

**KANSAS STATE BOARD
OF
HEALING ARTS**



**KANSAS STATUTES
ANNOTATED**

AND

**KANSAS
ADMINISTRATIVE
REGULATIONS**

Relating to the Independent

Practice of Midwifery

January 2023

NOTE: The laws and regulations listed in this website booklet are not to be considered the official authority on the current law. While every effort has been made to ensure the accuracy and completeness of this information, for legal purposes the law should be obtained from the Kansas statute books and the regulations from the Kansas Secretary of State's Administrative Regulations.

Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

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65-28b01
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b01. Independent practice of midwifery act; citation.

The provisions of K.S.A. 65- 28b01 through 65-28b10, and amendments thereto, shall be known and may be cited as the independent practice of midwifery act.

History: L. 2016, ch. 92, § 88, eff. July 1, 2016.

65-28b02
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b02. Same; definitions.

As used in the independent practice of midwifery act:

- (a) “Board” means the state board of healing arts.
- (b) “Certified nurse-midwife” means an individual who:
 - (1) Is educated in the two disciplines of nursing and midwifery;
 - (2) is currently certified by a certifying board approved by the state board of nursing;
and
 - (3) is currently licensed under the Kansas nurse practice act.
- (c) “Independent practice of midwifery” means the provision of clinical services by a certified nurse-midwife without the requirement of a collaborative practice agreement with a person licensed to practice medicine and surgery when such clinical services are limited to those associated with a normal, uncomplicated pregnancy and delivery, including:
 - (1) The prescription of drugs and diagnostic tests;
 - (2) the performance of episiotomy or repair of a minor vaginal laceration;
 - (3) the initial care of the normal newborn; and
 - (4) family planning services, including treatment or referral of male partners for sexually- transmitted infections.

(d) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 89, eff. July 1, 2016.

65-28b03
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b03. Same; standards and requirements for licensure.

- (a) In order to obtain authorization to engage in the independent practice of midwifery, a certified nurse-midwife must meet the following requirements:
- (1) Be licensed to practice professional nursing under the Kansas nurse practice act;
 - (2) have successfully completed a course of study in nurse-midwifery in a school of nurse- midwifery approved by the board;
 - (3) have successfully completed a national certification approved by the board;
 - (4) have successfully completed a refresher course as defined by rules and regulations of the board, if the individual has not been in active midwifery practice for five years immediately preceding the application;
 - (5) be authorized to perform the duties of a certified nurse-midwife by the state board of nursing;
 - (6) be licensed as an advanced practice registered nurse by the state board of nursing; and
 - (7) have paid all fees for licensure prescribed in K.S.A. 65-28b05, and amendments thereto.
- (b) Upon application to the board by any certified nurse-midwife and upon satisfaction of the standards and requirements established under this act, the board shall grant an authorization to the applicant to engage in the independent practice of midwifery.
- (c) A person whose licensure has been revoked may make written application to the board requesting reinstatement of the license in a manner prescribed by the board, which application shall be accompanied by the fee prescribed in K.S.A. 65-28b05, and amendments thereto.
- (d) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 90, eff. July 1, 2016.

65-28b04
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b04. Same; expiration of license.

- (a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board, unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the fee prescribed in K.S.A. 65-28b05, and amendments thereto.
- (b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration, by mail, addressed to the licensee's last known mailing address. If the licensee fails to submit an application for renewal on a form provided by the board, or fails to pay the renewal fee by the date of expiration, the board shall give a second notice to the licensee that the license has expired and the license may be renewed only if the application for renewal, the renewal fee, and the late renewal fee are received by the board within the 30-day period following the date of expiration and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law and without further proceedings.
- (c) The board may require any licensee, as a condition of renewal, to submit with the application of renewal evidence of satisfactory completion of a program of continuing education as required by rules and regulations of the board.
- (d) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 91, eff. July 1, 2016.

65-28b05
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b05. Same; fees.

- (a) The board shall charge and collect, in advance, fees for certified nurse-midwives, as established by the board, not to exceed:

Application for license	\$100
License renewal	\$100
Late license renewal	\$100
License reinstatement fee	\$100
Revoked license fee	\$100
Certified copy of license	\$50
Verified copy of license	\$25

- (b) The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such amount shall be credited to the state general fund, and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or persons designated by the president.
- (c) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 92, eff. July 1, 2016.

65-28b06
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b06. Same; unlawful acts.

- (a) It shall be unlawful for a person to engage in the independent practice of midwifery without a collaborative practice agreement with a person licensed to practice medicine and surgery, unless such certified nurse-midwife holds a license from the state board of nursing and the board.
- (b) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 93, eff. July 1, 2016.

65-28b07
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b07. Same; rules and regulations; standards of care.

- (a) The board, in consultation with the state board of nursing, shall adopt rules and regulations pertaining to certified nurse-midwives engaging in the independent practice of midwifery and governing the ordering of tests, diagnostic services and prescribing of drugs and referral or transfer to physicians in the event of complications or emergencies. Such rules and regulations shall not be adopted until the state board of nursing and the board have consulted and concurred on the content of each rule and regulation. Such rules and regulations shall be adopted no later than January 1, 2017.
- (b) A certified nurse midwife engaging in the independent practice of midwifery shall be subject to the provisions of the independent practice of midwifery act with respect to the ordering of tests, diagnostic services and prescribing of drugs, and shall not be subject to the provisions of K.S.A. 65-1130, and amendments thereto.
- (c) The standards of care for certified nurse-midwives in the ordering of tests, diagnostic services and the prescribing of drugs shall be those standards which protect patients and shall be standards comparable to persons licensed to practice medicine and surgery providing the same services.
- (d) The board is hereby authorized to solely adopt those rules and regulations necessary to administer the administrative provisions of this act.

History: L. 2016, ch. 92, § 94, eff. July 1, 2016.

65-28b08
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b08. Same; revocation, suspension, limitation, censure or denial of license; grounds.

- (a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:
 - (1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;
 - (2) to have been found guilty of a felony or to have been found guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or

authorization to practice and engage in the independent practice of midwifery shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

- (3) to have committed an act of professional incompetence as defined in subsection (c); to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding. The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45- 229, and amendments thereto, prior to July 1, 2022;
- (4) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;
- (5) to be guilty of unprofessional conduct as defined by rules and regulations of the board;
- (6) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act;
- (7) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country, or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph; or
- (8) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21- 5407, and amendments thereto, as established by any of the following:
 - (A) A copy of the record of criminal conviction or plea of guilty to a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 21-5407, and amendments thereto;
 - (B) a copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto; or
- (b) a copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

- (c) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state, except the crime of perjury as defined in K.S.A. 21-5903, and amendments thereto.

- (d) As used in this section, “professional incompetency” means:
- (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;
 - (2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or
 - (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.
- (e) The board, upon request, shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions, as necessary, for the purpose of determining initial and continuing qualifications of licensees and applicants for licensure by the board.
- (f) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 95, eff. July 1, 2016.

65-28b09
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b09. Same; advisory council.

- (a) There is hereby established a nurse-midwives council to advise the board in carrying out the provisions of this act. The council shall consist of seven members, all residents of the state of Kansas appointed as follows: Two members shall be licensees of the board, appointed by the board, who are licensed to practice medicine and surgery and whose specialty and customary practice includes obstetrics; one member shall be the president of the board or a board member designated by the president; and four members shall be licensed certified nurse-midwives appointed by the board of nursing.
- (b) If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any.

History: L. 2016, ch. 92, § 96, eff. July 1, 2016.

65-28b10
Chapter 65 – PUBLIC HEALTH
Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

65-28b10. Same; abortion not authorized.

- (a) Nothing in the independent practice of midwifery act should be construed to authorize a certified nurse-midwife engaging in the independent practice of midwifery under such act to perform, induce or prescribe drugs for an abortion.
- (b) The provisions of this section shall become effective on January 1, 2017.

History: L. 2016, ch. 92, § 97, eff. July 1, 2016.

Article 28b – INDEPENDENT PRACTICE OF MIDWIFERY

- [100-28b-1.](#)** Definitions.
- [100-28b-2.](#)** Application for licensure.
- [100-28b-3.](#)** Approved course of study in nurse-midwifery.
- [100-28b-4.](#)** Approved national certification.
- [100-28b-5.](#)** License expiration and cancellation.
- [100-28b-6.](#)** Fees.
- [100-28b-7.](#)** Continuing education.
- [100-28b-11.](#)** Licensees who direct, supervise, or delegate acts that constitute the independent practice of midwifery; requirements and limitations.
- [100-28b-12.](#)** Assessment of patient for identifiable risks.
- [100-28b-14.](#)** Patient records.
- [100-28b-15.](#)** Transport and transfer protocol requirements.
- [100-28b-16.](#)** Duty to consult, refer, transfer, and transport.
- [100-28b-17.](#)** Identifiable risks requiring immediate referral and transport of patient.
- [100-28b-18.](#)** Identifiable risks requiring immediate referral and transport of newborn.
- [100-28b-19.](#)** Unprofessional conduct.
- [100-28b-20.](#)** Maintenance and storage of health care records.

100-28b-1. Definitions.

As used in this article of the board's regulations, each of the following terms shall have the meaning specified in this regulation:

- (a) "Abortion" has the meaning specified in K.S.A. 65-6701, and amendments thereto.
- (b) "Antepartum" means occurring in the period that commences when a pregnant woman presents herself to a licensee during pregnancy and ends at the onset of labor.
- (c) "Approved national certification" means certification as a certified nurse-midwife by the American midwifery certification board.
- (d) "Birthing center" means a facility that provides delivery services for normal, uncomplicated pregnancies. This term shall not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.
- (e) "Family planning services" means the provision of contraceptive methods, preconception health services, and sexually transmitted infection screening and treatment to patients.
- (f) "Formal consult" means the process whereby a licensee formally requests a physician's written recommendations for the care and treatment of a patient's identifiable risks.
- (g) "Home birth" means an attended birth at a private residence or a location other than a birthing center or hospital.
- (h) "Hospital" has the meaning specified in K.S.A. 65-425, and amendments thereto.
- (i) "Identifiable risk" means medical history or clinical signs or symptoms that could require clinical services other than those associated with a normal, uncomplicated pregnancy and a normal, uncomplicated delivery.
- (j) "Informal consult" means the process whereby a licensee who maintains management responsibility for the patient's care informally requests the advice or opinion of a physician.
- (k) "Initial care of a normal newborn" means the clinical services provided to a normal newborn during the first 28 days of life. This term shall include lactation services.
- (l) "Intrapartum" means occurring in the period commencing with the onset of labor and ending after the delivery of the placenta.

- (m) “Licensee” means an individual licensed by the board to engage in the independent practice of midwifery as defined in K.S.A. 65-28b02, and amendments thereto.
- (n) “Minor vaginal laceration” means a tear that extends beyond the fourchette, perineal skin, and vaginal mucosa to perineal muscles and fascia, but not the anal sphincter.
- (o) “Newborn” means an infant during the first 28 days of life after birth.
- (p) “Normal newborn” means a newborn who has been clinically determined to have no complications or to be at low risk of developing complications.
- (q) “Normal, uncomplicated delivery” means delivery of a singleton cephalic vaginal birth that has been clinically determined to be at low risk for complications.
- (r) “Normal, uncomplicated pregnancy” means a pregnancy that is initially determined to be at a low risk for a poor pregnancy outcome and that remains at a low risk throughout the pregnancy.
- (s) “Patient” means a woman to whom an independent certified nurse-midwife provides clinical services.
- (t) “Physician” means an individual licensed to actively practice medicine and surgery or osteopathic medicine and surgery in Kansas.
- (u) “Poor pregnancy outcome” means any outcome other than a live, healthy patient.
- (v) “Postpartum” means occurring in the period commencing with the delivery of the placenta and ending six weeks after birth.
- (w) “Referral” means the process whereby a licensee requests a physician to assume management responsibility for a patient’s care.
- (x) “Transfer” means the process whereby a licensee or physician accepts management responsibility for a patient’s care.
- (y) “Transport” means the process whereby a patient is moved from one location to another.

(Authorized by K.S.A. 65-28b07(d); implementing K.S.A. 65-28b02 and 65-28b07(d); effective Jan. 10, 2020.)

100-28b-2. Application for licensure.

Each applicant for licensure to engage in the independent practice of midwifery shall submit the following to the board:

- (a) The fee required by K.A.R. 100-28b-6;
- (b) a completed application on a form provided by the board;
- (c) a signed waiver agreement and statement for fingerprint-based record checks;
- (d) an official transcript for the applicant from an educational program approved by the board under K.A.R. 100-28b-3 that specifies the degree awarded;
- (e) an official verification of licensure to practice as an advanced practice registered nurse in the role of nurse-midwife provided directly to the board from the state board of nursing;
- (f) an official verification of approved national certification provided directly to the board from the American midwifery certification board; and
- (g) an official verification of licensure, registration, or certification to practice a health profession provided directly to the board from each state or jurisdiction where the applicant holds a current license, registration, or certification to practice a health profession.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03, 65-28b04, 65-28b05, 65-28b08; effective Dec. 30, 2022.)

100-28b-3. Approved course of study in nurse-midwifery.

The course of study in nurse-midwifery approved by the board to obtain authorization to engage in the independent practice of midwifery shall meet the standards established for advance practice registered nurses certified in nurse midwifery pursuant to the Kansas nurse practice act, and amendments thereto.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03; effective July 8, 2022.)

100-28b-4. Approved national certification.

The national certification approved by the board to obtain authorization to engage in the independent practice of midwifery shall be the certification offered by the American midwifery certification board.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03; effective Dec. 30, 2022.)

100-28b-5. License expiration and cancellation.

- (a) Each license to engage in the independent practice of midwifery issued within the seven- month period beginning June 1 and ending December 31 shall expire on September 30 of the following year and shall be cancelled on October 30 of that year, unless renewed.
- (b) Each license to engage in the independent practice of midwifery issued within the five- month period beginning January 1 and ending May 31 shall expire on September 30 and shall be cancelled on October 30 of the same year, unless renewed.

(Authorized by K.S.A. 65- 28b04 and 65-28b07(d); implementing K.S.A. 65-28b04; effective Jan. 10, 2020.)

100-28b-6. Fees.

- (a) The following fees shall be collected by the board:

- (1) Application for license \$ 100.00
- (2) Annual renewal of license:
 - (A) Paper renewal \$ 75.00
 - (B) On-line renewal \$ 50.00
- (3) Late renewal:
 - (A) Paper renewal \$ 50.00
 - (B) On-line renewal \$ 25.00
- (4) Certified copy of license. \$ 20.00
- (5) Verified copy of license. \$ 20.00

- (b) If a licensee’s initial license is issued six or fewer months before the deadline for the licensee to renew the license, the first annual renewal fee shall be \$25.00 if the licensee renews on-line.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03, 65-28b04, and 65-28b05; effective July 8, 2022.)

100-28b-7. Continuing education.

- (a) As a condition of renewal, evidence of completion within the preceding one-year period of 15 contact hours of continuing education may be requested by the board. The continuing education shall meet or exceed the standards specified in K.S.A. 65-1132(a)(2), and amendments thereto.
- (b) For the purposes of this regulation, “contact hour” shall mean a total of 50 minutes of

participation in a learning experience intended to build upon the educational and experiential bases of an advanced practice registered nurse midwife. Fractions of hours over 30 minutes to be computed towards a contact hour shall be accepted.

- (c) An individual initially licensed to engage in the independent practice of midwifery less than 12 months before the renewal date shall not be required to submit the evidence of completion of continuing education required by subsection (a) for the first renewal period.
- (d) An extension of not more than six months to submit evidence of completion of continuing education may be granted by the board for a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any similar circumstance beyond the licensee's control that renders the licensee incapable of meeting the requirements of subsection (a). Each such request shall be submitted with or before submitting an application for renewal and shall include a plan for completion of the continuing education requirements within the requested extension period.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b04; effective Dec. 30, 2022.)

100-28b-11. Licensees who direct, supervise, or delegate acts that constitute the independent practice of midwifery; requirements and limitations.

Each licensee who directs, supervises, or delegates acts that constitute the independent practice of midwifery to any other persons shall meet the following requirements:

- (a) Be engaged in the independent practice of midwifery in Kansas;
- (b) direct, supervise, or delegate only those acts and functions that the licensee knows or has reason to know can be competently performed by the person and are not in violation of any statute or regulation; and
- (c) direct, supervise, or delegate only those acts and functions that are within the competence and lawful practice of the licensee.

(Authorized by and implementing K.S.A. 65-28b07; effective Dec. 30, 2022.)

100-28b-12. Assessment of patient for identifiable risks.

Each licensee shall perform and document an initial and ongoing assessment of each identifiable risk to the course of labor, delivery, or health of the patient or newborn to determine whether the clinical services required by the patient will be limited to those associated with a normal, uncomplicated pregnancy and a normal, uncomplicated delivery, including the following:

- (a) Age of the patient;

- (b) gestational age;
- (c) major medical problems, including the following:
 - (1) Chronic hypertension, heart disease, or pulmonary embolus;
 - (2) congenital heart defect assessed as pathological by a cardiologist that places the patient or fetus at risk;
 - (3) renal disease;
 - (4) drug addiction or use of anticonvulsant drugs;
 - (5) diabetes mellitus;
 - (6) thyroid disease; and
 - (7) bleeding disorder or hemolytic disease;
- (d) previous history of a significant obstetrical complication or medical condition, including the following:
 - (1) Rh sensitization;
 - (2) previous uterine wall surgery, including cesarean section;
 - (3) seven or more term pregnancies;
 - (4) previous placental abruption; and
 - (5) previous preterm birth; and
- (e) medical indication of any of the following:
 - (1) Uncontrolled gestational hypertension;
 - (2) polyhydramnios or oligohydramnios;
 - (3) placental abruption;
 - (4) chorioamnionitis;
 - (5) known fetal anomaly;
 - (6) multiple gestations;
 - (7) intrauterine growth restriction;
 - (8) fetal distress;
 - (9) alcoholism or drug addiction;
 - (10) thrombophlebitis; or
 - (11) pyelonephritis.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02 and 65-28b07; effective Dec. 30, 2022.)

100-28b-14. Patient records.

- (a) Each licensee shall maintain an adequate health care record for each patient for whom the licensee performs a professional service.
- (b) Each health care record shall meet the following requirements:

- (1) Contain only those terms and abbreviations that are or should be comprehensible to similar licensees;
- (2) document adequate identification of the patient;
- (3) document all professional services provided or recommended and the date on which each professional service was provided or recommended;
- (4) document all clinically pertinent information concerning the patient's condition;
- (5) document all identifiable risk assessments performed on the patient;
- (6) document all examinations, vital signs, and tests obtained, performed, or ordered, and the findings and results of each;
- (7) document all medications prescribed, dispensed, or administered, the time each medication was prescribed, dispensed, or administered, and the dose and route of each medication;
- (8) document the patient's response to all professional services performed or recommended;
- (9) document all instruction and education provided to the patient related to the childbearing process;
- (10) document the date and time of the onset of labor;
- (11) document the course of labor, including all examinations and pertinent findings;
- (12) document the date and exact time of birth, the presenting part of the newborn's body, the newborn's sex, and the newborn's Apgar scores;
- (13) document the time of expulsion and the condition of the placenta;
- (14) document the condition of the patient and newborn, including any complications and action taken;
- (15) contain the results of all postpartum and newborn examinations;
- (16) document all professional services provided to the newborn, including prescribed medications and the time, type, and dose of eye prophylaxis;
- (17) contain documentation of all consultation and collaboration with a physician concerning the patient;
- (18) contain documentation of each referral, transfer, and transport to a medical care facility, including the reasons for each referral, transfer, or transport to a medical care facility;
- (19) contain all written instructions given to the patient regarding postpartum care, family planning, care of the newborn, arrangements for metabolic testing, immunizations, and follow-up pediatric care; and
- (20) contain all pertinent health care records received from other health care providers.

(c) Each entry in the health care record shall meet the following requirements:

- (1) Be legible; and
- (2) be authenticated by the person making the entry. Each authentication in the health care record for an entry documenting professional services provided by an individual licensed to engage in the independent practice of midwifery

shall include the letters “CNM-I” after the licensee’s name.

- (d) For the purposes of the independent practice of midwifery act and this regulation, an electronic patient record shall be deemed a written patient record if both of the following conditions are met:
- (1) Each entry in the electronic record is authenticated by the licensee.
 - (2) No entry in the electronic record can be altered after authentication.

(Authorized by and implementing K.S.A. 65-28b07; effective July 8, 2022.)

100-28b-15. Transport and transfer protocol requirements.

- (a) Each licensee shall have a written protocol in place for each patient for the timely and safe transport to a hospital with an obstetrical unit and physician within a reasonable proximity of the planned location of labor and delivery. Each written protocol shall include the following:
- (1) A plan for transporting the patient by emergency medical services;
 - (2) a plan for notification of the hospital and physician;
 - (3) a plan for communication of the patient's medical history and present condition; and
 - (4) at least one of the following:
 - (A) A plan for transferring the patient to the hospital and a physician;
 - (B) evidence of a transfer agreement with the hospital and physician; or
 - (C) evidence that the licensee has admitting privileges at the specified hospital.
- (b) Each licensee shall ensure that all staff members attending the patient's labor and delivery have immediate access to a working telephone or another communication device and to all necessary information for transporting and transferring a patient in case of an emergency.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

100-28b-16. Duty to consult, refer, transfer, and transport.

- (a) A licensee shall immediately informally consult, formally consult, refer, or transfer care of a patient to a physician, or transport the patient to a hospital if the patient’s medical history or condition presents identifiable risks to the course of pregnancy, labor, delivery, or health of the patient.
- (b) Any licensee may continue or resume providing clinical services to the patient if a physician has determined that the patient’s medical history or condition has been

resolved, or that the identifiable risks presented by the patient's medical history or condition are not likely to affect the course of pregnancy, labor, delivery, or health of the patient or newborn.

- (c) A licensee shall immediately informally consult, formally consult, refer, or transfer care of a newborn to a physician, or transport the newborn to a hospital if at any time the newborn's condition presents identifiable risks to the health of the newborn.
- (d) Any licensee may continue or resume providing clinical services to the newborn if a physician has determined that the newborn's condition has been resolved or that the identifiable risks presented by the newborn's condition are not likely to affect the health of the newborn.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

100-28b-17. Identifiable risks requiring immediate referral and transport of patient.

Identifiable risks requiring the immediate referral and transport of a patient shall include the following:

- (a) Maternal fever of more than 100.4 degrees Fahrenheit during labor, in the absence of environmental factors;
- (b) suggestion of fetal jeopardy, including clinically significant frank bleeding before delivery, abnormal bleeding with or without abdominal pain, evidence of placental abruption, or detection of abnormal fetal heart tones;
- (c) current spontaneous preterm labor;
- (d) current preterm premature rupture of membranes;
- (e) current preeclampsia;
- (f) current hypertensive disease of pregnancy;
- (g) continuous uncontrolled bleeding;
- (h) postpartum bleeding that does not subside with the administration of oxytocin or other antihemorrhagic agent;
- (i) delivery injuries to the bladder or bowel;
- (j) grand mal seizure;

- (k) uncontrolled vomiting;
- (l) coughing or vomiting blood;
- (m) severe chest pain; and
- (n) sudden onset of shortness of breath and labored breathing.

(Authorized by K.S.A. 65- 28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

100-28b-18. Identifiable risks requiring immediate referral and transport of newborn.

Identifiable risks requiring the immediate referral and transport of a newborn shall include the following:

- (a) Respiratory rate greater than 80 or grunting, flaring, or retracting following delivery with meconium-stained fluid;
- (b) central cyanosis or pallor for more than 10 minutes;
- (c) Apgar score of six or less at five minutes of age;
- (d) abnormal bleeding;
- (e) more than eight hours of continuous postpartum evaluation;
- (f) vesicular skin lesions;
- (g) seizure-like activity;
- (h) poor feeding effort due to lethargy or lack of interest for more than two hours immediately following birth;
- (i) temperature less than 96.8 degrees Fahrenheit or greater than 100.4 degrees Fahrenheit documented more than 15 minutes apart;
- (j) heart murmur lasting more than 24 hours immediately following birth;
- (k) cardiac arrhythmia;
- (l) congenital anomalies;
- (m) failed critical congenital heart disease screening;

- (n) birth injury;
- (o) clinical evidence of prematurity, including low birth weight of less than 2,500 grams, smooth soles of feet, or immature genitalia;
- (p) jaundice in the first 24 hours after birth or significant jaundice at any time;
- (q) no stool for more than 24 hours immediately following birth;
- (r) no urine output for more than 24 hours; and
- (s) development of persistent poor feeding effort at any time.

(Authorized by K.S.A. 65- 28b07; implementing K.S.A. 65-28b02, 65-28b07; effective Jan. 10, 2020.)

100-28b-19. Unprofessional conduct.

- (a) For the purposes of the independent practice of midwifery act and this article of the board's regulations, “unprofessional conduct” shall mean any of the following:
 - (1) Soliciting patients through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee;
 - (2) representing to a patient that a manifestly incurable disease, condition, or injury can be permanently cured;
 - (3) assisting in the care or treatment of a patient without the consent of the patient or the patient's legal representatives;
 - (4) using any letters, words, or terms as an affix, on stationery, or in advertisements, or otherwise indicating that the person is entitled to practice any profession regulated by the board or any other state licensing board or agency for which the person is not licensed;
 - (5) performing, procuring, or aiding and abetting in the performance or procurement of a criminal abortion;
 - (6) willful betrayal of confidential information;
 - (7) advertising professional superiority or the performance of professional services in a superior manner;
 - (8) advertising to guarantee any professional service painlessly;
 - (9) engaging in conduct related to practice as an independent certified nurse-midwife that is likely to deceive, defraud, or harm the public;
 - (10) making a false or misleading statement regarding the licensee's skill or the efficacy or value of the drug, treatment, or remedy prescribed by the licensee or at the licensee's direction in the treatment of any disease or other condition of the body or mind;

- (11) committing any act of sexual abuse, misconduct or other improper sexual contact that exploits the licensee-patient relationship with a patient or a person responsible for health care decisions concerning the patient;
- (12) using any false, fraudulent, or deceptive statement in any document connected with the independent practice of midwifery, including the intentional falsifying or fraudulent altering of a patient or medical care facility record;
- (13) obtaining any fee by fraud, deceit, or misrepresentation;
- (14) failing to transfer patient records to another licensee when requested to do so by the subject patient or by the patient's legally designated representative;
- (15) performing unnecessary tests, examinations, or services that have no legitimate medical purpose;
- (16) charging an excessive fee for services rendered;
- (17) prescribing, dispensing, administering, or distributing a prescription drug or substance, including a controlled substance, in an improper or inappropriate manner, for other than a valid medical purpose, or not in the course of the licensee's professional practice;
- (18) repeated failure to practice with that level of care, skill, and treatment that is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances;
- (19) failure to keep health care records that accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results, and test results;
- (20) delegating professional responsibilities to a person if the licensee knows or has reason to know that the person is not qualified by training, experience, or licensure to perform these responsibilities;
- (21) failing to properly supervise, direct, or delegate acts that constitute the independent practice of midwifery to persons who perform professional services pursuant to the licensee's direction, supervision, order, referral, delegation, or practice protocols;
- (22) failing to meet the requirements of K.A.R. 100-28b-11;
- (23) willfully or repeatedly violating the independent practice of midwifery act, the pharmacy act of the state of Kansas, or the uniform controlled substances act, or any implementing regulations, or any regulations of the secretary of health and environment;
- (24) being found to have unlawfully practiced any profession regulated by the board in which the licensee is not licensed to practice;
- (25) violating any lawful order or directive of the board;
- (26) being found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect, or incompetent to stand trial by a court of competent jurisdiction;
- (27) prescribing, selling, administering, distributing, or giving a controlled substance to any person for other than medically accepted or lawful purposes;

- (28) engaging in a practice or conduct that violates a federal law or regulation relating to controlled substances;
- (29) engaging in a practice or conduct that violates a federal law or regulation relating to health care records;
- (30) failing to furnish the board, or its investigators or representatives, any information legally requested by the board;
- (31) having sanctions or disciplinary actions against the licensee by a peer review committee, a health care facility, a governmental agency or department, or a professional association or society for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under the independent practice of midwifery act;
- (32) surrendering a license or authorization to practice nursing in another state or jurisdiction, surrendering the authority to utilize controlled substances issued by any state or federal agency, agreeing to a limitation to or restriction of privileges at any medical care facility, or surrendering the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under the independent practice of midwifery act;
- (33) having an adverse judgment, award, or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action under the independent practice of midwifery act;
- (34) failing to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or K.S.A. 40-3403a, and amendments thereto;
- (35) failing to pay the premium surcharges pursuant to K.S.A. 40-3404, and amendments thereto;
- (36) knowingly submitted any misleading, deceptive, untrue, or fraudulent representation on a claim form, bill, or statement;
- (37) giving a worthless check or stopping payment on a debit or credit card for fees or moneys legally due to the board;
- (38) knowingly or negligently abandoning medical records;
- (39) engaging in conduct that violates patient trust and exploits the licensee-patient relationship for personal gain; or
- (40) obstructing a board investigation, including engaging in one or more of the following acts:
 - (A) Falsifying or concealing a material fact;
 - (B) knowingly making or causing to be made any false or misleading statement or writing; or
 - (C) any other acts or conduct likely to deceive or defraud the board.

(b) "False advertisement" shall mean any advertisement that is false, misleading, or deceptive in a

material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of the representations made.

- (c) “Advertisement” shall mean any representation disseminated in any manner or by any means, for the purpose of inducing, or likely to induce, directly or indirectly, the purchase of professional services.
- (d) Failure to meet any of the requirements of this regulation shall constitute unprofessional conduct.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b08; effective Dec. 30, 2022.)

100-28b-20. Maintenance and storage of health care records.

- (a) Each licensee shall maintain the health care record for pregnancy, delivery, postpartum, and newborn care for at least 25 years from the date the licensee provided the professional service recorded.
- (b) Each licensee shall maintain the health care record for family planning services and the treatment of sexually transmitted infections for at least 10 years from the date the licensee provided the professional service recorded.
- (c) Any licensee may designate an entity, another licensee, or a health care facility to maintain a health care record if the licensee requires the designee to store the record in a manner that maintains confidentiality and allows lawful access.
- (d) Health care records may be stored by an electronic data system, microfilm, or similar photographic means. Any licensee may destroy original paper records if the electronically stored health care record can be reproduced without alteration from the original.
- (e) Each electronically stored health care record shall identify any existing original documents or information not included in the electronically stored health care record.
- (f) Each licensee who terminates practice in Kansas shall, within 30 days of the termination, provide the following information to the board:
 - (1) The location where the licensee’s health care records are stored;
 - (2) if the licensee designates an agent to maintain the health care records, the agent’s name, telephone number, and mailing address; and
 - (3) the date on which the health care records are scheduled to be destroyed, according to this regulation.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b07; effective July 8, 2022.)