

314.410 Board of Nursing to promulgate administrative regulations based upon recommendations of the council -- Recommendations to include regulatory framework to support consultation and collaboration between licensed certified professional midwives and other appropriate licensed health care providers -- Specifications to be included in regulatory framework -- Management of clients whose conditions may preclude them from being considered at low risk -- Board to enforce specified safety precautions before administrative regulations are in place.

- (1) Within one (1) year of June 27, 2019, the council shall make recommendations to the board for the promulgation of administrative regulations by the board regarding requirements for the management of clients who may have a condition that precludes the clients from being considered at low risk of an adverse outcome for the mother, her fetus, or her newborn. These recommendations shall include:
 - (a) A regulatory framework to support consultation and collaboration between licensed certified professional midwives and other appropriate licensed health care providers with expertise in obstetrical and neonatal care, in order to optimize obstetrical and neonatal outcomes in whatever setting a client chooses for birth. The regulatory framework shall specify:
 1. Processes and infrastructure to facilitate collaboration and consultation with other licensed healthcare providers who possess the appropriate medical expertise;
 2. Processes and infrastructure to facilitate co-management with, or transfer of primary management responsibility to, other licensed healthcare providers who possess the appropriate medical expertise;
 3. Processes and infrastructure for transfer of clients to facilities with a higher level of care, as developed by the Transfer Guidelines Work Group established in KRS 314.414, and as updated by the council;
 4. Processes for the provision of required or routinely recommended screening and disease prevention measures, if not provided directly by the licensed certified professional midwife; and
 5. Other collaborative processes deemed necessary by the council or the board to optimize obstetrical and neonatal outcomes;
 - (b) A list of conditions or symptoms associated with a risk of death or serious permanent harm affecting a mother, fetus, or newborn, as assessed by a licensed certified professional midwife exercising reasonable skill and knowledge, and:
 1. Requirements for collaborative management with, or referral of primary management responsibility to, a physician or other appropriate licensed healthcare provider, of a client with conditions or symptoms specified under this paragraph, to protect the health and safety of a mother, fetus or newborn. Separate regulatory requirements shall be developed for each or any condition on the list, if clinically appropriate; and
 2. Requirements for management of a client with conditions or symptoms

specified under this paragraph who refuses to consent to recommendations intended to prevent death or serious permanent harm, including requirements for informed refusal by the client. The requirements for informed refusal shall be tailored to the specific condition or symptom, and shall reflect maximal effort to protect the life and health of the mother, her fetus, and her newborn; and

- (c) A list of conditions or symptoms associated with a more than minimal risk of adversely affecting a mother, fetus, or newborn, but not a significant risk of death or serious permanent harm, as assessed by a licensed certified professional midwife exercising reasonable skill and knowledge, and:
 - 1. Requirements for consultation, collaborative management, or referral of primary management responsibility of a client with conditions or symptoms specified under this paragraph, for each condition or symptom on the list, to ensure the health and safety of a mother, fetus, or newborn; and
 - 2. Requirements for documentation of an informed refusal by a client with conditions or symptoms specified under this paragraph of recommended consultation, referral of care, or other management, including the information to be provided to a client that is necessary to enable informed refusal of recommended care.
- (2) The council's recommendations shall be considered by the board to form the basis for any requirements or restrictions imposed by the board on the provision of certified professional midwifery services to a client whose condition is not classified as low-risk. The recommendations shall be based on evolving medical evidence published in peer-reviewed medical literature and with consideration to the likelihood of serious harm or death to the mother or newborn.
- (3) Until such time as the council has conveyed superseding recommendations to the board and the board has promulgated superseding administrative regulations, the following shall be enforced by the board:
 - (a) If on initial or subsequent assessment, one (1) of the following conditions exists, the licensed certified professional midwife shall arrange for consultation and either collaboration or referral in accordance with KRS 314.400 to 314.414, and document that recommendation in the licensed certified professional midwife's record:
 - 1. Complete placenta previa, or partial placenta previa persisting after twenty eight (28) weeks;
 - 2. HIV infection;
 - 3. Cardiovascular disease, including hypertension;
 - 4. Severe psychiatric illness that may result in self-harm or harm to others;
 - 5. History of cervical incompetence;
 - 6. Pre-eclampsia or eclampsia;
 - 7. Intrauterine growth restriction, oligohydramnios or polyhydramnios in the current pregnancy;

8. Known potentially serious anatomic fetal abnormalities;
 9. Any type of diabetes requiring insulin or other medication for management;
 10. Gestational age greater than forty-three (43) weeks; or
 11. Any other condition or symptom which could threaten the life of the mother or fetus, as assessed by a licensed certified professional midwife exercising reasonable skill and knowledge;
- (b) The licensed certified professional midwife may continue to participate in the care of a client requiring transfer, in a collaborative fashion and as mutually agreed upon with the accepting physician, to the extent permitted by hospital regulations and if it is beneficial to the client. If a client with a condition listed in paragraph (a) of this subsection declines to accept a medically indicated consultation or referral, the licensed certified professional midwife shall document such refusal in writing and shall endeavor to transition the client to an appropriate higher level of care. If the condition mandating transfer occurs during labor or delivery, or the client is otherwise acutely in jeopardy but refuses transfer, then the midwife shall call 911 and provide care at least until relieved by another appropriate licensed health care provider; and
- (c) If on initial or subsequent assessment, one (1) of the following conditions exists, the midwife shall arrange for consultation and either collaboration or referral in accordance with KRS 314.400 to 314.414, and document that recommendation in the midwifery record:
1. Prior cesarean section or other surgery resulting in a uterine scar;
 2. Multifetal gestation;
 3. Non-cephalic presentation after thirty-six (36) weeks gestation; and
 4. History of severe shoulder dystocia as documented by objective findings.
- (4) The board shall, at the earliest opportunity, promulgate administrative regulations specific to the conditions listed in subsection (3)(c) of this section, including the minimum requirements for informed refusal by the client of otherwise mandatory consultation and either collaboration or referral.
- (5) If the client has complied with administrative regulations promulgated by the board for informed refusal, then the licensed certified professional midwife may pursuant to subsection (4) of this section, continue to assume primary management responsibility for the client unless and until the client subsequently consents to collaborative care or referral.

Effective: June 27, 2019

History: Created 2019 Ky. Acts ch. 104, sec. 6, effective June 27, 2019.