

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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July 8, 2016

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RE: Final Report: Proposed Rule Amendments Regarding  
Midwives, LAC 46:XLV Chapters 23 and 53

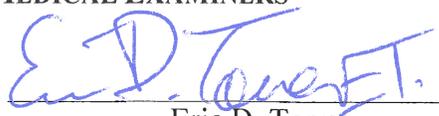
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Dear Sirs:

Pursuant to La. Rev. Stat. §49:968(D), the Louisiana State Board of Medical Examiners is submitting the enclosed report on the final adoption of the captioned rule amendments. Notice was previously published in the April 2016 edition of the *Louisiana Register*, Vol. 42, No. 4, pp. 654-669. The Board plans to adopt the rules by and upon publication in the August 20, 2016, edition of the *Louisiana Register*.

Very truly yours,

**LOUISIANA STATE BOARD OF  
MEDICAL EXAMINERS**

By: 

Eric D. Torres  
Executive Director

Enclosure

**FINAL REPORT RELATIVE TO PROPOSED AMENDMENT  
OF ADMINISTRATIVE RULES GOVERNING MIDWIFE LICENSURE,  
CERTIFICATION AND PRACTICE**

(La. Rev. Stat. §49:968(D))

By The

LOUISIANA STATE  
BOARD OF MEDICAL EXAMINERS

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Submitted To The

COMMITTEE ON HEALTH AND WELFARE,  
LOUISIANA SENATE,

COMMITTEE ON HEALTH AND WELFARE,  
LOUISIANA HOUSE OF REPRESENTATIVES,

PRESIDENT OF THE SENATE

And

SPEAKER OF THE HOUSE OF REPRESENTATIVES

July 8, 2016

**FINAL REPORT RELATIVE TO PROPOSED AMENDMENT  
OF ADMINISTRATIVE RULES GOVERNING MIDWIFE LICENSURE,  
CERTIFICATION AND PRACTICE**

July 8, 2016

(La. Rev. Stat. §49:968(D))

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This Report is respectfully submitted by the Louisiana State Board of Medical Examiners (the “Board”), within the Department of Health and Hospitals, pursuant to La. Rev. Stat. §49:968(D).

By Notice of Intent published in the April 20, 2016, edition of the *Louisiana Register*, Vol. 42, No. 4, pp. 654-669, the Board proposed to amend its rules governing midwife licensure, certification and practice, LAC Title 46:XLV, Subpart 2, Chapter 23 (Licensure and Certification), and Subpart 3, Chapter 53 (Practice) to conform the Board’s rules to various amendments to the Louisiana Midwife Practitioners Act by Act No. 772 of the 2012 session of the Louisiana legislature, update the rules generally for consistency with current standards and make other substantive and technical modifications consistent with or made necessary by the passage of time and current practices.

Concurrently with submission of the Notice of Intent to the *Register*, in accordance with La. Rev. Stat. §40:968, the Board submitted a Report on the proposed rules to the Senate and House Committees on Health and Welfare, the President of the Senate and the Speaker of the House of Representatives.<sup>1</sup> Following publication of Notice of Intent the Board did not receive a request for public hearing;<sup>2</sup> however, during the comment period it did receive written comments from one (1) organization on the proposed amendments voicing particular concerns or suggestions.

This Report, submitted by the Board pursuant to and as prescribed by La. Rev. Stat. §49:968(D), sets forth a summary of the comments received by the Board on the subject amendments and a statement of the Board’s response to each comment, including a concise statement of the principal reasons for and against adoption of any modifications or changes suggested. A copy of the Notice of Intent containing the full text of the proposed rules that were previously published and appeared in the April 2016 edition of the *Louisiana Register* accompanies this Report as Appendix A, in the form of the final rules adopted by the Board and which are to be promulgated by and upon publication in the August 20, 2016, edition of the *Louisiana Register*.

The subject rule amendments are proposed for adoption and promulgation pursuant to the Board’s administrative rule making authority under the Louisiana Medical Practice Act and the Louisiana Midwife Practitioners Law, La. Rev. Stat. §§37:1270 and 37:3241-3259, respectively.

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<sup>1</sup>*Electronic Mail*, Eric D. Torre., Exec. Dir., La. State Bd. Med. Exam., RE: Report Relative to Proposed Rule Amendments Regarding Midwives (LAC 46:XLV Chapters 23 and 53), (Apr. 7, 2016).

<sup>2</sup>For the completeness of the record, we note that a request for a public hearing was made but withdrawn by Louisiana Constituents for Safe Childbirth.

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**I. Background**—The proposed amendments to the Board’s Rules governing licensure, certification and practice of midwives, LAC 46XLV Chapters 23 and 53, conform them to Act No. 772 of the 2012 session of the Louisiana legislature, update the rules generally for consistency with current standards, and make other substantive and technical modifications consistent with or made necessary by the passage of time and current practices.

**II. Summary of Proposed Rules**—Among other items, the amendments to Subpart 2, Chapter 23, reflect changes in the controlling law including certain revised definitions *e.g.*, *certified professional midwife* or *CPM*, *low risk patient* and *physician evaluation and examination* (2303), designate the North American Registry of Midwives (NARM) as the credentialing examination for midwife licensure (2317, 2319, 2323, 2331), and provide that the education and clinical experiences necessary for licensure may be satisfied by meeting the requirements for CPM certification by NARM (2353, 2355, 2357). The amendments also repeal various sections relative to the licensing examination that are no longer necessary (2321, 2325, 2327, 2329, 2335), increase the continuing professional education requirement from 20 to 30 hours for biannual renewal of a license or permit and for license reinstatement (2345, 2349, 2361) for consistency with the law, and redesignate several sections (2365-2373).

The proposed amendments to Subpart 3 (Practice), Chapter 53: recite the requirement for an initial examination and evaluation (*a risk assessment*) by an obstetrician prior to the provision of midwife services (5309, 5317); maintain that the scope of midwife practice is limited to clients who are at low or normal risk of developing complications during pregnancy and childbirth (5301, 5315); provide for further medical consultation and/or referral for medical care if the individual’s status changes according to specified risk factors and current practice standards (5339, 5353); identify certain conditions or risk factors that preclude attendance by a midwife (5315); provide for informed consent as set forth in the rules prior to the initiation of care (5313); and incorporate the protections from liability provided by law for physicians and others providing a physical evaluation and examination (*e.g.*, *a risk assessment*) or accepting transfer of a patient from a licensed midwife (5375). The proposed amendments to Chapter 53 reflect additional changes in the controlling law including, among others, reporting of maternal or fetal demise (5359), annual reporting to the board and a fine for failure to report (5361, 5373), and an exemption from licensure for students enrolled in an accredited midwifery program provided certain conditions are met (5367). The changes also repeal sections of the existing rules made unnecessary by the Act 772 or current practices (5319, 5345, 5351) and make other substantive and technical modifications consistent with or made necessary by the controlling law.

**III. Summary of the Comments and Board Response**—As noted above, the Board received written comments from one (1) commenter, the Louisiana Midwives Association

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(LMA) as to the Notice of Intent that appeared in the April 2016 edition of the *Register*. Summaries of the comments, as well as the Board's responses to each, are set forth below.

Comment 1. [Note: In its first comment, the LMA referred to §5301B of the proposed amendments; however; there is no §5301B. The reference appears to be to §5309B<sup>3</sup>]. The LMA contends that requiring a midwife (MW) to consult with the physician (MD) who performed the risk assessment (RA) to ensure the client is at low or normal risk for pregnancy is contrary to another rule and the law, which does not provide for a continuing MD-MW relationship, including a consultation following the RA.

*Response:* The Board disagrees. In the Board's view, requiring the MW to consult with the MD who performed RA to ensure the client is at low or normal risk for pregnancy does not establish a new or on-going relationship between the physician and the MW; nor is it contrary to the rules or law. It merely requires the MW to confirm the results of the RA with the MD to establish that the client is at low or normal risk for pregnancy. The consultation could be oral or in writing (*e.g.*, securing a copy of the medical record of the RA with consent). Further, because the Board's staff is aware of at least one instance where a client provided incorrect or misinformation to the MW, the Board believes that it would provide an added element of safety and be medically prudent to require the MW to confirm directly that a RA was performed by an MD and that the client was found to be at low or normal risk of pregnancy. Therefore, the Board declines the commenter's suggestions.

Comment 2. In its second comment the LMA contends that the Board should remove the specific assessment requirements in this section [§5317A<sup>4</sup> and §5319A<sup>5</sup>] and defer to the MD's practice guidelines or ACOG. It also contends that requiring the physician to include *clinical pelvimetry* (§5319A) as part of the RA should not be in the rules and is not "congruent" with the rules or ACOG's perinatal guidelines.

*Response:* The Board disagrees. Requiring the RA to include certain assessment procedures (§5317A) or elements, such as clinical pelvimetry (§5319A), can be accomplished by rule.

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<sup>3</sup>Proposed 5309B provides: 'Prior to accepting care for a client, the midwife shall consult with the physician who performed the physician evaluation and examination to ensure that the client is at low or normal risk for pregnancy.'

<sup>4</sup>Proposed 5317A provides, in pertinent part – 'The initial physician evaluation and examination shall include the physical assessment procedures with meet current standards of care set forth by the American Congress of Obstetricians and Gynecologists (ACOG).'

<sup>5</sup>Proposed 5319A provides: 'Laboratory and diagnostic testing and screening obtained in connection with the physician evaluation and examination shall include clinical pelvimetry, and any other laboratory and diagnostic testing and screening which the physician considers appropriate. Due consideration shall be given to the then-current recommendations of ACOG.'

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Indeed, the same requirements appear in the Board's existing Midwife Rules *See*: §5311A<sup>6</sup> §5313A<sup>7</sup>. Stated differently, the existing requirements are not being changed by proposed amendments.<sup>8</sup> Furthermore, clinical assessment of the pelvis is part of an initial prenatal assessment. *Clinical pelvimetry* is merely a component of that process. As is the case with the existing Rule, §5319A does not require that it be accomplished by imaging *e.g.*, X-Ray, CT, MRI, ultrasonography, *etc.*, or other mechanical means. Rather, it is simply a “[M]easurement of the dimensions and capacity of the pelvis, especially of the adult female pelvis,” which remains part of the initial prenatal assessment. Therefore, the Board declines the commenter's suggestions.

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<sup>6</sup>Existing Rule 5311A provides, in pertinent part, ‘The initial physician examination shall include the physical assessment procedures which meet current standards of care set forth by the American College of Obstetricians and Gynecologists (ACOG).’

<sup>7</sup>Existing Rule 5313A provides, in pertinent part, ‘Initial physician examination shall include clinical pelvimetry, and the following laboratory tests:’

<sup>8</sup>The American Heritage® Medical Dictionary Copyright© 2007, 2004, Houghton Mifflin Company.

defined by R.S. 49:973(B). Specifically, there is no known or foreseeable effect on: household income, assets, and financial security; early childhood development and preschool through postsecondary education development; employment and workforce development; taxes and tax credits; or child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Provider Impact Statement**

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Rhonda Boe, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 p.m. on May 10, 2016.

Rhonda Boe  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Supervision—State Certified Assistant  
Behavior Analysts and Registered Line Technicians**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Act 351 of the 2013 Legislative Session, effective August 1, 2013, created the Louisiana Behavior Analyst Board and allowed for the establishment of licensure, certification, registration, continuing education, and practice requirements of Behavior Analysts, Assistant Behavior Analysts, and Line Technicians. The proposed rule codifies and establishes requirements pertaining to the supervision of Registered Line Technicians by Licensed Behavior Analysts and/or State Certified Assistant Behavior Analysts. The estimated implementation for this rule is approximately \$275 in FY 16. Those costs are related to publishing the proposed and final rule in the *Louisiana Register*.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated impact on revenue collections of state or local government units. This proposed rule does not impose a fee or financial obligations on Licensed Behavior Analysts or Registered Line Technicians.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There are currently 143 Licensed Behavior Analysts supervising approximately 700 Registered Line Technicians. The proposed rule establishes the requirements for supervision of Registered Line Technicians. This proposed rule outlines the supervising Licensed Behavior Analyst's responsibilities and those of the Registered Line Technician. Supervision guidelines for Registered Line Technicians may provide economic benefit to individuals practicing in the field of behavior analysis to the degree that such guidelines bolsters public confidence in the area of practice.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

Individuals and business performing behavioral analysis services will be responsible for adhering to all supervision requirements, maintain proper documentation on all Registered Line Technicians, and be subjected to random audits. Individuals failing to meet proper requirements and/or provide necessary documentation may be unable to continue to work in the field of behavior analysis or may endanger their licensure status.

Rhonda Boe  
Executive Director  
1604#059

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Midwives—Licensure, Certification and Practice  
(LAC 46:XLV Chapters 23 and 53)**

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that pursuant to the authority vested in the Louisiana State Board of Medical Examiners (the "Board") by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and the Louisiana Midwife Practitioners Act, R.S. 37:3241 et seq., the Board intends to amend its Rules governing licensure, certification and practice of midwives, LAC 46:XLV Subpart 2, Chapter 23 and Subpart 3, Chapter 53. The proposed amendments conform to the Board's rules to various amendments to the Louisiana Midwife Practitioners Act by Act No. 772 of the 2012 session of the Louisiana legislature, update the rules generally for consistency with current standards and make other substantive and technical modifications consistent with or made necessary by the passage of time and current practices.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS  
Part XLV. Medical Professions  
Subpart 2. Licensure and Certification  
Chapter 23. Licensed Midwives  
Subchapter A. General Provisions  
§2303. Definitions**

A. As used in this Chapter, the following terms shall have the meanings specified.

\* \* \*

*Application*—a request directed to and received by the board, in a manner specified by the board, for a license or permit to practice midwifery in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such request.

\* \* \*

*Certified Professional Midwife* or (*CPM*)—an individual certified by the North American Registry of Midwives (NARM).

\* \* \*

*Licensed Midwife Practitioner*—an individual who has completed all the requirements of R.S. 37:3247, 3253, and 3255, has successfully completed the examination process, is certified as a midwife by the North American Registry of Midwives (NARM), and is licensed by the board.

*Louisiana Advisory Committee on Midwifery*—  
Repealed.

*Low Risk Patient*—an individual who is at low or normal risk of developing complications during pregnancy and childbirth as evidenced by the absence of any preexisting maternal disease or disease arising during pregnancy or such other conditions as the board may identify in rules.

*Midwife*—an individual who gives care and advice to a woman during pregnancy, labor, and the postnatal period who is not a physician or a certified nurse midwife.

\* \* \*

*Midwife Practitioners Act* or the *Act*—R.S. 37:3240-3259, as may from time to time be amended.

*Physician*—an individual licensed to practice medicine in this state who is actively engaged in a clinical obstetrical practice and has hospital privileges in obstetrics in a hospital accredited by the Joint Commission.

*Physician Evaluation and Examination*—physician evaluation and examination as provided in R.S. 37:3244 to determine whether, at the time of such evaluation and examination, the individual is at low or normal risk of developing complications during pregnancy and childbirth.

*Practice of Midwifery*—holding oneself out to the public as being engaged in the business of attending, assisting, or advising a woman during the various phases of the interconceptional and childbearing periods.

*Supervision of a Physician*—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991), LR 42:

#### **Subchapter B. Qualifications for Licensure**

##### **§2305. Scope of Subchapter**

A. The rules of this Subchapter govern the licensing of midwives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991), LR 42:

##### **§2307. Qualifications for License**

A. To be eligible for licensure as a licensed midwife, an applicant shall:

1. be at least 21 years of age and shall have graduated from high school or possess a graduate education diploma (GED);

2. ...

3. be currently certified in cardiopulmonary resuscitation (CPR) of the adult and newborn;

4. - 5. ...

6. have met, within four years prior to the date of application, the requirements for practical clinical experience prescribed by §2357 of this Chapter; provided, however, that exceptions to the four year limit may be made at the discretion of the board upon a request submitted in writing identifying a medical or other extenuating

circumstance deemed acceptable to the board. The length of any such exception may be conditioned upon any terms that the board may deem appropriate.

7. have demonstrated professional competence in the practice of midwifery by passing an examination approved by the board; and

A.8. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991) LR 42:

##### **§2309. Procedural Requirements**

A. In addition to the substantive qualifications specified in §2307, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§2311 to 2315 of this Chapter and successfully complete the examination identified in §2317 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), LR 42:

#### **Subchapter C. Application**

##### **§2313. Application Procedure**

A. Application for licensing shall be made in a format prescribed by the board. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

B. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;

2. a recent photograph of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

C. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3240-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended 17:779 (August 1991), LR 30:236 (February 2004), LR 42:

##### **§2315. Effect of Application**

A. - B. ...

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board

from other persons, firms, corporations, associations, or governmental entities pursuant to §2315.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefore, including, without limitation, the midwife licensing authority of any state; the Federal Drug Enforcement Agency; the Louisiana Board of Pharmacy, the North American Registry of Midwives, the Louisiana Department of Health and Hospitals; and Federal, state, county or parish, and municipal health and law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), LR 42:

#### **Subchapter D. Examination**

##### **§2317. Designation of Examination**

A. The CPM examination administered by NARM, or such other certifying examination as the board may subsequently approve, shall be accepted by the board as a qualifying examination for purposes of midwifery licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), LR 42:

##### **§2319. Eligibility for Examination**

A. To be eligible for examination an applicant shall make application to NARM in accordance with its procedures and requirements including verification of the applicant's clinical experience and skills essential to the practice of midwifery. Information on the examination process, including fee schedules and application deadlines, must be obtained by each applicant from NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), LR 42:

##### **§2321. Dates, Places of Examination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991) repealed, LR 42:

##### **§2323. Administration of Examination**

A. The dates and places where the examination for licensure as a midwife are given are scheduled by NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), LR 42:

##### **§2325. Subversion of Examination Process**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), repealed, LR 42:

##### **§2327. Finding of Subversion**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), repealed, LR 42:

##### **§2329. Sanctions for Subversion of Examination**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), repealed, LR 42:

##### **§2331. Passing Score**

A. The board shall use the criteria for satisfactory passage of the examination adopted by NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), LR 42:

##### **§2333. Restriction, Limitation on Examinations**

A. An applicant who fails the examination on two occasions shall not be considered for licensure until the applicant has completed not less than three months of additional educational or clinical instruction, courses, or programs as prescribed and approved by the board and thereafter successfully passed the examination. For failures beyond three attempts such education or instruction may include, without limitation, repeating all or a portion of any didactic and clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), LR 42:

##### **§2335. Lost, Stolen, or Destroyed Examinations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), repealed, LR 42:

#### **Subchapter E. Restricted Licensure, Apprentice Permits**

##### **§2339. Apprentice Permits**

A. - D. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

#### **Subchapter F. License Issuance, Termination, Renewal, Reinstatement**

##### **§2341. Issuance of License**

A. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

### §2343. Expiration of Licenses and Permits

- A. ...
- B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

### §2345. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed biannually on or before its expiration by renewing on-line or by submitting to the board an application for renewal, together with the renewal fee prescribed in Chapter 1 of these rules.

B. The renewal application and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. Any person who files for renewal of licensure shall present a current certification in cardiopulmonary resuscitation (CPR) of the adult and newborn and document or certify, in a manner prescribed by the board, the completion of 30 contact hours of continuing education as approved by the board, in accordance with §§2361-2364 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3240-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended 17:779 (August 1991), LR 30:236 (February 2004), LR 42:

### §2347. License Non-Renewal

A. Any license not renewed on or before its expiration date shall be deemed expired for non-renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

### §2349. Reinstatement of License

A. A license which has expired due to non-renewal may be reinstated by submitting an application for reinstatement in a manner prescribed by the board, together with the renewal fee prescribed by Chapter 1 of these rules.

B. Any person who applies for license reinstatement within 30 days of the date of expiration shall be required to pay a late fee of \$50.

C. Any person who has not filed for renewal or applies for reinstatement more than 30 days but less than one year following the date of expiration shall be required to pay a late fee of \$100 or a fee of \$200 if application for reinstatement is made within two years of the date of expiration, provided that the applicant demonstrates satisfaction of the continuing education requirements prescribed by §§2361-2364 of these rules. A midwife whose license has lapsed and expired for a period in excess of two years may apply to the board for an initial original license pursuant to the applicable rules of this Chapter.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

## Subchapter G. Education

### §2353. Basic Sciences

A. Every applicant seeking licensure must, as a condition of eligibility for licensure, demonstrate cognitive competence in the basic sciences of human anatomy, human physiology, biology, psychology, and nutrition by evidencing successful completion of:

1. ...
2. such other educational instruction, courses, or programs in such subjects as may be approved by the board; or
3. satisfaction of the education requirements prerequisite to CPM certification by NARM will be deemed to satisfy the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

### §2355. Theory of Pregnancy and Childbirth

A. The board shall maintain and periodically revise a list of approved courses, texts, and trainers covering the subject matters which shall comprise a course of study in the theory of pregnancy and childbirth. The board may use the list as a guideline in determining the acceptability of a non-listed educational source which an applicant submits as complying with any required subject matter. All or part of the course may be obtained through self-study. Satisfaction of the education requirements prerequisite to CPM certification by NARM will be deemed to satisfy the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

### §2357. Clinical Experience

A. Clinical experience in midwifery is required of every applicant for licensure and may be obtained in a variety of settings, including medical offices, clinics, hospitals, maternity centers, and in the home. Clinical experience must include instruction in basic nursing skills, including vital signs, perineal preparation, enema, urethral catheterization, aseptic techniques, administration of medication orally and by injection, local infiltration for anesthesia, administration of intravenous fluids, venipuncture, infant and adult resuscitation, fetal heart tones, edema, routine urinalysis, and curreeting and repair of episiotomy.

B. The clinical experience requisite to licensure shall include care of women in the antepartum, intrapartum, and postpartum periods. Clinical practice must include at least the following types of numbers of experiences (with out-of-hospital births making up at least one-half of the clinical experience):

1. 75 prenatal visits on at least 25 different women, including 20 initial examinations;
2. attendance at the labor and delivery of at least 10 live births as an observer *and* 20 births as an assistant attendant;

3. management of the labor and delivery of newborn and placenta for at least 25 births as the primary birth attendant;

4. ...

5. 40 postpartum evaluations of mother and baby in home or hospital within 72 hours of delivery;

6. a minimum of five repairs of lacerations or such greater number as necessary to be deemed competent by the clinical supervisor, in addition to any practice on non-human subjects;

7. five observations of in-house hospitalized births involving high-risk obstetric care, provided, however, that this requirement may be waived by the board upon demonstration and documentation by the applicant that opportunity for such observations was not reasonably available to the applicant notwithstanding the applicant's diligent, good faith efforts to obtain opportunity for such observations;

8. observation of one complete series of at least 6 prepared childbirth classes offered by an approved provider; and

9. five continuity of care births, all as primary under supervision, which are to include:

a. five prenatal visits spanning at least 2 trimesters;

b. the birth (assumed delivery of placenta and immediate postpartum);

c. one newborn examination; and

d. two postpartum examinations (after 24 hours).

C. Satisfaction of the clinical experience requirements prerequisite to CPM certification by NARM will be deemed to satisfy the requirements of §2357.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

### §2359. Supervision of Clinical Experience

A. Apprentice midwife practitioners must obtain their clinical experience under the immediate personal supervision of a physician, certified nurse-midwife, or a licensed midwife.

B. Senior apprentice midwives may obtain the clinical experience requisite to licensure under the general direction, rather than direct supervision, of a physician, certified nurse-midwife, or licensed midwife.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

## Subchapter H. Continuing Education

### §2361. Scope of Subchapter; Continuing Education Requirement

A. The rules of this Subchapter provide standards for the continuing education requisite to renewal of any license or permit issued under this Chapter.

B. To be eligible for renewal of licensure or apprentice permit, a licensed midwife or apprentice midwife shall document, in a manner prescribed by the board, the successful completion of not less than 30 contact hours of continuing education obtained since such license or permit was last issued, reinstated, or renewed. As used in this Subchapter, "contact hour" means 60 minutes of

participation in an organized learning experience under instruction, as approved by the board.

C. ...

D. The following programs and activities are illustrative of the types of programs and activities which shall be deemed to be qualifying continuing education activities and programs for purposes of this Subchapter:

1. attendance at or participation in meetings, conferences, workshops, seminars, or courses, such as programs conducted, sponsored, or approved for continuing education credit by the American Medical Association, the American Congress of Obstetricians and Gynecologists, the American Nurse Association, the Association of Certified Nurse Midwives, the Midwives Alliance of North America and the North American Registry of Midwives;

2. - 6. ...

### E. - E.3. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

### §2362. Documentation Procedure

A. Documentation and/or certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be made in a manner prescribed by the board's renewal application.

B. Certification of continuing education activities that are not presumptively approved under §2361 of these rules shall be referred to the board. If the board determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition or does not qualify for the number of continuing education contact hours claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may file a written appeal with the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended, LR 42:

### §2364. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the continuing education required by these rules in favor of a licensed midwife or apprentice midwife who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended, LR 42:

### §2365. Unlawful Practice

Repealed—redesignated as §5365.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), repealed LR43:

### **§2367. Revocation of License**

Repealed—redesignated as §5369.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), repealed LR 42:

### **§2369. Penalties**

Repealed—redesignated as §5373.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), repealed LR 42:

### **§2371. Hearing**

Repealed—redesignated as §5371.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), repealed LR 42:

### **§2373. Persons Not Affected**

Repealed—redesignated as §5367.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), repealed LR 42:

## **Subpart 3. Practice**

### **Chapter 53. Licensed Midwives**

#### **Subchapter A. Standards of Practice**

##### **§5301. Scope of Practice**

A. Licensed midwife practitioners may provide care only to low risk clients determined by physician evaluation and examination to be normal for pregnancy and childbirth, and at low risk for the development of medical complications. Such care includes prenatal supervision and counseling; preparation for childbirth; and supervision and care during labor and delivery and care of the mother and the newborn in the immediate postpartum period if progress meets criteria generally accepted as normal as defined by the board. Licensed midwives shall refer or consult with a physician when a client's medical condition deviates from normal. Licensed midwives may provide care in hospitals, birth centers, clinics, offices and home birth settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

##### **§5303. Definitions**

A. The definitions set forth in Chapter 23 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 42:

##### **§5305. Skills**

###### **[Formerly §5303]**

A. All licensed midwives shall have the skills necessary for safe practice, including the ability to assess, monitor, and manage on an ongoing basis, normal antepartum, intrapartum, and postpartum situations; perform newborn evaluations; identify and assess maternal, fetal, and infant deviations from normal; provide effective lifesaving measures, including CPR; manage emergency situations appropriately; establish and maintain aseptic techniques and master basic observational skills and those special observational skills required for out-of-hospital deliveries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR43:

##### **§5307. Screening**

###### **[Formerly §5309]**

A. All midwives will use risk factor assessments of their clients as identified in §5315 in order to establish their initial and continuing eligibility for midwifery services. Clients will be informed of their risk status. All midwives have the right and responsibility to refuse and discontinue services to clients based on these risk factors and to make appropriate referrals when indicated for the protection of the mother and baby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

##### **§5309. Disclosures; Acceptance of Clients**

###### **[Formerly §5315]**

A. Prior to the acceptance of a client for care, a licensed midwife practitioner shall inform the client orally and in writing of the following disclosures:

1. certain risks and benefits exist for home birth and certain risks and benefits exist for other childbirth alternatives, (including hospital, physician-assisted birth). The midwife is responsible for informing the client of the risks and benefits of all childbirth options to ensure informed consent;

2. regular documented antepartum care by the licensed midwife or another licensed health care provider is required if the midwife is to attend the birth;

3. certain medical conditions and/or client noncompliance with midwife or physician recommendations, as described in §§5315, 5339 and 5353 of this Chapter, may preclude midwife attendance at birth or continued midwife care during any phase of the pregnancy;

4. emergency transport may be required in certain situations; the midwife shall explain what situations warrant emergency transport and the hazards involved;

5. a specific written consent for out-of-hospital birth with the licensed midwife practitioner must be obtained prior to the onset of labor;

6. the client will be provided with a copy of the labor, birth, and newborn record by the midwife;

7. the midwife's agreement can be terminated at any time that the midwife deems it necessary for maintenance of the client's mental and physical safety or for compliance with these rules. When termination occurs, the reasons for termination will be given in writing and an alternative source of care recommended; and

8. the client may terminate the agreement at any time.

B. Prior to accepting care for a client, the midwife shall consult with the physician who performed the physician evaluation and examination to ensure that the client is at low or normal risk for pregnancy.

C. After accepting care, the midwife shall obtain a detailed obstetric and medical history of the client; including the results of all tests conducted during the physician evaluation and examination once available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

### **§5311. Advance Preparation for Need**

#### **[Formerly §5321]**

A. The licensed midwife shall, prior to the onset of labor, prepare a written plan or protocol for the transport of mother and infant to a hospital and know the client's contingency arrangements for hospitalization should these needs arise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

### **§5313. Informed Consent**

A. Prior to providing any services, a licensed midwife shall obtain the written informed consent, in writing, of the client, which shall include but not be limited to the following:

1. the name and license number of the licensed midwife;

2. the client's name, address, telephone number, and the name of the client's primary care provider if the client has one;

3. a statement that the licensed midwife is not an advanced practice registered nurse midwife or physician;

4. a description of the education, training, continuing education, and experience of the licensed midwife;

5. a description of the licensed midwife's philosophy of practice;

6. a statement recognizing the obligation of the licensed midwife to provide the client, upon request, separate documents describing the law and regulations governing the practice of midwifery, including the requirement for an evaluation and examination by a physician, the protocol for transfer or mandatory transfer, and the licensed midwife's personal written practice guidelines;

7. a description of the plan or protocol for transfer to a hospital;

8. a complete and accurate description of the services to be provided to the client;

9. whether the licensed midwife maintains a professional liability policy and if insurance is maintained, a description of the liability conditions and limits of such insurance; and

10. any additional information or requirement which the board deems necessary to protect the health, safety, or welfare of the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 42:

### **§5315. Unapproved Practice**

#### **[Formerly §5361]**

A. The licensed midwife practitioner shall provide care only to clients determined by physician evaluation and examination to be at low or normal risk of developing complications during pregnancy and child birth.

B. The midwife shall not knowingly accept or thereafter maintain responsibility for the prenatal or intrapartum care of a woman who:

1. has had a previous cesarean section or other known uterine surgery such as hysterotomy or myomectomy. This prohibition shall not apply to a midwife's continued perinatal care of a woman who has had no more than one prior cesarean section, provided that arrangements have been made with a physician for a planned hospital delivery at the onset of labor. The midwife shall contact the physician and confirm and document the arrangements for a planned hospital delivery in the client's chart. Within ten days of delivery, a midwife shall report to the board in writing any instance where midwifery services were provided under Section 5315B.1 to a client who delivered outside of a planned hospital delivery;

2. has a history of difficult to control hemorrhage with previous deliveries;

3. has a history of thromboembolus, deep vein thromboembolus, or pulmonary embolism;

4. is prescribed medication for diabetes, or has hypertension, Rh disease isoimmunization with positive titer, active tuberculosis, active syphilis, active gonorrhea, HIV positive or is otherwise immunocompromised, epilepsy, hepatitis, heart disease, kidney disease, or blood dyscrasia;

5. contracts primary genital herpes simplex during the pregnancy or manifests active genital herpes during the last four weeks of pregnancy;

6. has a contracted pelvis;

7. has severe psychiatric illness or a history of severe psychiatric illness in the six month period prior to pregnancy;

8. has been prescribed narcotics in excess of three months or is addicted to narcotics or other drugs;

9. ingests more than 2 ounces of alcohol or 24 ounces of beer a day on a regular day or participates in binge drinking;

10. smokes 20 cigarettes or more per day, and is not likely to cease in pregnancy;

11. has a multiple gestation;

12. has a fetus of less than 37 weeks gestation at the onset of labor;

13. has a gestation beyond 42 weeks by dates and examination;

14. has a fetus in any presentation other than vertex at the onset of labor;

15. is a primigravida with an unengaged fetal head in active labor, or any woman who has rupture of membranes with unengaged fetal head, with or without labor;

16. has a fetus with suspected or diagnosed congenital anomalies that may require immediate medical intervention;

17. has preeclampsia;

18. has a parity greater than five with poor obstetrical history; or

19. is younger than 16 or a primipara older than 40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

### **§5317. Initial Physician Evaluation and Examination** **[Formerly §5311]**

A. The licensed midwife practitioner must require that the client have a physician evaluation and examination and be found to be essentially normal or at low risk of developing complications during pregnancy and childbirth before her care can be assumed. The initial physician evaluation and examination shall include the physical assessment procedures which meet current standards of care set forth by the American Congress of Obstetricians and Gynecologists (ACOG).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR

### **§5319. Required Components of Initial Physician Evaluation and Examination** **[Formerly §5313]**

A. Laboratory and diagnostic testing and screening obtained in connection with the physician evaluation and examination shall include clinical pelvimetry, and any other laboratory and diagnostic testing and screening which the physician considers appropriate. Due consideration shall be given to the then-current recommendations of ACOG.

B. The midwife shall ensure that all women she plans to deliver have received required testing and screening and shall secure and review a copy of all such results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

### **§5321. Community Resources** **[Formerly §5305]**

A. The licensed midwife practitioner must be familiar with community resources for pregnant women such as prenatal classes, the parish health unit and supplemental food programs. The client shall be referred to such resources

as appropriate and encouraged to take a prepared childbirth class, preferably one oriented toward home birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

### **§5323. Appropriate Equipment** **[Formerly §5307]**

A. All licensed midwife practitioners shall have available, for their immediate use, appropriate birthing equipment, including equipment to assess maternal, fetal, and newborn well-being, maintain aseptic technique and to perform emergency adult and new born resuscitation, and accomplish all permitted emergency procedures. All equipment used in the practice of midwifery shall be maintained in an aseptic manner, and be in good working order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

### **§5325. Medications** **[Formerly §5333]**

A. A licensed midwife may administer the following medications under the conditions indicated:

1. oxygen for fetal or maternal distress and infant resuscitation;

2. local anesthetic, by infiltration, only for the purpose of postpartum repair of tears, lacerations, or episiotomy (no controlled substances);

3. vitamin K, by injection, for control of bleeding in the newborn;

4. oxytocin (pitocin) by injection or methergine orally, only for postpartum control of non-emergent maternal hemorrhage;

5. intravenous fluids for maternal hydration with additional medications as provided by a physician's order or protocol for the purpose of controlling maternal hemorrhage or for prophylactic treatment where the client has tested positive for Group B. Strep;

6. prenatal Rh immunoglobulin (Rhlg) for Rh negative clients and post-partum for Rh positive newborns.

7. benadryl;

8. penicillin-G, unless patient is allergic, then consult with the physician.

B. A licensed midwife may lawfully obtain and have possession of small quantities of the above-named medications and the equipment normally required for administration. Each use of medication shall be recorded by the midwife in the client's chart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5327. Initiation of Physical Care**  
**[Formerly §5353]**

A. At the visit when physical care of the client is initiated, the licensed midwife practitioner shall review the results of the physician evaluation and examination to ensure that the client has received a general physical examination which included the taking of a comprehensive medical, obstetrical, and nutritional history sufficient to identify potentially dangerous conditions that might preclude midwife care. The midwife shall make an initial nutritional assessment, counsel the client as to the nutritional needs of mother and fetus during pregnancy and develop a comprehensive plan of care for the client which identifies all problems and need for consultation and establish realistic health care goals.

B. If the client's health status, as determined by medical history, physician evaluation and examination, and the laboratory results is determined not to be low risk as outlined in §5317 of these rules, the client shall be referred to a physician for management of the client's pregnancy, labor and delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR

**§5329. Routine Antepartum Care**  
**[Formerly §5355.A]**

A. At each prenatal visit, the midwife will check the client's weight, blood pressure, fundal height, urinalysis (protein and glucose), and general health, including checking for pain, bleeding, headaches, edema, dizziness, and other symptoms of preeclampsia. The midwife shall monitor uterine measurements, fetal heart tones, and fetal activity and shall obtain a medical and nutritional history since the last visit. The midwife shall provide or arrange for the administration of prenatal Rh immunoglobulin (Rhlg) for Rh negative clients in compliance with current practice standards and for additional laboratory tests as indicated, including but not limited to serum antibody screening, blood sugar screening, genital cultures, and periodic hematocrit or hemoglobin screening. Additionally, the midwife shall assure that:

1. a quad screen test or maternal serum alpha fetal protein ("MSAFP") shall be offered at the appropriate gestational age between 15-20 weeks gestation;

2. at 28 weeks gestation hematocrit or hemoglobin shall be rechecked and a glucose tolerance test and a repeat antibody screen shall be performed;

3. at 36 weeks gestation a group B beta hemolytic streptococci ("GBBS") culture and repeat hemoglobin or hematocrit shall be performed, along with HIV and RPR testing.

B. The midwife shall ensure that all women she plans to deliver have received the state required tests and have obtained copies of all laboratory results.

C. A midwife may order laboratory testing as required for maternal care and newborn care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5331. Prenatal Visits**  
**[Formerly §5317 and §5323.B]**

A. Prenatal visits should be every four weeks until 28 weeks gestation, every two weeks from 28 until 35 weeks gestation, and weekly from 36 weeks until delivery.

B. For home birth, the licensed midwife practitioner will make a home visit three to five weeks prior to the Estimated Date of Confinement (EDC) to assess the physical environment, including the availability of telephone and transportation, and to ascertain whether the client has all the necessary supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5319. Physician Visit**  
**Repealed.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repealed, LR 42:

**§5333. Examination and Labor**  
**[Formerly §5329 and §5355.B - C]**

A. The licensed midwife practitioner will not perform any vaginal examinations on a woman with ruptured membranes and no labor, other than an initial examination to be certain that there is no prolapsed cord. Once active labor is assured and in progress, exams may be made as necessary.

B. A record of maternal vital signs shall be recorded at the initial evaluation of labor. Maternal vital signs shall be recorded every 3-4 hours unless otherwise indicated by maternal instability or increased maternal risk factors. Maternal stability is defined as a firmly contracted uterus without excessive vaginal bleeding and stable blood pressure. Risk factors are identified in §§5315, 5339 and 5353 of this Chapter.

C. A record of fetal heart rate tones shall be made and recorded at least every 30 minutes in the first stage and every 15 minutes in the second stage of labor. Fetal heart tones shall also be recorded immediately after rupture of membranes.

D. During labor and delivery, the licensed midwife practitioner is responsible for monitoring the condition of mother and fetus; assisting with the delivery; coaching labor; repairing minor tears as necessary, however, any third degree tear or greater should be referred to a physician; examining and assessing the newborn; inspecting the placenta, membranes, and cord vessels; inspecting the cervix and upper vaginal vault, if indicated; and managing any third-stage maternal bleeding.

E. Water births. A licensed midwife practitioner shall adhere to the then-current recommendations of ACOG for emersion in water during labor and delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519, 520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5335. Correction of Presentation**  
**[Formerly §5335]**

A. The licensed midwife practitioner will not attempt to correct fetal presentations by external or internal version nor will the midwife use any artificial, forcible, or mechanical means to assist the birth, e.g. no forceps or vacuum extractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5337. Operative Procedures**  
**[Formerly §5331]**

A. The licensed midwife practitioner will not perform, routinely, an operative procedure other than artificial rupture of membranes when the head is well engaged or at zero station, clamping and cutting the umbilical cord, repair of first or second degree perineal lacerations, or repair of episiotomy, if done.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5339. Required Physician Consultation, Antepartum and Intrapartum Periods**  
**[Formerly §5363.A - B]**

A. The midwife shall obtain medical consultation or refer for medical care any woman who during the antepartum period:

1. develops edema of the face and hands;
2. develops severe, persistent headaches, epigastric pain, or visual disturbances;
3. develops a blood pressure of 140/90 or greater;
4. does not gain 14 pounds by 30 weeks gestation or at least 4 pounds a month in the last trimester or gains more than 6 pounds in two weeks in any trimester;
5. develops greater than trace glucosuria or greater than trace proteinuria on two consecutive separate visits;
6. has abnormal vaginal discharge with no signs of improvement with medication;
7. has symptoms of urinary tract infection;
8. has vaginal bleeding before onset of labor;
9. has rupture of membranes prior to 37 weeks gestation;
10. has marked decrease in or cessation of fetal movement;
11. has inappropriate gestational size;

12. has demonstrated anemia by blood test (hematocrit less than 30 percent);

13. has a fever of equal or greater than 100.4°F or 38°C for 24 hours;

14. has polyhydramnios or oligohydramnios;

15. has excessive vomiting or continued vomiting after 24 weeks gestation;

16. has severe, protruding varicose veins of extremities or vulva;

17. has known structural abnormalities of the reproductive tract;

18. has a history of stillbirth from any cause;

19. has an abnormal Pap smear;

20. reaches a gestation of 41 weeks, 3 days by dates and examination.

B. The midwife shall obtain medical consultation or refer for medical care any woman who during the intrapartum period:

1. develops a blood pressure of 140/90 or greater;

2. develops severe headache, epigastric pain, or visual disturbance;

3. develops proteinuria;

4. develops a fever over 100.4°F or 38°C;

5. develops respiratory distress;

6. has persistent or recurrent fetal heart tones below 100 or above 160 beats per minute between or during contractions, or a fetal heart rate that is irregular;

7. has ruptured membranes without onset of labor after 12 hours;

8. has bleeding prior to delivery (other than bloody show);

9. has meconium or blood stained amniotic fluid with abnormal fetal heart tones;

10. has an abnormal presentation other than vertex;

11. does not progress in effacement, dilation, or station in accordance with practice standards ;

12. does not show continued progress to deliver in second stage labor in accordance with practice standards;

13. does not deliver the placenta within one hour if there is no bleeding and the fundus is firm;

14. has a partially separated placenta during the third stage of labor with bleeding;

15. has a blood pressure below 100 systolic if the pulse rate exceeds 100 beats per minute or who is weak and dizzy;

16. bleeds more than 500 cc with or after the delivery of the placenta;

17. has retained placental fragment or membranes; or

18. desires medical consultation or transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5341. Emergency Measures**  
**[Formerly §5337]**

A. The following measures are permissible in an emergency situation:

1. cardiopulmonary-resuscitation;

2. episiotomy;

3. intramuscular or intravenous administration of pitocin or intramuscular administration of methergine for the control of postpartum hemorrhage;

4. intravenous (IV) fluids and medications

B. When any of the above measures is utilized, it will be charted on the birth record with detail describing the emergency situation, the measure taken, and the outcome.

C. When an emergency measure is taken the physician (or hospital) with whom the client has made contingency arrangements for care and delivery shall be contacted by the midwife immediately upon control of the emergency situation, and the midwife shall then transfer care of the client to such physician (or hospital) as he may direct or request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

#### **§5343. Transfer of Care**

##### **[Formerly §5323.A]**

A. The licensed midwife practitioner shall accompany to the hospital any mother or infant requiring hospitalization, giving any pertinent written records and verbal report to the physician assuming care. If possible, she should remain with the mother and/or infant to ascertain outcome. In those instances where it is necessary to continue providing necessary care to the party remaining in the home, the midwife may turn over the care of the transport of mother or child to qualified emergency or hospital personnel. All necessary written records shall be forwarded with such personnel and a verbal report must be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repromulgated, LR 42:

#### **§5345. Postpartum Care**

##### **[Formerly §5327 and §5357]**

A. The licensed midwife practitioner shall remain with the mother and infant for at least two hours postpartum, or until the mother's condition is stable and the infant's condition is stable, whichever is longer. Maternal stability is evidenced by normal blood pressure, normal pulse, normal respirations, firm fundus, and normal lochia. Infant stability is evidenced by established respirations, normal temperature, strong sucking and normal heart rate.

B. Immediately following delivery of the placenta, the midwife must determine that the uterus is firmly contracted without excessive bleeding. The uterus should be massaged firmly to stimulate contraction if relaxation is noted.

C. In case of an unsensitized Rh negative mother, the midwife shall obtain a sample of cord blood from the placenta and arrange for testing within 24 hours of the birth and ensure referral to a physician so that the mother receives Rh immunoglobulin (Rhlg) as indicated within 72 hours of delivery.

D. The midwife shall provide the client with information concerning routine postpartum care of the mother and infant,

including information on breast-feeding, care of the infant's umbilical cord, and perinatal care.

E. The midwife shall recommend that the parents immediately contact the pediatrician or primary care physician who will be assuming care for the infant to arrange for a neonatal examination within 72 hours or sooner if it becomes apparent that the newborn requires medical attention for problems associated with, but not limited to, congenital or other anomalies. The midwife shall provide the doctor with her written summary of labor, delivery, and assessment of the newborn and shall be available to consult with the doctor concerning the infant's condition.

F. The midwife shall make a postpartum visit within 36 hours of birth, with further visits as necessary. The purpose of these contacts is to ascertain that the infant is alert, has good color, is breathing well, and is establishing a healthy pattern of waking, feeding, and sleeping and that the mother is not bleeding excessively, has a firm fundus, does not have a fever or other signs of infection, is voiding properly, and is establishing successful breastfeeding. In the event that any complications arise, the midwife shall consult with a physician or other appropriate health care provider or shall ensure that the client contacts her own physician.

G. The midwife may conduct a postpartum office visit not later than six weeks postpartum, to include a recommendation for rubella vaccine if indicated, counseling concerning contraception and answering any other questions that have arisen. Alternatively, the client may be referred back to her primary care physician or other health care provider for this care.

H. The midwife shall encourage the mother to have a postpartum evaluation conducted by a physician within two to six weeks after delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519, 520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

#### **§5345. Postpartum Visits**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repealed, LR 42:

#### **§5347. Required Newborn Care**

##### **[Formerly §5359]**

A. The licensed midwife practitioner shall be responsible for care immediately following the delivery only. Subsequent infant care should be managed by a pediatrician or primary care physician. This does not preclude the midwife from providing counseling regarding routine newborn care and breastfeeding and arranging for the neonatal tests required by state law. If any abnormality is suspected, the newborn must be sent for medical evaluation as soon as possible.

B. Immediately following delivery the midwife shall:

1. wipe face, then suction (with bulb syringe) mouth and nose if necessary;

2. prevent heat loss by the neonate;
3. determine Apgar scores at one and five minutes after delivery;
4. observe and record: skin color and tone, heart rate and rhythm, respiration rate and character, estimated gestational age (premature, term, or post-mature), weight, length, and head circumference.

C. The midwife shall insure that Vitamin K is available at the time of delivery and take appropriate measures designed to prevent neonatal hemorrhage.

D. The midwife is responsible for obtaining a PKU test and all other neonatal tests required by state law, including all required metabolic newborn screens, between 24 hours and no later than 14 days after birth. If the parents object to such tests being performed on the infant, the midwife shall document this objection and notify and refer the newborn to the infant's pediatrician or primary care physician and notify appropriate authorities.

E. The midwife shall leave clear instructions for follow-up care including signs and symptoms of conditions that require medical evaluation, especially fever, irritability, generalized rash and lethargy.

F. The midwife is responsible for performing a glucose check for a newborn if weight is greater than 9 pounds, 4 ounces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5349. Prevention of Infant Blindness**  
**[Formerly §5339]**

A. Within one hour of birth, the licensed midwife practitioner shall administer two drops of 1.0 percent solution of silver nitrate or other agent of equal effectiveness and harmlessness into the eyes of the infant in accordance with applicable state laws and regulations governing the prevention of infant blindness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5351. Physician Evaluation of Newborn**  
**[Formerly §5343]**

A. The licensed midwife practitioner shall recommend that any infant delivered by the midwife be evaluated by a pediatrician or primary care physician within three days of age or sooner if it becomes apparent that the newborn needs medical attention for problems associated with, but not limited to, congenital or other anomalies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5353. Required Physician Consultation, Postpartum Period**

**[Formerly §5363.C - D]**

A. The midwife shall obtain medical consultation or refer for medical care any woman who, during the postpartum period:

1. has a third or fourth degree laceration;
2. has uterine atony;
3. bleeds in an amount greater than normal lochial flow;
4. does not void within 2 hours of birth;
5. develops a fever greater than 100.4°F or 38°C on any two of the first 10 days postpartum excluding the first 24 hours;
6. develops foul smelling lochia;
7. develops blood pressure below 100/50 if pulse exceeds 100, pallor, cold clammy skin, and/or weak pulse.

B. The midwife shall obtain medical consultation or refer for medical care any infant who:

1. has an Apgar score of 7 or less at 5 minutes;
2. has any obvious anomaly;
3. develops grunting respirations, retractions, or cyanosis;
4. has cardiac irregularities;
5. has a pale, cyanotic, or grey color;
6. develops jaundice within 48 hours of birth;
7. has an abnormal cry;
8. weighs less than 5 pounds or weighs more than 10 pounds;
9. shows signs of prematurity, dysmaturity, or postmaturity;
10. has meconium staining of the placenta, cord, and/or infant with signs or symptoms of aspiration pneumonia;
11. does not urinate or pass meconium in the first 24 hours after birth;
12. is lethargic or does not feed well;
13. has edema;
14. appears weak or flaccid, has abnormal feces, or appears not to be normal in any other respect;
15. has persistent temperature below 97°F;
16. has jitteriness not resolved after feeding; or
17. has a blood glucose level of less than 30mg/dL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

**§5355. Record Keeping**  
**[Formerly §5347]**

A. All midwives shall keep accurate and complete records of all care provided and data gathered for each client.

B. The midwife shall maintain an individual client chart for each woman under her care. The chart shall include results of laboratory tests, observations from each prenatal visit, records of consultations with physicians or other health care providers, and a postpartum report concerning labor, delivery, and condition of the newborn child. The chart shall be made available to the client upon request, and with the

client's consent, to any physician or health care provider who is called in as a consultant or to assist in the client's care. This chart shall be kept on standard obstetric forms, or other forms approved by the board. Inactive records shall be maintained no less than 6 years. All records are subject to review by the board.

C. Evidence of the required physician evaluation and examination shall be maintained in the client's records.

D. The attending midwife shall prepare a summary of labor, delivery, and assessment of the newborn, using the Hollister form, or an alternate form containing substantially similar information. One copy of each summary shall be retained with the client's chart and one copy transmitted to the pediatrician or primary care physician.

E. Copies of the disclosure and consent forms required by this Chapter shall be maintained in the client's record.

F.-G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR

### **§5357. Birth Registration [Formerly §5341]**

A. All licensed midwife practitioners shall request copies of printed instructions relating to completion of birth certificates from the Louisiana State Registrar of Vital Records. The licensed midwife practitioner must complete a birth certificate in accordance with these instructions and file it with the registrar within five days of the birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repromulgated, LR 42:

### **§5359. Notification of Maternal or Fetal Demise**

**[Formerly §5347.G]**

A. A licensed midwife shall immediately report to the parish coroner any maternal mortality or morbidity or the demise of a fetus in excess of 350 grams or as applicable with state law, in clients for whom care has been given.

B. A licensed midwife shall report within 48 hours to the board any maternal, fetal, or neonatal mortality or morbidity in clients for who care has been given. The report shall include the sex, weight, date and place of delivery, method of delivery, congenital anomalies of the fetus, and if maternal, fetal, or neonatal death occurred, cause of death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

### **§5361. Annual Reporting**

A. Every licensed midwife shall report to the board annually in a manner and form prescribed by the board. The report shall be submitted by January thirty-first of each year and shall include all of the following:

1. the licensed midwife's name and license number;
2. the calendar year being reported;

3. the total number of clients served;
4. the total number and parish of live births attended as a primary caregiver;
5. the total number and parish of stillbirths attended as a primary caregiver;
6. the number of patients whose primary care was transferred to another health care provider during the antepartum period and the reason for each transfer;
7. the number, reason, and outcome for each elective hospital transfer;
8. the number, reason, and outcome for each emergency transport of an expectant mother prior to labor;
9. a brief description of any complications resulting in the mortality of a mother or an infant;
10. any other information prescribed by the board through rule or regulation.

B. Any licensed midwife who fails to timely comply with the reporting requirements of this Section shall be subject to a fine, as provided in Section 5373 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, L 43:

### **§5363. Statistics**

**[Formerly §5349]**

A. The board shall review all reports from licensed midwife practitioners, complete annual midwifery statistics, and make them available to all interested groups or persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repromulgated, LR 42:

### **Subchapter B. Unauthorized Practice, Exemptions**

#### **§5351. Scope of Subchapter**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repealed, LR

#### **§5365. Unlawful Practice**

**[Formerly §2365]**

A. No individual shall engage or attempt to engage in the practice of midwifery in this state, unless he or she holds a current license or a permit to practice as a licensed midwife or apprentice midwife issued by the board under Chapter 23 of these rules.

B. No person shall use in connection with his or her name or place of business the words "licensed midwife," "licensed midwife practitioner," the initials "LM," "LMP" or any other words, letters, or insignia indicating or implying that he or she is a licensed midwife practitioner or represent himself or herself as such in any way orally, in writing, in print, or by sign directly or by implication unless he or she has been licensed as such under the provisions of these regulations.

C. A licensed midwife who is currently certified by and in good standing with NARM may identify such credentials with the licensee's name or title "Licensed Midwife-

Certified" or "Licensed Certified Professional Midwife" or the letters "LM-C" or "LCPM," respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

#### **§5367. Persons Not Affected**

##### **[Formerly §2373]**

A. Any person authorized by the Louisiana State Board of Nursing to practice as a certified nurse-midwife in the state shall not be affected by the provisions of these regulations.

B. Any student pursuing a course of study in an accredited midwifery education program that is approved by NARM or by the board who provides midwifery services, provided that such services are an integral part of the student's course of study and are performed under the direct supervision of a physician, certified nurse midwife, or a licensed midwife, and the student is designated by a title which clearly indicates the status as a student or trainee, shall not be affected by the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), LR 42:

#### **Subchapter C. Grounds for Administrative Action**

#### **§5369. Causes for Administrative Action**

##### **[Formerly §2367]**

A. The board may refuse to issue, suspend for a definite period, revoke or impose probationary terms, conditions and restrictions on a license or permit for any of the following causes:

1. dereliction of any duty imposed by law;
2. incompetence as determined by standards of care for obstetrical providers;
3. conviction of a felony;
4. inability to practice with reasonable skill or safety to clients because of mental illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or, excessive use or abuse of drugs, including alcohol;
5. practicing under a false name or alias;
6. violation of any of the standards of practice set forth herein;
7. obtaining any fee by fraud or misrepresentation;
8. knowingly employing, supervising, or permitting, directly or indirectly, any person or persons not an apprentice or licensed midwife to perform any work covered by these regulations;
9. using or causing or promoting the use of any advertising matter, promotional literature, testimonial, or any other representation, however disseminated or published, which is misleading or untruthful;
10. representing that the service or advice of a person licensed to practice medicine will be used or made available when that is not true or using the words "doctor," or similar words, abbreviations, or symbols so as to connote the medical profession, when such is not the case;
11. permitting another to use the license;

12. delinquency in submission of application and supporting documents for license renewal of 30 days or more;

13. obtaining licensure by means of fraud, misrepresentation, or concealment of material facts;

14. fraud or deceit in connection with services rendered;

15. violating any lawful order, rule, or regulation rendered or adopted by the board; or

16. unprofessional conduct, which has endangered or is likely to endanger the health, welfare or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

#### **§5371. Hearing**

##### **[Formerly §2371]**

A. Any person who is disciplined or denied a license or permit or has a license or permit suspended or revoked or is otherwise penalized under these regulations will be notified in writing and afforded the opportunity of a hearing conducted pursuant to the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), repromulgated, LR 42:

#### **§5373. Penalties**

##### **[Formerly §2369]**

A. If a person licensed to practice midwifery under the provisions of these regulations is found guilty of violating any provisions of the Act or these regulations, the board may fine the midwife a sum of not more than \$1,000 and may suspend or revoke the license of the licensed midwife practitioner.

B. The board may cause an injunction to be issued in any court of competent jurisdiction enjoining any person from violating the provisions of the Act or of these regulations. In a suit for injunction, the court may issue a fine of not less than \$100 against any person found in violation of the provisions of these regulations plus court costs and attorney's fees.

C. A licensed midwife who fails to timely file the annual report required by §5361 of this Chapter shall be subject to a fine not to exceed one hundred dollars each day the report is filed late. In no case shall the fine exceed five hundred dollars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

#### **Subchapter D. Professional Liability**

#### **§5375. Professional liability**

A. Physician evaluation and examination as provided in R.S. 37:3244 shall be deemed to constitute a risk assessment. A physician performing a risk assessment is responsible only for determining that at the time of the risk assessment the individual is at low or normal risk of

developing complications during pregnancy and childbirth. For any physician performing a physician risk assessment, the physician-patient relationship shall only exist for the purposes of the risk assessment and shall not continue after the conclusion of the physician risk assessment.

B. Physician risk assessment as defined in this Section shall not create either of the following:

1. any legal duty, responsibility, or obligation by the physician to provide continuing care after the conclusion of the physician risk assessment; or

2. a legal relationship between the physician and the licensed midwife or any duty, responsibility, or obligation by the physician to supervise, collaborate, back-up, or oversee the licensed midwife's care of the patient.

C. No physician or other health care provider as defined in R.S. 40:1299.41, no hospital as defined in R.S. 40:2102, or no institution, facility, or clinic licensed by the department shall be:

1. deemed to have established a legal relationship with a licensed midwife solely by providing a risk assessment as defined in this Section or accepting a transfer of a patient from a licensed midwife; or

2. liable for civil damages arising out of the negligent, grossly negligent, or wanton or willful acts or omissions of the licensed midwife solely for providing a risk assessment as defined in this Section or accepting a transfer of a patient from a licensed midwife.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 42:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

#### **Poverty Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

#### **Provider Statement**

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

#### **Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive

Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4:00 p.m., May 20, 2016.

#### **Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on May 25, 2016 at 9:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Eric D. Torres  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Midwives—Licensure, Certification and Practice**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the rule publication costs during FY 16, it is not anticipated that the proposed rule changes will impact costs or savings to the Board of Medical Examiners or any state or local governmental unit. Publication costs associated with such notice (\$2,982) and promulgation (\$2,769) are estimated at a combined total of \$5,751 in FY 16. The Board of Medical Examiners proposes to amend its rules governing the licensing, certification, and practice of midwives (LAC 46:XLV.Chapters 23 and 53) to conform them to Act No. 772 of the 2012 legislative session, which amended the Louisiana Midwife Practitioners Act, R.S. 37:3241 et seq.; update the rules generally as made necessary by the passage of time; and reform them to policies and practices currently administered by the Board. The proposed amendments update nearly all section of its existing rules, incorporate certain revised modification consistent with the controlling law, R.S. 37:3241-3259.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes increase the continuing professional education requirement from twenty to thirty hours for biannual license or permit renewal and reinstatement (2345, 2349, 2361), for consistency with the law. Due to the varying costs for obtaining continuing education program credits, the Board is not in a position to estimate the cost attributable to the proposed changes. The proposed rule changes also incorporate changes in the law that require licensed midwives to report annually to the Board (5361) and a fine of up to \$500 for failure to do so (5373). It is not anticipated that the proposed rule changes will affect the paperwork or workload of applicants for midwife licensure and/or income of applicants, licensees or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is not anticipated that the proposed changes will have any impact on competition or employment in either the public or private sector.

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## NOTICE OF INTENT

### Department of Health and Hospitals Board of Pharmacy

#### Controlled Substance Prescriptions (LAC 46:LIII.2525 and 2745)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Chapter 25, Prescriptions, Drugs, and Devices as well as Chapter 27, Controlled Dangerous Substances, of its rules. In particular, the board intends to amend §2525, relative to the expiration date of prescriptions for controlled substances, in compliance with Act 865 of the 2014 Legislature, as well as §2745 to amend the list of practitioners authorized to prescribe controlled substances, in compliance with Act 453 of the 2015 Legislature.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

#### Chapter 25. Prescriptions, Drugs, and Devices

#### Subchapter B. Prescriptions

#### §2525. Prescription Expiration

A. ...

B. A prescription for a controlled dangerous substance shall expire:

1. 90 days after the date of issue if the drug is listed in schedule II; or
2. six months after the date of issue if the drug is listed in schedule III, IV, or V.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, LR 42:

#### Chapter 27. Controlled Dangerous Substances

#### Subchapter F. Production, Distribution, and Utilization

#### §2745. Prescriptions

A. - A.1.c. ...

- d. a physician assistant;
- e. an advanced practice registered nurse;
- f. an optometrist; or

A.1.g. - C.7.a.ii. ...

iii. The prescription form shall contain no more than four prescription drug or device orders. While nothing in these rules shall prohibit the pre-printing of any number of prescription drugs or devices on the prescription form, no prescription form issued by a prescriber shall identify more than four prescription drugs or devices to be dispensed.

iv. For each prescription drug or device ordered on a prescription form, there shall be a pre-printed check box labeled "Dispense as Written", or "DAW", or both.

v. For each prescription drug or device ordered on a prescription form, there shall be a refill instruction, if any.

vi. The prescription form shall bear a single printed signature line, and the prescriber shall manually sign the prescription.

C.7.b. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2149 (October 2008), amended LR 41:685 (April 2015), LR 42:

#### Family Impact Statement

In accordance with section 953 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal, or amendment. The following statements are published in the *Louisiana Register* with the proposed agency Rule.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

#### Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no positive impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.