

This rule was filed as 16 NMAC 11.3.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 11 MIDWIVES
PART 3 LICENSED MIDWIVES

16.11.3.1 ISSUING AGENCY: New Mexico Department of Health Public Health Division Maternal Health Program
[10-31-96; Recompiled 12/31/01]

16.11.3.2 SCOPE: These regulations apply to any Licensed Midwives practicing in the State of New Mexico or licensed by the New Mexico Department of Health, Public Health Division
[10-31-96; Recompiled 12/31/01].

16.11.3.3 STATUTORY AUTHORITY: The regulations set forth herein are promulgated by the Secretary of the Department of Health by authority of Section 9-7-6 (F) NMSA 1978 and Section 24-1- 21 NMSA 1978. The Public Health Division of the Department of Health shall administer and enforce these regulations

A. **GUIDELINES:** In the absence of specific direction in these regulations as to standard of practice or ethics, the *Standards and Core Competencies of Practice for Licensed Midwives in New Mexico*, the *New Mexico Midwives Association: Practice Guidelines* or equivalent approved by the NMMA and the Division, and the procedures and policies of the Department of Health and Public Health Division are adopted as standards of practice and are incorporated by reference herein.

B. **OTHER LAW AND REGULATIONS:** These regulations are subject to the provisions of the Department of Health's Regulations Governing Promulgation of Regulations and Regulations Governing Public Access to Department Records. In addition, Department regulations on related subjects include: registration of nurse-midwives; prevention of infant blindness; newborn screening for certain congenital diseases and other inborn metabolic errors; registration of births, deaths and fetal deaths, and control of diseases and conditions of public health significance. Copies of regulations may be obtained by writing to the Public Health Division, P.O. Box 26110, 1190 St. Francis Dr., Santa Fe, NM 87502-6110

C. **AUTHORITY OF THE DEPARTMENT OF HEALTH AND THE PUBLIC HEALTH DIVISION:** The Department of Health through its Public Health Division may deny, revoke or suspend any license held or applied for or reprimand or place a license on probation on the grounds stated in these regulations pursuant to 24-1-3R NMSA 1978
[2-5-80...10-31-96; Recompiled 12/31/01].

16.11.3.4 DURATION: Permanent.
[10-31-96; Recompiled 12/31/01]

16.11.3.5 EFFECTIVE DATE: October 31, 1996 unless a later date is cited at the end of a section or paragraph.
[10-31-96; Recompiled 12/31/01]
[Compiler's note: The term "*or paragraph*," above, is no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

16.11.3.6 OBJECTIVE: The regulations establish policies, standards and criteria relating to the educational and examination requirements, issuing of permits and licenses, practice, and continuing education of persons who practice licensed midwifery
[12-12-67...10-31-96; Recompiled 12/31/01].

16.11.3.7 DEFINITIONS:

A. "Apprentice" means a person holding a high school diploma or a GED who 1) wishes to make application for basic education in the art and science of midwifery by apprenticeship, 2) has a formal preceptor relationship defined in writing with a midwifery instructor who is in good standing with the Midwife Licensing Authority of the Public Health Division and who meets the requirements of 16.11.3.7.13 and agrees in writing to fulfill the basic educational and clinical experience requirements described in 16.11.3.9.1 and 11.3.9.2

- B. "Board" means the Licensed Midwifery Advisory Board established under these regulations
- C. "Certified Nurse-Midwife" means a graduate of a midwifery education program accredited by the American College of Nurse-Midwives Division of Accreditation who, has been certified and licensed pursuant to laws, regulations, and procedures of her/his jurisdiction
- D. Certified Professional Midwife (CPM) means an independent practitioner who has met the standards for certification set by the North American Registry of Midwives (NARM). A CPM may not practice in New Mexico unless she/he holds a New Mexico license to practice midwifery.
- E. "Contact hour" means a unit of 1) 50 to 60 minutes of a formal learning experience that directly relates to maternal, infant, and well-woman health and related professional, ethical, legal, or business topics or 2) 2 hours of clinical practice in maternal, infant, and well-woman health care that is supervised and documented in writing.
- F. "Continuing education" means 1) participation in a formal learning experience presented by an instructor who has credentials in the educational areas set out in 16.11.3.10 and for which written certification is given by the instructor, and/or 2) a self-study program that has been pre-approved by the Division.
- G. "Department" means the Department of Health.
- H. "Division" means the Public Health Division of the Department of Health.
- I. "Incompetence" is defined as follows: In performing midwifery functions, a midwife is under a legal duty to possess and to apply the knowledge, skill and care that is ordinarily possessed and exercised by other midwives of the same licensure status and required by the generally accepted standards of the profession including those standards set forth in these regulations and their referenced documents. The failure to possess or to apply to a substantial degree such knowledge, skill and care constitutes incompetence for purposes of disciplinary proceedings.
- J. "License" means a document issued by the Department to a person meeting the professional requirements described in these Regulations.
- K. "Licensed Midwife" means a person who has successfully completed all the requirements of 16.11.3.8.3 and is in good standing with the Division.
- L. "Licensed Midwifery" means the provision of health care and management of women in the antepartum, intrapartum, postpartum, and interconceptual periods and infants up to 6 weeks of age. This care occurs within a health care system which provides for midwifery protocols, medical consultation, co-management or referral and is in accord with the "*Standards and Core Competencies of Practice for Licensed Midwives in New Mexico*" and the "*New Mexico Midwives Association: Practice Guidelines*".
- M. "Licensing Period" means a two year period for which permits or licenses are issued. Licenses may be issued at any time but shall expire on March 31 of the second year.
- N. "Midwifery Instructor" means a qualified licensed midwife, certified nurse-midwife, or licensed physician who 1) practices obstetrics, 2) who has at least one (1) year of clinical practice after completing their education and licensing process, 3) who has a formal training and supervisory relationship with an apprentice midwife that is documented in writing, and 4) who is listed with the Division.
- O. "*New Mexico Midwifery Student Workbook (Student Workbook)*" means an instrument approved by the Division, in which the preceptor documents the successful completion of the student's theoretical and clinical education and attainment of safe beginning practice of core competencies.
- P. "Peer Review" means the review of the practice standards and outcomes of a Licensed Midwife by a group of her or his peers according to the NMMA or other Division recognized institutional criteria; and as governed by NM Review Organization on Indemnity Act. NM Stat. ANN. Little SS. 41-9-1 to 7 1978.
- Q. "Permit" means documentation issued by the Department to a person meeting the professional requirements described in these Regulations authorizing the practice of midwifery at the apprentice level described in 16.11.3.8.2.
- R. "Physician" means a person who is currently practicing obstetrics and is licensed and in good standing in their jurisdiction to practice medicine or osteopathy.
- S. "Preceptor" means the same as "midwifery instructor".
- T. "Supervision" means the instruction, guidance, and continued evaluation of an apprentice midwife in the art and science of midwifery by a midwifery instructor or preceptor with whom the apprentice has a formal relationship defined in writing and who retains ultimate responsibility for clients seen by apprentices.
- [2-5-80...10-31-96; Rn, 16.11.3.7.19, 12-31-97; 12-31-97; Recompiled 12/31/01]

16.11.3.8 PERMITS AND LICENSES:

A. *GENERAL PROVISIONS:*

(1) A licensed midwife may provide any care or services allowed by these regulations

(2) An apprentice midwife may provide any care or services allowed by these regulations as set out in 16.11.3.12.1 only under the supervision of a midwifery instructor. The midwifery instructor reviews and evaluates all care provided by and attends every labor and delivery managed by the apprentice. The midwifery instructor retains the responsibility for clients seen by apprentices

(3) The Division requires full disclosure of past midwifery licensure, suspensions, and revocations which will be considered before granting any license or permit

B. *APPRENTICE MIDWIFE PERMITS:*

(1) Application for apprentice midwife permit must include all of the following:

(a) Proof of high school diploma or GED

(b) A completed agreement by the midwifery instructor to the preceptor relationship on the Division's form

(c) A completed apprentice application on the Divisions form

(d) Payment of fifty dollars (\$50) to the Division

(2) Upon proof of successful completion, the Division will supply to qualifying apprentice applicants an apprentice midwife permit and necessary regulatory information applicable to apprenticeship.

(a) An apprentice midwife permit

(b) "The New Mexico Midwifery Educational Standards and Requirements"

(c) "Standards and Core Competencies for the Practice of Licensed Midwifery in New Mexico"

(d) "New Mexico Midwives Association: Policies and Procedures"

(e) A copy of Licensed Midwives Regulations, NMAC 16.11.3

(3) An apprentice must have successfully completed basic education requirements in midwifery and the requisite examination process no later than the end of the fourth year after the initial apprentice permit is issued. Before taking the written examination for licensure, an apprentice must successfully complete the following:

(a) A minimum of twelve (12) months of theoretical and clinical education described in 16.11.3.10

(b) Submit to the Division a completed Student Workbook or its Division-approved equivalent, or transcripts showing successful completion of a midwifery education program licensed by the New Mexico Commission for Higher Education or accredited by the Midwifery Education Accreditation Council or other United States Department of Education-recognized accrediting agency.

(c) Submit to the Division an application to licensed midwifery examination on the Division's form

(d) Payment to the Division of the examination fee designated by the Division.

(4) *RENEWAL OF PERMITS:* An apprentice midwifery permit may be renewed once after the initial two years permit period. An applicant for renewal shall submit to the Department:

(a) A completed renewal application on the Division's form

(b) Renewal payment of fifty dollars (\$50)

C. *MIDWIFE LICENSURE:*

(1) An applicant for midwifery licensure must meet the following requirements

(a) Complete the Division-approved examination with a passing score no more than one year before applying for licensure, or submit proof of CPM certification and complete an abbreviated Division-approved examination with a passing score.

(b) Submit to the Division evidence of current certification in cardiopulmonary resuscitation of the adult and IV therapy and current recognition by the Neonatal Resuscitation Program of the American Academy of Pediatrics.

(c) Submit a complete application on the Divisions form which shall include the applicants licensing and disciplinary history

(d) Submit to the Division a fee of fifty dollars (\$50)

(2) After reviewing and approving duly submitted applications, the Division shall issue to qualifying applicants a license and a wallet-size card. Practicing licensed midwives must display a current license prominently in their main practice location

(3) *RENEWAL OF LICENSURE:* A midwifery license must be renewed by March 31st of the second year after it is issued. The completed application must be received by the Division at least two weeks before the expiration date of the current license. To be considered for relicensure, a midwife must have duly made quarterly

reports to the Division as described in 16.11.3.12.12. Practicing midwifery for compensation or using the initials LM after ones name without a current midwifery license is grounds for disciplinary action. An applicant for renewal shall submit to the Division:

- (a) A completed renewal application on the Divisions form
- (b) Evidence of successful completion of thirty (30) contact hours of continuing education that conforms with the definitions of "contact hour" and of "continuing education" in 16.11.3.7.
- (c) Evidence of current certification in cardiopulmonary resuscitation of the adult and IV therapy, and current recognition by the Neonatal Resuscitation Program of the American Academy of Pediatrics.
- (d) Evidence of peer review participation within the four (4) years preceeding application and submission of quarterly reports described in 16.11.3.12.12.
- (e) Renewal payment of fifty dollars (\$50)

(4) Reinstatement of licenses lapsed no longer than four (4) years may be allowed by the Division, upon fulfillment of all the requirements of Sections 8.3.3.1, 8.3.3.2, 8.3.3.3, 8.3.3.4. and 8.3.3.5. Besides the usual renewal payment, there will be an additional fee of twenty dollars (\$20) for reinstatement of license. Practicing without a current license is grounds for disciplinary or legal action

D. *RECIPROCITY*: There is no reciprocity with other jurisdictions

E. *FEES*: All fees are non-refundable and shall be made by certified check or money order

(1) Applications for apprenticeship must be accompanied by payment by check or money order to the Division in the amount of fifty dollars (\$50)

(2) Applications for licensure must be accompanied by payment by check or money order to the Division in the amount of fifty dollars (\$50)

(3) Application for renewal of permits/licenses shall be accompanied by a payment of fifty dollars (\$50)

(4) Application for examination shall be accompanied by the fee designated by the Division. This amount does not include the licensing fee.

[2-5-80...10-31-96; 12-31-97; Recompiled 12/31/01]

16.11.3.9 DISCIPLINARY ACTION:

A. *GROUND FOR ACTION:*

(1) Charges of incompetence may be based upon a single act of incompetence or upon a course of conduct or series of acts or omissions which extend over a period of time and which, taken as a whole, demonstrate incompetence. It shall not be necessary to show that actual harm resulted from the act or omission or series of acts or omissions so long as the conduct is of such a character that harm could have resulted to the patient/client or to the public from the act or omission or series of acts or omissions

(2) For purposes of these regulations "unprofessional conduct" includes, but is not limited to, the following

(a) Dissemination of a patient's/client's health information and/or treatment plan acquired during the course of employment to individuals not entitled to such information and where such information is protected by law and/or hospital/agency policy from disclosure

(b) Falsifying or altering patient/client records or personnel records for the purpose of reflecting incorrect or incomplete information

(c) Misappropriation of money, drugs or property

(d) Obtaining or attempting to obtain any fee for patient/client services for one's self or for another through fraud, misrepresentation, or deceit

(e) Aiding, abetting, assisting or hiring an individual to violate any duly promulgated regulation of the Departments Midwife Licensing Authority

(f) Obtaining, possessing, administering or furnishing prescription drugs to any person, including but not limited to ones self, except as directed by a person authorized by law to prescribe

(g) Failure to make or keep accurate, intelligible entries in records as required by law, policy and standards for the practice of midwifery

(h) Obtaining or attempting to obtain a license to practice midwifery ones self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the licensure by examination or endorsement process, or relicensure process

(i) Practicing midwifery in New Mexico without a valid, current New Mexico license or permit, or aiding, abetting or assisting another to practice midwifery without a valid, current New Mexico license

- (j) Failure to report a midwife who appears to have violated regulations for the practice of licensed or certified nurse midwifery. Anyone reporting an alleged violation of these regulations shall be immune from liability unless the person acted in bad faith or with malicious purpose
- (k) Intentionally engaging in sexual contact with and/or toward a patient/client in a manner that is commonly recognized as outside the scope of the individual midwives practice
- (l) Abandoning a patient(s)/client(s) when the abandonment results or may result in potential or actual harm or danger to the patient(s)/client(s)
- (m) Engaging in the practice of midwifery when judgment or physical ability is impaired by alcohol or drugs or controlled substances
- (n) Practice which is beyond the scope of licensure
- (o) Delegation of medication administration, assessment, evaluation and judgment to non-licensed persons
- (p) As required by the New Mexico Parental Responsibility Act (Section 40-5A-1 *et seq.*, NMSA 1978)
- (q) Submitting false or altered documents for the purpose of obtaining licensure or permits
- (r) Failure to meet the requirements of the Bureau of Vital Records and Health Statistics regulations
- (s) Violation of the Departments regulations governing the practice of licensed midwifery
- (t) Failure to provide the Division in a timely manner with requested information.

B. *DISCIPLINARY PROCEEDINGS*: Disciplinary proceedings are conducted in accordance with the Uniform Licensing Act, 61-1-1 *et seq.*, NMSA 1978 and Open Meetings Act 10-15-1 *et seq.*, NMSA 1978

(1) *FILING OF A COMPLAINT*:

- (a) A sworn notarized complaint must be filed with the Division before a disciplinary proceeding can be initiated
 - (i) A complaint is an allegation of a wrongful act(s) or an omission(s)
 - (ii) A complaint may include knowledge of a judgment or settlement against a licensee
- (b) A sworn complaint may be filed by any person, including a member of the Division's Midwifery Advisory Board

(2) *INVESTIGATION OF A COMPLAINT*:

- (a) All complaints alleging a violation of the regulations adopted by the Public Health Division will be investigated to determine whether a violation of applicable law or rule has occurred
- (b) The investigation may result in a Notice of Contemplated Action (NCA) being issued by the Division if a violation exists; or a dismissal of the complaint because no actionable violation exists

(3) *REQUEST FOR A HEARING, NOTICE OF HEARING, AND REQUEST FOR CONTINUANCE*:

- (a) A Notice of Hearing, designating the date, time and place of the hearing, shall be mailed to the licensee or applicant for licensure via certified mail upon the timely receipt of a written request for a hearing
- (b) The licensee or certificate holder may request to explore a settlement by negotiating a stipulation and agreement with the Administrative Prosecuting Attorney at any time prior to the hearing
 - (i) If a settlement is negotiated, the proposed stipulation and agreement shall be presented to the Public Health Division Director for final approval
 - (ii) The proposed stipulation and agreement does not divest the Public Health Division Director of the authority to require a formal hearing or final approval, amendment, or rejection
 - (iii) If a settlement is not reached, a hearing shall be held
- (c) Once a hearing has been scheduled, any requests for a continuance must be presented to the Divisions hearing officer, in writing, at least ten (10) days prior to the scheduled hearing. The hearing officer may approve or deny the request
- (d) If a person fails to appear after requesting a hearing, the Division may proceed to consider the matter as a default and make a decision
- (e) If no request for a hearing is made within the time and manner required by the ULA, the Division may take the action contemplated in the NCA. Such action shall be final

(4) *ADMINISTRATIVE HEARING*:

- (a) All hearings before the Division shall be conducted in the same manner as a hearing in a court of law with the exception that the rules of evidence may be relaxed in the hearing pursuant to the Uniform Licensing Act

(i) Hearsay evidence is admissible if it is of a kind commonly relied upon by reasonable prudent people in the conduct of serious affairs

(ii) Disciplinary action against midwifery license or certificate must not be based solely on hearsay evidence

(b) The hearing officer may take testimony, examine witnesses and direct a continuance of any case

(c) The hearing officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of books, documents or records pertinent to the matter of a case before the Divisions Licensing Authority

(d) The hearing officer shall issue a report and recommended finding to the Department Secretary in accordance with the Uniform Licensing Act.

(5) *DECISION OF THE DIVISIONS LICENSING AUTHORITY:* A copy of the written decision shall be mailed via certified mail to the applicant/licensee or certificate holder in accordance with the Uniform Licensing Act, Section 61-1-14 (NMSA 1978)

C. *PUBLIC NOTIFICATION OF DISCIPLINARY ACTION:* The following are means in which disciplinary actions are made available to the public.

(1) Information regarding disciplinary actions shall be entered into the license file or applicant's file

(2) Submission of disciplinary action to any appropriate disciplinary Data Bank and/or notification to each state in which the licensee holds a license or has been licensed

D. *REINSTATEMENT OF LICENSE OR CERTIFICATE:*

(1) Individuals who request reinstatement of their license or who request that their probation be lifted must be prepared to provide the Division with substantial evidence to support their request. This evidence must be in the form of notarized written reports or sworn written testimony from individuals who have personal knowledge of the licensees or certificate holders activities and progress during the period of probation, suspension or revocation

(2) Requests for reinstatement of a revoked license or certificate shall not be considered by the Division prior to the expiration of one year from the date of the order of revocation. The date at which time the Division Directors signature is affixed to the order of revocation or suspension is the controlling date, unless otherwise specified in the order

(3) Requests for reinstatement of a suspended license or certificate shall be considered at such time as provided by the Division in the order of suspension

(4) Reinstatement of a revoked or suspended license requires proof of meeting the renewal requirements as set forth in these regulations, any remedial education or supervised practice required by Division, and payment of the reinstatement of current or lapsed license fee [10-31-96; Recompiled 12/31/01].

16.11.3.10 COURSE OF EDUCATION: The Division will use the Standards and Core Competencies for the Practice of Licensed Midwifery in New Mexico as a guideline in determining the acceptability of an applicants educational experience. The midwifery instructor will conduct the course of education for the apprentice as set out in 16.11.3.7.13 and 16.11.3.8.1.2 as outlined below in 16.11.3.10.1 and 16.11.3.10.2

A. *THEORETICAL INSTRUCTION:* Theoretical instruction must include these areas of study

(1) **HUMAN LIFE SCIENCE:** Anatomy and physiology, fetal development, genetic screening, applied microbiology

(2) **PSYCHO/SOCIAL ISSUES:** Communication and counseling, cultural concerns, human sexuality, perinatal education

(3) **ANTEPARTUM MANAGEMENT:** History taking, physical assessment, risk screening, provision of care, normal course, complications, pharmacology, nutrition, diagnostic laboratory tests and procedures

(4) **INTRAPARTUM MANAGEMENT:** History taking, physical assessment, risk screening, provision of care, normal course, complications, pharmacology, diagnostic laboratory tests and procedures, and adult cardiopulmonary resuscitation;

(5) **POSTPARTUM MANAGEMENT:** History taking, physical assessment, risk screening, provision of care, normal course, complications, pharmacology, diagnostic laboratory tests and procedures, family planning

(6) **NEWBORN MANAGEMENT:** History taking, physical assessment, risk screening, provision of care, normal course, complications, diagnostic laboratory tests and procedures, and neonatal resuscitation;

(7) WELL-WOMAN REPRODUCTIVE HEALTH CARE: History taking, physical assessment, risk screening, provision of care, diagnostic laboratory tests and procedures, treatment, family planning

(8) PROFESSIONAL ISSUES: History of Midwifery, Division regulations regarding prevention of infant blindness; newborn screening for certain congenital diseases and other inborn metabolic errors; registration of births, deaths, and fetal deaths, and control of diseases and conditions of public health significance; ethics, laws and regulations, starting a small business

B. *CLINICAL EXPERIENCE*: Clinical experience for an apprentice must include the following:
License Requirements;

- (1) Complete well-woman health assessment: 25
 - (2) Prenatal visits of at least 15 different women: 100
 - (3) Labor observations and managements: 40
 - (4) Start an IV successfully: 1
 - (5) Delivery of newborn and placenta: 25
 - (6) Newborn examinations: 30
 - (7) Use of prophylactic eye medications: 15
 - (8) Postpartum visits to mother and baby within 36 hours of delivery: 30
 - (9) Blood collection for Newborn Metabolic Screening: 15
 - (10) Six week postpartum and/or yearly physical exams and pap smears: 15
 - (11) Family planning visits, consultations, and/or referrals: 30
 - (12) Neonatal intensive care nursery observation at UNM Hospital or equivalent high risk medical facility nursery experience: After at least 6 months of apprenticeship
 - (13) High risk obstetric care observation at UNM Hospital special OB clinic or equivalent medical facility experience: After at least 6 months of apprenticeship
 - (14) Provision of one complete series of prepared childbirth classes: After at least 6 months of apprenticeship
 - (15) Observation of one complete breast feeding information series: After at least 6 months of apprenticeship
- [2-5-80...10-31-96; 12-31-97; Recompiled 12/31/01]

16.11.3.11 EXAMINATION: The Division will administer an examination for licensure of midwives at least twice yearly. A candidate for examination who receives a failing score shall be eligible to retake the examination within four years of the start date of their initial apprentice permit by meeting the following requirements:

- A. Submitting another examination fee.
 - (1) Repealed.
 - (2) Repealed.
 - (3) Repealed.
 - (4) Repealed.
 - B. Holding a current midwifery apprentice permit. Applicants may retain their permits and renew them, provided that the four year limitation on holding an apprentice permit has not expired.
 - C. If an applicant fails the examination more than once, she or he must wait a period of not less than six (6) months before taking the examination again and during that time must be apprenticed to a preceptor or in a formal midwifery school, and must submit a new completed Student Workbook or new completed transcripts from a formal education program, and must submit another examination fee.
- [3-19-87...10-31-96; Rn, 16.11.3.11.2.3; 12-31-96; 12-31-97; Recompiled 12/31/01]

16.11.3.12 RESPONSIBILITIES AND SCOPE OF PRACTICE:

- A. *SCOPE OF PRACTICE*: The licensed midwife may provide care to women without general health or obstetrical complications as defined by the *Standards and Core Competencies of Practice for Licensed Midwives in New Mexico* and the *New Mexico Midwives Association: Policies and Procedures*, or equivalent approved by the NMMA and the Division. Such care includes:
 - (1) Prenatal care and counseling
 - (2) Intrapartum care and support
 - (3) Postpartum care and counseling
 - (4) Well-woman care

- (5) Immediate newborn care
- (6) Administration of specific drugs and medications as outlined in the New Mexico Midwives Association Policies and Procedures
- B. *PHYSICIAN VISIT*: Each woman accepted for care must be referred at least once to a duly licensed physician within four (4) weeks of her initial midwifery visit. The referral must be documented in the chart
- C. *RESPONSIBILITY TO CONSULT*: It shall be the responsibility of the midwife to develop a means for consultation with or referral/transfer to a physician or hospital if there are significant deviations from the normal in the health status of either mothers or infants as set out in the Standards and Core Competencies for the Practice of Licensed Midwifery in New Mexico
- D. *LIMITATION OF PHYSICIAN LIABILITY*: Any consultative relationship with a physician shall not by itself provide the basis for finding a physician liable for any acts or omissions by a licensed midwife
- E. *INFORMED CONSENT*: The licensed midwife must obtain written, informed consent regarding the care to be provided by the licensed midwife from the woman upon accepting her for care. At a minimum, the licensed midwife must first honestly explain the following to any woman seeking midwifery care to ensure that her choices are comprehensive and informed
 - (1) Midwife's educational background
 - (2) The risks and benefits of midwifery care
 - (3) The nature and scope of the care to be given; and
 - (4) The nature and terms of the financial agreement
- F. The licensed midwife may not accept a woman as a client who does not meet the minimum criteria set out in the Standards and Core Competencies of Practice for Licensed Midwives in New Mexico
- G. *BIRTH REGISTRATION*: The licensed midwife must complete a New Mexico Certificate of Live Birth Registration and file it with the Bureau of Vital Records and Health Statistics of the Department of Health within ten (10) days of the birth of any child in the State of New Mexico. No licensed midwife shall register nor enable any other party to register as a New Mexico birth any child not born in the state. Failure to meet the Vital Records regulations shall be grounds for disciplinary action
- H. *RECORDS*: The licensed midwife will document and maintain clients' records according to current "Standards and Core Competencies for the Practice of Licensed Midwifery in New Mexico." Inactive records shall be maintained no less than ten (10) years
- I. *MORTALITY: IMMEDIATE REPORTING*: The licensed midwife must report within 48 hours to the Division any neonatal or maternal mortality in patients for whom she has cared in the perinatal period
- J. *REPORTABLE DISEASES*: The licensed midwife must report any reportable contagious disease to the public health officer pursuant to the Public Health Act, 24-1-15
- K. The licensed midwife shall participate in peer review at least once every four (4) years in accordance with the requirements of the Division and Article XI of the New Mexico Midwifery Association.
- L. *QUARTERLY REPORTS*: At the end of each quarter of a year each licensed midwife shall submit to the Division a report on the Divisions form of the disposition of each patient she or he has given care to. Quarters shall be January 1st to March 31st, April 1st to June 30th, July 1st to September 30th, and October 1st to December 31st. Reports shall be submitted by the tenth (10th) day after the end of each quarter
- M. *CHANGES OF ADDRESS OR PHONE NUMBER*: A licensed midwife must report a change of her or his address or phone number within 30 days of the change.

[12-31-97; Recompiled 12/31/01]

16.11.3.13 ADVISORY BOARD: The Division shall appoint a Licensed Midwifery Advisory Board

- A. The Boards activities will be:
 - (1) Review complaints against Licensed Midwives as requested by the Division and make recommendations to the Division
 - (2) Remain current in clinical practice and professional issues and advise the Division accordingly
 - (3) Recommend updates in the Standards and the Manual
 - (4) Conduct other relevant business as requested by the Division
- B. *ADVISORY BOARD MEMBERSHIP*: The Licensed Midwifery Advisory Board shall be composed of nine (9) members and one (1) ex-officio member; the membership shall be as follows:
 - (1) Three (3) state licensed midwives, at least two of whom shall be actively practicing
 - (2) One state licensed certified nurse-midwife actively practicing midwifery
 - (3) Three (3) consumer members

- (4) One (1) state licensed physician actively practicing obstetrics
- (5) One (1) member from the Division; and
- (6) A representative of the Maternal and Child Health Bureau in the Public Health Division will be an ex-officio member of the Board

C. *ADVISORY BOARD PROCEDURES:* Board members shall be appointed for staggered three year terms and not more than two consecutive terms, except for the member from the Division, who shall serve at the pleasure of the Division Director and who shall not be limited as to terms

(1) Board members shall serve without compensation; they may submit for reimbursement for in-state travel and per diem for Division-called Board meetings according to Department of Finance and Administration Regulations

(2) Any member failing to attend two (2) consecutive meetings without good cause and an excused absence prior to the meeting(s) shall be deemed to have resigned from the Board
[2-5-80...10-31-96; Recompiled 12/31/01].

16.11.3.14 SEVERABILITY: If any part or application of the Regulations Governing the Practice of Licensed Midwifery is held invalid, the remainder or its application to other situations or persons shall not be affected

[7-12-93...10-31-96; Recompiled 12/31/01].

HISTORY OF 16.11.3 NMAC: [RESERVED]