

## **CHAPTER 14-19 PATERNITY ACKNOWLEDGMENT**

### **14-19-01. Definitions.**

In this chapter, unless the context otherwise requires:

1. "Birthing hospital" means a hospital licensed under chapter 23-16 which provides obstetrical services.
2. "Department" means the department of human services.
3. "Donor" means a woman whose body produced an egg for the purposes of assisted conception but does not include a woman whose body produces an egg used for the purpose of conceiving a child for that woman.
4. "Gestational carrier" means a woman who enters into an agreement to have an embryo implanted in her and bear the resulting child for intended parents, when the embryo is conceived by using the egg and sperm of the intended parents.
5. "Married woman" includes a woman who attempted to marry by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid.
6. "Mother" means a woman who gives birth to a child or, if pregnancy resulted from assisted conception, the woman who is the donor but not the woman who is the gestational carrier.
7. "Party" means the man with whom the relationship of father and child is sought or established, the child's mother, and, for purposes of proceedings to relieve a party of the relationship of father and child, the child.
8. "Relationship of father and child" means the legal relationship existing between a father and the father's natural or adoptive child incident to which the law confers or imposes rights, privileges, duties, and obligations.
9. "Voluntary paternity establishment service entity" means the state department of health and any child support agency, as that term is defined in section 14-09-09.10.

### **14-19-02. Construction of chapter - Place of acknowledgment or birth need not be within this state.**

Repealed by S.L. 2005, ch. 135, § 11.

### **14-19-03. Establishment of relationship of father and child.**

Repealed by S.L. 2005, ch. 135, § 11.

### **14-19-04. Effect of voluntary acknowledgment of paternity - Who may dispute.**

Repealed by S.L. 2005, ch. 135, § 11.

### **14-19-05. Filing of acknowledgment.**

An acknowledgment of paternity made under chapter 14-20 must be filed with the state department of health on a form approved by the department, which must include the social security number of the parents and any other information required by the secretary of the United States department of health and human services. Upon request of the department, the state department of health shall furnish a certified copy of an acknowledgment of paternity to the department.

### **14-19-06. Hospital-based program for acknowledgment of paternity - Effect of noncompliance.**

1. During the period immediately preceding or following the birth of a child to an unmarried woman in a birthing hospital, the hospital, at a minimum, shall:
  - a. Provide to the mother and the alleged father, if the alleged father is present in the hospital:
    - (1) Written materials about paternity establishment;
    - (2) The forms necessary to voluntarily acknowledge paternity;

- (3) A written and oral description of the rights, responsibilities, and legal consequences of acknowledging paternity; and
    - (4) The opportunity to speak, either by telephone or in person, with staff who are trained to clarify information and answer questions about paternity establishment;
  - b. Provide the mother and the alleged father, if the alleged father is present, the opportunity to voluntarily acknowledge paternity in the hospital;
  - c. Afford due process safeguards by informing, in writing, the mother and the alleged father, if the alleged father is present, of the manner in which a relationship of father and child established under this chapter may be vacated or rescinded; and
  - d. Forward completed acknowledgments to the state department of health.
2. The department may withhold medical assistance payments from any hospital that fails to comply with this section. At least thirty days in advance of any withholding, the department shall notify the hospital of the department's intention to withhold medical assistance payments from the hospital. The hospital may appeal the decision to withhold medical assistance benefits to the department.

**14-19-07. Immunity from liability.**

A hospital, a voluntary paternity establishment service entity, and the agents or employees of either, acting in accordance with this chapter or attempting in good faith to do so, are immune from civil liability for that activity.

**14-19-08. Powers and duties of the department.**

The department shall:

1. Provide each birthing hospital and voluntary paternity establishment service entity in the state:
  - a. Written materials about paternity establishment.
  - b. Forms necessary to voluntarily acknowledge paternity.
  - c. A written description of the rights and responsibilities of acknowledging paternity.
2. Provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity reasonably necessary to assist a birthing hospital or voluntary paternity establishment service entity in its duties under this chapter.
3. In cooperation with the state department of health, secure information on each voluntary paternity establishment service entity's and each birthing hospital's paternity acknowledgment program at least annually.
4. In cases involving applications for child support services made to a child support agency which require paternity establishment, determine if a voluntary paternity acknowledgment has been filed with the state department of health.
5. Assure that the same procedures governing birthing hospitals apply to voluntary paternity establishment service entities, including use of the same notice provisions, the same materials, the same evaluation methods, and the same training for personnel.

**14-19-09. When acknowledgment is voidable.**

Repealed by S.L. 2005, ch. 135, § 11.

**14-19-10. Vacation or rescission of acknowledgments - Time for commencing actions - Effect on presumptions under section 14-17-04 - Notice.**

Repealed by S.L. 2005, ch. 135, § 11.

**14-19-11. Oral notice.**

Any oral notice required under this chapter may be provided by a recording.

**14-19-12. Voluntary paternity establishment service entities - Duties.**

1. At any time after an unmarried woman is determined to be pregnant, a voluntary paternity establishment entity may:
  - a. Provide to the mother and the alleged father, if the alleged father is present:
    - (1) Written materials about paternity establishment;
    - (2) The forms necessary to voluntarily acknowledge paternity;
    - (3) A written and oral description of the rights, responsibilities, and legal consequences of establishing paternity; and
    - (4) The opportunity to speak, either by telephone or in person, with staff who are trained to clarify information and answer questions about paternity establishment; and
  - b. Provide the mother and the alleged father, if the alleged father is present, the opportunity to voluntarily acknowledge paternity.
2. Before accepting a voluntary acknowledgment of paternity, a voluntary paternity establishment service entity shall afford due process safeguards by informing, in writing, the mother and the alleged father, if the alleged father is present, of the manner in which a relationship of father and child established under this chapter may be vacated or rescinded.
3. A voluntary paternity establishment service entity shall forward completed acknowledgments to the state department of health.