

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control _____ Department or Agency Alabama State Board of Midwifery

Rule No. 582-X-1

Rule Title: The Board

_____ New ☒ Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? No

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer 

Date July 20, 2018

(DATE FILED)
(STAMP)

Alabama State Board of Midwifery

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama State Board of Midwifery

RULE NO. & TITLE: 582-X-1 The Board

INTENDED ACTION: New

SUBSTANCE OF PROPOSED ACTION: The Board proposes to establish rules governing the board, definitions to be used, appointments, outline duties, and process to petition for a declaratory ruling.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4:00 p.m. on Wednesday, September 5, 2018. Comments should be directed to Noel J. Leithart, Board Chair at Post Office Box 1282, Gardendale, AL 35071 or via electronic mail at fruitfulvinemidwife@gmail.com or via telephone at 205-725-5306.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Wednesday, September 5, 2018.

CONTACT PERSON AT AGENCY: Noel J. Leithart
Board Chair
Post Office Box 1282
Gardendale, AL 35071
(205) 725-5306



Noel J. Leithart, Board Chair
Alabama State Board of Midwifery

NEW
Alabama Board of Midwifery
Administrative Code
Chapter 582-X-1
The Board

- 582-X-1-.01 Purpose**
- 582-X-1-.02 Construction**
- 582-X-1-.03 Definitions**
- 582-X-1-.04 Midwifery Board**
- 582-X-1-.05 Duties**
- 582-X-1-.06 Petition for the Adoption of a Rule**

582-X-1-.01 Purpose. This chapter implements the applicable provisions of the 34-19-12, Code of Ala., 1975, relating to the practice and regulation of licensed midwifery in Alabama.

Author: Alabama State Board of Midwifery
Statutory Authority: Code of Ala., 1975, 34-19-12, et seq.
History:

582-X-1-.02 Construction. These sections cover the Alabama State Board of Midwifery; Duties; and Petition for the adoption of a rule.

Author: Alabama State Board of Midwifery
Statutory Authority: Code of Ala., 1975, 34-19-12, et seq.
History:

582-X-1.03 Definitions. For purposes of this and subsequent chapters, the following terms shall have the respective meanings ascribed by this section:

- (1) BOARD. Alabama State Board of Midwifery (ASBM).
- (2) LICENSED MIDWIFE. (LM). A practitioner holding a certified professional midwife credential and licensed by the Board to practice midwifery.
- (3) CERTIFIED PROFESSIONAL MIDWIFE. (CPM). A practitioner holding a valid certified professional midwife credential from the North American Registry of Midwives (NARM).
- (4) CERTIFIED NURSE MIDWIFE. (CNM). A registered nurse certified and licensed by the Alabama Board of Nursing to engage in advanced practice nursing relative to the management of women's health care. Code of Alabama 34-19-2

(5) REGISTERED NURSE. (RN). A nurse who has graduated from an accredited nursing program and meets the requirements outlined by the Alabama Board of Nursing to obtain a valid nursing license. Code of Alabama 34-21-20

(6) NURSE PRACTITIONER. (CRNP). A Nurse Practitioner, also known as Certified Registered Nurse Practitioner, is a registered nurse that has been certified by the Alabama Board of Nursing to engage in the practice of advanced practice nursing. Code of Alabama 34-21-81

(7) MIDWIVES ALLIANCE OF NORTH AMERICA. (MANA). The Midwives Alliance of North America (MANA) is a professional midwifery association uniquely positioned to unite and strengthen all midwives through dedication to innovative education, professional development, and recognized autonomous practice.(<https://mana.org/>)

(8) NORTH AMERICAN REGISTRY OF MIDWIVES. (NARM). Nationally accredited, NARM sets the standards for the competency-based CPM credential.(<http://narm.org/>)

(9) CONTINUING EDUCATION UNITS. (CEU). A CEU is a unit of credit equal to ten hours of participation in an accredited program designed for professionals with certificates or licenses to practice various professions.

(8) MIDWIFERY EDUCATION ACCREDITATION COUNCIL. (MEAC). The Midwifery Education Accreditation Council's creates standards and criteria for the education of midwives. (<http://meacschools.org/>)

(9) INTERNATIONAL CONFEDERATION OF MIDWIVES. (ICM). ICM is an accredited non-governmental organization and represents midwives and midwifery to organizations worldwide to achieve common goals in the care of mothers and newborns. (<http://internationalmidwives.org/>)

(10) AMERICAN ACADEMY OF PEDIATRICS. (AAP). The mission of the American Academy of Pediatrics is to attain optimal physical, mental, and social health and well-being for all infants, children, adolescents and young adults. The AAP supports the professional needs of its members. (www.aap.org)

(11) AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS. (ACOG). The American College of Obstetricians and Gynecologists is the specialty's professional membership organization. Its activities include producing the College's practice guidelines and other educational material. (<https://www.acog.org/>)

(12) ALABAMA DEPARTMENT OF PUBLIC HEALTH. (ADPH). The Alabama Department of Public Health (ADPH) is the primary state health agency for the state of Alabama. (<http://www.alabamapublichealth.gov/>)

Author: Alabama State Board of Midwifery

History:

582-X-1-.04 Midwifery board.

- (a) *Membership.* Members are appointed by the Governor and subject to confirmation by the Senate in accordance with the composition specified in Act 2017-383. Four members shall hold a valid CPM credential from NARM and shall be appointed from a list of names submitted by the Alabama Birth Coalition or its successor organization. One member shall be a nurse practitioner. One member shall be a licensed CNM or RN licensed in the state of Alabama under Article 5 of Chapter 21 and shall be appointed from a list of names submitted by the Alabama Board of Nursing. One member shall have used midwifery services in the state and shall be appointed from a list of names submitted by the Alabama Birth Coalition or its successor organization. A record of attendance shall be kept at each meeting. Ala. Code 34-19-12(g)
- (b) *Officers.* Alabama State Board of Midwifery shall elect a chair from the members. The chair is selected by the Alabama State Board of Midwifery as the term of appointment expires or a vacancy is otherwise created. The chair shall be the presiding officer of the Alabama State Board of Midwifery, shall not serve longer than 2 years, and shall not serve consecutive terms. Ala. Code 34-19-12(f)
- (c) *Terms of office.* The members of the Alabama State Board of Midwifery serve for staggered initial terms in accordance with the composition specified by Act 2017-383. After the initial terms have been fulfilled, members shall serve for a minimum of four years or until his or her successor has been appointed and qualified, with the terms of members expiring on January 31st after full terms have been served. Ala. Code 34-19-12(d)
- (d) *Meetings.*
 - (1) *Frequency.* The Alabama State Board of Midwifery shall meet at least semi-annually and at other times when called by the ASBM. Notice of the time, date, place and purpose of meetings shall be provided to the members by e-mail or by telephone, at least seven days in advance of each meeting. Normal meetings should be held in person when reasonably possible, electronic methods are acceptable when deemed necessary. Ala. Code 34-19-12(e)
 - (2) *Quorum.* A majority of the ASBM's members constitutes a quorum for the transaction of business at any meeting. A majority is defined as more than one-half of the membership. The ASBM may act only by majority vote of its members present. Each member shall be entitled to one vote. Proxy votes shall not be allowed. In case of a tie vote, the chair's vote will be the tie breaker.
 - (3) *Subcommittees.* Subcommittees of the ASBM shall be appointed only from the membership of the ASBM by the chair with such powers and responsibilities as shall be delegated to them by the chair.
 - (4) *Workgroups.* The ASBM may convene ad hoc working groups consisting of board members, Certified Professional Midwives, consumers, and other stakeholders, as necessary.

- (5) *Minutes.* Minutes of all ASBM meetings shall be prepared and transmitted to the members for their review prior to subsequent meetings.
- (6) *Public participation.* Anyone wishing to address the board at a regularly scheduled board meeting will be required to submit a written request to the board no later than two weeks prior to the board meeting date. The request should include the topic to be addressed and the name(s) of the presenter(s). If time permits, the matter will be placed on the board's agenda; otherwise, the matter will be placed on the agenda for the next regularly scheduled board meeting. All presenters may be limited to fifteen (15) minutes to present their requests to the board.
- (7) *Travel Reimbursement.* Each Alabama State Board of Midwifery member is entitled to receive regular per diem and travel allowances as authorized for state employees in accordance with subsection 34-19-12 (k).

Author: Alabama State Board of Midwifery
Statutory Authority: Code of Ala., 1975, 34-19-12
History:

582-X-1-.05 Duties. The Alabama State Board of Midwifery exists to and is responsible for:

- (a) Approve, renew, suspend, or revoke licenses for the practice of midwifery. Ala. Code 34-19-14(a)(1)
- (b) The appointment of a Complaint Review Committee for the purposes of reviewing complaints against Licensed Midwives when such complaints are filed, as further described in the subsection of these rules and regulations and described as "Complaints." Ala. Code 34-19-14(a)(2)
- (c) Establish reasonable licensure fees. Ala. Code 34-19-14(a)(3)
- (d) The generation, adoption, and revision of standardized forms, including the Licensed Midwife Disclosure Form, Informed Consent Form, Emergency Care Form, and applications for licensure and renewal. Ala Code 34-19-14 (a)(4)
- (e) Impose administrative fines for violations of the ASBM's rules or Act 2017-383, not to exceed \$1000 per violation, pursuant to 34-19-14(a)(5).
- (f) Establish levels of professional liability insurance, with limits no less than \$100,000 per occurrence and \$300,000 aggregate annually, that must be maintained by a Licensed Midwife pursuant to 34-19-14(a)(6).
- (g) The generation, adoption, and revision as needed, of the Rules and Regulations for Licensed Midwives in the state of Alabama, in a manner consistent with the most current NARM Job Analysis and essential documents developed by MANA. Ala. Code 34-19-14(b)
- (h) The maintenance of an up-to-date, public list of every individual licensed to practice midwifery in Alabama, pursuant to 34-19-15 (e).
- (i) The maintenance of an up-to-date, public list of every individual whose license has been suspended, revoked, or denied, pursuant to 34-19-15 (e). This list shall include the name of each individual, the date and the cause of action, the penalty incurred, and the length of the penalty.

- (j) The maintenance of public documentation of each Licensed Midwife's annual midwifery statistics pursuant to 34-19-12 (m)(2).
- (k) The annual review of Professional Liability Insurance and Certified Professional Midwife status of each licensed midwife to ensure compliance.
- (l) The Board shall have a duty to impose all statutory and regulatory requirements applicable to Act 2017-383.

Author: Alabama State Board of Midwifery

Statutory Authority: Code of Ala., 1975, 34-19-12, 34-19-14, 34-19-15 et seq.

History:

582-X-1-.06 Petition for the adoption of a rule. The purpose of this section is to delineate the procedures of the board for the submission, consideration, and adoption of a petition to the board to adopt a rule. Ala Code 41-22-4(a)(1)

(a) Submission of the petition.

- (1) Any person may petition the board to adopt a rule using a form provided.
- (2) The petition shall be in writing; contain the petitioner's name, address, and organization, if any; and describe the rule and the reason for it; however, if the Alabama State Board of Midwifery determines that further information is necessary to assist the board in reaching a decision, the ASBM may require that the petitioner re-submit the petition and that it contain:
 - (A) a brief explanation of the proposed rule;
 - (B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;
 - (C) a statement of the statutory or other authority under which the rule is to be promulgated; and
 - (D) the public benefits anticipated as a result of adopting the rule or the anticipated injury or inequity which could result from the failure to adopt the proposed rule.
- (3) The ASBM may refuse to accept a petition which does not contain the information in paragraph (2) of this subsection or the information in paragraph (2)(A) - (D) of this subsection if the ASBM determines that the latter information is necessary.
- (4) The petition shall be mailed or delivered to the Alabama State Board of Midwifery.

(b) Consideration and adoption of the petition.

- (1) Within sixty (60) days of a received petition, the board shall deny the petition or institute rulemaking procedure. The board may deny parts of the petition or institute rulemaking procedures on parts of the petition.
- (2) The board may extend said period for approval or denial of said petition by written notice to petitioner for not more than thirty (30) additional days from the date of the received petition if the board has its next regularly scheduled meeting beyond said sixty (60) day period.

- (3) If the board denies the petition, the petitioner shall be given written notice of the board's denial, stating its reasons for the denial, in accordance with Ala. Code 41-22-5.
- (4) If the board initiates rulemaking procedures, the version of the rule which the board proposes may differ from the version proposed by the petitioner.
- (c) *Subsequent petitions to adopt the same or similar rule.* All initial accepted petitions for the adoption of a rule shall be presented to and decided by the board in accordance with the provisions of this section. The ASBM may refuse to consider any subsequent petition for the adoption of the same or a similar rule submitted within twelve (12) months after the date of the initial petition.
- (d)

Author: Alabama State Board of Midwifery
Statutory Authority: Code of Ala., 1975, 34-19-14
History: