

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 33 - MIDWIFERY JOINT COMMITTEE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Midwifery Joint Committee intends to adopt the rules cited as 21 NCAC 33 .0112, .0114-.0120 and amend the rules cited as 21 NCAC 33 .0101, .0103 - .0105, and .0111.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncbon.com

Proposed Effective Date: *October 1, 2024*

Public Hearing:

Date: *July 9, 2024*

Time: *1:00 p.m.*

Location: *4516 Lake Boone Trail, Raleigh, NC 27607*

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

Comments may be submitted to: *Angela Ellis, PO Box 2129, Raleigh, NC 27602-2129; email lawsrules@ncbon.com*

Comment period ends: *August 16, 2024*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

SECTION .0100 – MIDWIFERY JOINT COMMITTEE

21 NCAC 33 .0101 ADMINISTRATIVE BODY AND DEFINITIONS

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

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

- (1) "Primary Supervising Physician" means a physician with an active unencumbered license with the North Carolina Medical Board who, by signing the midwife application, shall be held accountable for the on going supervision, consultation, collaboration, and evaluation of the medical acts performed by the midwife, as defined in the site specific written clinical practice guidelines. A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician. A physician in a graduate medical education program who is also practicing in a non training situation may supervise a midwife in the non training situation if he or she is fully licensed. "American Midwifery Certification Board (AMCB)" means the national certifying body for candidates in nurse-midwifery and midwifery who have received their graduate level education in programs accredited by the Accreditation Commission for Midwifery Education.
- (2) "Back-up Primary Supervising Physician" means a physician licensed by the North Carolina Medical Board who, by signing an agreement with the midwife and the primary supervising physician or physicians shall be held accountable

for the supervision, consultation, collaboration, and evaluation of medical acts by the midwife in accordance with the site specific written clinical practice guidelines when the primary supervising physician is not available. The signed and dated agreements for each back up primary supervising physician or physicians shall be maintained at each practice site. A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back up primary supervising physician. A physician in a graduate medical education program who is also practicing in a non training situation may be a back up primary supervising physician to a midwife in the non training situation if he or she is fully licensed and has signed an agreement with the midwife and the primary supervising physician. "Accreditation Commission for Midwifery Education (ACME)" means an accreditation agency established to advance and promote midwifery education.

- (3) "American College of Nurse-Midwives (ACNM)" means the professional association that represents CNMs and certified midwives (CMs) in the United States. ACNM sets the standard for midwifery education and practice in the United States.
- (4) "American College of Obstetricians and Gynecologists (ACOG)" means the professional membership organization for obstetrician-gynecologists that produces practice guidelines for healthcare professionals and educational materials for patients, provides practice management and career support, facilitates program and initiatives to improve women's health, and advocates for members and patients.
- (3)(5) "Obstetrics" means a branch of medical science that deals with birth and with its antecedents and sequels, including prenatal, intrapartum, postpartum, newborn or gynecology, and otherwise unspecified primary health services for women.

*History Note: Authority G.S. 90-178.4;
Eff. February 1, 1984;
Amended Eff. July 1, 2000; October 1, 1988;
Readopted Eff. November 1, 2018;
Amended Eff. April 1, 2020;
Temporary Amendment Eff. October 1, 2023;
Amended Eff. October 1, 2024.*

21 NCAC 33 .0103 ELIGIBILITY AND APPLICATION AND ANNUAL RENEWAL

(a) Applications are posted on the Board of Nursing's website at www.ncbon.com. The following information shall appear on the application:

- (1) the applicant's name, telephone number and email address;
- (2) the applicant's primary address of residence;
- (3) the educational degrees obtained by the applicant with the program name and completion date;
- (4) the number and expiration date of the applicant's national certification from the AMCB;
- (5) other professional or occupational licenses with the license number and jurisdiction in which the license was issued, if applicable;
- (6) the name, license number, telephone number, email address, and practice location of the collaborating provider, if applicable;
- (7) the full address of the practice location where the applicant intends to practice midwifery; and
- (8) the approval to practice number shall be provided on the application if the application is for the renewal or reinstatement of an existing approval to practice.

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

- (1) submit a completed application for approval to practice, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. Application is posted on the Board of Nursing's website at www.ncbon.com; application;
- (2) submit information on the applicant's education, evidence of the applicant's certification by the American College of Nurse-Midwives, identification of the physician or physicians who will supervise the applicant, and the sites where the applicant intends to practice midwifery;
- (3)(2) submit the approval to practice application fee as established in 90-178.4(b)(1); G.S. 90-178.4(b)(1) and Rule .0102 of this Section;
- (4)(3) have an unencumbered registered nurse RN license and midwifery license or approval privilege to practice in all jurisdictions in which a license/approval to practice license is or has ever been held;
- (4) hold an active, unencumbered North Carolina RN license or privilege to practice;
- (5) hold an unencumbered CNM license or an approval to practice in all jurisdictions in which a license or an approval to practice is or has ever been held;
- (6) provide an official copy of the educational transcript and certification from AMCB;
- (7) attest by oath or affirmation to completion of at least 24 months experience and 4,000 practice hours as a CNM. Documentation of successful completion of this requirement shall be provided to the Committee upon request; and
- (5)(8) have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee may use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6 and 90-171.37; 90-178.6.
- (6) submit a written explanation and all related documents if the midwife has ever been listed as a nurse aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Committee may take these findings into

~~consideration when determining if an approval to practice should be denied pursuant to G.S. 90-178.6. In the event findings are pending, the Committee may withhold taking any action until the investigation is completed; and~~

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

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

~~(b)(c) Each midwife shall annually renew their An applicant seeking approval to practice with the Committee no later than the last day of the midwife's birth month by: with less than 24 months experience and 4,000 hours of practice as a CNM is required to practice in collaboration with a collaborating provider and shall:~~

- ~~(1) submitting a completed submit an application for renewal, an approval to practice, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application. Applications are located on the Board of Nursing's website at www.ncbn.com;~~
- ~~(2) attest to having completed the requirements of the Certificate Maintenance Program of the American College of Nurse Midwives, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Section; submit the approval to practice application fee as established in G.S. 90-178.4(b) and Rule .0102 of this Chapter;~~
- ~~(3) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2); hold an unencumbered license or privilege to practice in all jurisdictions in which a license is or has ever been held;~~
- ~~(4) hold an active, unencumbered North Carolina RN license or privilege to practice;~~
- ~~(5) hold an unencumbered CNM license or an approval to practice in all jurisdictions in which a license or an approval to practice is or has ever been held;~~
- ~~(6) provide an official copy of the education transcript and certificate from AMCB;~~
- ~~(7) submit the name and licensure number of the collaborating provider with whom the applicant will collaborate;~~
- ~~(8) have no pending court conditions as a result of any misdemeanor or felony conviction(s). Applicant shall provide a written explanation and any investigative report or court documents evidencing the circumstances of the crime(s) if requested by the Committee. The Committee may use these documents when determining if an approval to practice should be denied pursuant to G.S. 90-178.6.~~

~~(d) Once a CNM has attained 24 months experience and 4,000 hours of practice as a CNM, the CNM shall apply for independent practice by submitting an application attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application and required fee.~~

~~(e) All educational transcripts and certification shall be submitted directly to the Committee from the primary source.~~

~~(f) An applicant shall be required to appear in person for an interview with the Committee if there is a discrepancy in the information submitted.~~

*History Note: Authority G.S. 90-178.4(b); 90-178.5;
Temporary Amendment Eff. October 1, 2023;
Amended Eff. October 1, 2024.*

21 NCAC 33 .0104 PHYSICIAN SUPERVISION PROVIDER COLLABORATION REQUIRED

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

- ~~(1) — mutually agreed upon written clinical practice guidelines that define the individual and shared responsibilities of the midwife and the supervising physician or physicians in the delivery of health care services;~~
- ~~(2) — mutually agreed upon written clinical practice guidelines for ongoing communication that provide for and define appropriate consultation between the supervising physician or physicians and the midwife;~~
- ~~(3) — periodic and joint evaluation of services rendered, such as chart review, case review, patient evaluation, and review of outcome statistics; and~~
- ~~(4) — periodic and joint review and updating of the written medical clinical practice guidelines.~~

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

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

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

~~(d) To be eligible a collaborative provider shall:~~

- (1) hold an active, unencumbered approval to practice as a CNM and have a minimum of 4 years and 8,000 hours of practice as a CNM; or
- (2) hold an active, unencumbered license to practice medicine in North Carolina and be actively engaged in the practice of obstetrics.

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

*History Note: Authority G.S. 90-178.4(b);
Eff. February 1, 1984;
Amended Eff. July 1, 2000; October 1, 1988; April 1, 1985;
Readopted Eff. November 1, 2018;
Temporary Amendment Eff. October 1, 2023;
Amended Eff. October 1, 2024.*

21 NCAC 33 .0105 DISCIPLINARY ACTION

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

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

- (1) practicing without a valid approval to practice as a CNM;
- (2) presenting false information to the Committee in procuring or attempting to procure an approval to practice as a CNM;
- (3) the CNM is adjudicated mentally incompetent by a court of competent jurisdiction or the CNM's mental or physical condition renders the CNM unable to safely function as a CNM;
- (4) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the prevailing standards for CNMs as set forth by ACNM;
- (5) conviction of a criminal offense where the CNM has deceived or defrauded the public;
- (6) soliciting or attempting to solicit payments for the CNM practice with false representations;
- (7) failure to maintain professional competence as a CNM such that the CNM would no longer be eligible for certification by the AMCB;
- (8) exploiting the patient, including the promotion of the sale of services, appliances, or drugs, for the financial gain of the CNM or of a third party;
- (9) failure to respond to inquiries of the Committee for investigation and discipline;
- (10) the CNM has engaged or attempted to engage in the performance of midwifery acts other than according to the collaborative provider agreement or without being approved by the Committee to practice independently;
- (11) failure to obtain a written, informed consent agreement from a patient;
- (12) practiced or offered to practice beyond the scope of CNM practice as defined in Rule .0112 of this Chapter;
- (13) failure to comply with any order of the Committee;
- (14) violating any term of probation, condition, or limitation imposed on the CNM by the Committee; or
- (15) any violation within this Chapter.

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

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

(d) Upon a finding of a violation of Chapter 90, Article 10A of the General Statutes and the rules of this Chapter, the Committee may utilize the range of disciplinary actions as enumerated in G.S. 90-178.6 and 90-178.7.

*History Note: Authority G.S. 90-178.6;
Eff. February 1, 1985;
Amended Eff. August 1, 2002; October 1, 1988;
Readopted Eff. November 1, 2018;
Amended Eff. April 1, 2020;
Temporary Amendment Eff. October 1, 2023;
Amended Eff. October 1, 2024.*

21 NCAC 33 .0111 CONTINUING EDUCATION (CE)

(a) In order to maintain an approval to practice midwifery, a midwife CNM shall meet the requirements of the Certificate Maintenance Program of the American College of Nurse-Midwives, AMCB, including continuing education requirements. Every midwife who prescribes controlled substances shall complete at least one hour of continuing education (CE) hours annually consisting of CE designated specifically to address controlled substances prescribing practices, signs of the abuse or misuse of controlled substances, and controlled substance prescribing for chronic pain management. Documentation of continuing education shall be maintained by the midwife for the previous five calendar years and made available upon request to the Committee. These requirements are hereby incorporated by reference, including subsequent amendments or editions, and may be accessed at no cost at: <https://www.amcbmidwife.org/certificate-maintenance-program/purpose-objectives>.

(b) Prior to prescribing Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Act, CNMs shall complete a minimum of one CE hour within the preceding 12 months on 1 or more of the following topics:

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

(c) CNMs who complete the federally required training under the Medication Access and Training Expansion Act (MATE, 21 U.S.C. 823(1)) shall be deemed in compliance with the controlled substance prescribing requirements of this Rule for the two year CE period in which the MATE training is completed.

(d) CNMs shall maintain documentation of all CE completed within the previous five years and provide a copy to the Committee upon request.

*History Note: Authority: G.S. 90-5.1; 90-14(a)(15); 90-178.5(2); S.L. 2015-241, s. 12F .16(b);
Eff. March 1, 2017;
Readopted Eff. November 1, 2018;
Temporary Amendment Eff. October 1, 2023;
Amended Eff. October 1, 2024.*

21 NCAC 33 .0112 SCOPE OF PRACTICE

The CNM's scope of practice is defined by academic educational preparation and national certification and maintained competence.

Scope of practice is set by ACNM at

https://www.midwife.org/acnm/files/acnmldata/uploadfilename/00000000266/Definition%20Midwifery%20Scope%20of%20Practice_2021.pdf, is available at no cost, and is hereby incorporated by reference, including subsequent amendments and editions.

Scope of practice includes:

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

*History Note: Authority G.S. 90-18.8; 90-178.3;
Temporary Adoption Eff. October 1, 2023;
Eff. October 1, 2024.*

21 NCAC 33 .0114 ANNUAL RENEWAL

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

- (1) maintaining an active, unencumbered North Carolina RN license or privilege to practice;
- (2) submitting a completed application as outlined in Rule .0103 of this Chapter for renewal, attesting under oath or affirmation that the information on the application is true and complete, and authorizing the release to the Committee of all information pertaining to the application;
- (3) attesting to having completed the requirements of the Certificate Maintenance Program of the AMCB or its successor, including continuing education requirements, and submit evidence of completion if requested by the Committee as specified in Rule .0111 of this Chapter; and
- (4) submitting the approval to practice renewal fee as established in G.S. 90-178.4(b)(2) and this Chapter.

(b) It shall be the duty of the CNM to keep the Committee informed of a current mailing address, telephone number, and email address.

(c) If the CNM has not renewed by the end of his or her birth month and submitted the annual fee, the approval to practice shall expire.

*History Note: Authority G.S. 90-178.4(b); 90-178.5;
Temporary Adoption Eff. October 1, 2023;
Eff. October 1, 2024.*

21 NCAC 33 .0115 INACTIVE STATUS

(a) Any CNM who wishes to place their approval to practice on an inactive status shall notify the Committee in writing of the effective date which the CNM will no longer practice.

(b) A CNM with an inactive approval to practice status shall not practice as a CNM.

(c) A CNM with an inactive approval to practice status who reapplies for an approval to practice shall meet the qualifications for an approval to practice in Rule .0103 of this Chapter and shall not resume practicing until notification is received that the Committee has approved the application.

(d) A CNM who has not practiced as a CNM in more than two years immediately preceding the filing of an application for reinstatement of the approval shall follow the Reentry Guidelines for CNMs which are hereby incorporated by reference, including subsequent amendments or editions and are available at no cost at: <http://www.midwife.org/Re-entry-Guidelines-for-CNMs/CMs>.

*History Note: Authority G.S. 90-178.3; 90-178.5;
Temporary Adoption Eff. October 1, 2023;
Eff. October 1, 2024.*

21 NCAC 33 .0116 COLLABORATIVE PROVIDER AGREEMENT

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

- (1) be agreed upon, signed, and dated by both the collaborating provider and the CNM, and maintained in each provider site;
- (2) be reviewed at least annually, to ensure that the CNM and collaborating provider continue to practice under the terms of the agreement and determine whether any changes to the agreement are necessary. This review shall be acknowledged by a dated signature sheet, signed by both the collaborating provider and the CNM, appended to the collaborative provider agreement, and available for inspection by the Committee;
- (3) include mutually agreed upon written clinical practice guidelines for the drugs, devices, medical treatments, tests, and procedures that may be prescribed, ordered, and performed by the CNM; and
- (4) include a pre-determined plan for emergency services.

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

(c) The CNM shall maintain copies of all collaborative provider agreements executed within the previous five years and make available to the Committee upon request.

*History Note: Authority G.S. 90-18.8; 90-178.3; 90-178.4; 90-178.5;
Temporary Adoption Eff. October 1, 2023;
Eff. October 1, 2024.*

21 NCAC 33 .0117 PRESCRIBING AUTHORITY

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

(b) A CNM must possess a valid United States Drug Enforcement Administration ("DEA") registration in order to prescribe controlled substances.

(c) To act as a collaborating provider for a CNM, the DEA registration of the collaborating provider shall include the same schedule(s) of controlled substances as the CNM practicing under a collaborative provider agreement.

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

- (1) The collaborative provider agreement outlined in Rule .0116 of this Chapter shall include the drugs and devices that the CNM may prescribe.
- (2) The CNM has an assigned DEA number that is entered on each prescription for a controlled substance.
- (3) Refills may be issued consistent with Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) as defined by the State and Federal Controlled Substances Act.
- (4) The collaborative provider shall possess a schedule(s) of controlled substances equal to or greater than the CNM's DEA registration.
- (5) The CNM may prescribe a drug or device not included in the collaborative provider agreement only as follows:
 - (A) Upon a specific written or verbal order obtained from the collaborating provider before the prescription or order is issued by the CNM; and
 - (B) The written or verbal order as described in Part (d)(5)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a collaborating provider and signed by the CNM and the collaborating provider.

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

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

- (1) the name of the patient;
- (2) the CNM's name, approval to practice number issued by the Committee, and telephone number; and
- (3) the CNM's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed.

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

*History Note: Authority G.S. 90-18.8; 90-178.3;
Temporary Adoption Eff. October 1, 2023;
Eff. October 1, 2024.*

21 NCAC 33 .0118 BIRTH OUTSIDE HOSPITAL SETTING

(a) Prior to initiating care for a patient planning a home birth outside of a hospital setting, the CNM shall be required to:

- (1) obtain a signed, written informed consent agreement with the patient that details:
 - (A) identifying information of the patient to include name, date of birth, address, phone number, and email address if available;
 - (B) identifying information of the CNM to include the name, RN license number, approval to practice number, practice name, if applicable, and email address;
 - (C) information about the procedures, benefits, and risks of planned births outside of hospital settings;
 - (D) an acknowledgment and understanding of the clear assumption of these risks by the patient;
 - (E) when and if deemed necessary by the CNM, an acknowledgment by the patient to consent to transfer to a healthcare facility licensed under Chapter 122C or Chapter 131E of the General Statutes that has at least one operating room; and
 - (F) a disclosure that the CNM is not covered under a policy of liability insurance, if applicable.
- (2) The CNM shall provide a detailed, written plan of care consistent with G.S. 90-178.4(a2).
- (3) After a decision of non-emergent transfer of care has been made, the CNM shall:
 - (A) call the relevant receiving healthcare facility to notify them of transfer;
 - (B) provide a copy of the patient's medical record to the receiving healthcare facility; and
 - (C) provide a verbal summary of the care provided by the CNM to the patient and newborn, if applicable, to the receiving healthcare facility.
- (4) In an emergent situation, the CNM shall initiate emergency care as indicated by the situation and immediately transfer care by making a reasonable effort, dependent upon the circumstances and nature of the emergency, to contact the healthcare professional or facility to whom the patient(s) will be transferred and to follow the healthcare professional's instructions; remain with the patient(s) until transfer of care is completed; and continue emergency care as needed while:
 - (A) transporting the patient(s) by private vehicle; or
 - (B) calling 911 and reporting the need for immediate transfer.

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

(c) In addition to the requirements in this Rule, a CNM who attends and provides midwifery services for a planned home birth are prohibited from providing services in the following settings/situations:

- (1) fetal malpresentation;
- (2) multiple gestation; and
- (3) prior cesarean.

History Note: Authority G.S.90-18.8; 90-178.3; 90-178.4;
Temporary Adoption Eff. October 1, 2023;
Eff. October 1, 2024.

21 NCAC 33 .0119 PETITIONING FOR RULEMAKING

(a) Any person wishing to submit a petition to the Committee requesting the adoption, amendment, or repeal of a rule shall file the petition with the Committee Chair. Petitions shall be mailed to the Midwifery Joint Committee at Post Office Box 2129, Raleigh, NC 27602-2129.

(b) The petition shall contain the following information:

- (1) a proposed draft of the rule to be adopted, amended, or a citation to the rule to be repealed;
- (2) a statement of the reason for the proposal including statutory authority;
- (3) effect of the proposed rule change on the practice of midwifery;
- (4) any data supporting the proposal including cost factors; and
- (5) name, address, and telephone number of each petitioner.

(c) The Committee shall determine whether the public interest would be served by the adoption, amendment, or repeal of the requested rule. Prior to making this determination, the Committee may:

- (1) request additional information from the petitioner;
- (2) contact interested persons or those likely to be affected by the proposed rule and request comments; and
- (3) use any other method for obtaining information on which to base its determination. It shall consider all the contents of the petition submitted plus any other information obtained by the means described herein.

(d) The Committee shall act on a petition within the timeframe outlined in G.S. 150B-20.

History Note: Authority G.S. 150B-20; 90-171.23(b)(3);
Eff. October 1, 2024.

21 NCAC 33 .0120 CONTACT

The mailing address for the Midwifery Joint Committee is Post Office Box 2129, Raleigh, NC, 27602-2129.

History Note: Authority G.S. 150B-20; 90-171.23(b)(3);
Eff. October 1, 2024.