

ALTERNATIVE HEALTH CARE BOARD
LAWS
AS OF THE 2019 LEGISLATIVE SESSION

TITLE 37, CHAPTER 27
DIRECT-ENTRY MIDWIFERY

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CHAPTER 27

DIRECT-ENTRY MIDWIFERY

Chapter Compiler's Comments

Alternative Health Care Board: Section 3, Chapter 524, L. 1991, provided that if Ch. 524 was passed and approved, the Alternative Health Care Board was substituted for the Board of Direct-Entry Midwifery. The Code Commissioner has not codified sec. 5, Ch. 550, L. 1991, creating the Board of Direct-Entry Midwifery, to reflect Ch. 524.

1991 Statement of Intent: The statement of intent attached to Ch. 550, L. 1991, provided: "A statement of intent is required for this bill because [section 6] [37-27-105] grants rulemaking authority to the board of direct-entry midwifery [alternative health care board] to implement the provisions of this bill. In adopting rules, the board is encouraged to review regulations promulgated by the state of New Hampshire and, where appropriate, to adopt comparable rules specifically applicable to direct-entry midwifery in Montana. At a minimum, it is the intent of the legislature that the board adopt rules:

- (1) governing the conduct of board business;
 - (2) establishing license application and examination procedures, criteria for and grading of examinations, examination and license fees, criteria for minimum educational, apprenticeship, and clinical requirements for license eligibility, and continuing education requirements for license renewal;
 - (3) establishing eligibility criteria for client screening by direct-entry midwives in order to achieve the goal of providing midwifery services to women during low-risk pregnancies;
 - (4) developing procedures for the issuance, renewal, suspension, revocation, and reciprocity of licenses;
 - (5) creating disciplinary standards for licensees, establishing investigatory procedures for processing complaints, and adopting ethical standards for licensed direct-entry midwives;
 - (6) establishing supporting documentation for primary birth attendants;
 - (7) establishing standardized informed consent and reporting forms; and
 - (8) establishing criteria that limits an apprenticeship, as provided in [section 6] [37-27-105]."
- (Section 3, Ch. 524, L. 1991, provided that if it was passed and approved, the Alternative Health Care Board was substituted for the Board of Direct-Entry Midwifery.)

Chapter Cross-References

Limits on liability of health care provider in emergency situations, 27-1-734.

Report of fetal death that occurs outside licensed medical facility, 46-4-114.

Chapter Law Review Articles

Update: Nurse-Midwifery and Antitrust Laws, Martin, 39 Med. Trial Tech. Q. 321 (1993).

Part 1

General

Part Administrative Rules

Title 24, chapter 111, subchapter 6, ARM Licensing and scope of practice — direct-entry midwifery.

37-27-101. Short title. This chapter may be cited as the "Direct-Entry Midwifery Licensing Act".

History: En. Sec. 1, Ch. 550, L. 1991.

Compiler's Comments

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

37-27-102. Purpose. The legislature finds and declares that because the practice of direct-entry midwifery affects the lives of the people of this state and because some Montanans may exercise their right to give birth where and with whom they choose, it is the purpose of this chapter to provide for the common good by regulating and ensuring the qualified and professional practice of direct-entry midwifery.

History: En. Sec. 2, Ch. 550, L. 1991.

Compiler's Comments

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

37-27-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Apprentice" means a person who is working under the supervision of a licensed direct-entry midwife and is seeking licensure as a direct-entry midwife under this chapter.

(2) "Board" means the alternative health care board established in 2-15-1730.

(3) "Continuous care" means care provided for one person from the initial history-taking interview through monthly prenatal, intrapartum, and postpartum periods.

(4) "Direct-entry midwife" means a person who advises, attends, or assists a woman during pregnancy, labor, natural childbirth, or the postpartum period.

(5) "Licensee" means a person authorized by this chapter to practice direct-entry midwifery.

(6) "Postpartum period" means the period up to 6 weeks following birth.

(7) "Practice of direct-entry midwifery" means the advising, attending, or assisting of a woman during pregnancy, labor, natural childbirth, or the postpartum period.

History: En. Sec. 3, Ch. 550, L. 1991; amd. Sec. 3, Ch. 524, L. 1991; amd. Sec. 59, Ch. 10, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 10 deleted definition of Department.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

Coordination Instruction: Section 3, Ch. 524, L. 1991, provided in part: "If Senate Bill No. 172 is passed and approved and if it contains a section of law creating the board of direct-entry midwifery and a section of law defining the term "board" as the board of direct-entry midwifery, then the section in Senate Bill No. 172 creating the board of direct-entry midwifery is void and the section in Senate Bill No. 172 defining the board must provide that "board" means the alternative health care board established in [section 1 of this act] [2-15-1840 (renumbered 2-15-1730)]. Any reference to the term "board" in Senate Bill No. 172 must then be construed to mean the alternative health care board established in [section 1 of this act] [2-15-1840 (renumbered 2-15-1730)], and any reference in Senate Bill No. 172 to the bill section creating the board of direct-entry midwifery must be construed as a reference to [section 1 of this act] [2-15-1840 (renumbered 2-15-1730)]." Senate Bill No. 172 was approved April 23, 1991, as Ch. 550, L. 1991. Chapter 524, L. 1991, rendered sec. 5, Ch. 550, L. 1991, void and changed the definition of Board to mean the Alternative Health Care Board.

Administrative Rules

ARM 24.111.301 Definitions.

37-27-104. Exemptions. This chapter does not limit or regulate the practice of a licensed physician, certified nurse-midwife, or licensed emergency care provider. The practice of direct-entry midwifery does not constitute the practice of medicine, certified nurse-midwifery, or emergency medical care to the extent that a direct-entry midwife advises, attends, or assists a woman during pregnancy, labor, natural childbirth, or the postpartum period when the pregnancy is not a high-risk pregnancy.

History: En. Sec. 4, Ch. 550, L. 1991; amd. Sec. 10, Ch. 220, L. 2019.

Compiler's Comments

2019 Amendment: Chapter 220 in (1) near beginning substituted "licensed emergency care provider" for "licensed basic or advanced emergency medical technician". Amendment effective July 1, 2019.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

37-27-105. General powers and duties of board — rulemaking authority. (1) The board shall:

(a) meet at least once annually, and at other times as agreed upon, to elect officers and to perform the duties described in Title 37, chapter 1, and this section; and

(b) administer oaths, take affidavits, summon witnesses, and take testimony as to matters within the scope of the board's duties.

(2) The board has the authority to administer and enforce all the powers and duties granted statutorily or adopted administratively.

(3) The board shall adopt rules to administer this chapter. The rules may include but are not limited to:

(a) the establishment of criteria for minimum educational, apprenticeship, and clinical requirements that, at a minimum, meet the standards established in 37-27-201;

(b) the development of eligibility criteria for client screening by direct-entry midwives to achieve the goal of providing midwifery services to women during low-risk pregnancies;

(c) the development of standardized informed consent and reporting forms;

(d) the adoption of ethical standards for licensed direct-entry midwives;

(e) the adoption of supporting documentation requirements for primary birth attendants; and

(f) the establishment of criteria limiting an apprenticeship that, at a minimum, meets the standards established in 37-27-201.

History: En. Sec. 6, Ch. 550, L. 1991; amd. Sec. 84, Ch. 429, L. 1995; amd. Sec. 27, Ch. 224, L. 2003; amd. Sec. 35, Ch. 271, L. 2003; amd. Sec. 77, Ch. 467, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 467 in (1)(a) after "described in" inserted "Title 37, chapter 1, and"; deleted former (3)(a) and (3)(b) that read: "(a) the development of a license application and examination, criteria for and grading of examinations, and establishment of examination and license fees commensurate with actual costs;

(b) the issuance of a provisional license to midwives who filed the affidavit required by section 2, Chapter 493, Laws of 1989"; deleted former (3)(e) and (3)(f) that read: "(e) the development of procedures for the issuance, renewal, suspension, and revocation of licenses consistent with the provisions in 37-1-138;

(f) the adoption of disciplinary standards for licensees"; and made minor changes in style. Amendment effective July 1, 2005.

2003 Amendments — Composite Section: Chapter 224 in second sentence in (3) substituted "may" for "must". Amendment effective July 1, 2003.

Chapter 271 in (3)(e) at end inserted "consistent with the provisions in 37-1-138"; and made minor changes in style. Amendment effective April 9, 2003.

Severability: Section 34, Ch. 224, L. 2003, was a severability clause.

Saving Clause: Section 35, Ch. 224, L. 2003, was a saving clause.

Retroactive Applicability: Section 63, Ch. 271, L. 2003, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to occurrences after December 31, 2002."

1995 Amendment: Chapter 429 in (1)(e), after "revocation", deleted "and reciprocity"; deleted former (3)(g) that required Board to adopt rules for the establishment of investigatory and hearing procedures for processing complaints received by the Board; deleted former (3)(h) that required Board to adopt rules for the establishment of continuing education requirements of at least 14 hours annually for license renewal for direct entry midwives; and made minor changes in style.

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability: Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

Effective Date: Section 27(1), Ch. 550, L. 1991, provided that this section is effective on passage and approval. Approved April 23, 1991.

Administrative Rules

ARM 24.111.402 Management of infectious waste.

ARM 24.111.610 High-risk pregnancy — conditions requiring primary care by physician.

ARM 24.111.612 Vaginal birth after cesarean (VBAC) deliveries.
ARM 24.111.2401 Complaint procedure.
ARM 24.111.2402 Screening panel.

37-27-106 through 37-27-110 reserved.

37-27-111. Parents' rights regarding birth of baby. Except as otherwise provided by law, parents have a right to give birth where and with whom they choose.

History: En. Sec. 1, Ch. 493, L. 1989. Sec. 37-75-101, MCA 1989; redes. 37-27-111 by Code Commissioner, 1991.

Compiler's Comments

Effective Date: Section 5, Ch. 493, L. 1989, provided that this section is effective April 11, 1989.

Part 2 Licensure

Part Compiler's Comments

Emergency Medical Training — Not Codified: Section 2, Ch. 493, L. 1989, which was codified as 37-75-102, is no longer codified because it is temporary in nature and conflicts with the provisions of Title 37, ch. 27, part 2. Section 2, Ch. 493, L. 1989, reads: "Affidavit required. A direct-entry midwife shall file an affidavit with the department of commerce [now department of labor and industry] certifying that he or she has completed the emergency childbirth training segment of a state-approved emergency medical training program within 12 months of [the effective date of this act]." Chapter 493 was effective April 11, 1989. Section 2, Ch. 493, L. 1989, has not been repealed and is still valid law.

37-27-201. Qualifications of applicants for license — educational and practical experience requirements. To be eligible for a license as a direct-entry midwife, an applicant:

- (1) must possess a high school diploma or its equivalent;
- (2) must be of good moral character and be at least 21 years of age;
- (3) shall satisfactorily complete educational requirements in pregnancy and natural childbirth, approved by the board, which must include but are not limited to the following:
 - (a) provision of care during the antepartum, intrapartum, postpartum, and newborn period;
 - (b) parenting education for prepared childbirth;
 - (c) observation skills;
 - (d) aseptic techniques;
 - (e) management of birth and immediate care of the mother and the newborn;
 - (f) recognition of early signs of possible abnormalities;
 - (g) recognition and management of emergency situations;
 - (h) special requirements for home birth;
 - (i) intramuscular and subcutaneous injections;
 - (j) suturing necessary for episiotomy repair;
 - (k) recognition of communicable diseases affecting the pregnancy, birth, newborn, and postpartum periods;
 - (l) assessment skills; and
 - (m) the use and administration of drugs authorized in 37-27-302;
- (4) shall acquire practical experience, which may be attained in a home, clinic, or hospital setting. Practical experience attained in a hospital does not constitute training or supervision by the hospital, nor may a hospital be required to provide practical experience. At a minimum, this experience must include the following types and numbers of experiences acquired through an apprenticeship or other supervisory setting:
 - (a) provision of 100 prenatal examinations;
 - (b) observation of 40 births; and

(c) participation as the primary birth attendant at 25 births, 15 of which included continuous care, as evidenced by:

- (i) birth certificates from Montana or another state;
- (ii) a signed affidavit from the birthing mother; or
- (iii) documented records from the person who supervised the births;

(5) shall file documentation with the board that the applicant has been certified by the American heart association or American red cross to perform adult and infant cardiopulmonary resuscitation.

Certification must be current at the time of application and remain valid throughout the license period; and (6) shall file documentation with the board that the applicant has been certified by the American academy of pediatrics or the American heart association to perform neonatal resuscitation. The applicant's certification must be current at the time of application and remain valid throughout the license period.

History: En. Sec. 7, Ch. 550, L. 1991; amd. Sec. 7, Ch. 314, L. 1993; amd. Sec. 14, Ch. 230, L. 1999.

Compiler's Comments

1999 Amendment: Chapter 230 inserted (6) requiring direct-entry midwife applicant to file with board documentation of current certification; and made minor changes in style. Amendment effective October 1, 1999.

1993 Amendment: Chapter 314 in (1) substituted "must possess a high school diploma or its equivalent" for "must be a high school graduate"; in (4)(c), after "evidenced by", substituted subsections (i) through (iii) regarding evidence in the form of birth certificates, affidavits, or records for "signing the birth certificate as the primary birth attendant". Amendment effective April 12, 1993.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

Administrative Rules

ARM 24.111.601 Minimum direct-entry midwife education standards.

ARM 24.111.2103 Midwives continuing education requirements.

37-27-202. Examination — preparation — requirements. (1) An examination for a license to practice direct-entry midwifery must be prepared by a national testing agency approved by the board.

(2) Examinations must be conducted once each year, be fair and impartial, and be sufficiently comprehensive to adequately test the applicant's competence and ability.

(3) In order to be licensed, a person must attain a passing grade on the examination, as set by the board.

(4) A person who fails to achieve a passing grade on the examination may not engage in the practice of midwifery.

History: En. Sec. 10, Ch. 550, L. 1991; amd. Sec. 8, Ch. 314, L. 1993; amd. Sec. 28, Ch. 224, L. 2003.

Compiler's Comments

2003 Amendment: Chapter 224 in (1) substituted "national testing agency approved by the board" for "certified nurse midwife designated by the board in consultation with the physician on the board"; and made minor changes in style. Amendment effective July 1, 2003.

Severability: Section 34, Ch. 224, L. 2003, was a severability clause.

Saving Clause: Section 35, Ch. 224, L. 2003, was a saving clause.

1993 Amendment: Chapter 314 substituted (3) regarding passing grade for licensure for former language that read: "A person must attain a grade of at least 70% to pass the examination." Amendment effective April 12, 1993.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

Administrative Rules

ARM 24.111.603 Direct-entry midwife protocol standard list required for application.

ARM 24.111.604 Licensing by examination.

ARM 24.111.605 Licensure of out-of-state applicants.

37-27-203. Examination — exemption. (1) Except as provided in subsection (4), an applicant for a license as a direct-entry midwife shall pass a qualifying, written examination, prescribed by the board, that is designed to test knowledge of theory regarding pregnancy and childbirth and to test clinical judgment in midwifery management. If considered necessary, an oral interview may be conducted in addition to the written examination to determine the fitness of the applicant to practice as a direct-entry midwife.

(2) Before an applicant may take the examination, the applicant shall demonstrate to the board that the educational and practical experience requirements in 37-27-201(3) and (4) have been met.

(3) An applicant is exempt from the educational and practical experience requirements of 37-27-201(3) and (4) if the applicant has:

(a) satisfactorily completed the first examination given by the board following July 1, 1991; and

(b) filed supporting documentation, as required by the board by rule, certifying that the applicant has served as the primary birth attendant, providing continuous care at no less than 75 births within the 7 years prior to July 1, 1991, as verified by birth certificates from Montana or another state, a signed affidavit from the birthing mother, or documented records from the midwife.

(4) Upon payment of the license fee established by the board, a nurse-midwife certified pursuant to 37-8-409 is exempt from the requirements of 37-27-201 and this section and may be licensed as a direct-entry midwife.

History: En. Sec. 8, Ch. 550, L. 1991; amd. Sec. 9, Ch. 314, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 314 in (2) and introductory clause of (3) substituted "37-27-201(3) and (4)" for "37-27-201(2) and (3)". Amendment effective April 12, 1993.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

Administrative Rules

ARM 24.111.604 Licensing by examination.

ARM 24.111.605 Licensure of out-of-state applicants.

37-27-204 reserved.

37-27-205. Provisional license — apprentice license. (1) Upon payment of a \$200 fee to the department of labor and industry, the board may grant an apprentice direct-entry midwife license to a person who:

(a) is working under the personal supervision of a licensed direct-entry midwife, a certified nurse-midwife, a licensed physician, or a licensed naturopathic physician who is certified for the specialty practice of naturopathic childbirth attendance; and

(b) is seeking licensure as a direct-entry midwife under this chapter.

(2) An apprentice direct-entry midwife license is valid for a period prescribed by department of labor and industry rule and must be renewed at an interval established by the department of labor and industry, with a limit of four renewals.

History: En. Sec. 9, Ch. 550, L. 1991; amd. Sec. 10, Ch. 314, L. 1993; amd. Sec. 32, Ch. 492, L. 1997; amd. Sec. 15, Ch. 230, L. 1999; amd. Sec. 133, Ch. 483, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 483 in (1) near beginning and in two places in (2) after "department of" substituted "labor and industry" for "commerce". Amendment effective July 1, 2001.

1999 Amendment: Chapter 230 deleted former (1) and (2) that read: "(1) Upon payment of a \$200 fee to the department, the board may grant a provisional direct-entry midwife license only to a person who filed an affidavit required by section 2, Chapter 493, Laws of 1989.

(2) The provisional license is valid until the issuance of grades for the first examination administered pursuant to 37-27-202"; and made minor changes in style. Amendment effective October 1, 1999.

1997 Amendment: Chapter 492 in (4) substituted "a period prescribed by department of commerce rule" for "1 year" and substituted "at an interval established by the department of commerce" for "annually". Amendment effective July 1, 1997.

Preamble: The preamble attached to Ch. 492, L. 1997, provided: "WHEREAS, the Legislature finds that delays in licensing board responses to complaints of misconduct by licensees and unlicensed practice that result in frustration on behalf of the public, licensees, and boards is caused by a lack of personnel to assist with compliance issues; and

WHEREAS, licensing boards collect and accumulate sufficient funds from the fees charged to licensees to meet the cost of compliance and enforcement personnel, but these same boards often lack the authority to expend the funds that they collect; and

WHEREAS, the delayed processing and the accumulating complaint backlog have a deleterious effect on the productivity and reputation of the licensees; and

WHEREAS, the Legislature finds that certain licensing boards need to be granted temporary spending authority to address the delayed processing and accumulated complaint backlog; and

WHEREAS, a uniformly flexible approach to license renewal scheduling would also reduce frustration on the part of licensees and the public that they serve; and

WHEREAS, inflexible examination dates for license applicants in the plumbing and electrical fields have caused undue hardship with no discernable [sic] public benefit; and

WHEREAS, the Committee on Business and Labor desires to alleviate these and other related problems by appropriating funds for certain professional and occupational boards that need additional compliance specialists, by allowing the Department of Commerce [now Department of Labor and Industry] to establish license renewal dates by rule, and by allowing electrical and plumbing apprentices to take the examination required for licensure before the apprenticeships expire."

1993 Amendment: Chapter 314 at end of (3)(a) inserted "or a licensed naturopathic physician who is certified for the specialty practice of naturopathic childbirth attendance"; and made minor changes in style. Amendment effective April 12, 1993.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

Administrative Rules

ARM 24.111.602 Direct-entry midwife apprenticeship requirements.

37-27-206 through 37-27-209 reserved.

37-27-210. Fees. (1) An applicant for a direct-entry midwife license shall, upon submitting an application to the board, pay an application fee set by the board.

(2) Before a license may be issued or renewed, an applicant shall pay a fee set by the board.

(3) Fees are nonrefundable.

History: En. Sec. 13, Ch. 550, L. 1991; amd. Sec. 11, Ch. 314, L. 1993; amd. Sec. 78, Ch. 467, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 467 in (1) at end after "board" deleted "commensurate with costs"; deleted former (2) that read: "(2) An applicant required to take an examination shall, before commencement of the examination, pay an examination fee set by the board, commensurate with costs"; in (2) at end after "board" deleted "commensurate with costs"; deleted former (4) that read: "(4) Subject to 37-1-101(6), money paid for application, examination, license, and license renewal fees must be deposited in the state special revenue fund for use by the board"; and made minor changes in style. Amendment effective July 1, 2005.

1993 Amendment: Chapter 314 inserted (5) regarding nonrefundability of fees. Amendment effective April 12, 1993.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

Administrative Rules

ARM 24.111.401 Fees.

37-27-211 reserved.

37-27-212. Title restricted — enjoining unlawful practice. (1) A direct-entry midwife licensed under this chapter may use the term "licensed midwife" or "direct-entry midwife" as a title.

(2) Only a direct-entry midwife licensed under this chapter may use the title "licensed midwife" or "direct-entry midwife".

(3) The terms and titles in subsections (1) and (2) identify direct-entry midwives and are restricted to describing and identifying licensed practitioners and their practice. A person who uses these terms and titles to represent the person or the person's practice to the public without being licensed pursuant to this chapter is in violation of this chapter.

(4) A violation of this chapter may be enjoined by the district court on petition by the board.

History: En. Sec. 12, Ch. 314, L. 1993.

Compiler's Comments

Effective Date: Section 14, Ch. 314, L. 1993, provided: "[This act] is effective on passage and approval." Approved April 12, 1993.

37-27-213. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 14, Ch. 550, L. 1991.

37-27-214 and 37-27-215 reserved.

37-27-216. Repealed. Sec. 128, Ch. 429, L. 1995.

History: En. Sec. 16, Ch. 550, L. 1991.

Part 3 Regulation of Practice

37-27-301. Unlawful to practice without license. It is unlawful for a person to practice direct-entry midwifery in this state without first obtaining a license under this chapter.

History: En. Sec. 15, Ch. 550, L. 1991.

Compiler's Comments

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

37-27-302. Administration of prescription drugs prohibited — exceptions. A licensed direct-entry midwife may not dispense or administer prescription drugs other than newborn vitamin K (oral or intramuscular preparations), pitocin (intramuscular) postpartum, xylocaine (subcutaneous), and, in accordance with administrative rules adopted by the department of public health and human services, prophylactic eye agents to newborn infants. These drugs may be administered only if prescribed by a physician.

History: En. Sec. 11, Ch. 550, L. 1991; amd. Sec. 42, Ch. 44, L. 2007.

Compiler's Comments

2007 Amendment: Chapter 44 near end after "accordance with" substituted "administrative rules adopted by the department of public health and human services" for "ARM 16.24.215". Amendment effective October 1, 2007.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

37-27-303. Operative and surgical procedures prohibited — exception. A licensed direct-entry midwife may not perform any operative or surgical procedures except for an episiotomy and simple surgical repair of an episiotomy or simple second-degree lacerations.

History: En. Sec. 12, Ch. 550, L. 1991.

Compiler's Comments

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

37-27-304 through 37-27-309 reserved.

37-27-310. Privileged communications — exceptions. A licensee may not disclose any information acquired from clients during consultation in a professional capacity except:

(1) with the written consent of the client or, in the case of the client's death or mental incapacity, with the written consent of the client's personal representative or guardian;

(2) that the licensee need not treat as confidential a communication otherwise confidential that reveals the contemplation of a crime by the client or any other person or that in the licensee's professional opinion reveals a threat of imminent harm to the client or others;

(3) that if the client is a minor and information acquired by the licensee indicates that the client was the victim of a crime, the licensee may be required to testify fully in relation to the information in any investigation, trial, or other legal proceeding in which the commission of the crime is the subject of inquiry;

(4) that if the client or the client's personal representative or guardian brings an action against a licensee for a claim arising out of the client's interaction with the direct-entry midwife, the client is considered to have waived any privilege;

(5) to the extent that the privilege is otherwise waived by the client;

(6) when the client is seeking emergency medical treatment and the client's history is requested by the attending medical professional; and

(7) as may otherwise be required by law.

History: En. Sec. 17, Ch. 550, L. 1991.

Compiler's Comments

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

37-27-311. Informed consent. (1) Prior to accepting a woman for care, a licensed direct-entry midwife shall first obtain written, informed consent from the woman.

(2) Informed consent must be evidenced by a written statement, in a form prescribed by the board and signed by the direct-entry midwife and the woman to whom care is to be given, in which the direct-entry midwife certifies that full disclosure has been made and acknowledged by the woman on the following:

(a) the direct-entry midwife's educational background;

(b) the nature and scope of the care to be given, including the possibility of and procedure for transport of the patient to a hospital;

(c) the available alternatives to direct-entry midwifery care;

(d) a description of the risks of home birth, primarily those conditions that may arise during delivery;

(e) the fact that the patient has been advised to consult with a physician at least twice during the pregnancy;

(f) whether the midwifery services provided are located more than 50 miles from the nearest hospital; and

(g) that a health care provider's liability in rendering care or assistance in good faith to a patient of a direct-entry midwife in an emergency situation is limited to damages caused by gross negligence or by willful or wanton acts or omissions.

History: En. Sec. 18, Ch. 550, L. 1991.

Compiler's Comments

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

37-27-312. Screening procedures. In addition to meeting the eligibility criteria for client screening established by the board pursuant to 37-27-105, a direct-entry midwife shall recommend that patients secure the following services by an appropriate health care provider:

- (1) the standard serological test, as defined in 50-19-101, for women seeking prenatal care;
- (2) screening for human immunodeficiency virus, when appropriate;
- (3) maternal serum alpha-fetoprotein test and ultrasound, upon request;
- (4) Rh antibody and glucose screening at 28 weeks' gestation, upon request;
- (5) nonstress testing by a fetal monitor of a fetus at greater than 42 1/2 weeks' gestation or if other reasons indicate the testing;

- (6) screening for phenylketonuria;

- (7) Rh screening of the infant for RhoGAM treatment if the mother is Rh negative; and

- (8) screening for premature labor and other risk factors.

History: En. Sec. 20, Ch. 550, L. 1991; amd. Sec. 1, Ch. 351, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 351 in (1) substituted "50-19-101" for "50-19-101(2)"; in (2) deleted screening for hepatitis B; and made minor changes in style. Amendment effective October 1, 2001.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

Administrative Rules

ARM 24.111.609 Additional recommended screening procedures.

37-27-313 and 37-27-314 reserved.

37-27-315. Physician consultation advised. A licensed direct-entry midwife shall advise all women accepted for midwifery care to consult with a physician or certified nurse-midwife at least twice during the pregnancy.

History: En. Sec. 21, Ch. 550, L. 1991.

Compiler's Comments

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

Administrative Rules

ARM 24.111.611 Conditions that require physician consultation or transfer of care.

ARM 24.111.612 Vaginal birth after cesarean (VBAC) deliveries.

37-27-316 through 37-27-319 reserved.

37-27-320. Reports — failure to report. (1) A licensed direct-entry midwife shall submit semiannually to the board, on forms supplied by the board, a summary report on each patient who was given care. The report must include vital statistics on each patient and information on the procedures and scope of care administered, including transport of the patient to a hospital and physician referrals, but may not include information disclosing the identity of the patient.

(2) A licensed direct-entry midwife shall report within 72 hours to the board and to the department of public health and human services any maternal, fetal, or neonatal mortality or morbidity in patients for whom care has been given.

(3) Failure of a direct-entry midwife to submit required reports constitutes grounds to deny renewal of a license.

History: En. Sec. 19, Ch. 550, L. 1991; amd. Sec. 63, Ch. 418, L. 1995; amd. Sec. 92, Ch. 546, L. 1995.

Compiler's Comments

1995 Amendments: Chapter 418 in (2) substituted "department of public health" for "department of health and environmental sciences"; and made minor changes in style. Amendment effective July 1, 1995.

Chapter 546 in (2) substituted "department of public health and human services" for "department of health and environmental sciences". Amendment effective July 1, 1995.

Transition: Section 499, Ch. 418, L. 1995, provided: "The provisions of 2-15-131 through 2-15-137 apply to [this act]."

Saving Clauses: Section 503, Ch. 418, L. 1995, was a saving clause.

Section 571, Ch. 546, L. 1995, was a saving clause.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

Administrative Rules

ARM 24.111.613 Required reports.

37-27-321. Filing of birth certificate. (1) When a birth occurs with a licensed direct-entry midwife in attendance, the direct-entry midwife shall prepare and file a birth certificate, as required by 50-15-221, with the department of public health and human services.

(2) Failure of a direct-entry midwife to prepare and file the birth certificate constitutes grounds for the suspension or revocation of a license granted under this chapter.

History: En. Sec. 22, Ch. 550, L. 1991; amd. Sec. 64, Ch. 418, L. 1995; amd. Sec. 1, Ch. 515, L. 1995; amd. Sec. 93, Ch. 546, L. 1995.

Compiler's Comments

1995 Amendments: Chapter 418 in (1) substituted "department of public health" for "department of health and environmental sciences". Amendment effective July 1, 1995.

Chapter 515 in (1) substituted "50-15-221" for "50-15-201" and at end deleted "within 30 days of the birth of the newborn". Amendment effective January 1, 1996.

Chapter 546 in (1) substituted "department of public health and human services" for "department of health and environmental sciences". Amendment effective July 1, 1995.

Transition: Section 499, Ch. 418, L. 1995, provided: "The provisions of 2-15-131 through 2-15-137 apply to [this act]."

Saving Clauses: Section 503, Ch. 418, L. 1995, was a saving clause.

Section 571, Ch. 546, L. 1995, was a saving clause.

Severability: Section 23, Ch. 515, L. 1995, was a severability clause.

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.

37-27-322 through 37-27-324 reserved.

37-27-325. Violation — penalties — injunction — manner of charging violation. (1) A person who violates any provision of this chapter or any rule adopted pursuant to this chapter is guilty of a misdemeanor and is punishable by a fine not to exceed \$500, by imprisonment in the county jail for a term of not more than 6 months, or both.

(2) Notwithstanding any other provisions of this chapter, the board may maintain an action to enjoin a person from engaging in the practice of direct-entry midwifery until a license to practice direct-entry midwifery is obtained. A person who has been enjoined and who violates the injunction is punishable for contempt of court. The injunction does not relieve the person practicing direct-entry midwifery without a license from criminal prosecution. The remedy by injunction is in addition to remedies provided for criminal prosecution of the offender. In charging a person in a complaint for injunction or in an affidavit, information, or indictment with a violation of law by practicing direct-entry midwifery without a license, it is sufficient to charge that the person did, on a certain day and in a certain county, engage in the practice of direct-entry midwifery while not having a license to do so, without averring further or more particular facts concerning the violation.

History: En. Sec. 23, Ch. 550, L. 1991.

Compiler's Comments

Effective Date: Section 27(2), Ch. 550, L. 1991, provided that this section is effective July 1, 1991.