

**R156. Commerce, Occupational and Professional Licensing.**

**R156-44a. Nurse Midwife Practice Act Rule.**

**R156-44a-101. Title.**

This rule is known as the "Nurse Midwife Practice Act Rule."

**R156-44a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 44a, as used in Title 58, Chapters 1 and 44a or this rule:

(1) "Approved certified nurse midwifery education program" means an educational program which is accredited by the American Midwifery Certification Board (AMCB), affiliated with the American College of Nurse-Midwives (ACNM).

(2) "CNM" means a certified nurse midwife.

(3) "Delegation" means transferring to an individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation.

(4) "Direct supervision" as used in Section 58-44a-305 means that the person providing supervision shall be available on the premises at which the supervisee or consultee is engaged in practice.

(5) "Generally recognized scope and standards of nurse midwifery" means the scope and standards of practice set forth in the "Core Competencies for Basic Midwifery Practice", June 2012, and the "Standards for the Practice of Midwifery", September 2011, published by the American College of Nurse-Midwives which are hereby adopted and incorporated by reference, or as established by the professional community.

(6) "Intrapartum referral plan":

(a) is as defined in Section 58-44a-102; and

(b) as provided in Section 58-44a-102, does not require the signature of a physician.

(7) "Supervision" in Section R156-44a-601 means the provision of guidance or direction, evaluation and follow up by the certified nurse midwife for accomplishment of tasks delegated to unlicensed assistive personnel or other licensed individuals.

(8) "Unprofessional conduct," as defined in Title 58, Chapters 1 and 44a, is further defined in Section R156-44a-502.

**R156-44a-103. Authority - Purpose.**

This rule is adopted by the Division under the authority of Subsection 58-1-106(1) (a) to enable the Division to administer Title 58, Chapter 44a.

**R156-44a-104. Organization - Relationship to Rule R156-1.**

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

**R156-44a-302. Qualifications for Licensure - Examination Requirements.**

In accordance with Subsection 58-44a-302(6), the examination required for licensure is the national certifying examination administered by the American Midwifery Certification Board, Inc.

**R156-44a-303. Renewal Cycle - Procedures.**

(1) In accordance with Subsection 58-1-308(1), the renewal date

for the two-year renewal cycle applicable to licensees under Title 58, Chapter 44a is established by rule in Section R156-1-308a(1).

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

(3) Each applicant for licensure renewal shall hold a valid certification from the American Midwifery Certification Board, Inc.

**R156-44a-305. Inactive Licensure.**

(1) A licensee may apply for inactive licensure status in accordance with Sections 58-1-305 and R156-1-305.

(2) To reactivate a license which has been inactive for five years or less, the licensee must document current compliance with the continuing competency requirements as established in Subsection R156-44a-303(3).

(3) To reactivate a license which has been inactive for more than five years, the licensee must document one of the following:

(a) active licensure in another state or jurisdiction;

(b) completion of a refresher program approved by the American College of Nurse Midwives; or

(c) passing score on the required examinations as defined in Section R156-44a-302 within six months prior to making application to reactivate a license.

**R156-44a-402. Administrative Penalties.**

In accordance with Subsections 58-44a-102(1), 58-44a-402(1), and 58-44a-503(3), unless otherwise ordered by the presiding officer, the following fine schedule shall apply:

TABLE

FINE SCHEDULE

VIOLATION	FIRST OFFENSE	SUBSEQUENT OFFENSE
58-44a-501(1)	\$ 2,000 - \$ 5,000	\$ 5,000 - \$10,000
58-44a-501(2)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-501(3)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-501(4)	\$ 2,000 - \$ 5,000	\$ 5,000 - \$10,000
58-44a-502(1)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-502(2)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-44a-502(3)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-44a-502(4)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-502(5)	\$ 200 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(6)	Double the original penalty amount, up to \$10,000	
58-44a-502(7)	\$ 500 - \$ 1,000	\$ 500 - \$ 1,000
58-44a-502(8) (a)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(8) (b)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-1-501(1) (b)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-501(1) (c)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
58-1-501(1) (d)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
58-1-501(1) (e)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-502(2) (a)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-502(2) (b)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-502(2) (c)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000

58-1-502 (2) (d)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502 (2) (e)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502 (2) (f)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502 (2) (g)	\$ 500 - \$ 2,000	\$ 2,000 - \$10,000
58-1-502 (2) (h)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502 (2) (i)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502 (2) (j)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-502 (2) (k)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
R156-44a-502 (1)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
R156-44a-502 (2)	\$ 250	\$ 500 - \$ 1,000
Ongoing offense(s)	\$ 1,000 per day but not less than the second offense.	
Any other conduct which constitutes unprofessional or unlawful conduct:	\$ 100 - \$ 500	\$ 200 - \$ 1,000

**R156-44a-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) failure to abide by the "Code of Ethics" published by the American College of Nurse-Midwives, June 2015, which is hereby adopted and incorporated by reference;

(2) failing to discuss the risks of using an opiate with a patient or the patient's guardian before issuing an initial opiate prescription, in accordance with Section 58-37-19.

**R156-44a-601. Delegation of Nursing Tasks.**

In accordance with Subsection 58-44a-102(11), the delegation of nursing tasks is further defined, clarified, or established as follows:

(1) The certified nurse midwife delegating tasks retains the accountability for the appropriate delegation of tasks and for the nursing care of the patient/client. The licensed nurse shall not delegate any task requiring the specialized knowledge, judgment and skill of a licensed nurse to an unlicensed assistive personnel. It is the licensed nurse who shall use professional judgment to decide whether or not a task is one that must be performed by a nurse or may be delegated to an unlicensed assistive personnel. This precludes a list of nursing tasks that can be routinely and uniformly delegated for all patients/clients in all situations. The decision to delegate must be based on careful analysis of the patient's/client's needs and circumstances.

(2) The licensed nurse who is delegating a nursing task shall:

(a) verify and evaluate the orders;

(b) perform a nursing assessment;

(c) determine whether the task can be safely performed by an unlicensed assistive personnel or whether it requires a licensed health care provider;

(d) verify that the delegatee has the competence to perform the delegated task prior to performing it;

(e) provide instruction and direction necessary to safely perform the specific task; and

(f) provide ongoing supervision and evaluation of the delegatee who is performing the task.

(3) The delegator shall evaluate the situation to determine the degree of supervision required to ensure safe care.

(a) The following factors shall be evaluated to determine the level of supervision needed:

- (i) the stability of the condition of the patient/client;
- (ii) the training and capability of the delegatee;
- (iii) the nature of the task being delegated; and
- (iv) the proximity and availability of the delegator to the delegatee when the task will be performed.

(b) The delegating nurse or another qualified nurse shall be readily available either in person or by telecommunication. The delegator responsible for the care of the patient/client shall make supervisory visits at appropriate intervals to:

- (i) evaluate the patient's/client's health status;
- (ii) evaluate the performance of the delegated task;
- (iii) determine whether goals are being met; and
- (iv) determine the appropriateness of continuing delegation of the task.

(4) Nursing tasks, to be delegated, shall meet the following criteria as applied to each specific patient/client situation:

- (a) be considered routine care for the specific patient/client;
- (b) pose little potential hazard for the patient/client;
- (c) be performed with a predictable outcome for the patient/client;
- (d) be administered according to a previously developed plan of care; and
- (e) not inherently involve nursing judgment which cannot be separated from the procedure.

(5) If the nurse, upon review of the patient's/client's condition, complexity of the task, ability of the unlicensed assistive personnel and other criteria as deemed appropriate by the nurse, determines that the unlicensed assistive personnel cannot safely provide care, the nurse shall not delegate the task.

**R156-44a-609. Standards for Out-of-State Programs Providing Certified Nurse Midwife Clinical Experiences in Utah.**

(1) In order to qualify for the exemption set forth in Subsection 58-1-304(1)(b), approval of a nurse midwifery education program located in another state that uses Utah health care facilities for clinical experiences with certified nurse midwives for one or more students shall, prior to placing a student, submit a request for approval in writing to the Certified Nurse Midwife Board and demonstrate to the satisfaction of the Board that the program:

- (a) has been approved, if required, by the regulatory body responsible for certified nurse midwives in the program's home state;
- (b) holds current accreditation from the Accreditation Commission for Midwifery Education (ACME);
- (c) has clinical faculty who are employed by the nurse midwifery education program;
- (d) is affiliated with an institution of higher education; and
- (e) has established criteria for selection and supervision of:
  - (i) onsite preceptors; and
  - (ii) the clinical activities.

(2) Following approval by the Board, the nurse midwifery program shall:

- (a) reapply for Board review and approval when the program's

ACME accreditation is reaffirmed; and

(b) notify the Board, in writing, of any change in its accreditation status.

**KEY: licensing, midwifery, certified nurse midwife**

**Date of Enactment or Last Substantive Amendment: December 9, 2019**

**Notice of Continuation: August 28, 2018**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a);  
58-1-202(1)(a); 58-44a-101**