Note from the Codifier: *The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days.*
For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email oah.postmaster@oah.nc.gov.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 33 - MIDWIFERY JOINT COMMITTEE

Notice *is hereby given in accordance with G.S. 150B-21.1(a3) that the Midwifery Joint Committee intends to adopt the rules cited as 21 NCAC 33 .0112, .0114-.0118, and amend the rules cited as 21 NCAC 33 .0101, .0103-.0105 and .0111.*

Codifier of Rules *received for publication the following notice and proposed temporary rule(s) on: July 20, 2023.*

Public Hearing:
Date: *August 8, 2023*
Time: *1:00 p.m.*
Location: *4516 Lake Boone Trail, Raleigh, NC 27607*

Reason for Proposed Temporary Action: *The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: Senate Bill 20/Session Law 2023-14, effective date: May 16, 2023. In accordance with § 150B-21.1(a)(2), the Midwifery Joint Committee (MJC) submits proposed Chapter 33 temporary rules addressing "the effective date of a recent act of the General Assembly or the United States Congress". On May 16, 2023, Senate Bill 20/Session Law 2023-14 Care for Women, Children and Families Act was enacted. Subsequently, Senate Bill 389 Technical Changes to the Midwifery Statutes was enacted, granting authority to the MJC to adopt, amend, and repeal rules necessary to administer the provisions of the Article. Legislation directed the MJC to adopt rules to address the Certified Nurse Midwife (CNM) approval to practice independently and in transition to independent practice. These rules include working under a collaborative provider agreement, prescribing authority, and rules governing planned births outside of hospital settings attended by CNMs. Portions of this law become effective October 1, 2023. The adoption of these temporary rules protects the health and safety of the public, clarifies the MJC's requirements for midwifery practice and meets the legislature's charge to promulgate rules to carry out this Law until such time as permanent rules can be adopted.*

Comment Procedures: *Comments from the public shall be directed to: Angela Ellis, CAO/APA Coordinator, PO Box 2129, Raleigh, NC 27602-2129; email lawsrules@ncbon.com. The comment period begins July 27, 2023 and ends August 17, 2023.*

SECTION .0100 – MIDWIFERY JOINT COMMITTEE

21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS

(a) The responsibility for administering the provisions of G.S. 90, Article 10A, shall be assumed by an administrative body, the Midwifery Joint Committee, hereinafter referred to as the "Committee." The certified nurse midwife shall hereinafter be referred to as ~~"midwife."~~ "CNM."

(b) In addition to the definitions set forth in G.S. 90-178.2, the following shall apply to the Rules in this Chapter:

~~(1) "Primary Supervising Physician" means a physician with an active unencumbered license with the North Carolina Medical Board who, by signing the midwife application, shall be held accountable for the on-going supervision, consultation, collaboration, and evaluation of the medical acts performed by the midwife, as defined in the site specific written clinical practice guidelines. A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician. A physician in a graduate medical education program who is also practicing in a non-training situation may supervise a midwife in the non-training situation if he or she is fully licensed.~~

~~(2) "Back-up Primary Supervising Physician" means a physician licensed by the North Carolina Medical Board who, by signing an agreement with the midwife and the primary supervising physician or physicians shall be held accountable for the supervision, consultation, collaboration, and evaluation of medical acts by the midwife in accordance with the site specific written clinical practice guidelines when the primary supervising physician is not available. The signed and dated agreements for each back-up primary supervising physician or physicians shall be maintained at each practice site. A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up primary supervising physician. A physician in a graduate medical education program who is also practicing in a non-training situation may be a back-up primary supervising physician to a midwife in the non-training situation if he or she is fully licensed and has signed an agreement with the midwife and the primary supervising physician.~~

(1) "American Midwifery Certification Board (AMCB)" means the national certifying body for candidates in nurse-midwifery and midwifery who have received their graduate level education in programs accredited by the Accreditation Commission for Midwifery Education.

(2) "Accreditation Commission for Midwifery Education (ACME)" means an accreditation agency established to advance and promote midwifery education.

(3) "American College of Nurse-Midwives (ACNM)" means the professional association that represents certified nurse-midwives (CNMs) and certified midwives (CMs) in the United States. ACNM sets the standard for midwifery education and practice in the United States.

(4) "American College of Obstetricians and Gynecologists (ACOG)" means the professional membership organization for obstetrician-gynecologist which produces practice guidelines for health care professionals and educational materials for patients, provides practice management and career support, facilitates program and initiatives to improve women's health, and advocates for members and patients.

(5) "Certified Nurse Midwife (CNM)" means a nurse licensed and registered under Article 9A of this Chapter who has completed a midwifery education program accredited by the Accreditation Commission for Midwifery Education, or its successor, passed a national certification examination administered by the American Midwifery Certification Board, or its successor, and has received the professional designation of "Certified Nurse Midwife" (CNM). Certified Nurse Midwives practice in accordance with the Core Competencies for Basic Midwifery Practice, the Standards for the Practice of Midwifery, the Philosophy of the American College of Nurse-Midwives (ACNM), and the Code of Ethics promulgated by the ACNM.

(6) "Collaborating provider" means a physician licensed to practice medicine under Article 1 of this Chapter for a minimum of 4 years and has a minimum of 8,000 hours of practice and who is or has engaged in the practice of obstetrics or a Certified Nurse Midwife who has been approved to practice midwifery under this Article for a minimum of 4 years and 8,000 hours.

(7) "Collaborative provider agreement" means a formal, written agreement between a collaborating provider and a Certified Nurse Midwife with less than 24 months and 4,000 hours of practice as a Certified Nurse Midwife to provide consultation and collaborative assistance or guidance.

(8) "Interconceptional care" includes, but is not limited to, the following:
- (A) Gynecological care, family planning, perimenopause care, and postmenopause care;
- (B) Screening for cancer of the breast and reproductive tract; and
- (C) Screening for and management of minor infections of the reproductive organs.

(9) "Intrapartum care" means care that focuses on the facilitation of the physiologic birth process and includes, but is not limited to, the following:
- (A) Confirmation and assessment of labor and its progress;
- (B) Identification of normal and deviations from normal and appropriate interventions, including management of complications, abnormal intrapartum events, and emergencies;
- (C) Management of spontaneous vaginal birth and appropriate third-stage management, including the use of uterotonics;
- (D) Performing amniotomy;
- (E) Administering local anesthesia;
- (F) Performing episiotomy and repair; and
- (G) Repairing laceration associated with childbirth.

(10) "Midwifery" means the act of providing prenatal, intrapartum, postpartum, newborn, and interconceptional care. The term does not include the practice of medicine by a physician licensed to practice medicine when engaged in the practice of medicine as defined by law, the performance of medical acts by a physician assistant or nurse practitioner when performed in accordance with the Rules of the North Carolina Medical Board, the practice of nursing by a RN engaged in the practice of nursing as defined by law, or the performance of abortion, as defined in G.S. 90-21.81.

(11) "Newborn care" means care that focuses on the newborn and includes, but is not limited to, the following:
- (A) Routine assistance to the newborn to establish respiration and maintain thermal stability;
- (B) Routine physical assessment including APGAR scoring;
- (C) Vitamin K administration;
- (D) Eye prophylaxis for opthalmia neonatorum; and
- (E) Methods to facilitate newborn adaptation to extrauterine life, including stabilization, resuscitation, and emergency management as indicated.

~~(3)~~(12) "Obstetrics" means a branch of medical science that deals with birth and with its antecedents and sequels, including prenatal, intrapartum, postpartum, newborn or gynecology, and otherwise unspecified primary health services for women.

(13) "Postpartum care" means care that focuses on management strategies and therapeutics to facilitate a health puerperium and includes, but is not limited to, the following:
- (A) Management of the normal third stage of labor;
- (B) Administration of uterotonics after delivery of the infant when indicated;
- (C) Six weeks postpartum evaluation exam and initiation of family planning; and
- (D) Management of deviations from normal and appropriate interventions, including management of complications and emergencies.

(14) "Prenatal care" means care that focuses on promotion of a healthy pregnancy using management strategies and therapeutics as indicated and includes, but is not limited to, the following:
- (A) Obtaining history with ongoing physical assessment of mother and fetus;
- (B) Obtaining and assessing the results of routine laboratory tests;
- (C) Confirmation and dating of pregnancy; and
- (D) Supervising the use of prescription and nonprescription medications, such as prenatal vitamins, folic acid, and iron.

Authority G.S. 90-178.4.

21 NCAC 33 .0103 APPLICATION ~~AND ANNUAL RENEWAL~~

(a) To be eligible for an approval to practice independently as a ~~midwife,~~ CNM, an applicant shall:

(1) submit a completed application for approval to practice, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. Application is posted on the Board of Nursing's website at www.ncbon.com;

~~(3)~~(2) submit the approval to practice application fee as established in ~~90-178.4(b)(1);~~ 90-178.4(b)(1) and Rule .0102 of this Section;

(3) hold an active, unencumbered North Carolina RN license or privilege to practice;

(4) ~~have~~ hold an active, unencumbered ~~registered nurse license and midwifery~~ CNM license or approval to practice in all jurisdictions in which a ~~license/approval~~ license or approval to practice is or has ever been held;

~~(2)~~(5) submit information on the applicant's education, evidence of the applicant's maintained certification by the American ~~College of Nurse-Midwives,~~ Midwifery Certification Board or its successor, ~~identification of the physician or physicians who will supervise the applicant,~~ and the sites where the applicant intends to practice midwifery;

(6) ~~submit a written explanation and all related documents if the midwife has ever been listed as a nurse aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Committee may take these findings into consideration when determining if an approval to practice should be denied pursuant to G.S. 90-178.6. In the event findings are pending, the Committee may withhold taking any action until the investigation is completed; and~~ submit an attestation of completion of at least 24 months experience and 4,000 practice hours as a CNM. The clinical experience shall be in collaboration with a collaborating provider. Documentation of successful completion of this requirement shall be provided to the Committee upon request;

(7) complete a criminal background check in accordance with ~~G.S. 90-171.48.~~ G.S. 90-171.48; and

~~(5)~~(8) have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee may use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6 and ~~90-171.37;~~ 90-171.37.

~~In the event that any of the information required in accordance with this Paragraph should indicate a concern about the applicant's qualifications, an applicant may be required to appear in person for an interview with the Committee if the Committee determines in its discretion that more information is needed to evaluate the application.~~

~~(b) Each midwife shall annually renew their approval to practice with the Committee no later than the last day of the midwife's birth month by:~~

~~(1) submitting a completed application for renewal, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. Applications are located on the Board of Nursing's website at www.ncbon.com;~~

~~(2) attest to having completed the requirements of the Certificate Maintenance Program of the American College of Nurse Midwives, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Section;~~

~~(3) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2).~~

(b) An applicant seeking approval to practice with less than 24 months experience and 4,000 hours of practice as a CNM shall:

(1) submit an application for approval to practice, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. The application can be found on the Board of Nursing's website at www.ncbon.com;

(2) submit the approval to practice application fee as established in 90-178.4(b) and Rule .0102 of this Section;

(3) hold an active, unencumbered North Carolina RN license or privilege to practice;

(4) hold an active, unencumbered CNM license or approval to practice in all jurisdictions in which a license or approval to practice is or has ever been held;

(5) submit information on the applicant's education evidence of the applicant's maintained certification by the American Midwifery Certification Board or its successor and the sites where the applicant intends to practice midwifery;

(6) submit information identifying the collaborating provider with whom the applicant will collaborate;

(7) complete a criminal background check in accordance with G.S. 90-171.48; and

(8) have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee may use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6 and 90-171.37.

(c) In the event a CNM seeks independent practice, the CNM shall submit a new application for approval to practice independently, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application and required fee.

In the event that any information required in accordance with this rule should indicate a concern about the applicant's qualifications, an applicant may be required to appear in person for an interview with the Committee if the Committee determines in its discretion that more information is needed to evaluate the application.

Authority G.S. 90-178.4(b); 90-178.5; 90-171.48; 90-171.37.

21 NCAC 33 .0104 ~~PHYSICIAN SUPERVISION~~ PROVIDER COLLABORATION REQUIRED

~~The applicant shall furnish the committee evidence that the applicant will perform the acts authorized by the Midwifery Practice Act under the supervision of a physician who is actively engaged in the practice of obstetrics in North Carolina. Such evidence shall include a description of the nature and extent of such supervision and a delineation of the procedures to be adopted and followed by each applicant and the supervising physician responsible for the acts of said applicant for rendering health care services at the sites at which such services will be provided. Such evidence shall include:~~

~~(1) mutually agreed upon written clinical practice guidelines that define the individual and shared responsibilities of the midwife and the supervising physician or physicians in the delivery of health care services;~~

~~(2) mutually agreed upon written clinical practice guidelines for ongoing communication that provide for and define appropriate consultation between the supervising physician or physicians and the midwife;~~

~~(3) periodic and joint evaluation of services rendered, such as chart review, case review, patient evaluation, and review of outcome statistics; and~~

~~(4) periodic and joint review and updating of the written medical clinical practice guidelines.~~

(a) A CNM who has practiced fewer than 24 months and 4,000 hours of practice as a CNM shall practice in consultation with a collaborating provider in accordance with a collaborative provider agreement in compliance with Rule .0116 of this Section.

(b) The approval to practice of the CNM practicing under the supervision of a collaborative provider agreement is terminated when the CNM discontinues working within the approved collaborative provider agreement or experiences an interruption in their RN licensure status. The CNM shall notify the Committee in writing within five days of the termination of the collaborative provider agreement.

(c) The CNM shall have 90 days to submit a newly-executed collaborative provider agreement with a collaborative provider to the Committee. During this 90-day period, the CNM may continue to practice midwifery in accordance with the Midwifery Practice Act and this Chapter. Should the 90-day period expire without a newly-executed collaborative provider agreement being submitted to the Committee, the approval to practice is rendered inactive and the CNM shall be required to submit an application for reinstatement of the approval to practice consistent with Rule .0103 and Rule .0115 of this Section. The Committee will notify the CNM when the application has been approved and the approval to practice is reinstated.

(d) To be eligible a collaborative provider shall hold an active, unencumbered approval to practice as a CNM having a minimum of 4 years and 8,000 hours of practice as a CNM or an active, unencumbered license to practice medicine in North Carolina and actively engaged in obstetrics.

(e) A CNM who has practiced over 24 months and 4,000 hours of practice as a CNM may be issued an approval to practice midwifery independently and shall consult and collaborate with and refer patients to such other health care providers as may be appropriate for the care of the patient.

Authority G.S. 90-178.4(b); 90-178.3.

21 NCAC 33 .0105 DISCIPLINARY ACTION

(a) The ~~midwife~~ CNM is subject to G.S. 90-171.37; 90-171.48 and 21 NCAC 36 .0217 by virtue of the license to practice as a ~~registered nurse.~~ RN.

(b) After notice and hearing in accordance with provisions of G. S. 150B, Article 3A, disciplinary action may be taken by the Committee if one or more of the following is found:

(1) practicing without a valid approval to practice as a CNM;
(2) immoral or dishonorable conduct;
(3) presenting false information to the Committee in procuring or attempting to procure an approval to practice as a CNM;
(4) the CNM is adjudicated mentally incompetent or the CNM's mental or physical condition renders the CNM unable to safely function as a CNM;
(5) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the prevailing standards for CNMs;
(6) conviction of a criminal offense which bears on the CNM's ability to practice or that the CNM has deceived or defrauded the public;
(7) soliciting or attempting to solicit payments for the CNM practice with false representations;
(8) lack of professional competence as a CNM;
(9) exploiting the patient, including the promotion of the sale of services, appliances, or drugs, for the financial gain of the CNM or of a third party;
(10) failure to respond to inquiries of the Committee for investigation and discipline;
(11) the CNM has engaged or attempted to engage in the performance of midwifery acts other than according to the collaborative provider agreement or without being approved by the Committee to practice independently;
(12) failure to maintain competence as a CNM;
(13) failure to obtain a written, informed consent agreement from a patient;
(14) practiced or offered to practice beyond the scope of CNM practice;
(15) failure to comply with any order of the Committee;
(16) violating any term of probation, condition, or limitation imposed on the CNM by the Committee; or
(17) any violation within this Chapter.

~~(b)~~(c) After an investigation is completed, the Committee may recommend one of the following:

(1) dismiss the case;
(2) issue a private letter of concern;
(3) enter into negotiation for a Consent Order; or
(4) a disciplinary hearing in accordance with G.S. 150B, Article 3A.

(d) Upon a finding of violation, the Committee may utilize the range of disciplinary options as enumerated in G.S. 90-171.37.

Authority G.S. 90-171.37; 90-171.43; 90-171.44; 90-171.48; 90-178.6; 90-178.7.

21 NCAC 33 .0111 CONTINUING EDUCATION (CE)

(a) In order to maintain approval to practice midwifery, a ~~midwife~~ CNM shall meet the requirements of the Certificate Maintenance Program of the American ~~College of Nurse-Midwives,~~ Midwifery Certifying Board, including continuing education requirements. ~~Every midwife who prescribes controlled substances shall complete at least one hour of continuing education (CE) hours annually consisting of CE designated specifically to address controlled substances prescribing practices, signs of the abuse or misuse of controlled substances, and controlled substance prescribing for chronic pain management. Documentation of continuing education shall be maintained by the midwife for the previous five calendar years and made available upon request to the Committee.~~

(b) Prior to prescribing controlled substances as the same are defined in 21 NCAC 33 .0117, CNMs shall have completed a minimum of 1 CE hour within the preceding 12 months on 1 or more of the following topics:

(1) Controlled substances prescription practices;
(2) Prescribing controlled substances for chronic pain management;
(3) Recognizing signs of controlled substance abuse or misuse; or
(4) Non-opioid treatment options as an alternative to controlled substances.

(c) Documentation of all CE completed within the previous five years shall be maintained by the CNM and made available upon request to the Committee.

Authority ~~G.S. 90-5.1; 90-14(a)(15); 90-178.5(2);~~ G.S. 90-178.3; 90-178.5(a)(2); S.L. 2015-241, s. 12F .16(b).

21 NCAC 33 .0112 SCOPE OF PRACTICE

The CNM's scope of practice is defined by academic educational preparation and national certification and maintained competence. A CNM shall be held accountable by the Committee for a broad range of personal health services for which the CNM is educationally prepared and for which competency has been maintained once the CNM has been authorized to practice midwifery. These services include:

(1) diagnosing, treating, and managing a full range of primary health care services to the patient throughout the lifespan, including gynecologic care, family planning services, preconception care, prenatal and postpartum care, childbirth, and care of the newborn;
(2) promotion and maintenance of health care services for the patient throughout their lifespan;
(3) treating patient and their partners for sexually transmitted disease and reproductive health;
(4) providing care in diverse settings, which may include home, hospital, birth center, and a variety of ambulatory care settings including private offices and community and public health clinics;
(5) prescribing, administering, and dispensing therapeutic measures, tests, procedures, and drugs;
(6) planning for situations beyond the CNM's scope of practice and expertise by collaborating, consulting with, and referring to other health care providers as appropriate; and
(7) evaluating health outcomes.

Authority G.S. 90-18.8; 90-178.3.

21 NCAC 33 .0114 ANNUAL RENEWAL

(a) The CNM approval to practice shall be renewed annually no later than the last day of the applicant's birth month by:

(1) maintaining an active, unencumbered North Carolina RN license or privilege to practice;
(2) submitting a completed application for renewal, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. Applications are located on the Board of Nursing's website at www.ncbon.com;
(3) attest to having completed the requirements of the Certificate Maintenance Program of the American Midwifery Certification Board or its successor, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Section; and
(4) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2) and this Section.

(b) It shall be the duty of the CNM to keep the Committee informed of a current mailing address, telephone number, and email address.
(c) If the CNM has not renewed by end of their birth month and submitted the annual fee, the approval to practice shall expire.

Authority G.S. 90-178.4(b); 90-178.5.

21 NCAC 33 .0115 INACTIVE STATUS

(a) Any CNM who wishes to place their approval to practice on an inactive status shall notify the Committee in writing.
(b) A CNM with an inactive approval to practice status shall not practice as a CNM.
(c) A CNM with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice in Rule. 0103 of this Section and receive notification from the Committee of approval prior to beginning practice after the application is approved.
(d) A CNM who has not practiced as a CNM in more than two years shall complete a midwifery refresher course approved by the Committee based on American College of Nurse-Midwives' reentry to midwifery practice guidelines and directly related to the CNM's

area of academic education and national certification. A midwifery refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

Authority G.S. 90-178.3; 90-178.5.

21 NCAC 33 .0116 COLLABORATIVE PROVIDER AGREEMENT

(a) A CNM with less than 24 months and 4,000 hours of practice as a CNM is required to have a written collaborative provider agreement to practice midwifery. The collaborative provider agreement shall:

(1) be agreed upon, signed, and dated by both the collaborating provider and the CNM, and maintained in each provider site;

(2) be reviewed at least annually. This review shall be acknowledged by a dated signature sheet, signed by both the collaborating provider and the CNM, appended to the collaborative provider agreement, and available for inspection by the Committee;

(3) include mutually agreed upon written clinical practice guidelines for the drugs, devices, medical treatments, tests, and procedures that may be prescribed, ordered, and performed by the CNM; and

(4) include a pre-determined plan for emergency services.

(b) The collaborating provider and the CNM shall be available to each other for consultation by direct communication or telecommunication.

(c) A copy of the collaborative provider agreement executed within the previous five years shall be maintained by the CNM and made available upon request of the Committee.

Authority G.S. 90-18.8; 90-178.3; 90-178.4; 90-178.5.

21 NCAC 33 .0117 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications by a CNM.

(b) A CNM must possess a valid United States Drug Enforcement Administration ("DEA") registration in order for the CNM to act as a collaborating provider for another CNM. The DEA registration of the collaborating provider shall include the same schedule(s) of controlled substances as the CNM practicing under a collaborative provider agreement.

(c) Prescribing and dispensing stipulations for the CNM authorized to practice under a collaborative provider agreement are as follows:

(1) Drugs and devices that may be prescribed by the CNM shall be included in the collaborative provider agreement as outlined in Rule .0116 of this Section.

(2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed, or ordered as established in the collaborative provider agreement, providing all of the following requirements are met:

(A) The CNM has an assigned DEA number that is entered on each prescription for a controlled substance;

(B) Refills may be issued consistent with Controlled Substance laws and regulations; and

(C) The collaborative provider shall possess a schedule(s) of controlled substances equal to or greater than the CNM's DEA registration.

(3) The CNM may prescribe a drug or device not included in the collaborative provider agreement only as follows:

(A) Upon a specific written or verbal order obtained from the collaborating provider before the prescription or order is issued by the CNM; and

(B) The written or verbal order as described in Part (c)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a collaborating provider and signed by the CNM and the collaborating provider.

(d) All prescribing stipulations shall be written in the patient's chart and shall include the medication and dosage, the amount prescribed, the directions for use, the number of refills, and the signature of the CNM.

(e) The prescriptions issued by the CNM shall contain:

(1) the name of the patient;

(2) the CNM's name and telephone number; and

(3) the CNM's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed.

(f) A CNM shall not prescribe controlled substances for the CNM's own use, the use of the CNM's collaborating provider, the use of the CNM's immediate family, the use of any other person living in the same residence as the CNM, or the use of any person with whom the CNM is having a sexual relationship. As used in this Paragraph, "immediate family" means a spouse, parent, child, sibling, parent-in-law, son-in-law or daughter-in-law, brother-in-law or sister-in-law, step-parent, step-child, or step-sibling.

Authority G.S. 90-18.8; 90-178.3.

21 NCAC 33 .0118 BIRTH OUTSIDE HOSPITAL SETTING

(a) A CNM approved to practice may attend and provide midwifery services for a planned birth outside of a hospital setting for a pregnancy deemed low-risk by the American College of Obstetricians and Gynecologists (ACOG). Prior to initiating care for a patient planning a home birth outside of a hospital setting, the CNM shall be required to:

(1) obtain a signed, written informed consent agreement with the patient that includes:

(A) identifying information of the patient to include name, date of birth, address, phone number, and email address if available;

(B) identifying information of the CNM to include the name, RN license number, approval to practice number, practice name, if applicable, and email address;
(C) information about the procedures, benefits, and risks of planned births outside of hospital settings;
(D) an acknowledgment and understanding of the clear assumption of these risks by the patient;
(E) an acknowledgment by the patient to consent to transfer to a health care facility when and if deemed necessary by the CNM; and
(F) a disclosure that the CNM is not covered under a policy of liability insurance, if applicable.

(2) Provide the patient with a detailed, written plan for transfer of care to a health care facility under emergent and non-emergent transfer. Such plan shall be signed and dated by both the patient and the CNM and shall include:
(A) the name of and distance to the nearest health care facility licensed under Chapter 122C or Chapter 131E of the General Statutes that has at least one operating room;
(B) the procedures for transfer, including modes of transportation and methods for notifying the relevant health care facility of impending transfer; and
(C) an affirmation that the relevant health care facility has been notified of the plan for emergent and non-emergent transfer by the CNM.

(3) After a decision to non-emergent transfer care has been made, the CNM shall:
(A) call the relevant receiving health care facility to notify them of transfer;
(B) provide a copy of the patient's medical record to the receiving health care facility; and
(C) provide a verbal summary of the care provided by the CNM to the patient and newborn, if applicable, to the receiving health care facility.

(4) In an emergent situation, the CNM shall initiate emergency care as indicated by the situation and immediate transfer of care by making a reasonable effort to contact the health care professional or facility to whom the patient(s) will be transferred and to follow the health care professional's instructions; remain with the patient(s) until transfer of care is completed; and continue emergency care as needed while:
(A) transporting the patient(s) by private vehicle; or
(B) calling 911 and reporting the need for immediate transfer.

(b) Copies of the informed consent agreement and emergent and non-emergent transfer of care shall be maintained in the patient's record and provided to the Committee upon request.

(c) No CNM shall attend or provide midwifery services to a patient for a planned birth outside of a hospital setting for known situations contraindicated by ACOG including fetal malpresentation, multiple gestation, and prior cesarean.

Authority G.S. 90-18.8; 90-178.3; 90-178.4.