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File Date: 9/7/2023

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Board of Osteopathic Examination
Division:	Council of Certified Professional Midwifery
Contact Person:	Ronda Webb-Stewart, Senior Associate Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee 37243
Phone:	(615) 741-1611
Email:	Ronda.Webb-Stewart@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	710 James Robertson Parkway, Andrew Johnson Building, 5th Floor, Nashville, Tennessee 37243
Phone:	(615) 741-6354
Email:	Marci.Martinez@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Metro Center
Address 2:	665 Mainstream Drive – Poplar Conference Room
City:	Nashville
Zip:	37228
Hearing Date:	11/01/2023
Hearing Time:	9:00 A.M. <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1050-05	General Rules Governing Certified Professional Midwives
Rule Number	Rule Title
1050-05-.01	Definitions
1050-05-.09	Certification Renewal
1050-05-.12	Continuing Education

Chapter 1050-05
General Rules Governing Certified Professional Midwives

Amendments

Rule 1050-05-.01 Definitions is amended by adding new paragraphs (2), (3), and (7) and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs shall read:

- (2) Collaborative Care Plan- An agreement, written or oral, between a physician and a midwife in which both parties agree to discuss the care of the midwife's client as stated in "Practice Guidelines" issued by the Tennessee Midwives Association on January 22, 2001 and amended on February 8, 2010 located at <https://www.tn.gov/health/health-program-areas/health-professional-boards/midwifery-board/midwifery-board/policies-and-practice-guidelines.html>.
- (3) Compensation - a payment, loan, advance, donation, contribution, deposit, gift of money, or anything of value.
- (7) Physician - a person who holds an unencumbered license in the state of Tennessee to either practice medicine by the state Board of Medical Examiners or to practice osteopathy by the Board of Osteopathic Examination.

Authority: T.C.A. §§ 63-9-101 and 63-29-116.

Rule 1050-05-.09 Certification Renewal is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

- (3) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the late renewal fee provided in Rule 1050-05-.06. There is a 60-day grace period following the expiration date of a professional midwife's certification. Any renewal application received after the expiration date but during the grace period must be accompanied by the late renewal fee provided in Rule 1050-05-.06. Any professional midwife who does not seek inactive status and allows the certificate to expire after the 60-day grace period must apply for a new certificate as outlined in Rule 1050-05-.05.

Authority: T.C.A. §§ 63-9-101, 63-29-111, and 63-29-116.

Rule 1050-05-.12 Continuing Education is amended by deleting the rule title and is further amended by adding new paragraphs (5), (6), (7), (8), (9), (10), (11), (12), and (13), so that as amended, the new title and paragraphs shall read:

1050-05-.12 Responsibilities of Certified Professional Midwife

- (5) The CPM-TN may provide care for the low-risk client who is expected to have a normal pregnancy, labor, birth and postpartum phase in the setting of the mother's choice. The CPM-TN shall establish a collaborative care plan with a physician for all clients. The name and contact information of the physician shall be placed in each client's chart.
- (6) The CPM-TN shall ensure that the client has signed an informed consent form. This form shall include information to inform the client of the qualification of the CPM-TN. The signed informed consent form shall be placed in each client's chart.
- (7) For screening purposes only, the CPM-TN may order routine antepartum and postpartum laboratory analysis to be performed by a licensed laboratory. Abnormal ultrasound findings as specified in the "Practice Guidelines" issued by the Tennessee Midwives Association on January 22, 2001 and amended on February 8, 2010 require a consultation with a physician. The "Practice Guidelines" are located at <https://www.tn.gov/health/health-program-areas/health-professional-boards/midwifery-board/midwifery-board/policies-and-practice-guidelines.html>. Written verification of such consultation, including the physician's recommendation, shall be placed in each client's chart.

- (8) The CPM-TN shall develop an emergency plan that shall be signed by the client and placed in the client chart at the initial visit . The CPM-TN shall consult with the physician previously referenced in subsection (a) a specified in the "Practice Guidelines" issued by the Tennessee Midwives Association on January 22, 2001 and amended on February 8, 2010. The "Practice Guidelines" are located at <https://www.tn.gov/health/health-program-areas/health-professional-boards/midwifery-board/midwifery-board/policies-and-practice-guidelines.html>. The emergency plan shall also include referral and transfer plans for the client in the event of an emergency. A copy of the emergency plan shall be sent to physician with whom the CPM-TN has a collaborative plan in place.
- (9) The CPM-TN shall determine the progress of labor and, when birth is imminent, shall be available until delivery is accomplished.
- (10) The CPM-TN shall remain with the postpartum mother during the postpartum period until the conditions of the mother and the newborn are stabilized. Should an emergency transfer become necessary, the CPM-TN shall notify the hospital named in the emergency plan and provide hospital staff with relevant health information including, but not limited to, labs and ultrasounds and may accompany mother to the hospital.
- (11) The CPM-TN shall instruct the client regarding the treatment of a newborn's eyes with a prophylaxis to prevent ophthalmia neonatorum or infections leading to blindness, as this is a requirement of Tennessee Code Annotated § 68-5-202. The CPM-TN shall document in the client's chart that such instructions were given.
- (12) The CPM-TN shall instruct the client regarding newborn infant testing for phenylketonuria, hypothyroidism, galactosemia and other metabolic/genetic defects that would result in intellectual disability or physical dysfunction as determined by the department, which is a requirement of Tennessee Code Annotated § 68-5-401. The CPM-TN shall document in the client's chart that such instructions were given.
- (13) The CPM-TN shall maintain a birth certificate for each client's live birth, by submitting certificate information with the Office of Vital Records. Each midwife shall complete the certificate of birth within ten (10) calendar days after the birth. The certificate of birth shall be created in accordance with the provisions of Tenn. Code Annotated Sections 68-3-301 et. seq. The CPM-TN shall enroll in the Tennessee Vital Records Information System Management (VRISM), within the Office of Vital Records, for purposes of registering a certificate of birth. If the CPM-TN is unable to enroll in VRISM, the certificate information may be submitted by completing the certificate process through the Office of Vital Records. The Office of Vital Records retains authority to preserve, issue, modify, and prescribe other means for filing certificates of birth.

Authority: T.C.A. §§ 63-9-101, 63-29-114, and 63-29-116.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 9/7/2023

Signature: *Ronda Webb-Stewart*

Name of Officer: Ronda Webb-Stewart

Title of Officer: Senior Associate Counsel, Department of Health

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Filed with the Department of State on: 9/7/2023



Tre Hargett
Secretary of State

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**RULES
OF
THE TENNESSEE BOARD OF OSTEOPATHIC EXAMINATION'S
COUNCIL OF CERTIFIED PROFESSIONAL MIDWIFERY
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 1050-05
GENERAL RULES GOVERNING CERTIFIED PROFESSIONAL MIDWIVES**

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1050-05-.01 DEFINITIONS

As used in this chapter, the following terms and acronyms shall have the following meaning ascribed to them:

- (1) Administrative Office - The office of the administrator assigned to the Board and Council located at 665 Mainstream Drive, Nashville, TN 37243.
- (2) Collaborative Care Plan- An agreement, written or oral, between a physician and a midwife in which both parties agree to discuss the care of the midwife's client as stated in "Practice Guidelines" issued by the Tennessee Midwives Association on January 22, 2001 and amended on February 8, 2010 located at <https://www.tn.gov/health/health-program-areas/health-professional-boards/midwifery-board/midwifery-board/policies-and-practice-guidelines.html>.
- (3) Compensation - a payment, loan, advance, donation, contribution, deposit, gift of money, or anything of value.
- ~~(4)(2)~~ CPR - Cardiopulmonary resuscitation.
- ~~(5)(3)~~ Division - The Division of Health Related Boards, Tennessee Department of Health, from which the Council receives administrative support.
- ~~(6)(4)~~ NARM - The North American Registry of Midwives.
- (7) Physician - a person who holds an unencumbered license in the state of Tennessee to either practice medicine by the state Board of Medical Examiners or to practice osteopathy by the Board of Osteopathic Examination.

Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-9-101, 63-29-101 et seq.,~~ and 63-29-116.

1050-05-.09 CERTIFICATION RENEWAL

All Professional midwives certified by the Council must renew their certification to be able to continue in practice. Certification renewal is governed by the following:

- (1) The due date for renewal is the last day of the month in which a certificate holder's birth date falls pursuant to the Division of Health Related Board's biennial birth date renewal system.
- (2) Prior to the due date for renewal, certificate holders will have a renewal application form mailed to them at the last address provided by them to the Council. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal. To be eligible for renewal a certificate holder must submit to the Division of Health Related Boards on or before the certificate holder's expiration date the following:
 - (a) A completed and signed renewal application form.
 - (b) The renewal and state regulatory fees as provided in Rule 1050-05-.06.
 - (c) Attestation of compliance with NARM continuing education requirements so that current NARM certification in good standing is maintained.
 - (d) Attestation of maintaining current CPR certification, as provided in rule 1050-05-.05.

- (3) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the late renewal fee provided in Rule 1050-05-.06. There is a 60-day grace period following the expiration date of a professional midwife's certification. Any renewal application received after the expiration date but during the grace period must be accompanied by the late renewal fee provided in Rule 1050-05-.06. Any professional midwife who does not seek inactive status and allows the certificate to expire after the 60-day grace period must apply for a new certificate as outlined in Rule 1050-05-.05.
- (4) Any certificate holder who receives notice of failure to timely renew pursuant to rule 1200-10-01-.10, and who, on or before the last day of the second (2nd) month following the month in which the certificate expires, executes and files in the Council's administrative office an affidavit of retirement pursuant to Rule 1050-05-.11 may have their certificate retired effective on their certification expiration date.
- (5) Anyone submitting a signed renewal form, electronically or otherwise, which is found to be fraudulent or untrue may be subject to disciplinary action.
- (6) Any individual who fails to comply with the certificate renewal rules and/or notifications sent to them concerning failure to timely renew shall have their certificate processed pursuant to rule 1200-10-01-.10.
- (7) Certificates processed pursuant to rule 1200-10-01-.10 for failure to renew may be reinstated upon meeting the following conditions:
 - (a) Submit a written request for a Renewal/Reinstatement/Reactivation Application to the Council's Administrative Office; and
 - (b) Complete and submit to the Council's Administrative Office the Renewal/ Reinstatement/ Reactivation Application along with the payment of all past due renewal fees; state regulatory fee and the reinstatement fee provided in rule 1050-05-.06; and
 - (c) Submit any documentation which may be required by the form to the Council's Administrative Office; and
 - (d) If requested, after review by the Council or its duly authorized representative, appear before either the Council for an interview regarding continued competence in the event expiration of certification was in excess of two (2) years or there was receipt of derogatory information or communication during the reinstatement process, and/or be prepared to meet or accept other conditions or restrictions as the Council may deem necessary to protect the public.
 - (e) If certification expiration was in excess of five (5) years, the certificate holder may be required to successfully complete requirements the Council feels necessary to establish current levels of competency.
- (8) Renewal issuance and reinstatement decisions pursuant to this Rule may be made administratively subject to review by the Council, any Council member, or the Council's Designee.

Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-1-107,~~ 63-9-101, ~~63-29-101 et seq., 63-29-109,~~ 63-29-111, and 63-29-116.

1050-05-.12 ~~CONTINUING EDUCATION~~ RESPONSIBILITIES OF CERTIFIED PROFESSIONAL MIDWIFE

- (1) To be eligible for renewal of certification the continuing education requirements imposed by NARM must be complied with and attestation of compliance submitted at renewal time.
- (2) Anyone who falsely attests to completion of the required hours of continuing education may be subject to disciplinary action pursuant to Rule 1050-05-.15.
- (3) Anyone who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to Rule 1050-05-.15 and may not be allowed to renew certification.
- (4) Education hours obtained as a result of compliance with the terms of Council and/or Board Orders in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.
- (5) The CPM-TN may provide care for the low-risk client who is expected to have a normal pregnancy, labor, birth and postpartum phase in the setting of the mother's choice. The CPM-TN shall establish a collaborative care plan with a physician for all clients. The name and contact information of the physician shall be placed in each client's chart.
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Authority: T.C.A. §§ ~~4-5-202, 4-5-204, 63-9-101, 63-29-101 et seq., 63-29-109~~, 63-29-114, and 63-29-116.