



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY,
NY 12234

TO: The Professional Practice Committee

FROM: Douglas E. Lentivech

SUBJECT: Proposed Amendment to the Regulations of the Commissioner of Education relating to the Education of Professional Midwives and Amendment to the Regulations of the Commissioner of Education and the Rules of the Board of Regents relating to the Practice of Midwifery

DATE: September 2, 2011

AUTHORIZATION(S):

SUMMARY

Issue for Action:

Should the Board of Regents add section 29.19 of the Rules of the Board of Regents and amend sections 52.20, 79-5.2, 79-5.3, 79-5.5, 79-5.6, and 79-5.7 of the Regulations of the Commissioner of Education relating to educational preparation for, and professional practice of, licensed midwives?

Reason(s) for Consideration

Required by State Statute and Review of Policy.

Proposed Handling

This matter was discussed before the Professional Practice Committee at the June 2011 Regents Meeting. It is presented for action at the September 2011 meeting of the Board of Regents.

Procedural History

A Notice of Proposed Rule Making was published in the State Register on June 29, 2011. Several comments were received; the Assessment of Public Comment is attached.

Background Information

The proposed repeal of section 79-5.7 of the Regulations of the Commissioner of Education is necessary to implement chapter 238 of the Laws of 2010, which amended section 6951 of the Education Law to eliminate the requirement that midwives practice only under a written practice agreement with a physician or a hospital. In lieu of a written practice agreement, the law now requires midwives to have collaborative relationships with physicians or hospitals that provide for consultation, collaborative management, and referral to address the health status and risks of the midwife's patients and that include plans for emergency medical gynecological and/or obstetrical coverage. Under the proposed addition of section 29.19 of the Rules of the Board of Regents, the failure to have such a collaborative relationship would constitute unprofessional conduct.

Concurrently, amendments to the Regulations of the Commissioner of Education are proposed to update and conform educational requirements for licensure as a midwife to national standards, thus increasing the educational requirement from a baccalaureate to masters level preparation.

As of January 1, 2011, every midwifery program accredited by the Accreditation Council on Midwifery Education, the sole accrediting body recognized by SED for midwifery education, has already moved to an enhanced midwifery curriculum. The proposed amendment of section 52.20 of the Regulations of the Commissioner, reflect these national standards and the expanded and increasingly independent role midwives play. The proposed curriculum requirements incorporate all former competencies and add new related coursework. For example, the proposal expands the educational content in the biological sciences by specifically requiring such topics as embryology, microbiology and pathophysiology.

New York's Midwifery Practice Act also provides for the licensure of candidates who are not first licensed as nurses, as a result of which, under existing regulations, components of a nursing education have been included in the required coursework for midwifery. While certain references to nursing coursework are deleted in the proposed regulations, the components of such coursework are still explicitly required and may be integrated throughout the midwifery curriculum.

The proposal will also provide clarity to SED staff in the evaluation of qualifications of midwives educated in other countries.

The proposed amendment to section 79-5.3(b) of the Regulations of the Commissioner would require applicants for licensure to have completed the educational requirements for licensure in order to be admitted to the licensing examination. The contemporary licensing examination for midwives is a competency-based test predicated on completion of the entire curriculum. Accordingly, applicants should complete that curriculum prior to taking the exam. Additionally, this change would be consistent with the pre-exam requirements for most other professions.

It is proposed that section 79-5.5 of the Regulations of the Commissioner be repealed. That section provided a grandparenting option for licensure for which

applicants were required to apply prior to June 1, 1996. This provision is no longer required as no such applications are still pending.

Current section 79-5.6 of the Regulations of the Commissioner would be renumbered section 79-5.5 and revised to delete a reference to the written practice agreement which is no longer required, as noted above. Additional nonsubstantive changes are proposed in the wording of the section regarding the prescriptive privilege for midwives.

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 29.19 of the Rules of the Board of Regents be added; that section 52.20, subdivision (a) of section 79-5.2, and subdivision (b) of section 79-5.3 of the Regulations of the Commissioner of Education be amended; and that sections 79-5.5 and 79-5.7 of the Regulations of the Commissioner of Education be repealed, and section 79-5.6 of the Regulations of the Commissioner of Education be renumbered section 79-5.5 and amended, all as submitted, effective October 5, 2011.

Timetable for Implementation

If adopted at the September meeting, the amendment will become effective October 5, 2011.

Attachment

AMENDMENTS TO RULES OF THE BOARD OF REGENTS AND REGULATIONS OF
THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6506, 6507, 6509, and 6951 of the Education Law

1. The Rules of the Board of Regents are amended, effective October 5, 2011, by the addition of a new section 29.19 to read as follows:

29.19 Special provisions for the profession of midwifery.

Unprofessional conduct in the practice of midwifery shall include all conduct prohibited by sections 29.1 and 29.2 of this Part, except as provided in this section, and shall also include:

(a) failure to have collaborative relationships that provide for consultation, collaborative management and referral to address the health status and risks of his or her patients and that include plans for emergency medical gynecological and/or obstetrical coverage with:

(1) a licensed physician who is board certified as an obstetrician-gynecologist by a national certifying body;

(2) a licensed physician who practices obstetrics and has obstetric privileges at a general hospital licensed under Article 28 of the Public Health Law; or

(3) a hospital, licensed under Article 28 of the Public Health Law, that provides obstetrics through a licensed physician having obstetrical privileges at such institution;

or

(b) failure to maintain documentation of such collaborative relationships, to make information about such collaborative relationships available to his or her patients, or to provide such documentation to the Department upon request.

2. Section 52.20 of the Regulations of the Commissioner of Education is amended, effective October 5, 2011, as follows:

§52.20, Midwifery.

(a) Definitions. As used in this section:

(1) [Educational preparation for the practice of nursing shall mean didactic courses accompanied by supervised clinical experiences which include, but are not limited to, the following curricular areas:

- (i) technical health care skills;
- (ii) maternity, pediatric, medical, surgical, psychiatric, and mental health care;
- (iii) nutrition;
- (iv) pharmacology;
- (v) ethics; and
- (vi) biological, physical, and social sciences supportive to health care.]

Educational content in the biological, physical and social sciences supportive to health care shall mean coursework which includes, but is not limited to, the following curricular areas:

- (i) biology;
- (ii) embryology, human development and genetics;
- (iii) chemistry;
- (iv) microbiology;
- (v) human anatomy and physiology, including pathophysiology;
- (vi) psychology; and
- (vii) sociology or cultural anthropology.

(2) Educational preparation for the practice of midwifery shall mean didactic courses accompanied by supervised clinical experiences which include, but are not limited to, the following curricular areas:

- (i) technical health care skills;

(ii) preconceptional, antepartum, intrapartum, and postpartum care;

[(ii)] (iii) physical assessment, diagnosis, [and] treatment, [of actual or potential] and management of health problems of women;

[(iii) well-woman] (iv) primary care of women, including preventative care;

[(iv)] (v) neonatal care;

[(v)] (vi) family planning and gynecological care of prepubescent through postmenopausal women;

[(vi)] (vii) professional, legal, and ethical aspects of midwifery practice;

[(vii) areas of] (viii) nutrition related to the practice of midwifery; and

[(vii) a] (ix) pharmacology [that includes instruction in drug management of midwifery clients] as described in section 79-5.5 of this Title.

(3) Equivalent shall mean substantially the same, as determined by the department.

(b) Curriculum. In addition to meeting all applicable provisions of this Part, the following requirements shall be met:

(1) To be registered as a program recognized as a program leading to licensure in midwifery which meets the requirements in section [79-5.2(a)(2)(i)] 79-5.2 of this Title, it shall be a program in midwifery leading to a [baccalaureate] Masters degree or higher academic credential, or the equivalent, and shall include educational preparation for the practice of midwifery [and additional courses in appropriate related basic sciences and clinical sciences. Admission requirements to such a program shall be the successful completion of a degree or diploma program in registered professional nursing, registered pursuant to section 52.12(a)(1) and (3) of this Part, which contains the educational preparation for the practice of nursing as defined in paragraph (a)(1) of this section, or an equivalent program as determined by the department.

(2) To be registered as a program recognized as a program leading to licensure in midwifery which meets the requirements in section 79-5.2(a)(2)(ii) of this Title, it shall be a program in midwifery leading to a baccalaureate degree or higher academic credential and shall include educational preparation for the practice of nursing and educational preparation for the practice of midwifery and additional courses in appropriate related basic sciences and clinical sciences.] as defined in paragraph (2) of subdivision (a) of this section. Admission requirements to such a program shall include successful completion of a baccalaureate degree, or the equivalent, and successful completion of the educational content in the biological, physical and social sciences supportive to health care as defined in paragraph (1) of subdivision (a) of this section, provided that such admission requirements may be integrated as part of the Master's degree program.

(c) Clinical facilities. A written contract or agreement shall be executed between the educational institution conducting the midwifery program and the clinical facilities or agencies which are designated to cooperate in providing the clinical experience, which shall set forth the responsibilities of each party, and shall be signed by the responsible officer of each party.

3. Subdivision (a) of section 79-5.2 of the Regulations of the Commissioner of Education is amended, effective October 5, 2011, as follows:

(a) To meet the professional education requirement for licensure as a midwife in this state, the applicant shall present satisfactory evidence of completion of a Master's or higher degree program in midwifery or a related field acceptable to the Department which is registered by the Department pursuant to section 52.20 of this Title, accredited by an acceptable accrediting agency, or equivalent to such a registered or accredited program.

[(1) graduation from high school, or the equivalent; and

(2) either:

(i) completion of a degree or diploma program in registered professional nursing, registered pursuant to paragraphs (1) and (3) of subdivision (a) of section 52.12 of this Title, which contains the educational preparation for the practice of nursing as defined in paragraph (1) of subdivision (a) of section 52.20 of this Title, or an equivalent program as determined by the department and completion of a program in midwifery, registered pursuant to paragraph (1) of subdivision (b) of section 52.20 of this Title, or its equivalent as determined by the department; or

(ii) completion of a program in midwifery which is either:

(a) registered by the department pursuant to paragraph (2) of subdivision (b) of section 52.20 of this Title; or

(b) determined by the department to be the equivalent of such a registered program.]

(b) For a curriculum that is offered by a post-secondary institution outside of New York State to be determined by the department to be the equivalent of a registered program in midwifery the curriculum shall be:

(1) recognized by the appropriate civil authorities of the jurisdiction in which the school is located as an acceptable education program for licensure as a midwife in that jurisdiction; and

(2) equivalent in scope, content, and level of study to a program registered by the department pursuant to subdivision (b) of section 52.20 of this Title.

4. Subdivision (b) of section 79-5.3 of the Regulations of the Commissioner of Education is amended, effective October 5, 2011, as follows:

(b) [Education requirements for admission. Notwithstanding the provisions of section 59.2 of this Title, an] An applicant for licensure shall [not] be required to satisfy [education] the professional study of midwifery requirements set forth in section 79-5.1 of this Part before being admitted to a professional licensing examination in midwifery. [Such education requirements shall be completed prior to licensure.]

5. Sections 79-5.5 and 79-5.7 of the Regulations of the Commissioner of Education are repealed, and section 79-5.6 of the Regulations of the Commissioner of Education is renumbered section 79-5.5 and amended, effective October 5, 2011, as follows:

[§79-5.6] §79-5.5 Prescriptive privilege.

Pursuant to section 6951(2) of the Education Law, the department shall issue a certificate which authorizes a licensed midwife to prescribe and administer drugs, immunizing agents, diagnostic tests and devices, and to order laboratory tests, limited to the practice of midwifery [and subject to limitations of the practice agreement as set forth in section 79-5.7 of this Subpart]. Such a [certifications] certification shall be issued to a licensed midwife who submits satisfactory evidence to the department of completion of a three-credit course in pharmacology [that includes instruction in drug management of midwifery clients and on] related to the scope of practice of midwifery, including New York State and Federal laws and regulations relating to prescriptions and record keeping, or the satisfactory completion of equivalent course work as determined by the department.