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Title 10

MARYLAND DEPARTMENT OF HEALTH

**Subtitle 64 BOARD OF NURSING — LICENSED DIRECT-ENTRY
MIDWIVES**

10.64.02 Code of Ethics for Licensed Direct-Entry Midwives

*Authority: Health Occupations Article, §§8-205(a)(1) and (2) and
8-6C-12(a)(7), Annotated Code of Maryland*

Notice of Final Action

[20-174-F]

On October 14, 2021, the Secretary of Health adopted amendments to Regulations **.01—.03** under a new chapter, **COMAR 10.64.02 Code of Ethics for Licensed Direct-Entry Midwives**. This action, which was proposed for adoption in 47:23 Md. R. 1002—1003 (November 6, 2020), has been adopted as proposed.

Effective Date: November 15, 2021.

DENNIS R. SCHRADER
Secretary of Health

PROPOSAL
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*Authority: Health Occupations Article, §§8-205(a)(1) and (2) and
8-6C-12(a)(7), Annotated Code of Maryland*

Notice of Proposed Action

[20-174-P]

The Secretary of Health proposes to adopt new Regulations **.01—.03** under a new chapter, **COMAR 10.64.02 Code of Ethics for Licensed Direct-Entry Midwives**. This action was considered by the Licensed Direct-Entry Midwife Advisory Committee at a public meeting held on October 12, 2018, and approved by the Board at its public meeting held on November 14, 2018, notice of which was given by publication on the Board's website, <https://mbon.maryland.gov/Pages/Direct-Entry-Midwife-Advisory-Committee.aspx>, from January 1, 2018, through November 14, 2018, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to provide a Code of Ethics for Licensed Direct-Entry Midwives that will guide them in their practice, add additional regulatory requirements for safe practice, and provide a general framework for their ethical practice.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jake Whitaker, Acting Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov, or fax to 410-767-6483. Comments will be accepted through December 7, 2020. A public hearing has not been scheduled.

.01 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Abandonment" means:

(a) The unilateral termination of the licensed direct-entry midwife-client relationship by the direct-entry midwife without reasonable notice;

(b) Failure of the licensed direct-entry midwife to:

(i) Provide the client with a referral to an appropriate health care professional; or

(ii) Make reasonable arrangements with an appropriate and qualified healthcare professional to assume care for the client; and

(c) Leaving a client in the intrapartum period without properly terminating care and ensuring adequate care for the mother and unborn child.

(2) "Board" means the Maryland Board of Nursing.

(3) "Client" means:

(a) An individual for whom a licensed direct-entry midwife performs services; and

(b) The individual's newborn for the purpose of perinatal or postpartum care.

(4) "Electronic devices" means, but is not limited to, any of the following:

(a) Telephones with recording and picture-taking ability;

(b) Digital cameras or any other device that can record pictures and data;

(c) Facsimile machines, photocopiers, and scanners for copying; and

(d) Recording devices.

(5) "Licensee" means a holder of a license issued by the Board to practice direct-entry midwifery in Maryland in accordance with Health Occupations Article, §8-6C-01, Annotated Code of Maryland.

(6) "Social media" means any form of electronic communication, including, but not limited to, communication by use of websites for social networking and blogging through which users create online communities to share information, ideas, personal messages, and other content such as videos.

.02 Ethical Responsibilities.

A. A licensed direct-entry midwife shall:

(1) Provide services with respect for human dignity and the uniqueness of a client unrestricted by consideration of social or economic status, religious affiliation, personal attributes, or the nature of health problems;

(2) Safeguard a client's right to privacy by maintaining confidentiality of information;

(3) Act to safeguard a client and the public if health care and safety are affected by the incompetent, unethical, or illegal practice of any individual;

(4) Promptly report a breach of confidentiality or privacy;

(5) Assume responsibility and accountability for one's judgments and actions while providing direct-entry midwifery services;

(6) Maintain competence in direct-entry midwifery;

(7) Exercise informed judgment and use individual competence and qualifications as criteria in seeking consultation, accepting responsibilities, and delegating direct-entry midwifery activities to others;

(8) Inform the Board regarding unethical conduct by another licensed direct-entry midwife;

(9) Provide information about fees upon request by a client;

(10) Notify the Board in writing within 30 days if any license, certificate, permit, or registration granted by another state or territory for the practice of direct-entry midwifery or certified professional midwifery is restricted, suspended, revoked, or subjected to other disciplinary action by a licensing or certifying authority; and

(11) Make a client's record available to the client upon request, complying with all applicable State and federal laws and regulations governing disclosure of medical records.

B. A licensed direct-entry midwife may not, when acting in the capacity or identity of a licensed direct-entry midwife:

- (1) Knowingly participate in or condone dishonesty, fraud, deceit, or misrepresentation;
- (2) Engage or participate in an action that violates or diminishes the civil or legal rights of a client;
- (3) Perform new techniques and procedures without adequate education and practice;
- (4) Assume duties and responsibilities in the practice of direct-entry midwifery without adequate preparation or without maintaining competency;
- (5) Practice direct-entry midwifery if unfit to perform procedures or make decisions because of a physical or mental impairment including, but not limited to, a substance use disorder or the effects of prescription drugs;
- (6) If engaged in research, coerce or pressure a subject to participate or continue to participate in the research;
- (7) Knowingly or willfully destroy, damage, alter, obliterate, or otherwise obscure a medical record or billing record or other information about a client to conceal the information from use as evidence in an administrative, civil, or criminal proceeding; or
- (8) Abandon a client.

C. A licensed direct-entry midwife may not engage in behavior that dishonors the profession, whether or not acting in the capacity or identity of a licensed direct-entry midwife, including, but not limited to:

- (1) Verbal abuse, including use of racial or ethnic slurs, directed toward a client, client's family member, coworker, employer, Board staff member, or third party;
- (2) Physically abusing, threatening, or intimidating a client, client's family member, coworker, employer, Board staff member, or third party;
- (3) Deceiving, defrauding, or stealing from a client, client's family member, coworker, employer, or third party;
- (4) Diverting any medication or providing false or misleading information to an authorized prescriber or a pharmacist to obtain or attempt to obtain any medication;
- (5) Performing acts beyond the authorized scope of practice for which the individual is licensed;
- (6) Obtaining or copying any part of a client's health record for purposes other than:
 - (a) Providing health care to the client;
 - (b) Conducting quality improvement activities;
 - (c) Complying with legal requirements such as a subpoena; or
 - (d) Allowing a direct-entry midwifery student to use records for educational purposes if client identification has been redacted or disguised;
- (7) Using, possessing, supplying, administering, or attempting to use, possess, supply, or administer prescription drugs or controlled dangerous substances without valid medical indication;
- (8) Reporting to work under the influence of alcohol or a controlled dangerous substance or submitting a pre-employment sample that is positive for alcohol or a controlled dangerous substance without having provided evidence of valid prescriptions for all controlled dangerous substances in the sample;
- (9) Reporting to work under the influence of an illicit drug or submitting a pre-employment sample that is positive for an illicit drug;
- (10) Using the power, influence, or knowledge inherent in or obtained during the direct-entry midwife-client relationship for the direct-entry midwife's personal gratification or benefit;
- (11) Engaging in unprofessional or immoral conduct;
- (12) Misrepresenting or concealing a material fact in obtaining a license, renewing a license, or reinstating a license; or
- (13) Committing an act of moral turpitude, dishonesty, or corruption when the act directly or indirectly affects the health, welfare, or safety of the citizens of this State, and, if the act constitutes a crime, conviction thereof in a criminal proceeding is not a condition precedent to disciplinary action.

D. A licensed direct-entry midwife may not engage in sexual misconduct. Sexual misconduct includes, but is not limited to:

- (1) Sexual behavior with a client in the context of a professional evaluation, treatment, procedure, or service to the client, regardless of the setting in which the professional service is rendered;
- (2) Sexual behavior with a client under the pretext of diagnostic or therapeutic intent or benefit;
- (3) Solicitation of a sexual relationship, whether consensual or nonconsensual, with a client;
- (4) Sexual advances toward, or the request of sexual favors from, a coworker, student, employer, client, or client's family member;
- (5) Discussion of nontherapeutic sexual matters while treating a client;
- (6) Taking photographs of a client for a sexual purpose;
- (7) Sexual harassment of a coworker, student, employer, client, or client's family member;
- (8) Sexual contact with an incompetent or unconscious client;
- (9) Intentionally exposing any of the direct-entry midwife's sexual body parts; and
- (10) Intentionally exposing any of the client's sexual body parts for a nontherapeutic purpose.

E. Electronic devices, including but not limited to telephones, may not be used to record medical records or take pictures or videos of clients for purposes not directly related to client care without written client authorization.

F. A licensed direct-entry midwife:

(1) May not make use of electronic devices and social media to transmit or place any client information online for public viewing without written client authorization; and

(2) Shall adhere to the following principles for the use of electronic devices and social media:

(a) Every licensed direct-entry midwife has an obligation to understand the nature, benefits, and consequences of the use of electronic devices and participating in social media networking;

(b) Licensed direct-entry midwives are bound to observe ethically prescribed direct-entry midwife-client boundaries online as in any other setting;

(c) Client information in electronic format shall be maintained in secured files;

(d) A licensed direct-entry midwife has an obligation to report any electronically generated material that could harm a client's privacy rights; and

(e) The standards of professionalism are the same when using electronic devices and social media as in any other circumstance.

.03 Penalties.

Violation of this chapter may result in the Board taking disciplinary action against a licensee pursuant to Health Occupations Article, §8-6C-20, Annotated Code of Maryland.

ROBERT R. NEALL
Secretary of Health