Betts@maine.gov

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (if different): Same as above

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §§ 12503, 12516(1), 12526(3), 12533, 12534, 12535(3), (4) and (5), 12537(2), (3), (4) and (5), 12538, and 12543(1)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): N/A

AGENCY WEBSITE: www.maine.gov/professionallicensing

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON:
Geraldine L. Betts, Administrator, Board of Complementary Health Care Providers
Chapter 1: DEFINITIONS

Summary: This chapter defines certain professional terms used throughout the board’s rules.

1. [deleted]

1-A. ACAOM. “ACAOM” means the Accreditation Commission for Acupuncture and Oriental Medicine or its successor.

2. [deleted]

3. [deleted]

4. [deleted]

5. [deleted]

5-A. ACNM. “ACNM” means the American College of Nurse Midwives.

5-B. ARM. “ARM” means the American Registry of Midwives.

6. Baccalaureate degree. “Baccalaureate degree” means the traditional degree given by an accredited institution of higher learning after the equivalent of four years of undergraduate level work, e.g., Bachelor of Arts, Bachelor of Science.

7. [deleted]

8. Board-approved acupuncture program. For purposes of 32 MRSA §12511(1), “board-approved internship program” means a structured clinical learning experience in the basic skills and knowledge necessary for the independent practice of acupuncture that is either part of an educational program approved by ACAOM or has been approved by the board.

9. [deleted]

9-A. CNME. “CNME” means the Council on Naturopathic Medical Education or its successor.

9-B MANA. “MANA” means the Midwives Alliance of North America.

10. [deleted]

11. [deleted]

11-A. NABNE. “NABNE” means the North American Board of Naturopathic Examiners or its successor.
12. [deleted]
13. [deleted]
14. [deleted]
15. [deleted]
16. [deleted]
17. [deleted]
18. [deleted]
19. [deleted]
20. NCCAO\textit{M}. “NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine or its successor.

20-A. **Non-controlled legend drug.** For purposes of 32 MRSA §12522(4)(B), “non-controlled legend drug” means a drug—

   (1) That lawfully bears, at a minimum, the symbol “Rx Only” in accordance with 21 USC §353(b)(4)(A) to indicate that the drug may only be dispensed upon prescription of a licensed practitioner; and

   (2) Is not a controlled substance as defined in 32 MRSA §12522(5).

21. NPLEX. “NPLEX” means the Naturopathic Physicians Licensing Examination administered by NABNE or a successor examination.

21-A. **Office.** “Office” means the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation.

22. [deleted]
23. [deleted]
24. [deleted]
25. [deleted]
26. [deleted]
27. [deleted]

STATUTORY AUTHORITY: 32 MRSA §12503

EFFECTIVE DATE:
Summary: This chapter states the requirements for issuance of a license to practice midwifery, including application and educational experience.

1. Qualification for Licensure

An applicant qualifies for licensure as a certified professional midwife by meeting the eligibility requirements set forth in 32 MRSA §12533.

2. Application for Licensure

An applicant applies for licensure by submitting the application prescribed by the board, the documentation required by subsection 3 below, the fees required by Chapter 10, Section 5(12) of the rules of the Office of Professional and Occupational Regulation, entitled “Establishment of License Fees,” and such additional information as the board may require. The applicant must complete the application process within 90 days from the date the application is received by the board. If the application process has not been completed within that time, the application and all supporting materials become invalid and the applicant must restart the application process by submitting a new application, supporting documents and the required fees.

3. Documentation Required

1. Generally

The applicant shall submit the documentation described in this Section to establish eligibility for licensure under 32 MRSA §12533. All documents must be submitted in the English language.

2. Verification of Licensure in Other Jurisdictions

Attest to all jurisdictions in which the applicant holds or has ever held a license to practice midwifery as of the date of application, together with the license number and license expiration date, and disclosure of any discipline ever imposed by the jurisdiction.

STATUTORY AUTHORITY: 32 MRSA §§ 12533, 12538

EFFECTIVE DATE:
02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 4-B: LICENSURE REQUIREMENT FOR CERTIFIED MIDWIVES (NEW)

Summary: This chapter states the requirements for issuance of a license to practice midwifery, including application, educational experience and references.

1. Qualification for Licensure

   An applicant qualifies for licensure as a certified midwife by meeting the eligibility requirements set forth in 32 MRSA §12534.

2. Application for Licensure

   An applicant applies for licensure by submitting the application prescribed by the board, the documentation required by subsection 3 below, the fees required by Chapter 10, Section 5(12) of the rules of the Office of Professional and Occupational Regulation, entitled “Establishment of License Fees,” and such additional information as the board may require. The applicant must complete the application process within 90 days from the date the application is received by the board. If the application process has not been completed within that time, the application and all supporting materials become invalid and the applicant must restart the application process by submitting a new application, supporting documents, and the required fees.

3. Documentation Required

   1. Generally

      The applicant shall submit the documentation described in this Section to establish eligibility for licensure under 32 MRSA §12534. All documents must be submitted in the English language.

   2. Verification of Licensure in Other Jurisdictions

      Attest to all jurisdictions in which the applicant holds or has ever held a license to practice midwifery as of the date of application, together with the license number and license expiration date, and disclosure of any discipline ever imposed by the jurisdiction.

STATUTORY AUTHORITY: 32 MRSA §§ 12534, 12538

EFFECTIVE DATE:
Summary: This chapter sets forth the requirements for continuing education as required for license renewal.

1. Generally

   1. Certification

       All licensees shall certify at time of the applicable license renewal to compliance with the continuing education requirement set forth in this chapter. The licensee’s certification is subject to audit pursuant to Chapter 13 of the rules of the Office of Professional and Occupational Regulation, entitled “Uniform Rule for the Substantiation of Continuing Education Requirements.” This continuing education requirement does not apply to the first renewal of an initial license.

   2. Timely Completion

       All continuing education activities must be completed during the license term(s) of the designated continuing education cycle for which credit is claimed. Continuing education hours earned in excess of the required hours for a license term may not be carried forward to a subsequent license term.

   3. Application for Hardship Deferment; Carry Over Hours

       A licensee may apply for a continuing education deferment on the ground of undue hardship. The licensee shall document the hardship upon request of the board.

       A. A licensee may request from the Board, in writing, a deferment of continuing professional education due to their health reasons, military service, or other unforeseeable circumstances of genuine hardship. A licensee who receives a deferment shall complete the deferred continuing professional education according to a schedule determined by the Board.

       B. Continuing professional education hours earned during the biennium continuing education term that are over the requirements for license renewal may not be applied retroactively, nor carried forward to a subsequent license renewal term unless otherwise designated under section 1(3)(C).

       C. During a declaration of state or federal civil emergency, the Board may renew licenses without satisfying any continuing professional education requirement and may further suspend, discard, or carry over continuing education requirements that would otherwise apply.
4. **Limitations**

Notwithstanding anything to the contrary in this chapter, continuing education credit will not be given for:

A. Continuing education activities which in substantial part promote a specific company, individual or product; or

B. Continuing education activities which primarily focus on practice economics.

2. **Acupuncturist Standards For Continuing Education**

1. **General Requirement**

An acupuncturist shall certify biennially at time of license renewal to completion of 30 hours of continuing education during the preceding two years as set forth in this chapter. The continuing education cycle begins on October 1 of each even-numbered year and ends on September 30 of the next even-numbered year on a continuing basis thereafter. To be eligible for credit, a continuing education activity must—

A. Directly relate to the knowledge or clinical practice of acupuncture or Oriental medicine; and

B. Be either sponsored or presented by a pre-approved organization pursuant to subsection 2 below, or be specifically approved by the board upon request as set forth in subsection 3 below.

2. **Automatic Approval of Continuing Education Activities Sponsored or Presented by Pre-Approved Sponsors and Providers**

Continuing education activities offered by sponsors and providers whose past offerings, in the judgment of the board, have consistently met the approval criterion of Section 2(1)(A) above are eligible for credit without need of request. The board shall publish a current list of pre-approved sponsors and providers at the beginning of each license year and may update the list during the course of the license year as necessary. The board may monitor continuing education activities offered by pre-approved sponsors and providers for compliance with the approval criterion of Section 2(1)(A) above.

3. **Specific Approval of Continuing Education Activities**

A licensee may request the board to approve a continuing education activity that is not automatically approved pursuant to subsection 2 above. The request must include the information described in paragraphs A–F below. The board will review the request for compliance with Section 1(4) and Section 2(1)(A) above.

A. Name of the program, name of the sponsor, method of presentation and outline of the subject matter to be covered;

B. Name, title, professional degrees, credentials and qualifications of the presenter;
C. Date, location and daily schedule of the program, including all start times, end times and scheduled breaks; and

D. [deleted]

E. [deleted]

F. If available, a copy of a brochure or any written material publicizing the program.

3. Naturopathic Doctor Standards For Continuing Education

1. General Requirement

A naturopathic doctor shall certify at time of license renewal to completion of 25 hours of continuing education during the preceding license year as set forth in this chapter. At least 7 of the 25 hours must be in pharmacology. To be eligible for credit, a continuing education activity must—

A. Directly relate to the knowledge or clinical practice of naturopathic medicine; and

B. Be either sponsored or presented by a pre-approved organization listed in subsection 3 below, or be specifically approved by the board upon request as set forth in subsection 4 below.

2. Additional Continuing Education for Holders of the Naturopathic Acupuncture Specialty Certification

A licensee who holds a naturopathic acupuncture specialty certification shall complete an additional 15 hours of continuing education specific to that specialty during the preceding license term. The additional 15 hours must meet the approval criteria for acupuncture continuing education activities set forth in Section 1(4) and Section 2(1)(A) above.

3. Automatic Approval of Continuing Education Activities Sponsored or Presented by Pre-Approved Sponsors and Providers

Continuing education activities offered by sponsors and providers whose past offerings, in the judgment of the board, have consistently met the approval criterion of Section 3(1)(A) above are eligible for credit without need of request. The board shall publish a current list of pre-approved sponsors and providers at the beginning of each license term and may update the list during the course of the license term as necessary. The board may monitor continuing education activities offered by pre-approved sponsors and providers for compliance with the approval criterion of Section 3(1)(A) above.

4. Specific Approval of Continuing Education Activities

A licensee may request the board to approve a continuing education activity that is not automatically approved pursuant to subsection 3 above. The request must include the information described in paragraphs A–D below. The board will review the request for compliance with Section 1(4) and (5) and Section 3(1)(A) above.

A. Name of the program, name of the sponsor, method of presentation and outline of the subject matter to be covered;
B. Name, title, professional degrees, credentials and qualifications of the presenter;

C. Date, location and daily schedule of the program, including all start times, end times and scheduled breaks; and

D. If available, a copy of a brochure or any written material publicizing the program.

4. Certified Professional Midwives Standards For Continuing Education

1. General Requirement

A. A licensed certified professional midwife shall certify at time of license renewal to completion of 20 hours of continuing education during the preceding two years as set forth in this chapter. The continuing education cycle begins on October 1 of each even-numbered year and ends on September 30 of the next even-numbered year on a continuing basis thereafter.

1) Of the 20 hours, a minimum of 4 hours must be in pharmacology.

2) Of the 20 hours, no more than 5 hours may be in Category II.

B. To be eligible for credit, a continuing education activity must—

1) Directly relate to the knowledge, skills or clinical practice of midwifery; and

2) Be either sponsored or presented by a pre-approved organization listed in subsection 2 below, or be specifically approved by the board upon request as set forth in subsection 3 below.

C. Category I activities shall have a value of one hour for each 50 minutes of participation, or 10 hours per three-credit course.

D. Category II activities shall have a value of one hour for each 50 minutes of participation; 5 hours for each 3-credit course taught, or article or chapter published; a maximum of one hour for three or more hours of precepting.

E. For educators and presenters seeking Category II hours, a one-time credit of up to 5 hours will be allowed for the preparation of the initial course or presentation.

F. Category II activities include continuing health related education activities as described below:

1) Exhibits or presentations offered to health professionals, such as poster presentations, workshops, lectures, or grand rounds;

2) Papers published in midwifery, allied health, and medical journals;

3) Articles or chapters authored and published in professional textbooks;
4) Participation in quality improvement projects, peer review, case presentations, meetings that have a clinical focus, or midwifery/medical audits;

5) Precepting midwifery students, medical students, residents, or nurses enrolled in midwifery or advanced practice registered nursing programs;

6) Active participation in health-related original research;

7) Teaching post-secondary courses which offer academic credit related to the practice of midwifery or women’s health; and

8) Documented self-instruction such as reading midwifery, allied health and medical journals; listening to audio or videotapes; skills simulation; viewing slides; utilizing programmed or computer-assisted instruction.

2. **Automatic Approval of Continuing Education Activities Sponsored or Presented by Pre-Approved Sponsors and Providers**

   The board shall publish a current list of pre-approved sponsors and providers at the beginning of each license year and may update the list during the course of the license year as necessary.

3. **Specific Approval of Continuing Education Activities**

   A licensee may request the board to approve a continuing education activity that is not automatically pre-approved pursuant to subsection 2 above. The request must include the information described in paragraphs A–D below. The board will review the request for compliance with Section 1(4).

   A. Name of the program, name of the sponsor, method of presentation and outline of the subject matter to be covered;

   B. Name, title, professional degrees, credentials and qualifications of the presenter;

   C. Date, location and daily schedule of the program, including all start times, end times and scheduled breaks; and

   D. If available, a copy of a brochure or any written material publicizing the program.

5. **Certified Midwives Standards For Continuing Education**

   1. **General Requirement**

      A licensed certified midwife shall certify at time of license renewal to completion of the following continuing education during the preceding two years as set forth in this chapter. The continuing education cycle begins on October 1 of each even-numbered year and ends on September 30 of the next even-numbered year on a continuing basis thereafter.

      A. Seventy-five hours of continuing education.
B. Of the 75 hours a minimum of 30 hours must be in Category I, and up to 45 hours may be in Category II.

To be eligible for credit, a continuing education activity must—

C. Directly relate to the knowledge or clinical practice of midwifery; and

D. Be either sponsored or presented by a pre-approved organization listed in subsection 2 below, or be specifically approved by the board upon request as set forth in subsection 3 below.

E. Category I activities shall have a value of one hour for each 50 minutes of participation, or 10 hours per three-credit course.

F. Category II activities shall have a value of one hour for each 50 minutes of participation; ten hours for each 3-credit course taught, or article or chapter published; a maximum of one hour for three or more hours of precepting.

For educators and presenters seeking Category II hours, a one-time credit of up to 10 hours will be allowed for the preparation of the initial course or presentation.

Category II activities include continuing health related education activities performed by the licensee, such as:

1) Exhibits or presentations offered to health professionals, such as poster presentations, workshops, lectures, or grand rounds;

2) Papers published in midwifery, allied health, and medical journals;

3) Articles or chapters authored and published in professional textbooks;

4) Participation in quality improvement projects, peer review, case presentation, meetings that have a clinical focus, or midwifery/medical audits;

5) Precepting midwifery students, medical students, residents, or nurses enrolled in midwifery or advanced practice registered nursing programs;

6) Active participation in health-related original research;

7) Teaching courses which offer academic credit related to the practice of midwifery or women’s health; or

8) Documented self-instruction such as reading midwifery, allied health and medical journals; listening to audio or videotapes; skill simulation; viewing slides; utilizing programmed or computer-assisted instruction.

2. Automatic Approval of Continuing Education Activities Sponsored or Presented by Pre-Approved Sponsors and Providers
The board shall publish a current list of pre-approved sponsors and providers at the beginning of each license year and may update the list during the course of the license year as necessary.

3. **Specific Approval of Continuing Education Activities**

A licensee may request the board to approve a continuing education activity that is not automatically pre-approved pursuant to subsection 2 above. The request must include the information described in paragraphs A–D below. The board will review the request for compliance with Section 1(4).

A. Name of the program, name of the sponsor, method of presentation and outline of the subject matter to be covered;

B. Name, title, professional degrees, credentials and qualifications of the presenter;

C. Date, location and daily schedule of the program, including all start times, end times and scheduled breaks; and

D. If available, a copy of a brochure or any written material publicizing the program.

STATUTORY AUTHORITY: 32 MRSA §§ 12516(1), 12526(3), 12538(2)

EFFECTIVE DATE:
Summary: This chapter describes standards by which a certified professional midwife may obtain and administer certain drugs, the authorized certified professional midwife scope of practice and establishes the circumstances under which they shall recommend and facilitate modification of the care relationship.

1. Definitions.

1. **Antepartum.** “Antepartum” is the period of pregnancy beginning with conception and ending at the beginning of true labor.

2. **Collaboration.** “Collaboration” is a consultation where a plan that is mutually agreed upon by the client, the requesting provider, and the consultant is created, and care is jointly provided by the requesting provider and the consultant.

3. **Consultation.** “Consultation” means communication requested from a health care professional with specific expertise by another qualified health care provider for the intent of exchanging information and obtaining guidance.

4. **Intrapartum.** “Intrapartum” is the period beginning with the beginning of true labor and ending with the expulsion of the placenta from the uterus.

5. **Neonatal.** “Neonatal” is the period of the baby’s life beginning with birth from the uterus and ending 28 days after the birth.

6. **Postpartum.** “Postpartum” is the period beginning immediately after the expulsion of the placenta from the uterus and ending 12 weeks after the birth.

7. **Referral.** “Referral” is a consultation with the intent of the client being seen by the consultant for evaluation and treatment of the condition for which the referral is made.

8. **Termination of Care.** “Termination of care” is complete cessation of the certified professional midwife-client relationship due to the presence of conditions beyond the certified professional midwife’s scope of practice or skill level, or inability to resolve client-certified professional midwife conflict by other means. Termination of care shall be accompanied by the transfer of care to another health professional, which may include an emergency medical technicians or emergency service providers, or to another health care facility.

9. **Transfer of Care.** “Transfer of care” is relinquishment of care by the certified professional midwife to a health care professional or hospital service; this does not preclude the midwife from continuing to provide nonclinical support when desired by the client.
10. **True labor.** “True labor” is the uterine contractions leading to cervical changes.

2. **Certified Professional Midwife Formulary**

1. A certified professional midwife may recommend nonprescription medication without limitation, subject only to the limitations of the midwife’s professional knowledge and the standards of care applicable to the midwifery profession.

2. Certified professional midwives are authorized to obtain, possess, and administer the following drugs and devices:

   A. Acyclovir for prophylaxis of genital herpes;
   B. APNO cream (all-purpose nipple ointment);
   C. B-6 IM Injectable;
   D. Devices including, but not limited to, breast pumps, compression stockings and maternity belts, diaphragms and cervical caps;
   E. Epinephrine for maternal anaphylaxis;
   F. Epinephrine for neonatal resuscitation;
   G. Intravenous fluids and administration-related supplies and devices;
   H. IUD, with appropriate training;
   I. Laryngeal mask airway for neonatal resuscitation;
   J. Local anesthetics or numbing agents for repair of lacerations;
   K. Medication for Group B Streptococcus prophylaxis;
   L. Naloxone;
   M. Neonatal Eye prophylaxis;
   N. Nifedipine, sublingual, for suppression of contractions pending transport to a health facility;
   O. Nitrous oxide, administered with a 50% blend of oxygen, for management of pain in labor;
   P. Ondansetron, oral or sublingual;
   Q. Over-the-counter herbs and homeopathic remedies subject only to the limitations of the midwife’s professional knowledge and the standards of care applicable to the midwifery profession;
   R. Over-the-counter vitamins, minerals, drugs and devices;
   S. Oxygen;
   T. Pracasil plus;
   U. Rh Immune Globulin;
   V. Sterile water for intradermal injections for pain relief;
   W. Suture materials;
   X. Tranexamic Acid (TXA), for use in conjunction with planned transport to a health facility;
   Y. Uterotonicics, including, but not limited to, oxytocin, methergine, and misoprostol, exclusively for the control of maternal postpartum hemorrhage and subinvolution;
   Z. Vaccines, including, but not limited to, Tdap, Rubella, Influenza, HPV, and neonatal Hepatitis B vaccine; and
AA. Vitamin K for neonatal prophylaxis;

3. Scope of practice

1. Certified professional midwife. The certified professional midwife shall provide only those health care services for which the certified professional midwife is educationally and clinically prepared, and for which competency has been maintained. The certified professional midwife is authorized to function to the full extent of the certified professional midwife’s education, training, and competency within the population focus and scope of practice defined by the national certifying body.

2. Certified professional midwives primarily practice in homes, birth centers, clinics, and offices, and may also practice in hospitals, and emergency care settings. Certified professional midwives may consult, refer, or transfer to licensed allopathic or osteopathic physicians, or other licensed health professionals as necessary for the client’s health or safety in accordance with professional judgment.

3. The health care services for which the certified professional midwife is independently responsible and accountable include:

   A. Reproductive health care across the lifespan, including family planning and evaluation of well-being, including relevant health history;

   B. Health care of the newborn up to age 8 weeks;

   C. Maternity care, including preconception care, care during pregnancy, labor and childbirth, and the postpartum period until 12 weeks;

   D. Ordering and interpreting medical laboratory tests, specimen collection, performing CLIA-waived testing for the benefit of the individual midwifery client, ordering and interpreting ultrasound scan results, and obtaining equipment and supplies for the safe practice of midwifery; and

   E. Performing or ordering any newborn testing required or recommended by the Maine Center for Disease Control, including, but not limited to: Newborn Blood Spot Screening (NBS), Critical Congenital Heart Defect (CCHD) and Hearing Screening.

4. The certified professional midwife is authorized to activate emergency medical services procedures at any time to protect the health and safety of the client, fetus or newborn, including when the client declines transfer of care.

5. The certified professional midwife shall perform and document periodic assessment to identify the following conditions, and provide care in accordance with section 5:

   A. Multifetal gestation;

   B. Non-vertex presentation;

   C. Prior cesarean procedure; and

   D. Other conditions that present a moderate or high risk of harm to parent or child.

6. When providing primary maternity care, the certified professional midwife licensed
under this chapter shall:

A. Obtain informed consent to care that is in compliance with language approved by the board pursuant to 32 M.R.S. §12541.

B. Collect data as required by statute and prescribed by the board and report to the board in a format approved by the board for that purpose. 32 MRSA §12539. When the intended and actual place of birth is a hospital setting, this provision does not apply.

4. Termination of care.

1. Midwifery care shall be terminated when client-certified professional midwife conflicts affecting the safe provision of care are unable to be resolved.

2. When such conditions are present, the certified professional midwife shall:

   A. Immediately inform the client of the condition or circumstances requiring termination of care;

   B. Provide written notice to the client at least three business days before termination of care, unless an emergency exists;

   C. Facilitate coordination of care with another licensed health care provider;

   D. Share records and relevant information related to the condition with subsequent providers; and

   E. Document the termination of care in the client's records.

5. Requirement for consultation, collaboration, referral, or transfer of care.

1. When the following conditions or circumstances occur, the certified professional midwife is required to initiate the associated actions of consultation, collaboration, referral, or transfer of care. Such action may be initiated at any time when in the professional judgment of the certified professional midwife such action is warranted.

   A. **Antepartum.** During the antepartum period the following actions are required in the presence of the listed conditions or circumstances:

      1) **Consultation**

         a) Suspected intrauterine growth restriction;

         b) Severe vomiting unresponsive to certified professional midwife treatment;

         c) Pain unrelated to common discomforts of pregnancy;

         d) Presence of condylomata that may obstruct delivery;

         e) Anemia unresponsive to certified professional midwife treatment, with a hemoglobin less than 10.0 MG/DL;

         f) Suspected or confirmed fetal demise after 14.0 weeks gestation;

         g) Suspected multiple gestation;

         h) Confirmed chromosomal or genetic abnormalities;

         i) Hepatitis C;
j) Suspected fetal malpresentation after 36.0 weeks;
k) Ultrasound diagnosis of complete placenta previa from 28.0 – 34.0 weeks gestation; and
l) Any other condition that in the judgment of the certified professional midwife requires consultation.

2) **Collaboration**

a) Infection unresponsive to certified professional midwife treatment;
b) Incomplete miscarriage;
c) Significant vaginal bleeding;
d) Signs or symptoms of deep vein thrombosis or pulmonary embolus;
e) Stable thyroid disease;
f) Stable seizure disorder;
g) Chronic hypertension requires collaboration with an obstetrical physician;
h) History of cervical incompetence treated with surgical therapy, requires collaboration with an obstetrical physician;
i) Severe depression, exacerbations of mood disorder, or psychiatric illness responsive to treatment;
j) Confirmed fetal malpresentation at or after 37.0 weeks; and
k) Any other condition that in the judgment of the certified professional midwife requires collaboration.

3) **Referral**

a) Signs or symptoms of untreated thyroid disease;
b) Gestational diabetes requiring pharmacologic therapy;
c) Changes in the breast(s) suspicious for malignancy and unrelated to pregnancy or lactation;
d) Documented platelet count less than 80,000 platelets per mm³ of blood in the absence of signs or symptoms of pre-eclampsia or HELLP syndrome. HELLP means findings of hemolysis, elevated liver enzymes, and low platelets;
e) Confirmed or developing deep vein thrombosis or pulmonary embolism;
f) Rh isoimmunization or other red blood cell isoimmunization known to cause erythroblastasis fetalis;
g) Primary genital herpes outbreak;
h) Preeclampsia;
i) Oligohydramnios, hydramnios or polyhydramnios;
j) Pregnancy beyond 41.6 weeks gestation; with NON-reassuring fetal assessment; and
k) Any other condition that in the judgment of the certified professional midwife requires referral.

4) **Transfer of Care**

a) Current substance use disorder;
b) Current diagnosis of cancer;
c) Confirmed intrauterine growth restriction;
d) No onset of labor by 43.0 weeks gestation;
e) Heart disease that has been determined by a cardiologist to have potential to affect or to be affected by pregnancy, labor, or delivery;
f) Ultrasound diagnosis of complete or partial placenta previa-after 34.0 weeks gestation;
g) Preeclampsia with severe features; including any of the following:
   i. A systolic pressure greater than 160 mm or a diastolic pressure greater than 110 mm in two readings at least four hours apart after a period of bedrest;
   ii. Documented platelet count of less than 100,000 platelets per mm3 of blood, or presence of other coagulation disorder;
   iii. Impaired liver function;
   iv. Progressive renal insufficiency;
   v. Pulmonary edema; or
   vi. New onset cerebral or visual disturbances;

h) Eclampsia;
i) Signs of suspected placental abruption, or fetal compromise;
j) Confirmed or suspected ectopic pregnancy;
k) Severe psychiatric illness non-responsive to treatment;
l) Insulin-dependent diabetes;
m) Significant vaginal bleeding after 20.0 weeks gestation inconsistent with normal pregnancy and posing a continuing risk to client or baby;

n) Any other condition that in the judgment of the midwife could place the life or long-term health of the pregnant person or unborn child at risk; and

o) Human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS).

B. **Intrapartum.** During the intrapartum period the following actions are required in the presence of the listed conditions or circumstances:

1) **Consultation**

a) Any condition that in the judgment of the certified professional midwife requires consultation.
2) Collaboration
   a) Any condition that in the judgment of the certified professional midwife requires collaboration.

3) Referral
   a) Any condition that in the judgment of the certified professional midwife requires referral.

4) Transfer of Care
   a) Visible genital lesions suspicious of herpes virus infection in a location unable to be isolated from the neonate during the birth process;
   b) Signs or symptoms of preeclampsia;
   c) Excessive vomiting, dehydration, acidosis, or exhaustion unresponsive to certified professional midwife treatment;
   d) Excessive bleeding, inconsistent with normal bloody show;
   e) Progressive labor prior to 37.0 weeks gestation except in the presence of known miscarriage, confirmed fetal death, or known congenital anomalies incompatible with life;
   f) Signs or symptoms of uterine rupture;
   g) Prolapsed umbilical cord, unless birth is imminent;
   h) Clinically significant abdominal pain inconsistent with normal labor;
   i) Maternal seizure;
   j) Suspected chorioamnionitis;
   k) Fetal heart rate indicative of fetal labor intolerance that does not immediately respond to treatment by the midwife, unless birth is imminent;
   l) Meconium in the amniotic fluid accompanied by abnormal fetal heart rate, or other identified risk factors for neonatal resuscitation, unless birth is imminent;
   m) Lack of descent after three hours of effective second stage efforts;
   n) Signs of impending maternal shock unresponsive to certified professional midwife treatment;
   o) Retained placenta or retained placental parts not resolved by clinical management;
   p) Postpartum hemorrhage not resolved by clinical management;
   q) Breech or other malpresentation diagnosed in labor, unless birth is imminent;
   r) Multifetal presentation diagnosed in labor, unless birth is imminent; or
s) Any other condition that in the judgment of the certified professional midwife would place the life or long-term health of the pregnant person or unborn child at significant risk if not acted upon immediately.

C. Postpartum. During the postpartum period the following actions are required in the presence of the listed conditions or circumstances:

1) Consultation
   a) Bladder dysfunction;
   b) Persistent abnormal uterine bleeding; or
   c) Any other condition that in the judgment of the certified professional midwife requires consultation.

2) Collaboration
   a) Signs or symptoms of infection unresponsive to certified professional midwife treatment;
   b) Symptoms of breast disorders unresponsive to certified professional midwife treatment;
   c) Postpartum depression or exacerbation of mood disorder; or
   d) Any other condition that in the judgment of the certified professional midwife requires collaboration.

3) Referral
   a) Any birth-related lacerations or trauma beyond the ability of the midwife to repair, to include:
      • 3rd or 4th degree perineal lacerations;
      • Severe vaginal, periurethral, or clitoral lacerations;
      • Cervical lacerations; or
      • Signs or symptoms of developing significant hematoma;
   b) Early signs or symptoms of deep vein thrombosis or pulmonary embolus;
   c) Severe depression;
   d) Evolving hypertension or the presence of any signs or symptoms of preeclampsia; or
   e) Any other condition that in the judgment of the certified professional midwife requires referral.

4) Transfer of Care
   a) Severe psychiatric illness non-responsive to treatment; or
   b) Any other condition that in the judgment of the certified professional midwife could place the life or long-term health of the postpartum person at significant risk if not acted upon immediately.
D. **Neonatal.** During the neonatal period of the life of the newborn, the following actions are required in the presence of the listed conditions or circumstances:

1) **Consultation**
   a) Poor feeding and/or poor weight gain; or
   b) Any other condition that in the judgment of the certified professional midwife requires consultation.

2) **Collaboration**
   a) Hospital-based newborn hearing screening;
   b) Minor congenital anomaly; or
   c) Any condition that in the judgment of the certified professional midwife requires collaboration.

3) **Referral**
   a) Apparent birth injury;
   b) Loss of 15% or more of birth weight;
   c) Unusual bruising or bleeding, petechiae, or lesions;
   d) Abnormal screening or testing results;
   e) Dysmorphic features suggesting a genetic diagnosis;
   f) Blood in stools or emesis (not from cracked nipples);
   g) Early onset or excessive jaundice;
   h) No passage of stools or urine within 24 hours of birth;
   i) Abdominal distention or vomiting;
   j) Gestational age assessment less than 36.0 weeks gestation;
   k) Insufficient suck or feed, not responsive to certified professional midwife treatment; or
   l) Any other condition that in the judgment of the certified professional midwife requires referral.

4) **Transfer of Care**
   a) Congenital anomalies requiring timely intervention;
   b) Persistent abnormalities of vital signs (temp, respiratory rate, heart rate, pulse oximetry readings);
   c) Upper airway obstruction;
   d) Persistent respiratory distress;
   e) Persistent pallor or central cyanosis;
   f) Apgar score at ten minutes of less than seven;
   g) Post-resuscitative care after Neonatal Resuscitation Protocol (NRP) chest compressions;
   h) Signs of newborn hemorrhage;
   i) Seizure, or seizure-like activity;
j) Hypotonia, hypertonia or tremors; or

k) Any other condition that in the judgment of the certified professional midwife could place the life or long-term health of the infant at significant risk if not acted upon immediately.

STATUTORY AUTHORITY: 32 MRSA §§ 12503, 12535(3), 12535(4), 12535(5)

EFFECTIVE DATE:
02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 6-B: STANDARDS RELATING TO CERTIFIED MIDWIVES’ PRESCRIPTIVE AUTHORITY AND SCOPE OF PRACTICE (NEW)

Summary: This chapter describes standards by which a certified midwife may prescribe, obtain and administer drugs and medical devices.

1. Authority to prescribe, obtain and administer

1. A certified midwife may prescribe, administer, or recommend nonprescription medication without limitation, subject only to the limitations of the midwife’s professional knowledge and the standards of care applicable to the midwifery profession.

2. At the time of initial application, the applicant must submit evidence of current education related to pharmacology.
   
   A. Pharmacology content shall include:
      1) Applicable federal and state laws;
      2) Prescription writing;
      3) Drug selection, storage, dosage, route and administration techniques;
      4) Drug interactions, side effects, and adverse effects;
      5) Information resources; and
      6) Clinical application of pharmacology related to midwifery scope of practice.

   B. A certified midwife who holds prescriptive authority in another U.S. jurisdiction must submit evidence of the following:
      1) A minimum of 200 hours of clinical and prescriptive practice within the preceding two years; and
      2) A minimum of 45 contact hours (or three credits) of pharmacology equivalent to the requirements set forth in Section B(1).

   C. If the applicant has not prescribed drugs within the past two years, the applicant shall provide evidence of satisfactory completion of 15 contact hours of pharmacology within the two years prior to the date of the application submission.

   D. If the applicant has not prescribed drugs within the past five years, the applicant shall provide evidence of satisfactory completion of 45 contact hours (or three credits) of pharmacology within the two years prior to the date of the application submission.

   E. The board may restrict, deny, suspend or revoke authority to prescribe, obtain, and administer drugs for violations of 32 MRSA chapter 113-B or evidence of abuse of such authority.
1) Abuse of prescriptive authority constitutes conduct derogatory to midwifery standards and is defined as prescribing, obtaining, or administering drugs:
   
a) For conditions beyond the certified midwife’s scope of practice or inconsistent with current accepted evidence-informed clinical practice;
   
b) For other than therapeutic or prophylactic purposes;
   
c) To individuals who are not clients or patients of the certified midwife or who are not within the midwife’s certification scope of practice; or
   
d) In an unsafe manner or without adequate instructions to clients or patients according to acceptable and prevailing standards of practice.

2. Requirements for authorized prescription

1. In addition to the required client and drug information, a prescription or e-prescription shall include the date, printed name, legal form of signature, specialty category, business address, and telephone number of the prescribing certified midwife.

2. Prescriptions may be for medical appliances, devices, or legend or over-the-counter drugs.

3. Drugs in the formulary may be prescribed, administered, or distributed in combination, in accordance with recognized standards of practice.

4. Any product name drug may be prescribed, administered, or distributed provided the generic name or category for the drug is in the formulary.

5. The certified midwife shall comply with all applicable laws and rules in prescribing, administering, and distributing drugs, including compliance with the labeling requirements and all other applicable requirements of the Maine Board of Pharmacy.

6. For the administration, and distribution of controlled substances under Schedules III-V, the certified midwife shall comply with the requirements in the Code of Federal Regulations, 21 CFR Chapter II, Sections 1301, 1304.03, and 1304.04.

3. Certified Midwife Formulary

1. Certified midwives are authorized to prescribe, obtain, possess, and administer the following drugs and devices:

   A. Over-the-counter drugs;
   
   B. Medical appliances and devices;
   
   C. Drugs related to the scope of practice defined by the midwife’s certification; and
   
   D. Drugs prescribed off label according to common and established standards of practice.
2. Regardless of the schedules indicated on the certificate issued by the United States Drug Enforcement Administration, the certified midwife shall prescribe only those controlled drugs from Schedules III, IIIN, IV, and V. A Drug Enforcement Administration number is required to prescribe scheduled drugs.

4. Distribution of drug samples

1. Certified midwives may receive prepackaged complimentary samples of drugs included in the formulary for prescription writing and may distribute these samples to clients.

2. Distribution of drug samples shall be in accordance with U.S. Drug Enforcement Administration laws, regulations, and guidelines.

5. Scope of practice

1. Certified midwife. The certified midwife provides only health care services for which the certified midwife is educationally and clinically prepared and for which competency has been maintained. The certified midwife is authorized to function to the full extent of the midwife’s education, training, and competency within the population focus and scope of practice defined by the national college of nurse midwives.

2. Certified midwives primarily practice in hospitals, clinics, and offices, and may practice birth centers, homes, and emergency care settings. Certified midwives may consult, refer, or transfer to licensed allopathic or osteopathic physicians, or other licensed health professionals as necessary for the client’s health or safety in accordance with professional judgment.

3. Such health care services for which the certified midwife is independently responsible and accountable include:

   A. Primary health care services for women from adolescence to beyond menopause;
   
   B. Primary health care of the newborn up to age 28 days; Primary maternity care, including preconception care, care during pregnancy, labor, and childbirth, including acting as the first assistant at cesarean, and the postpartum period;
   
   C. Ordering, performing, and interpreting medical laboratory and radiology testing, and obtaining equipment and supplies for the safe practice of midwifery;
   
   D. Provision of gynecological and family planning services and treatment of sexually transmitted infections in clients and their sexual contacts.

STATUTORY AUTHORITY: 32 MRSA §§12503, 12537(2), (3), (4) and (5)

EFFECTIVE DATE:
Summary: This chapter references the statutory grounds for discipline against licensees and includes examples of prohibited conduct that may result in discipline.

1. [deleted]

2. Grounds for Discipline

Grounds for discipline are set forth in 10 MRSA §8003(5-A)(A) and 32 MRSA §12503-A.

3. Examples of Grounds for Discipline

The following grounds for discipline in 10 MRSA §8003(5-A)(A) include but are not limited to the conduct described below.

1. Fraud, Deceit or Misrepresentation (10 MRSA §8003(5-A)(A)(1))

   A. The practice of fraud, deceit or misrepresentation in obtaining a license includes, but is not limited to:

   (1) Falsification or misrepresentation of education or experience of an applicant;

   (2) Falsification or misrepresentation of a recommendation from a consultant or peer;

   (3) Cheating on a license examination;

   (4) Withholding or misrepresenting any information requested on the application, including any information regarding criminal or disciplinary action taken by any state against an applicant; or

   (5) Impersonating another applicant.

   B. The practice of fraud, deceit or misrepresentation in connection with services rendered as an acupuncturist, or-naturopathic doctor, certified midwife or certified professional midwife includes, but is not limited to:

   (1) [deleted]

   (2) Misrepresenting the type or status of license held, the professional designation for the license held, or qualifications to practice;
(3) Committing or aiding another to commit fraud, deceit or corruption in billing, payment or insurance reimbursement procedures;

(4) Engaging in false, misleading or deceptive advertising;

(5) Billing clients, patients or third-party providers for services not rendered; or

(6) Impersonating another licensee.

2. **Aiding or Abetting Unlicensed Practice** (10 MRSA §8003(5-A)(A)(8))

Aiding or abetting a person not duly licensed to represent him- or herself themselves as an acupuncturist, or-naturopathic doctor, certified midwife or certified professional midwife includes, but is not limited to:

A. Assisting another to practice beyond the scope of the license held, or without a license;

B. Supervising or providing consultation to an unlicensed person representing him- or herself themselves as licensed, or to a licensed person practicing beyond the scope or the license held; or

C. Making a referral to an unlicensed person representing him- or herself themselves as licensed, or to a licensed person practicing beyond the scope of the license held.

3. **Gross Negligence, Incompetence or Misconduct** (10 MRSA §8003(5-A)(A)(2))

Gross negligence, incompetence or misconduct in the practice of acupuncture, or naturopathic medicine, or midwifery includes, but is not limited to:

A. Intentionally or recklessly causing physical or emotional harm to a client or patient;


The board incorporates the above-mentioned Clean Needle Technique Manual into this chapter by reference. Copies of the Clean Needle Technique Manual may be obtained through retail booksellers, including the following:

- Atlas Books, 30 Amberwood Pkwy., Ashland, OH 44805
  www.atlasbooks.com
- Council of Colleges of Acupuncture and Oriental Medicine (CCAOM)
  https://www.ccaom.org/ccaom/Clean_Needle_Technique.asp

B. Failing to maintain the confidentiality of client or patient information, except as otherwise required by law;
C. Practicing acupuncture, or naturopathic medicine, or midwifery when the licensee’s physical or mental ability to practice is impaired by alcohol or drugs or when the health or safety of a client or patient may reasonably be deemed to be at risk due to the licensee’s use of alcohol or drugs;

C-1. Abuse of authority to obtain and administer drugs constitutes conduct derogatory to the standards of practice for certified midwives and certified professional midwives and is defined as obtaining or administering drugs:

1) For conditions beyond the certified professional midwife’s scope of practice or inconsistent with current accepted evidence-informed clinical practice;

2) For other than therapeutic or prophylactic purposes;

3) To individuals who are not clients of the certified professional midwife or who are not within the midwife’s certification scope of practice; or

4) In an unsafe manner or without adequate instructions to clients according to acceptable and prevailing standards of practice.

D. Practicing acupuncture, or naturopathic medicine, or midwifery when the licensee’s physical or mental ability to practice is impaired by physical, psychological or mental impediment;

E. [deleted]

F. Failing to provide adequate supervision of an intern by an acupuncturist with supervisory responsibility over that intern;

G. [deleted]

H. [deleted]

I. Paying, accepting or soliciting any payment or consideration for the referral of a client or patient;

J. Falsifying, inaccurately recording or omitting information from client or patient records;

K. Billing clients, patients or third-party providers inaccurately, excessively or unfairly;

L. Exercising undue influence on the client or patient, including the promotion for sale of goods, services or drugs, so as to exploit the client or patient for the financial gain of the acupuncturist, or naturopathic doctor, certified midwife or certified professional midwife;

M. Failing to maintain professional boundaries in relationships with clients or patients or engaging in a dual relationship that impairs treatment, exploits practitioner/client/patient trust, or fosters an undue dependency of the patient on the practitioner;
N. Failing to report an incident of child or adult abuse or neglect as mandated by state law;

O. Engaging in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice of acupuncture, or naturopathic medicine, or midwifery;

P. [deleted]

Q. Engaging in sexual misconduct with a client or patient. Sexual misconduct in the practice of acupuncture, or naturopathic medicine or midwifery is any unwelcomed behavior of a sexual nature that exploits the acupuncturist or naturopathic doctor-patient relationship in a sexual way. This behavior is nondiagnostic and/or nontherapeutic, may be verbal or physical, and may include expressions or gestures that have a sexual connotation or that a reasonable person would construe as such.

There are two levels of sexual misconduct: sexual violation and sexual impropriety. Behavior listed in both levels may constitute grounds for disciplinary action.

(1) “Sexual violation” is any conduct by an acupuncturist, or naturopathic doctor, certified midwife or certified professional midwife with a client or patient that is sexual or may be reasonably interpreted as sexual, even when initiated by or consented to by a client or patient, including but not limited to:

(a) Sexual intercourse, genital to genital contact;
(b) Oral to genital contact;
(c) Oral to anal contact or genital to anal contact;
(d) Kissing in a sexual manner (e.g. french kissing);
(e) Any touching of a body part for any purpose other than appropriate examination, treatment, or comfort, or where the client or patient has refused or has withdrawn consent;
(f) Encouraging the client or patient to masturbate in the presence of the acupuncturist, or naturopathic doctor, certified midwife or certified professional midwife or masturbation by the acupuncturist, or naturopathic doctor, certified midwife or certified professional midwife while the client or patient is present; and
(g) Offering to provide practice-related services, such as drugs, in exchange for sexual favors.

(2) “Sexual impropriety” is behavior, gestures, or expressions by the acupuncturist, or naturopathic doctor, certified midwife or certified professional midwife or by the patient that is sexual or may be reasonably interpreted as sexual, even when initiated by or consented to by the patient, including but not limited to:

(a) Oral to oral contact;
(b) Oral to anal contact or genital to anal contact;
(c) Any touching of a body part for any purpose other than appropriate examination, treatment, or comfort, or where the patient has refused or has withdrawn consent;
(d) Providing practice-related services to the patient in exchange for sexual favors.
professional midwife that are seductive, sexually suggestive, or sexually demeaning to a client or patient, including but not limited to the following. All circumstances will be considered in determining whether sexual impropriety has occurred:

(a) Kissing;

(b) Disrobing, draping practices or touching of the client’s or patient’s clothing that reflect a lack of respect for the client’s or patient’s privacy; deliberately watching a client’s or patient dress or undress, instead of providing privacy for disrobing;

(c) Subjecting a client or patient to an examination in the presence of another when the acupuncturist, or-naturopathic doctor, certified midwife or certified professional midwife has not obtained the verbal or written consent of the client or patient or when consent has been withdrawn;

(d) Examination or touching of genitals without the use of gloves;

(e) Inappropriate comments about or to the client or patient, including but not limited to making sexual comments about a client’s or patient’s body or underclothing; making sexualized or sexually demeaning comments to a client or patient, criticizing the client’s or patient’s sexual orientation or gender identity (homosexual, heterosexual, or bisexual); making comments about potential sexual performance during an examination or consultation (except when the examination or consultation is pertinent to the issue of sexual function or dysfunction); requesting details of sexual history or sexual likes or dislikes when not clinically indicated;

(f) Using the acupuncturist, or-naturopathic doctor, certified midwife or certified professional midwife client or patient relationship to solicit a date or initiate a romantic relationship;

(g) Initiation by the acupuncturist, or-naturopathic doctor, certified midwife or certified professional midwife of conversation regarding the sexual problems, preferences, or fantasies of the acupuncturist, or naturopathic doctor, certified midwife or certified professional midwife; and

(h) Examining the client or patient without verbal or written consent;

R. Engaging in a sexual relationship with a former client or patient within the 612 month period following the end of the professional relationship; or

S. Engaging in a sexual relationship with a former client or patient after the 612 month period following the end of the professional relationship that exploits the trust established during the professional relationship.
STATUTORY AUTHORITY: 32 MRSA §§12503, 12543(1)

EFFECTIVE DATE: