MEETING of the
CERTIFIED NURSE MIDWIFE COUNCIL
Tuesday, September 20, 2016 at 2:00 pm

A G E N D A

I. Roll Call

II. Approval of minutes- 8/18/16, 8/25/16
III. New Business- Review of consultation with Kansas Board of Nursing
IV. Old Business
- **a. Review of revised draft regulations from KSBHA staff**
- **b. Discussion**
- **c. Recommendations of Council**
- **d. Set agenda for next meeting**

V. Adjournment

Kansas State Board of Healing Arts

To: **Kansas Board of Nursing**

From: **Kelli Stevens, General Counsel**
Stacy Bond, Assistant General Counsel

Date: **September 6, 2016**

Re: **Request for initial review and input from Board of Nursing on draft regulations for Independent Certified Nurse-Midwifes**

Attached for your review, please find preliminary drafts of regulations implementing the new Independent Practice of Midwifery Act ("Act") that have been drafted by the Board of Healing Arts staff with input and assistance in drafting by Board of Nursing staff. These drafts are still very rough in their format and language and should only be considered for their contents at this stage.

The new Act defines the scope of independent practice for certified nurse-midwives licensed by the Board of Healing Arts as:

> 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 minor vaginal laceration; 3) the care of the normal newborn; and 4) family planning services, including treatment or referral of male partners for sexually-transmitted infections.

Areas for Board of Nursing Consultation:

The attached draft regulations address the areas identified in the Act for which the Board of Nursing is to be consulted and concur with the content prior to the regulations being adopted by the Board of Healing Arts. These include the following aspects of certified nurse-midwife practice under this new license:

1) engaging in the independent practice of midwifery

2) ordering of tests, diagnostic services and prescribing of drugs

3) referral to or transfer of care to physicians in the event of complications or emergencies.

The newly formed Certified Nurse-Midwife Advisory Council (comprised of APRN-NMs and physicians) has met on 5 occasions with staff and other stakeholders to provide their professional opinions to provide assistance in the regulation drafting process. The individual members have also provided medical and nursing literature for staff and the Council as a whole. Their minutes are also included as background information.

Anticipated process for regulation development and adoption:

At this stage in the process, Board of Healing Arts staff and the CNM Advisory Council are seeking consultation from the Board of Nursing on the draft regulations. Once input is received from the Board of Nursing, the Council will meet again to discuss any recommendations and revise the drafts as needed to be reviewed by the Board of Healing Arts. Once the Board of Healing Arts has reviewed the revised drafts, they will be referred again to the Board of Nursing for content approval or additional input.

Issues for specific consideration:

The draft regulations are intended to set minimum standards for practice. These new licensees (who will use the abbreviation CNM-I) will be required to also maintain their APRN license and may continue practicing under that license. Therefore, it is imperative that distinctions in title and scope of practice be included in the regulations. Members of the Council have had differing opinions regard what conditions and elements of a patient's medical history would be risk factors that fall outside the scope of an "normal, uncomplicated pregnancy and delivery". There have also been some areas of debate as to how specific the regulations should be in order to give adequate guidance to the profession on the parameters of independent practice with respect to pregnancy and delivery.

VBACs:

The members of the Council have differing opinions on the issue of VBACs being within the scope of practice for a CNM-I. The draft definition of a "normal, uncomplicated pregnancy" is a pregnancy that is initially determined to be at low risk for a poor pregnancy outcome and that remains at low risk throughout the pregnancy. All members of the Council agree that a woman can have an uncomplicated delivery after a previous cesarean delivery, but the members do not agree on whether a prior cesarean delivery is a risk factor that inherently falls outside "normal, uncomplicated pregnancy." One of the physician members of the Council expressed his opinion that the standard of care for any trial of labor and delivery after a prior cesarean would require the ability to immediately convert to a cesarean.

Specificity of risk factors requiring referral/transfer**:**

The attached drafts vary in their structure and degree of specificity regarding risk factors. There are multiple versions of the draft regulations which vary in their content regarding scope and the duty to refer/transfer. The Council has agreed that where referral or transfer is necessary, if a patient is subsequently determined to be at low risk for complications, the CNM-I may resume care. The Council has been discussing two options for articulating scope of practice and the duty to refer/transfer:

Option 1) Specify patient conditions for which independent practice is prohibited, but only generally define conditions for which there is a duty to refer or transfer.

This option would set forth that the CNM-I use their professional judgment to determine if a patient's history or condition presents identifiable risks to the course of pregnancy, labor, delivery or the health of the female patient or newborn.

Option 2) Specify patient conditions for which independent practice is prohibited, and include a list of identifiable risk factors and conditions which absolutely require referral or transfer.

Under this option, licensees would be provided very specific guidance on the parameters of independent practice.

Title Distinction:

Staff from both the Board of Healing Arts and Board of Nursing believe it is imperative to have a separate title and abbreviation for the independent certified nurse-midwife license. Documentation must reflect this licensure as well. As such, the abbreviation CNM-I has been proposed as a designation for this license. Theoretically, a CNM-I could convert to practicing under their APRN-NM license for the same patient with a collaborative agreement in place. Their APRN scope of practice may be broader than the scope defined in the new Act for independent practice of midwifery. If there is no distinction, both Boards could easily discern under which license a nurse-midwife was practicing. While this new designation may initially create difficulties with pharmacies, EMR systems, etc., it would be inaccurate for person practicing as an independent certified nurse-midwife to indicate in medical records, orders and prescriptions to use the APRN-NM designation which is reserved for practice under that license alone.

Conclusion:

The Board of Healing Arts members and staff greatly appreciate the professional guidance and dedicated effort of the CNM Advisory Council. Hopefully, with input from the Board of Nursing, the Council will be able to successfully complete further revisions.

Attachments:

- Independent Practice of Midwifery Act
- Draft regulations:
    - Definitions
    - Title
    - Scope
    - Conversion to practice under APRN license
    - Delegation and Supervision
    - Referral and Transfer (multiple versions)
    - Patient Records
    - Interagency reporting of violations
- CNM Advisory Council Minutes: 6/29, 7/14, 8/4, 8/18 (draft), 8/25 (draft)

100-74-1. Definitions. As used in this article, 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 the stage of care that commences when a pregnant woman presents herself for care during pregnancy and ends at the onset of labor.

() "Birthing center" means a facility which provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.

() "Family planning services" means the provision of contraceptive methods, preconception health services, and sexually transmitted infection screening and treatment to patients.

() "Home birth" means an attended birth in a private residence or a location other than a birth center or hospital.

() "Hospital" has the meaning specified in K.S.A. 65-425, and amendments thereto.

() "Identifiable risks" mean conditions which may affect the course of pregnancy, labor, delivery or the health of the patient or newborn that require the referral or transfer of care of a patient or newborn.

() "Initial care of a normal newborn" means clinical services provided to a normal newborn during the first 28 days of life.

() "Intrapartum" means the stage of care commencing with the onset of labor and ending after the delivery of the placenta.

() “Licensee” means a certified nurse-midwife licensed by the Board to engage in the independent practice of midwifery as defined in Sec. 89(c).

() “Newborn” means a newborn infant of a patient during the first 28 days of life after birth.

() “Normal newborn” means a newborn infant that has been to have no complications or be at low risk of developing complications.

() “Normal, uncomplicated delivery” means delivery of a singleton cephalic vaginal birth that has been clinically determined to be at low risk for complications.

(Alt def) “Normal, uncomplicated labor and delivery” means spontaneous labor or labor induced in a hospital that results in a singleton cephalic vaginal birth that has been clinically determined to be at low risk for complications.

() “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.

(Alt. def) “Normal, uncomplicated pregnancy” means a pregnancy without any preexisting maternal disease or condition likely to affect the pregnancy or significant disease arising from the pregnancy.

() “Patient” means a woman for which an independent certified nurse-midwife provides clinical services.

() “Poor pregnancy outcome” means any outcome other than a live, healthy patient and newborn.

() “Postpartum” means the stage of care commencing with the delivery of the placenta and ending six weeks after birth.

(Authorized by K.S.A._____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.)

K.A.R. 100-74-7. Title; prohibited acts; act not to include certain persons; penalty for violations. (a) Prior to providing clinical services to any patient, each licensee shall be identified to the patient as an independent certified nurse-midwife and shall use the term independent certified nurse-midwife or the abbreviation CNM-I to designate such license.

(b) It shall be unlawful for any person who is not licensed under the independent practice of midwifery act, and amendments thereto, or whose license has been revoked or suspended to engage in the practice as an independent certified nurse-midwife as defined by this act.

(c) It shall be unlawful for any person who is not licensed under the independent practice of midwifery act, and amendments thereto, as an independent certified nurse-midwife or whose license has been suspended or revoked in any manner to represent oneself as an independent certified nurse-midwife or to use in connection with such person's name the words independent certified nurse-midwife or use the abbreviation CNM-I, or any other letters, words, abbreviations or insignia, indicating or implying that such person is an independent certified nurse-midwife.

(d) The provisions of the independent practice of midwifery act, and amendments thereto, shall not be construed to include the following persons:

(1) Persons rendering gratuitous services in the case of an emergency;

(2) Individuals practicing religious beliefs which provide for reliance on spiritual means alone for healing;

(3) Persons whose professional services are performed through a collaborative agreement or by order of a practitioner who is licensed under the healing arts act;

(4) Other health care providers licensed, registered, certified or otherwise credentialed by agencies of the state of Kansas when practicing within the scope of such license, registration, certificate or other credentials; and

(5) Persons whose professional services are performed under the supervision of an individual who is licensed under the independent practice of midwifery act.

(e) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon licensee to engage in any activity not conferred by article XX of chapter XX of the Kansas Statutes Annotated, and amendments thereto. (Authorized by K.S.A._____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.)

100-74-8. Scope of practice; limitations. (a) A licensee may perform clinical services within the scope of practice set forth in Sec. 89(c), and amendments thereto, including:

(1) ordering and interpreting laboratory and diagnostic tests;

(2) prescribing and administering prescription-only medications, including controlled substances;

(3) distributing manufacturers' samples of prescription-only medications;

(4) prescribing the use of medical devices;

(5) ordering ancillary professional services;

(6) performing an uncomplicated circumcision on a male, normal newborn; and

(7) insertion and placement of contraceptive devices.

(b) A licensee shall perform clinical services involving labor and delivery in a hospital if the patient requires the following interventions:

(1) Pharmacologic induction or augmentation of labor; or

(2) spinal or epidural anesthesia.

(c) A licensee shall perform clinical services involving labor and delivery in a hospital with medical staff immediately available to perform an emergency cesarean section delivery for a vaginal birth after previous cesarean delivery.

(d) A licensee shall perform an uncomplicated circumcision on a male, normal newborn in a birth center or hospital.

(e) A licensee shall not provide clinical services to a patient with the following conditions:

(1) Multiple gestation pregnancy.

(2) Noncephalic presentation of the fetus at the onset of labor or rupture of membranes.

(Authorized by K.S.A._____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.)

100-74-XX **Conversion to practice under license as an advanced practice registered nurse.** During the course of providing clinical services, a licensee may convert to practicing under the authorized scope of practice of the individual's license as an advanced practice registered nurse.

K.A.R. 100-74-9. Licensees who supervise acts which constitute practice of independent certified nurse-midwife to others; requirements and limitations. (a) The services of a licensee may be supplemented by the assignment of tasks to an individual licensed by the Kansas Nursing Board or by the delegation of selected nursing tasks or procedures to unlicensed personnel under supervision by the licensee.

(b) Every licensee who supervises acts, which would constitute the independent practice of midwifery, shall:

(1) be actively engaged in the independent practice of midwifery in Kansas;

(2) supervise only those acts and functions which the licensee knows or has reason to believe can be competently performed by such person and is not in violation of any other statute or regulation; and

(3) supervise only those acts and functions which are within the competence and lawful practice of the licensee.

(c) Failure to meet the requirements of this regulation shall constitute unprofessional conduct. (Authorized by K.S.A._____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.)

100-74-10. Transfer protocol requirements.

(a) A licensee shall have a written protocol in place for each patient for the timely and safe transfer to a prespecified hospital within a reasonable proximity of the location of labor and delivery if extended or advanced medical services or emergency services are necessary. Each written protocol shall include:

(1) A plan for transporting a patient by an emergency medical services entity;

(2) a plan for notification of the specified hospital and ongoing communication with the specified hospital about the patient's medical history and present condition; and

(3) at least one of the following:

(A) A plan for patient transfer to the specified hospital;

(B) a transfer agreement with the specified hospital; or

(C) verification that the licensee has admitting privileges at the specified medical care facility.

(b) Each licensee shall ensure that all staff attending any patient's labor and delivery have immediate access to a working telephone or another communication device and to contact information for transferring a patient or a newborn in case of an emergency.

(Authorized by K.S.A._____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.

100-74-XX. Duty to refer or transfer care. (a) A licensee shall immediately refer or transfer care of a patient to a person licensed to practice medicine and surgery or 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 or newborn.

(b) The licensee may resume providing clinical services to the patient if a person licensed to practice medicine and surgery has determined that the patient's medical history or condition has been resolved or that any risk factors 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 refer or transfer care of a newborn to a person licensed to practice medicine and surgery or a hospital if the newborn's condition presents identifiable risks to the health of the newborn.

(d) The licensee may resume providing clinical services to the newborn if a person licensed to practice medicine and surgery has determined that the newborn's condition has been resolved or that any risk factors presented by the newborn's condition are not likely to affect the health of the newborn.

(Authorized by K.S.A._____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.)

100-74-XX. Identifiable Risks Requiring Transfer of Care of Patient.

(a) A licensee shall immediately transfer the care of a patient to a hospital for emergency care or to the appropriate level of care if the patient has any of the following conditions:

(1) Maternal fever in labor of more than 100.4 degrees Fahrenheit, in the absence of environmental factors,

(2) Suggestion of fetal jeopardy, such as frank bleeding before delivery, any abnormal bleeding (with or without abdominal pain), evidence of placental abruption, meconium with non-reassuring fetal heart tone patterns where birth is not imminent, or abnormal fetal heart tones with non-reassuring patterns where birth is not imminent,

(3) Current spontaneous premature labor,

(4) Current pre-term premature rupture of membranes,

(5) Current pre-eclampsia,

(6) Current hypertensive disease of pregnancy,

(7) Continuous uncontrolled bleeding,

(8) Bleeding that does not subside with the administration of oxytocin or other anti-hemorrhagic agent,

(9) Delivery injuries to the bladder or bowel,

(10) Grand mal seizure,

(11) Uncontrolled vomiting,

(12) Coughing or vomiting blood,

(13) Severe chest pain, or

(14) Sudden onset of shortness of breath and associated labored breathing.

(b) A licensee who deems it necessary to transfer or terminate care of a patient pursuant to the rules and regulations of the Board, shall not be regarded has having abandoned care or wrongfully terminated services. Before non-emergent discontinuation of services, the licensee shall notify the patient in writing, provide the patient with names of licensed physicians and contact information for the nearest hospital emergency room and offer to provide copies of medical records regardless of whether copying costs have been paid by the patient.

(Authorized by K.S.A. _____; implementing K.S.A._____, effective, T-_____; effective P-_____.)

100-74-XX. Identifiable Risks Requiring Transfer Care of Newborn.

(a) A licensee shall immediately transfer the care of a newborn to a hospital for emergency care or to a pediatric physician if the newborn has any of the following conditions:

(1) Respiratory distress defined as respiratory rate greater than 80 or grunting, flaring, or retracting for more than one hour,

(2) Any respiratory distress following delivery with meconium stained fluid,

(3) Central cyanosis or pallor for more than ten (10) minutes,

(4) Apgar score of six or less at five minutes of age,

(5) Abnormal bleeding,

(6) Any condition requiring more than eight hours of continuous postpartum evaluation,

(7) Any vesicular skin lesions,

(8) Seizure-like activity,

(9) Any green emesis, or

(10) Poor feeding effort due to lethargy or disinterest for more than two hours immediately following birth.

(11) Temperature instability, defined as a temperature less than 96.8 degrees Fahrenheit or greater than 100.4 Fahrenheit documented two times more than fifteen minutes apart,

(12) Murmur lasting more than 24 hours immediately following birth,

(13) Cardiac arrhythmia,

(14) Congenital anomalies,

(15) Birth injury,

(16) Clinical evidence of prematurity, including but not limited to, low birth weight of less than two thousand five hundred (2,500) grams, smooth soles of feet, or immature genitalia.

(17) Any jaundice in the first twenty-four (24) hours after birth or significant jaundice at any time,

(18) No stool for more than twenty-four (24) hours immediately following birth,

(19) No urine output for more than twenty-four (24) hours, or

(20) Development of persistent poor feeding effort at any time.

(b) A licensee who deems it necessary to transfer or terminate care of a patient pursuant to the rules and regulations of the Board, shall not be regarded has having abandoned care or wrongfully terminated services. Before non-emergent discontinuation of services, the licensee shall notify the client in writing, provide the client with names of licensed physicians and contact information for the nearest hospital emergency room and offer to provide copies of medical records regardless of whether copying costs have been paid by the client.

(Authorized by K.S.A. _____; implementing K.S.A._____, effective, T-_____; effective P-_____.)

100-74-XX. Assessment of patient for identifiable risks. Before a patient is accepted for services and throughout a patient's pregnancy, each licensee shall assess the following factors in determining whether the pregnancy is a normal, uncomplicated pregnancy:

(a) Age of the patient;

(b) major medical problems including any of the following:

(1) Chronic hypertension, heart disease, or pulmonary embolus;

(2) any congenital heart defect assessed as pathological by a cardiologist that places the patient or fetus at risk;

(3) a renal disease;

(4) a drug addiction or required use of anticonvulsant drugs;

(5) diabetes mellitus;

(6) thyroid disease; or

(7) a bleeding disorder or hemolytic disease;

(c) previous history of significant obstetrical complications, including any of the following:

(1) RH sensitization;

(2) a previous uterine wall surgery, including cesarean section;

(3) seven or more term pregnancies;

(4) a previous placental abruption; or

(5) a previous preterm birth; and

(6) medical indication of any of the following:

(7) pregnancy-induced hypertension;

(8) polyhydramnios or oligohydramnios;

(9) a placental abruption;

(10) chorioamnionitis;

(11) a known fetal anomaly;

(12) multiple gestations;

(13) an intrauterine growth restriction;

(14) fetal distress;

(15) alcoholism or drug addiction;

(16) thrombophlebitis; or

(17) pyelonephritis.

(d) a known fetal anomaly;

(e) multiple gestations;

(f) an intrauterine growth restriction;

(g) fetal distress;

(h) alcoholism or drug addiction;

(i) thrombophlebitis; or

(j) pyelonephritis.

(Authorized by K.S.A._____; implementing K.S.A.; effective, T-_____,

_____; effective P-_____.)

100-74-XX. **Risk Assessment; Duty to refer; Duty to transfer**

(a) An initial and ongoing assessment of appropriate risk factors identified by the medical and independent certified nurse midwife professions shall be performed and documented by the independent certified nurse midwife to assure independent practice limited to a normal and uncomplicated pregnancy or delivery. Those factors may include:

(1) General factors:

(A) age of patient;

(B) gestational age limited to _____;

(C) medical, obstetrical and fetal conditions;

(D) prior pregnancy conditions;

(E) current pregnancy conditions;

(F) Intrapartum conditions; or

(G) compliance with regulatory restrictions.

(2) In providing care for the normal and uncomplicated pregnancy or delivery the existence of the following specific factors or conditions shall prohibit patient and newborn care by the independent certified nurse midwife:

(A) In any venue:

(1) a multiple gestational pregnancy; or

(2) a noncephalic presentation of a fetus at the onset of labor or rupture of membranes, whichever occurs first.

(B) For a birth occurring outside of a licensed venue:

(1) no previous cesarean section; or

(2) a placental abnormality;

(C) For a birth occurring in a licensed birthing center;

(1) any restrictions placed by the Kansas Department of Health and Environment.

(D) For a birth occurring in a hospital;

(1) _____

(b) When identifiable risks to the course of pregnancy, labor, delivery, health of the patient or newborn present, the independent certified nurse midwife shall refer the patient or newborn for consultation to a person licensed to practice medicine and surgery for evaluation.

(1) If the person licensed to practice medicine and surgery determines that the patient's or newborn's medical history or condition has been resolved or that any identified risk factors presented are not likely to affect the course of pregnancy, labor, delivery, or health of the patient or newborn then the independent certified nurse midwife may resume providing clinical services to the patient or newborn. The ongoing assessment of risk factors will continue to be performed with subsequent referral as may be deemed necessary.

(2) If the person licensed to practice medicine and surgery determines that the patient's or newborn's medical history or condition has not been resolved or that any identified risk factors presented are likely to affect the course of pregnancy, labor, delivery, or health of the patient or newborn then the independent certified nurse midwife shall transfer care of the patient or newborn to a person licensed to practice medicine and surgery.

(c) Each independent certified nurse midwife shall have a written procedure in place addressing timely and safe transfer to a hospital and practitioner or medical group within a reasonable proximity of the location of labor and delivery (*should an actual time frame be specified?*). The procedure shall include:

(1) a plan for transport by an emergency medical service and appropriate contact information;

(2) a plan for notification of the hospital and for transmitting the patient's medical history and present condition;

(3) evidence of a transfer agreement between the independent certified nurse midwife and a specified hospital to be utilized when no patient directive is possible or has been provided;

(4) evidence of admitting privileges at the specified hospital if such has been obtained; and

(5) an available document which may be completed by the patient to indicate choice or directive of which hospital to transfer to in the event of an emergency when insurance requirements mandate such.

100-74-11. Patient Records (a) Each licensee of the board shall maintain an adequate record for each patient for whom the licensee performs a professional service.

(b) Each patient record shall meet these requirements:

(1) Be legible;

(2) contain only those terms and abbreviations that are or should be comprehensible to similar licensee's;

(3) contain a signed and dated informed consent form;

(4) contain identifying information, including the patient's name, address and telephone number;

(5) indicate the dates any professional service was provided;

(6) contain documentation of the initial history and physical examination, including laboratory findings and dates;

(7) contain pertinent and significant information concerning the patient's condition;

(8) contain all obstetrical risk assessments, including the dates of the assessments;

(9) reflect what examinations, vital signs, and tests were obtained, performed, or ordered and the findings and results of each;

(10) indicate the initial diagnosis and the patient's initial reason for seeking the licensee's services;

(11) indicate the medications prescribed, dispensed, or administered and the quantity and strength of each;

(12) reflect the treatment performed or recommended;

(13) document the patient's progress during the course of treatment provided by the licensee;

(14) contain documentation of instruction and education related to the childbearing process;

(15) the date and time of the onset of labor;

(16) the course of labor, including all pertinent examinations and findings;

(17) and the exact date and time of birth, the presenting part of the newborn's body, the sex of the newborn, and the Apgar scores;

(18) the time of expulsion and the condition of the placenta;

(19) contain all treatments rendered to the patient and newborn, including prescribing medications and the time, type and dose of eye prophylaxis;

(20) contain documentation of metabolic and any other screening tests completed;

(21) the condition of the patient and newborn, including any complications and action taken;

(22) all medical consultations concerning the patient and the newborn;

(23) all referrals for medical care and transfers to medical care facilities, including the reasons for each referral and transfer;

(24) the results of all examinations of the newborn and of the postpartum patient;

(25) the 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

(26) include all patient records received from other health care providers, if those records formed the basis for a treatment decision by the licensee.

(c) Each written prescription ordered by a licensee shall meet the following requirements:

1. contain the name, address, and telephone number of the licensee;
2. be signed by the licensee with the letters “CNM-I” following the signature; and
3. contain any DEA registration number issued to the licensee if a controlled substance is prescribed.

(d) Each entry in the patient record shall be authenticated by the person making the entry unless the entire patient record is maintained in the licensee’s own handwriting.

(e) Each entry in the patient record shall clearly identify the licensure of the nurse-midwife as either providing clinical services as an independent certified nurse-midwife, with the letters “CNM-I” to designate the independent practice of midwifery, or as practicing under a collaborative agreement with a licensed physician, pursuant to licensure by the Kansas Board of Nursing.

(f) Each patient record shall include any writing intended to be a final record, but shall not require the maintenance of rough drafts, notes, other writings, or recordings once this information is converted to final form. The final form shall accurately reflect the care and services rendered to the patient.

(g) An electronic patient record shall be deemed a written patient record if the electronic record cannot be altered and if each entry in the electronic record is authenticated by the licensee.

(h) Each licensee shall maintain the patient record for pregnancy, delivery, post-partum and newborn care for a minimum of 25 years from the date the licensee provided the professional service recorded. Any licensee may designate an entity, another licensee, or health care facility to maintain the record if the licensee requires the designee to store the record in a manner that allows lawful access and that maintains confidentiality.

(i) Each licensee shall maintain the patient record for family planning services and treatment of STI's for a minimum of 10 years.

(j) Patient records may be stored by an electronic data system, microfilm, or similar photographic means. A licensee may destroy original paper records stored in this manner if the stored record can be reproduced without alteration from the original.

(k) Each electronically stored record shall identify existing original documents or information not included in that electronically stored record.

(l)Each licensee of the board who terminates the active license within this state shall, within 30 days after terminating the active practice, provide to the board the following information:

(1) The location where patient records are stored;

(2) If the licensee designates an agent to maintain the records, the name, telephone number, and mailing address of the agent;

(3) The date on which the patient records are scheduled to be destroyed, as allowed by K.A.R. 100-24-2. (Authorized by K.S.A._____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.)

A regulation to be considered and placed in both of the Practice Acts for BoHA and KSBN:

100-74-XX. **Interagency Reporting of Violations**.

And

60-11-XX. **Interagency Reporting of Violations**.

Any complaint, allegation or other information that may involve a violation of the Healing Arts Act or a violation of the Nurse Practice Act by an individual holding a license as an independent certified nurse midwife and a license as an advance practice registered nurse as a nurse midwife shall be provided by the agency that initially received the information to the other agency within five business days of its receipt.

TELECONFERENCE MEETING
Of The
CERTIFIED NURSE MIDWIFE COUNCIL
Of The
KANSAS STATE BOARD OF HEALING ARTS
Wednesday, June 29, 2016

FORMAT OF MINUTES – Prior to each motion there appears the names of two Committee members in parenthesis. The first made the motion, the latter seconded the motion. Ayes, nays, abstentions and recusals are recorded when requested.

I. CALL TO ORDER - ROLL CALL

The Certified Nurse Midwife Council of the Kansas State Board of Healing Arts met via teleconference on Wednesday, June 29, 2016. The meeting was called to order at 12:00 noon by Kathleen Selzler Lippert, Executive Director, KSBHA. The following members attended by teleconference:

Kent Bradley, M.D.	present
Cara Busenhart, PhD, CNM, APRN	present
Cathy Gordon, RN, MSN, FNP-BC, CNM	present
Joel Hutchins, M.D.	present
Chad Johanning, M.D.	present
Manya Schmidt, CNM, APRN	present
Tarena Sisk, CNM	present

Staff members present were: Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Stacy Bond, Assistant General Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; and Jennifer Cook, Legal Assistant to General Counsel.

II. NEW BUSINESS

Staff provided an overview of the timeline involved with developing Certified Nurse Midwife (CNM) regulations and with coordinating around dates for Board of Nursing board meetings.

Council members reviewed their calendars so that future CNM meetings could be scheduled. CNM Council meetings were scheduled for 2:00 p.m. on the following dates: July 14, 2016, August 4, 2016 and August 18, 2016. These meetings will be held at the offices of the Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level Suite A, Topeka, Kansas.

III. ADJOURNMENT

The meeting adjourned at 12:30 p.m.

MEETING
of the
CERTIFIED NURSE-MIDWIFE COUNCIL
of the
KANSAS STATE BOARD OF HEALING ARTS
Wednesday, July 14, 2016

I. CALL TO ORDER - ROLL CALL

II. The Certified Nurse-Midwife Council of the Kansas State Board of Healing Arts (KSBHA) met on Thursday, July 14, 2016, at the KSBHA offices. The meeting was called to order at 2:00 p.m. by Kelli Stevens, General Counsel, KSBHA. The following Council members attended in person:

Kent Bradley, M.D.	present	
Cara Busenhart, PhD, CNM, APRN	present	
Cathy Gordon, RN, MSN, FNP-BC, CNM	present	
Joel Hutchins, M.D.	present	
Chad Johanning, M.D.	present	
Manya Schmidt, CNM, APRN		absent
Tarena Sisk, CNM	present	

Staff members present were: Kelli Stevens, General Counsel; Stacy Bond, Assistant General Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel; John Nichols, Licensing Administrator, Jennifer Cook, Legal Assistant to General Counsel and Ryan Hamilton, Law Clerk. Also present were Jerry Slaughter and Rachelle Columbo from KMS, Bob Williams from KAOM, Mary Blubaugh and Diane Glynn from KSBN, Dodie Wellshear, KAFP and Kendra Wyatt, NBC.

III. OLD BUSINESS

None- Minutes from 6/29/16 meeting were not available for review.

IV. NEW BUSINESS

a. Council members, staff and other individuals present introduced themselves to one another. Ms. Stevens reviewed open meeting (KOMA) rules with the Council members with respect to conducting Council business and email communications.

b. Ms. Stevens gave an overview of the new Independent Practice of Midwifery Act, which will become law on January 1, 2017. The Council discussed the Board of Healing Arts' (KSBHA) and Board of Nursing's (KSBN) roles with respect to developing regulations for the new license of independent certified nurse midwife.

Scope of practice and other substantive regulations must have consultation and concurrence by both boards prior to adoption by the KSBHA. The KSBHA is solely tasked with developing regulations for the administrative provisions, such as renewal of licensure. The regulations must be adopted by January 1, 2017. The short timeframe will require the KSBHA to pursue adoption of temporary regulations to meet the deadline. The Council members reviewed the materials sent to them by KSBHA staff. Not all members had time to review all the materials before the meeting due to their late transmission. For future meetings, staff will send out materials to the Council members much sooner to allow adequate time for review.

c. The Council discussed several areas which might need implementing regulations, including prescriptive authority, diagnostic authority, defining "normal newborn" care, further delineation of scope of practice; criteria for referral and transfer of OB patients; and what factors determine what is an uncomplicated vs. a complicated pregnancy.

During discussion, it was noted that there is little consistency between the various types of practice settings where CNMs work, that being home births, birth centers and hospitals. The Council expressed concern about tailoring the regulations to the specific practice setting. It shouldn't matter where the delivery occurs, because the scope of practice and standard of care should be the same. The Council felt it was best to start the regulation development process by setting minimal requirements for practice in all settings. The goal is not to micromanage the standard of care but to state overall parameters.

The Council felt it was appropriate to use the lowest care level, which is home birth, and start there. The regulations should require independent CNMs to stratify risk and have a plan in place for each possible situation. Risk can be defined based on both pregnancy and delivery setting. The KDHE birth center regulations set out risk factors for determining maternal risk. The Council felt that one requirement to put in regulation would be that VBACs, multiple gestations, and breach deliveries only occur in an accredited, licensed birth center or a hospital, and not in a home birth.

With respect to prescription authority, a list of prescription medications could be set forth by class, and exclusions or limitations might be based, in part, on the setting of delivery. Certain medications, such as cardiac drugs, can be excluded. Staff will provide the Council members with some examples.

The new law requires that independent CNMs first be licensed by the KSBN. Currently both the KSBN and KSBHA certify and approve schools and programs for their professions. The KSBHA would likely adopt the schools approved by KSBN for independently practicing CNMs. Conceivably, a CNM holding dual licensure could practice under a collaborative agreement and also have an independent practice.

d. Cathy Gordon, Cara Busenhart and Tarena Sisk were designated to individually review draft language of the regulations with staff, if needed in between Council meetings.

e. The agenda for the next meeting, August 4, 2016, will include drug classification lists, background information on accreditation of schools, information about the nurse-midwife certification examination, additional information from the Accreditation Commission for Midwifery Education (ACME) and the American Congress of Obstetricians and Gynecologists (ACOG). Staff will begin drafting outlines of regulations and provide these to the Council.

V. ADJOURNMENT

The meeting adjourned at 3:36 p.m.

MEETING
of The
CERTIFIED NURSE-MIDWIFE COUNCIL
of The
KANSAS STATE BOARD OF HEALING ARTS
Thursday, August 4, 2016

I. CALL TO ORDER - ROLL CALL

The Certified Nurse-Midwife Council of the Kansas State Board of Healing Arts (KSBHA) met on Thursday, August 4, 2016, at the KSBHA offices. The meeting was called to order at 2:00 p.m. by Kelli Stevens, General Counsel, KSBHA. The following Council members attended:

Kent Bradley, M.D.	absent
Cara Busenhart, PhD, CNM, APRN	present (via telephone)
Cathy Gordon, RN, MSN, FNP-BC, CNM	present
Joel Hutchins, M.D.	present
Chad Johanning, M.D.	present
Manya Schmidt, CNM, APRN	present
Tarena Sisk, CNM	present

Staff members present were: Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Stacy Bond, Assistant General Counsel; John Nichols, Licensing Administrator, Jennifer Cook, Legal Assistant to General Counsel and Ryan Hamilton, Law Clerk. Also present were Rachelle Colombo from KMS; Bob Williams from KAOM; Mary Blubaugh from KSBN; Dodie Wellshear from KAFP and Kendra Wyatt from NBC.

II. OLD BUSINESS

a. The minutes of the June 29, 2016 meeting were approved.
b. A correction was made to the minutes for the July 14, 2016 meeting and the corrected minutes were approved.
c. Ms. Stevens summarized the current issues before the Council and the status of regulation development.

III. NEW BUSINESS

a. The Council discussed some of the specific sections in the draft of the definitions regulation as follows:

1. "Normal, uncomplicated delivery" definition: The Council recommended removal of language referring to types of anesthesia as an uncomplicated delivery may require these for pain control. The issue of anesthetic use will be

addressed in another regulation stating that anesthesia could be ordered by an independent CNM for an otherwise uncomplicated labor and delivery in a hospital. VBACs and induction/augmentation of labor will also be addressed separately. The Council recommended adding "without identifiable risks" to this definition.

2. "Home birth" definition: The Council discussed whether it should only refer to a private residence vs. any location outside of a birth center or hospital. Ms. Gordon suggested using the language in the CMS location of service code which refers to the patient's private residence in order to be consistent what services could be billed. The Council discussed whether having a broader definition would promote people opening up their homes as birth centers, using hotels, etc. It was noted that the regulations need to address all possible locations where labor and delivery may occur, and then state what is or is not permissible by location.

3. The Council decided to defer detailed review of the rest of the definitions as the substantive regulations developed will dictate what the definitions need to say.

b. The Council reviewed the regulation draft regarding the abbreviation, CNM-I, and the prohibitions in and exceptions to the Independent Practice of Midwifery Act. The nurse-midwife Council members expressed that the abbreviation seemed confusing and might have ramifications for prescribing, billing, EMRs, etc. because people wouldn't be familiar with it. It was noted by Ms. Colombo that the legal distinction between this new license and the APRN nurse-midwife license needs to be clear because of the different scope of practice set forth in the new Act. It was also noted by Ms. Blubaugh that if a patient case were reviewed by either the Board of Nursing or Board of Healing Arts, it would need to be clear which license the individual was practicing under at any specific time. Board staff will work further on this regulation draft.

c. Staff informed the Council that the draft regulation regarding liability coverage was unnecessary since nurse-midwifes are required to participate in the Health Care Stabilization Fund and maintain a minimum level of insurance coverage. This regulation will not be added.

d. The Council reviewed the draft regulation regarding scope of practice. Staff noted that the scope is set forth in the new Act. The regulation will just provide clarification. The regulation needs to encompass orders for dietician services, home health services, physical therapy, and other ancillary services. Questions regarding what constitutes contraception vs. an abortion as defined in K.S.A. 65-6701 were raised. The question of whether delivery of a naturally occurring stillbirth is permitted was also raised. Staff will look into these questions further. The Council noted that certain contraceptive devices are actually permanent and require surgical methods for implantation. The Council agreed those are not within the scope.

e. The Council reviewed the draft regulation addressing delegation and supervision. It was modeled after the Healing Arts Act statute, K.S.A. 65-28,127. The Council recommended further revisions to blend this language with language in the APRN statutes and regulations.

f. The Council reviewed the draft regulation regarding the duty to refer or transfer care. The draft was modeled after the birth center regulations and other states' regulations. The Council discussed other options to the requirement for a "written agreement" and noted that not all of the conditions listed were emergency conditions. It was noted that what is considered to not to be "uncomplicated" needs to be specified elsewhere in the regulations. Staff will add the antepartum, intrapartum, postpartum and newborn risk criteria from the ACNM clinical bulletin on home birth services into the regulations.

g. The Council reviewed the draft regulation regarding documentation and maintenance of medical records. The draft used the 25-year retention period from the birth center regulations. The Council discussed the need to maintain records long enough to address potential liability issues once a child reaches the age of majority and the tolling of the statute of limitations regarding discovery of potential negligence. Sometimes copies of records are provided to pediatricians, but not always. The consensus of the Council was to have a 25-year retention period for all records, except those for family planning services, which will be 10 years.

IV. AGENDA FOR NEXT MEETING

Staff will provide revised drafts of regulations for the next meeting at 2:00 p.m. on August 18th. In the meantime, staff will provide an update on the Council's work to the full Board of Healing Arts at their meeting on August 12th. At the next meeting, the Council will need to refine the drafts for an initial review by the Board of Healing Arts at an anticipated special meeting, and by the Board of Nursing during their next meeting on September 12-14th.

V. ADJOURNMENT

The meeting adjourned at 4:10 p.m.

MEETING
of The
CERTIFIED NURSE-MIDWIFE COUNCIL
of The
KANSAS STATE BOARD OF HEALING ARTS
Thursday, August 18, 2016

I. CALL TO ORDER - ROLL CALL

The Certified Nurse-Midwife Council of the Kansas State Board of Healing Arts (KSBHA) met on Thursday, August 18, 2016, at the KSBHA offices. The meeting was called to order at 2:00 p.m. by Kelli Stevens, General Counsel, KSBHA. The following Council members attended:

Kent Bradley, M.D.	present	
Cara Busenhart, PhD, CNM, APRN	present	
Cathy Gordon, RN, MSN, FNP-BC, CNM	present	
Joel Hutchins, M.D.	present	
Chad Johanning, M.D.	present	
Manya Schmidt, CNM, APRN	present	(via telephone)
Tarena Sisk, CNM	present	

Staff members present were: Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Stacy Bond, Assistant General Counsel; Dan Riley, Disciplinary Counsel; Joshana Offenbach, Associate Disciplinary Counsel, Jennifer Cook, Legal Assistant to General Counsel and Ryan Hamilton, Law Clerk. Also present were Diane Glynn from KSBN Robin Durrett, DO, BOHA Board Member; Rachelle Colombo from KMS; Dodie Wellshear from KAFP, Kendra Wyatt from NBC and Cara Cara Kinzelman from ACNM via telephone.

II. OLD BUSINESS

a. The minutes of the August 4, 2016 meeting were approved with a clarification added to the summary of the ancillary services ordered by nurse-midwives.

b. Ms. Stevens summarized the current issues before the Council and the status of regulation development.

III. NEW BUSINESS

a. The Council reviewed the various risk factors identified in the ACNM Clinical Bulletin regarding Home Births and those identified in KDHE's birth center regulations. The Council discussed creating a general risk assessment structure versus one that lists specific conditions. While not wanting to create ambiguities and leave too much open to interpretation, Council members expressed that they didn't want to create a "cookbook."

b. The Council discussed the difference between an APRN collaborative scope and the very defined scope in the new Independent Practice of Midwifery Act. The regulations need to be able to give guidance to licensees on the boundaries for the independent scope of practice.

c. The Council discussed the issue of whether VBACs are inherently high risk. Because individual practitioners may have varying opinions, the regulations need to specify whether they are automatically outside the scope for this license or whether a VBAC can be performed by an independent certified nurse-midwife under certain conditions (ex. no home birth).

d. The Council reviewed and discussed the State of Florida's risk assessment regulation for certified midwives (not nurses) that included a numerical value assigned to each risk factor to determine if referral/transfer was required. While a similar model would be very clear, it would not account for the fluid nature of patient conditions and health care delivery.

e. The Council discussed using the CNM-I abbreviation and the various problems it might create for prescriptions, EMR systems and insurance companies that don't recognize it. Staff noted that if there was no way to distinguish practice under this license, it would be hard for either the Board of Nursing or Board of Healing Arts to tell if a licensee was practicing outside their scope.

IV. AGENDA FOR NEXT MEETING

Staff will provide revised drafts of regulations for the next meeting at 2:00 p.m. on August 25th. At the next meeting, the Council will need to refine the drafts for an initial review and input from the Board of Nursing during their next meeting in September.

V. ADJOURNMENT

The meeting adjourned at 4:20 p.m.

MEETING
of The
CERTIFIED NURSE-MIDWIFE COUNCIL
of The
KANSAS STATE BOARD OF HEALING ARTS
Thursday, August 25, 2016

I. CALL TO ORDER - ROLL CALL

The Certified Nurse-Midwife Council of the Kansas State Board of Healing Arts (KSBHA) met on Thursday, August 18, 2016, at the KSBHA offices. The meeting was called to order at 2:00 p.m. by Kelli Stevens, General Counsel, KSBHA. The following Council members attended:

Kent Bradley, M.D.	present	(via telephone)
Cara Busenhart, PhD, CNM, APRN	present	
Cathy Gordon, RN, MSN, FNP-BC, CNM	present	
Joel Hutchins, M.D.	present	
Chad Johanning, M.D.	present	
Manya Schmidt, CNM, APRN	present	
Tarena Sisk, CNM	absent	

Staff members present were: Kathleen Selzler Lippert, Executive Director; Kelli Stevens, General Counsel; Stacy Bond, Assistant General Counsel; Dan Riley, Disciplinary Counsel; Jennifer Cook, Legal Assistant to General Counsel and Ryan Hamilton, Law Clerk to General Counsel. Also present were: Diane Glynn from KSBN Rachelle Colombo from KMS; Bob Williams from KAOM, Kendra Wyatt from NBC, Jodie Mayfield, student, and by telephone the following were present: Jerry Slaughter from KMS and Robin Durrett, D.O. BOHA Board Member.

II. OLD BUSINESS

a. Draft minutes from the August 18 meeting were not yet available for review. Ms. Stevens summarized the current issues before the Council and the status of regulation development. The anticipated process will be that after today's meeting, the draft regulations and a brief summary of the disputed issues will be provided to the Board of Nursing for their consultation at their September meeting. Then the Council will meet again to consider the Board of Nursing's recommendations and work on further revisions. Hopefully, the revised drafts will then be available for the Board of Healing Arts' October meeting. Once the Board of Healing Arts reviews them and arrives at a consensus on them, they will be sent to the Board of Nursing for approval of the content. The Council may need to meet again in the interim if further input is necessary. Staff will point out areas that have differing opinions among the Council members so that both Boards are aware of them and their rationale.

III. NEW BUSINESS

a. Discussion was held regarding creating risk criteria that would work in all settings (home birth, birth centers, and hospitals). Cathy Gordon noted that birth centers and hospitals already have their own regulations and that requirement to "transfer" to a hospital, and it was illogical if the services were already being provided in that type of facility. The Council felt that defining scope by location would be very complicated. Manya Schmidt suggested that Minnesota and South Carolina's models be reviewed as they are more broad.

b. Diane Glynn from the Board of Nursing proposed a suggested risk assessment model that was reviewed by the Council. She will create a draft regulation.

c. VBACs were discussed again. Dr. Bradley expressed that a prior cesarean delivery was never an uncomplicated pregnancy because if it "goes bad" it has to immediately go to a c-section. No plan, back up or being in a hospital would address this if surgery wasn't immediately available. If the legislation says the scope is only no risk, how can VBACs be included?

   Kathy Gordon pointed to the birth center standards for VBACs and discussion was had about the degree of risk created by a prior cesarean delivery. Kathy Gordon stated that the NIH VBAC Consensus in 2012 indicated the risk of uterine rupture in a VBAC was equal to that of a regular vaginal delivery if done properly. She also noted that restrictive regulations might push people into having home VBAC births by unlicensed persons. Cara Busenhart said there were many things that should be part of the risk assessment but shouldn't be an absolute bar because a patient's overall health status should be factored in.

   The Council discussed and debated having general risk factors with a plan versus defined conditions and requirements for referral and transfer. The Council members' opinions on having strict, stratified risk criteria versus a general model differed greatly.

d. The Council revisited the issue of the CNM-I designation and the difficulties it would create for EMR, coding, etc. because currently, everything is tied to use of the APRN designation.

IV. ITEMS FOR NEXT MEETING

Staff will provide drafts and other information to the Board of Nursing for their September meeting so they may provide the Council with consultation. The next Council meeting is scheduled for September 20th at 2:00 p.m. to review the input from the Board of Nursing.

V. ADJOURNMENT

The meeting adjourned at 4:12 p.m.