

MIDWIVES
Administrative Rules
16 Texas Administrative Code, Chapter 115
(Effective October 1, 2016)

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115.1. Definitions. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

The following words and terms when used in this chapter shall have the following meaning unless the context clearly indicates otherwise.

- (1) Act--The Texas Midwifery Act, Texas Occupations Code, Chapter 203.
- (2) Appropriate health care facility--The Department of State Health Services, a local health department, a public health district, a local health unit or a physician's office where specified tests can be administered and read, and where other medical/clinical procedures normally take place.
- (3) Approved midwifery education courses--The basic midwifery education courses approved by the department.
- (4) Advisory Board--The Midwives Advisory Board appointed by the presiding officer of the Commission with the approval of the Commission.
- (5) Code--Texas Health and Safety Code.
- (6) Commission--The Texas Commission of Licensing and Regulation.
- (7) Department--The Texas Department of Licensing and Regulation.
- (8) Executive director--The executive director of the department.
- (9) Health authority--A physician who administers state and local laws regulating public health under the Health and Safety Code, Chapter 121, Subchapter B.
- (10) Local health unit--A division of a municipality or county government that provides limited public health services as provided by the Health and Safety Code, §121.004.
- (11) Newborn care--The care of a child for the first six weeks of the child's life.
- (12) Normal childbirth--The labor and vaginal delivery at or close to term (37 up to 42 weeks) of a pregnant woman whose assessment reveals no abnormality or signs or symptoms of complications.
- (13) Physician--A physician licensed to practice medicine in Texas by the Texas Medical Board.
- (14) Postpartum care--The care of a woman for the first six weeks after the woman has given birth.
- (15) Program--The department's midwifery program.
- (16) Public health district--A district created under the Health and Safety Code, Chapter 121, Subchapter E.
- (17) Retired midwife--A midwife licensed in Texas who is over the age of 55 and not currently employed in a health care field.
- (18) Standing delegation orders--Written instructions, orders, rules, regulations or procedures prepared by a physician and designated for a patient population, and delineating under what set of conditions and circumstances actions should be instituted, as described in the rules of the Texas Medical Board in Chapter 193 (relating to Standing Delegation Orders) and §115.111 of this title (relating to Inter-professional Care).
- (19) Voluntary charity care--Midwifery care provided without compensation and with no expectation of compensation.

115.2. License Required. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) In order for an individual to legally practice midwifery in Texas, she/he must be currently licensed by the department.
- (b) A midwife's initial license shall be valid from the date issued until March 1 of the following renewal period.

115.3. Midwives Advisory Board Duties. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration of this chapter, including scope of practice and health related standards of care.

115.4. Advisory Board Membership. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

The Midwives Advisory Board consists of nine members appointed by the presiding officer of the commission, with the approval of the commission as follows:

- (1) five members each of whom has at least three years' experience in the practice of midwifery;
- (2) two members who represent the public and who are not practicing or trained in a health care profession, one of whom is a parent with at least one child born with the assistance of a midwife;
- (3) one physician member who is certified by a national professional organization of physicians that certifies obstetricians and gynecologists; and
- (4) one physician member who is certified by a national professional organization of physicians that certifies family practitioners or pediatricians.

115.5. Terms; Vacancies. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Members of the advisory board serve staggered six-year terms. The terms of three members expiring on January 31st of each odd-numbered year.
- (b) If a vacancy occurs on the board, the presiding officer of the commission, with the commission's approval, shall appoint a replacement who meets the qualifications for the vacant position to serve for the remainder of the term.
- (c) A member of the advisory board may be removed from the advisory board pursuant to Texas Occupations Code §51.209, Advisory Boards; Removal of Advisory Board Member.

115.6. Officers. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) The presiding officer of the commission shall designate a member of the advisory board as the presiding officer of the advisory board to serve for a term of one year.
- (b) The presiding officer of the advisory board shall preside at all board meetings at which he or she is in attendance. The presiding officer of the advisory board may vote on any matter before the advisory board.

115.7. Meetings. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) The advisory board shall meet at the call of the presiding officer of the commission or the executive director.
- (b) Meetings shall be announced and conducted under the provisions of the Open Meetings Act, Texas Government Code, Chapter 551.

- (c) A quorum of the advisory board is necessary to conduct official business.
- (d) Advisory board action shall require a majority vote of those members present and voting.

115.13. Initial Application for Licensure. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Initial licensure. Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official department-approved forms. An individual may apply for licensure as a midwife at any time during the year by submitting the following to the department:
 - (1) a completed application on a department-approved form which shall contain:
 - (A) specific information regarding personal data, social security number, birth date, other licenses held, and misdemeanor or felony convictions;
 - (B) the date of the application;
 - (C) a statement that the applicant has read the Act and these rules and agrees to abide by them;
 - (D) a statement that the information in the application is truthful and that the applicant understands that providing false and misleading information on items which are material in determining the applicant's qualifications may result in the voiding of the application, or denial or the revocation of any license issued; and
 - (E) any other information required by the department.
 - (2) proof of satisfactory completion of a continuing education course covering the current Texas Midwifery Basic Information and Instructors Manual, and:
 - (A) satisfactory completion of a mandatory basic midwifery education course approved by the department and the North American Registry of Midwives (NARM) exam or any other comprehensive exam approved by the department;
 - (B) Certified Professional Midwife (CPM) certification by NARM; or
 - (C) satisfactory completion of a basic midwifery education course accredited by the Midwifery Education Accreditation Council (MEAC), and the North American Registry of Midwives (NARM) exam, or any other comprehensive exam approved by the department.
 - (3) proof of current cardiopulmonary resuscitation (CPR) certification for health care providers by the American Heart Association; equivalent certification for the professional rescuer from the Red Cross; equivalent certification for healthcare and professional rescuer from the National Safety Council; or equivalent certification issued by any provider of CPR certification for health care providers currently accepted by the Department of State Health Service's Office of EMS/Trauma Systems Coordination;
 - (4) proof of current certification for neonatal resuscitation, §§1 - 4, from the American Academy of Pediatrics;
 - (5) proof of satisfactory completion of training in the collection of newborn screening specimens or an established relationship with another qualified and appropriately credentialed health care provider who has agreed to collect newborn screening specimens on behalf of the applicant;
 - (6) a nonrefundable fee required under §115.80; and

- (7) proof of passing the jurisprudence examination approved by the department. The jurisprudence examination must have been taken no more than one year prior to the date of application.
- (b) Initial licensure after interim of more than four years. A midwife seeking initial licensure who has not become licensed within four years of completing a basic midwifery education course approved by the department or accredited by MEAC shall in addition provide proof of having completed at least 40 contact hours of approved midwifery continuing education within the year preceding the application, which shall be based upon a review of:
 - (1) the current Texas Midwifery Basic Information and Instructors Manual; and
 - (2) the current Midwives Alliance of North America (MANA) Core Competencies and Standards of Practice.
- (c) The applicant must successfully pass a criminal history background check.
- (d) Pursuant to Texas Occupations Code, Chapters 51 and 203, the commission or the executive director may deny the application for violation of the Act.
- (e) If after review the department determines that the application should not be approved, the department shall give the applicant written notice of the reason for the proposed decision and of the opportunity for a hearing under Texas Government Code, Chapter 2001.

115.14. License Renewal. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

In order to renew every two years, a midwife's application for license renewal must include the following:

- (1) a completed license renewal application form which shall require the provision of the preferred mailing address and telephone number, and a statement of all misdemeanor and felony offenses for which the licensee has been convicted, along with any other information required by the department;
- (2) proof of completion of at least 20 contact hours of approved midwifery education since March 1 of the previous two-year renewal period;
- (3) proof of a current CPR certification for health care providers from one of the following:
 - (A) the American Heart Association;
 - (B) equivalent certification for the professional rescuer from the Red Cross;
 - (C) equivalent certification for healthcare and professional rescuer from the National Safety Council; or
 - (D) equivalent certification issued by any provider of CPR certification for health care providers currently accepted by the Department of State Health Services' Office of EMS/Trauma Systems Coordination;
- (4) proof of current certification for neonatal resuscitation, §§1 - 4, from the American Academy of Pediatrics;
- (5) a nonrefundable renewal fee; and
- (6) proof of passing the jurisprudence examination approved by the department in the four years preceding renewal.

115.15. Late Renewal. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

Late license renewal. A midwife who fails to apply for license renewal by March 1 of the end of a renewal period in which the midwife is currently licensed, may apply for late license renewal on or before March 1 of the following year. Applications for late license renewal must include the following:

- (1) each of the items required for timely renewal; and
- (2) a nonrefundable late renewal fee.

115.16. Renewal for Retired Midwives Performing Charity Work. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) A retired midwife who is only providing voluntary charity care:
 - (1) may renew his or her midwifery license by submitting all the items required for renewal, the retired midwife renewal fee, and only five hours of approved midwifery continuing education.
 - (2) may renew his or her midwifery license late by submitting all the items required for late renewal, the retired midwife renewal fee, and only five hours of approved midwifery continuing education.
- (b) A retired midwife who has previously renewed under this subsection, and then subsequently seeks to return to employment in the active practice of midwifery in Texas, must either:
 - (1) be currently licensed under this subsection but not due for renewal, and submit the following items to the department:
 - (A) ten hours of continuing education, taken in the 12 months preceding the application;
 - (B) the retired midwife reinstatement fee; and
 - (C) a written request to return his or her license to active status; or
 - (2) be currently licensed under this subsection and when billed for renewal, submit all the items required for renewal with a written request to return his or her license to active status; and
 - (3) receive approval from the department prior to returning to active practice.

115.20. Basic Midwifery Education. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) The department shall consider for approval only courses which have a course supervisor/administrator and site in Texas.
- (b) Mandatory basic midwifery education shall:
 - (1) be offered to ensure that only trained individuals practice midwifery in Texas;
 - (2) be offered by any individual or organization meeting the requirements for course approval established by this subsection;
 - (3) include a didactic component which shall:
 - (A) be based upon and completely cover the most current Core Competencies and Standards of Practice of the Midwives Alliance of North America (MANA) and the current Texas Midwifery Basic Information Manual;

- (B) prepare the student to apply for certification by North American Registry of Midwives (NARM); and
 - (C) include a minimum of 250 hours course work.
- (4) be supervised and conducted by a course supervisor/administrator who shall:
- (A) be responsible for all aspects of the course; and
 - (B) have two years of experience in the independent practice of midwifery, nurse-midwifery or obstetrics; and
 - (C) have been primary care giver for at least 75 births including provision of prenatal, intrapartum, and postpartum care; and
 - (D) have met initial licensure requirements; or
 - (E) be a Certified Professional Midwife (CPM); or
 - (F) be American College of Nurse Midwives (ACNM) certified; or
 - (G) be a licensed physician in Texas actively engaged in the practice of obstetrics.
- (5) include didactic curriculum instructors who:
- (A) have training and credentials for the course material they will teach; and
 - (B) are approved by the course supervisor/administrator.
- (6) provide clinical experience/preceptorship of at least one year but no more than five years and equivalent to 1,350 clinical contact hours which prepares the student to become certified by NARM, including successful completion of at least the following activities:
- (A) serving as an active participant in attending 20 births;
 - (B) serving as the primary midwife, under supervision, in attending 20 additional births, at least 10 of which shall be out-of-hospital births. A minimum of 3 of the 20 births attended as primary midwife under supervision must be with women for whom the student has provided primary care during at least 4 prenatal visits, birth, newborn exam and one postpartum exam;
 - (C) serving as the primary midwife, under supervision, in performing:
 - (i) 75 prenatal exams, including at least 20 initial history and physical exams;
 - (ii) 20 newborn exams; and
 - (iii) 40 postpartum exams.
- (7) include preceptors who are approved by the course supervisor/administrator and shall be:
- (A) licensed midwives;
 - (B) certified professional midwives;
 - (C) certified nurse midwives; or

- (D) physicians licensed in the United States and actively engaged in the practice of obstetrics.
- (c) Individuals enrolled as students in an approved midwifery course must possess:
- (1) a high school diploma or the equivalent; and
 - (2) a current Cardiopulmonary Resuscitation (CPR) certificate for health care providers from the American Heart Association; an equivalent CPR certificate for the professional rescuer from the Red Cross; equivalent certification for healthcare and professional rescuer from the National Safety Council; or equivalent certification issued by any provider of CPR certification for health care providers currently accepted by the Department of State Health Services' Office of EMS/Trauma Systems Coordination.

115.21. Education Course Approval. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Course approval.
- (1) The course supervisor/administrator shall submit an application form and a non-refundable initial midwifery course application fee to the department with the following supporting documentation:
 - (A) course outline;
 - (B) course curriculum with specific content references to:
 - (i) MANA Core Competencies;
 - (ii) NARM Written Test Specifications;
 - (iii) NARM Skills Assessment Test Specifications;
 - (iv) Texas Midwifery Basic Information and Instructor Manual; and
 - (v) protocol writing, adaptation and revision.
 - (C) identification of didactic and preceptorship teaching sites;
 - (D) a financial statement or balance sheet (within the last year) for the course supervisor/administrator or course owner and disclosure of any bankruptcy within the last five years; and
 - (E) written policies to include:
 - (i) tuition schedule, other charges, and cancellation and refund policy, including the right of any prospective student to cancel his/her enrollment agreement within 72 hours after signing the agreement and receive a full refund of any money paid;
 - (ii) student attendance, progress, and grievance policies;
 - (iii) rules of operation and conduct of school personnel;
 - (iv) requirements for state licensure;
 - (v) disclosure of approval status of course;
 - (vi) maintenance of student files; and

- (vii) reasonable access for non-English speakers and compliance with federal and state laws on accessibility.
- (2) Student files shall be maintained for a minimum of five years and shall include:
 - (A) evidence that the entrance requirements have been met;
 - (B) documentation demonstrating completion of didactic and clinical course work; and
 - (C) copies of any financial agreements between the student and the school.
- (3) The department staff shall review each course application submitted for approval. If an application for initial approval meets all of the requirements specified in this paragraph, a one-year provisional approval will be granted. An on-site evaluation of the course shall be scheduled. The evaluation shall be conducted by a member of the department staff and a licensed midwife within the provisional year. The site visit will include the following:
 - (A) an inspection of the course's facilities;
 - (B) a review of its teaching plan, protocols, and teaching materials;
 - (C) a review of didactic and preceptorship instruction;
 - (D) interviews with staff and students; and
 - (E) a review of student, staff and preceptor files, to include coursework, protocols, and financial records.
- (4) A nonrefundable site visit fee shall be assessed for each site visit.
- (5) The site visit written report shall recommend to the department approval or denial of the course.
- (6) The department shall evaluate the application and all other pertinent information, including any complaints received and the site visit report.
- (b) Course reciprocity. A basic midwifery education course which is currently accredited by the Midwifery Education Accreditation Council (MEAC) shall be deemed approved under this subsection upon submission of evidence of such accreditation.
- (c) Duration of course approval.
 - (1) The department shall approve courses for a three year period.
 - (2) Course supervisors/administrators shall reapply for approval six months prior to expiration.
- (d) Course changes. Any substantive change(s) in the course or its content shall be submitted to the department within ten working days after change(s).

115.23. Jurisprudence Examination. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) The department shall develop a jurisprudence examination.
- (b) The subject matter covered by the examination shall include the Act, this chapter, and other Texas laws and rules which affect midwifery practice, as described in the current Texas Midwifery Basic Information and Instructor Manual.

- (c) The department shall review and update the examination as needed.

115.25. Continuing Education. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

All continuing education taken by midwives for the purpose of obtaining or renewing a midwifery license must be in accordance with this section.

- (1) Courses may be offered by any individual or organization that meets the requirements for course approval established by this section.
- (2) Course curriculum must provide an educational experience which:
 - (A) covers new developments in the fields of midwifery or related disciplines; or
 - (B) reviews established knowledge in the fields of midwifery or related disciplines; and
 - (C) shall be presented in standard contact hour increments for continuing health education; and
 - (D) shall provide reasonable access for non-English speakers and comply with federal and state laws on accessibility.
- (3) Course coordinators and instructors.
 - (A) Course coordinators shall obtain course approval, register and certify participant attendance, and provide attendance certificates to participants following the course.
 - (B) Course instructors shall have training and/or credentials appropriate for the course material they will teach.
- (4) Course approval. Continuing education courses attended to fulfill licensure or license renewal requirements shall be accepted when the courses:
 - (A) satisfy the requirements of paragraph (2)(A) - (C); and
 - (B) are accredited by one of the following accrediting bodies:
 - (i) a professional midwifery association, nursing, social work, or medicine;
 - (ii) a college, a university, or an approved basic midwifery education course;
 - (iii) a nursing, medical, or health care organization;
 - (iv) a state board of nursing or medicine;
 - (v) a department of health; or
 - (vi) a hospital.

115.70. Standards of Conduct. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

The following are grounds for denial of application for licensure or license renewal and for disciplinary action.

- (1) The commission or executive director may deny an application for initial licensure or license renewal and may take disciplinary action against any person based upon proof of the following:

- (A) violation of the Act or rules adopted under the Act;
 - (B) submission of false or misleading information to the department;
 - (C) conviction of a felony or a misdemeanor involving moral turpitude;
 - (D) intemperate use of alcohol or drugs while engaged in the practice of midwifery;
 - (E) unprofessional or dishonorable conduct that may reasonably be determined to deceive or defraud the public;
 - (F) inability to practice midwifery with reasonable skill and safety because of illness, disability, or psychological impairment;
 - (G) judgment by a court of competent jurisdiction that the individual is mentally impaired;
 - (H) disciplinary action taken by another jurisdiction affecting the applicant's legal authority to practice midwifery;
 - (I) submission of a birth or death certificate known by the individual to be false or fraudulent, or other noncompliance with Health and Safety Code, Chapter 191, or 25 Texas Administrative Code (TAC), Chapter 181 (relating to Vital Statistics);
 - (J) noncompliance with Health and Safety Code, Chapter 244, or 25 TAC, Chapter 137 (relating to Birthing Centers);
 - (K) failure to practice midwifery in a manner consistent with the public health and safety;
 - (L) failure to submit midwifery records in connection with the investigation of a complaint; or
 - (M) demonstrated lack of personal or professional character in the practice of midwifery.
- (2) The department may refuse to renew the license of a person who fails to pay an administrative penalty imposed under the Act, unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.
- (3) The commission or executive director may revoke course approval if:
- (A) the course no longer meets one or more of the standards established by this subsection;
 - (B) the course supervisor, instructor(s), or preceptor(s) do not have the qualifications required by this subsection;
 - (C) course approval was obtained by fraud or deceit;
 - (D) the course supervisor falsified course registration, attendance, completion and/or other records; or
 - (E) continued approval of the course is not in the public interest.

115.75. License Surrender. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) A license issued by the department is the property of the department and shall be surrendered on demand.
- (b) A licensee may also voluntarily surrender his or her license to the department.

115.80. Fees. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

All fees must be made payable to the department and are nonrefundable.

- (1) Application fee--\$275
- (2) Renewal fee--\$550 for each two-year renewal period
- (3) Duplicate license fee--\$20
- (4) Retired midwife renewal fee--\$275
- (5) Retired midwife reinstatement fee--\$275
- (6) Jurisprudence examination fee--\$35
- (7) Education course initial application fee--\$150
- (8) Education course site visit fee--\$500
- (9) Late renewal fees for licenses issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).
- (10) Dishonored/returned check or payment fee is the fee prescribed under §60.82 of this title (relating to Dishonored Payment Device).
- (11) The fee for a criminal history evaluation letter is the fee prescribed under §60.42 of this title (relating to Criminal History Evaluation Letters).

115.90. State Roster of Licensed Midwives. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

The department shall maintain a roster of all individuals currently licensed to practice midwifery in the state. A copy of the roster shall be provided to each county clerk and local registrar of births on request. The department shall also provide information on new and/or late licensees to individual county clerks and local registrars of births during the course of a year as needed.

115.100. Standards for the Practice of Midwifery in Texas. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Midwifery care supports individual rights and self-determination within the boundaries of safety. Using reasonable skill and knowledge, the midwife shall:
 - (1) provide clients with a description of the scope of midwifery services and information regarding the client's rights and responsibilities in accordance with the Act;
 - (2) assess the client on an ongoing basis for any factors which might preclude a client from admission into or continuing in midwifery care;
 - (3) provide clients with information about other providers and services when requested or when the care required is not within the scope of practice of midwifery; and
 - (4) practice in accordance with the knowledge, clinical skills, and judgments described in the Midwives Alliance of North America (MANA) Core Competencies for Basic Midwifery Practice, adopted August 4, 2011, within the bounds of the midwifery scope of practice as defined by the Act and Rules;
- (b) The midwife shall provide care in a safe and clean environment. The midwife shall:

- (1) carry and use when needed, resuscitation equipment; and
 - (2) use universal precautions for infection control.
- (c) Midwifery care is documented in legible, complete health records. The midwife shall:
- (1) maintain records that completely and accurately document the client's history, physical exam, laboratory test results, antepartum visits, consultation reports, referrals, labor, delivery, postpartum visits, and neonatal evaluations at the time midwifery services are delivered and when reports are received;
 - (2) grant clients access to their records within 30 days of the date the request is received;
 - (3) provide a mechanism for sending a copy of the health record upon referral or transfer to other levels of care;
 - (4) maintain the confidentiality of client records; and
 - (5) maintain records:
 - (A) for the mother, for a minimum of five years; and
 - (B) for the infant, until the age of majority.
- (d) Midwifery care includes documentation of a periodic process of evaluation and quality assurance of midwifery practice. The midwife shall:
- (1) collect client care data systematically and be involved in analysis of that data for the evaluation of the process and outcome of care;
 - (2) review problems identified by the midwife or by other professionals or consumers in the community; and
 - (3) act to resolve problems that are identified.

115.111. Inter-professional Care. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

The following definitions regarding inter-professional care of women within a midwifery model of care apply to this chapter.

- (1) Consultation is the process by which a midwife, who maintains primary management responsibility for the woman's care, seeks the advice of another health care professional or member of the health care team.
- (2) Collaboration is the process in which a midwife and a health care practitioner of a different profession jointly manage the care of a woman or newborn who needs joint care, such as one who has become medically complicated. The scope of collaboration may encompass the physical care of the client, including delivery, by the midwife, according to a mutually agreed-upon plan of care. If a physician must assume a dominant role in the care of the client due to increased risk status, the midwife may continue to participate in physical care, counseling, guidance, teaching, and support. Effective communication between the midwife and the health care professional is essential to ongoing collaborative management.
- (3) Referral is the process by which a midwife directs the client to a health care professional who has current obstetric or pediatric knowledge and is either a physician licensed in the United States; or

working in association with a licensed physician. The client and the physician (or associate) shall determine whether subsequent care shall be provided by the physician or associate, the midwife, or through collaboration between the physician or associate and midwife. The client may elect not to accept a referral or a physician or associate's advice, and if such is documented in writing, the midwife may continue to care for the client.

- (4) Transfer is the process by which a midwife relinquishes care of the client for pregnancy, labor, delivery, or postpartum care or care of the newborn to another health care professional who has current obstetric or pediatric knowledge and is either a physician licensed in the United States; or working in association with a licensed physician. If a client elects not to accept a transfer, the midwife shall terminate the midwife-client relationship. If the transfer recommendation occurs during labor, delivery, or the immediate postpartum period, and the client refuses transfer; the midwife shall call 911 and provide further care as indicated by the situation. If the midwife is unable to transfer to a health care professional, the client will be transferred to the nearest appropriate health care facility. The midwife shall attempt to contact the facility and continue to provide care as indicated by the situation.
- (5) Standing orders from a physician licensed in Texas must be obtained if a midwife provides any prescription medication to a client or her newborn other than oxygen and eye prophylaxis. The orders must be current (renewed annually) and must comply with the rules of the Texas Medical Board. Midwives have the responsibility not to comply with an outdated order.

115.112. Termination of the Midwife-Client Relationship. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

A midwife shall terminate care of a client only in accordance with this section unless a transfer of care results from an emergency situation.

- (1) Once the midwife has accepted a client, the relationship is ongoing and the midwife cannot refuse to continue to provide midwifery care to the client unless:
 - (A) the client has no need of further care;
 - (B) the client terminates the relationship; or
 - (C) the midwife formally terminates the relationship.
- (2) The midwife may terminate care for any reason by:
 - (A) providing a minimum of 30 days written notice, during which the midwife shall continue to provide midwifery care, to enable the client to select another health care provider;
 - (B) making an attempt to tell the client in person and in the presence of a witness of the midwife's wish to terminate care;
 - (C) providing referrals; and
 - (D) documenting the termination of care in midwifery records.

115.113. Transfer of Care in an Emergency Situation. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

In an emergency situation, the midwife shall initiate emergency care as indicated by the situation and immediate transfer of care by making a reasonable effort to contact the health care professional or institution to whom the client will be transferred and to follow the health care professional's instructions; and continue emergency care as needed while:

- (1) transporting the client by private vehicle; or

- (2) calling 911 and reporting the need for immediate transfer.

115.114. Prenatal Care. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Using reasonable skill and knowledge, the midwife shall collect, assess, and document maternal care data through a detailed obstetric, gynecologic, medical, social, and family history and a complete prenatal physical exam and appropriate laboratory testing; develop and implement a plan of care; thereafter evaluate the client's condition on an ongoing basis; and modify the plan of care as necessary. Health education/counseling shall be provided by the midwife as appropriate.
- (b) If on initial or subsequent assessment, one of the following conditions exists, the midwife shall recommend referral and document that recommendation in the midwifery record:
 - (1) infection requiring antimicrobial therapy;
 - (2) Hepatitis;
 - (3) non-insulin dependent diabetes;
 - (4) thyroid disease;
 - (5) current drug or alcohol abuse;
 - (6) asthma;
 - (7) abnormal pap smear (consistent with malignancy or pre-malignancy) during the current pregnancy;
 - (8) seizure disorder;
 - (9) prior cesarean section (except for prior classical or vertical incision, which will require transfer in accordance with subsection (c)(8));
 - (10) multiple gestation;
 - (11) history of prior antepartum or neonatal death;
 - (12) history of prior infant with a genetic disorder;
 - (13) significant vaginal bleeding;
 - (14) maternal age less than 15 at EDC;
 - (15) cancer or history of cancer;
 - (16) psychiatric illness; or
 - (17) any other condition or symptom which could adversely affect the mother or fetus, as assessed by a midwife exercising reasonable skill and knowledge.
- (c) If on initial or subsequent assessment, one of the following conditions exists, the midwife shall recommend transfer in accordance and document that recommendation in the midwifery record:
 - (1) placenta previa in the third trimester;
 - (2) Human Immunodeficiency Virus (HIV) positive or Acquired Immunodeficiency Syndrome (AIDS);

- (3) cardio vascular disease, including hypertension, with the exception of varicosities;
 - (4) severe psychiatric illness;
 - (5) history of cervical incompetence with surgical therapy;
 - (6) pre-term labor (less than 37 weeks);
 - (7) Rh or other blood group isoimmunization;
 - (8) any previous cesarean section with a vertical or classical incision, or any previous uterine surgery which required an incision in the uterine fundus;
 - (9) preeclampsia/eclampsia;
 - (10) documented oligo-hydramnios or poly-hydramnios;
 - (11) any known fetal malformation;
 - (12) Preterm Premature Rupture Of Membranes (PPROM);
 - (13) intrauterine growth restriction;
 - (14) insulin dependent diabetes; or
 - (15) any other condition or symptom which could threaten the life of the mother or fetus, as assessed by a midwife exercising reasonable skill and knowledge.
- (d) In lieu of referral or transfer, the midwife may manage the client in collaboration with an appropriate health care professional of this title.

115.115.Labor and Delivery. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Using reasonable skill and knowledge, the midwife shall evaluate the client when the midwife arrives for labor and delivery, by obtaining a history, performing a physical exam, and collecting laboratory specimens.
- (b) The midwife shall monitor the client's progress in labor by monitoring vital signs, contractions, fetal heart tones, cervical dilation, effacement, station, presentation, membrane status, input/output and subjective status as indicated.
- (c) The midwife shall assist in normal, spontaneous vaginal deliveries.
- (d) The midwife shall not engage in the following:
 - (1) application of fundal pressure on abdomen or uterus during first or second stage of labor;
 - (2) administration of oxytocin, ergot, or prostaglandins prior to or during first or second stage of labor; or
 - (3) any other prohibited practice as delineated by the Act, §203.401 (relating to Prohibited Practices).
- (e) If on initial or subsequent assessment during labor or delivery, one of the following conditions exists, the midwife shall initiate immediate emergency transfer and document that action in the midwifery record:
 - (1) prolapsed cord;

- (2) chorio-amnionitis;
- (3) uncontrolled hemorrhage;
- (4) gestational hypertension/preeclampsia/eclampsia;
- (5) severe abdominal pain inconsistent with normal labor;
- (6) a non-reassuring fetal heart rate pattern;
- (7) seizure;
- (8) thick meconium unless the birth is imminent;
- (9) visible genital lesions suspicious of herpes virus infection;
- (10) evidence of maternal shock;
- (11) preterm labor (less than 37 weeks);
- (12) presentation(s) not compatible with spontaneous vaginal delivery;
- (13) laceration(s) requiring repair beyond the scope of practice of the midwife;
- (14) failure to progress in labor;
- (15) retained placenta; or
- (16) any other condition or symptom which could threaten the life of the mother or fetus, as assessed by a midwife exercising reasonable skill and knowledge.

115.116. Postpartum Care. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Using reasonable skill and knowledge, the midwife shall assess the mother during the immediate postpartum period by monitoring vital signs, uterine fundus, bleeding and subjective status for a minimum of two hours after mother's condition is stable as indicated.
- (b) Using reasonable skill and knowledge, the midwife shall:
 - (1) collect, assess and document maternal care data throughout the postpartum period including history, physical exam, laboratory testing;
 - (2) develop and implement a plan of care;
 - (3) evaluate the client's condition on an ongoing basis and modify the plan of care as necessary; and
 - (4) provide health education/counseling.
- (c) If on any postpartum assessment one of the following conditions exists, the midwife shall recommend referral to an appropriate health care professional and document that recommendation in the midwifery record:
 - (1) infection requiring antimicrobial therapy;
 - (2) bladder dysfunction;

- (3) major depression; or
 - (4) any other condition or symptom which could threaten the health of the mother, as assessed by a midwife exercising reasonable skill and knowledge.
- (d) If on any postpartum assessment one of the following conditions exists, the midwife shall initiate immediate emergency transfer, initiate emergency care as indicated by the situation, continue care as needed, and document that action in the midwifery record:
- (1) uncontrolled hemorrhage;
 - (2) maternal shock;
 - (3) any hypertensive disorder, including preeclampsia/eclampsia;
 - (4) signs of thrombophlebitis or pulmonary embolism; or
 - (5) any other condition or symptom which could threaten the life of the mother, as assessed by a midwife exercising reasonable skill and knowledge.

115.117. Newborn Care During the First Six Weeks After Birth. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Prior to delivery, the midwife shall establish a plan with the client for continuing care of the newborn. This plan shall:
- (1) include referral or transfer to a health care professional who has current pediatric knowledge;
 - (2) include a recommendation that the client pre-arrange the timing of the first newborn visit with the health care professional; and
 - (3) be documented in the midwifery record.
- (b) Using reasonable skill and knowledge, the midwife shall:
- (1) collect, assess and document newborn care data by monitoring the vital signs, performing a physical exam, and obtaining the laboratory tests necessary for the infant during the postpartum period;
 - (2) provide appropriate education and counseling to the mother; and
 - (3) observe the newborn for a minimum of two hours after he or she is stable with no signs of distress.
- (c) If on any newborn assessment in the immediate postpartum period (first six hours of life), one of the following conditions exists, the midwife shall recommend referral and document that recommendation in the midwifery record:
- (1) birth injury;
 - (2) gestational age assessment less than 36 weeks;
 - (3) small for gestational age;
 - (4) large for gestational age; or
 - (5) any other abnormal newborn behavior or appearance which could adversely affect the newborn, as assessed by a midwife exercising reasonable skill and knowledge.

- (d) If on any newborn assessment in the immediate postpartum period (first six hours of life), one of the following conditions exists, the midwife shall initiate immediate transfer to an appropriate health care professional, initiate emergency care as indicated by the situation, continue care as needed, and document that action in the midwifery record:
- (1) non-transient respiratory distress;
 - (2) non-transient pallor or central cyanosis;
 - (3) jaundice;
 - (4) apgar at 5 minutes less than or equal to 6;
 - (5) prolonged apnea;
 - (6) hemorrhage;
 - (7) signs of infection;
 - (8) seizure;
 - (9) major congenital anomaly not diagnosed prenatally;
 - (10) unstable vital signs;
 - (11) prolonged:
 - (A) lethargy;
 - (B) flaccidity; or
 - (C) irritability;
 - (12) inability to suck;
 - (13) persistent jitteriness;
 - (14) hyperthermia;
 - (15) hypothermia; or
 - (16) other abnormal newborn behavior or appearance which could threaten the life of the newborn, as assessed by a midwife exercising reasonable skill and knowledge.
- (e) If on any newborn assessment after the immediate postpartum period, one of the following conditions exists, the midwife shall recommend referral to an appropriate health care professional and document that recommendation in the midwifery record:
- (1) abnormal laboratory test results;
 - (2) minor congenital anomaly;
 - (3) failure to thrive; or

- (4) any other abnormal newborn behavior or appearance which could adversely affect the infant, as assessed by a midwife exercising reasonable skill and knowledge.
- (f) If on any newborn assessment after the immediate postpartum period, one of the following conditions exists, the midwife shall initiate immediate transfer to an appropriate health care professional and document that action in the midwifery record:
- (1) respiratory distress;
 - (2) pallor or central cyanosis;
 - (3) pathological jaundice;
 - (4) hemorrhage;
 - (5) seizure;
 - (6) inability to urinate or pass meconium within 24 hours of birth;
 - (7) unstable vital signs;
 - (8) lethargy;
 - (9) flaccidity;
 - (10) irritability;
 - (11) inability to feed;
 - (12) persistent jitteriness; or
 - (13) any other abnormal newborn behavior or appearance which could threaten the life of the newborn, as assessed by a midwife exercising reasonable skill and knowledge.

115.118. Administration of Oxygen. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Purpose. This section outlines procedures for administration of oxygen by midwives. Whether or not a midwife chooses to administer oxygen to the mother and/or newborn, the midwife remains responsible for assessing the client and/or newborn; recommending referral; and/or recommending transfer or transport of the mother and newborn.
- (b) Under this section a midwife is not required to use oxygen.
- (c) Provisions. This section establishes that:
 - (1) intrapartum oxygen may be administered to the mother for the following:
 - (A) fetal heart rate irregularities while assessing for consultation and/or possible transfer;
 - (B) cord prolapse prior to transport;
 - (C) signs or symptoms of maternal shock or hemorrhage prior to transport; or
 - (D) as indicated by American Heart Association Cardiopulmonary Resuscitation guidelines;

- (2) postpartum oxygen may be administered while monitoring according to the Midwifery Practice Standards and Principles:
 - (A) to the newborn during the initial neonatal period at a rate concurrent with American Academy of Pediatrics Neonatal Resuscitation guidelines; or
 - (B) to the mother and/or newborn in other situations not listed above and deemed necessary according to generally accepted standards of midwifery practice to protect the health and well-being of the mother and/or newborn;
- (3) indications for administration of oxygen shall be clearly documented in the client's chart.
- (d) Midwives are authorized to purchase equipment and supplies listed in the American Heart Association Cardiopulmonary Resuscitation Guidelines and the American Academy of Pediatrics Neonatal Resuscitation Guidelines for the administration of oxygen.

115.119. Eye Prophylaxis. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Each midwife is responsible for administering or causing to be administered to every infant which she or he delivers the necessary eye prophylaxis to prevent ophthalmia neonatorum in accordance with the medications specified in Health and Safety Code, §81.091.
- (b) A midwife must obtain a written exemption from treatment in accordance with Health and Safety Code, §81.009 from any parent who refuses to allow a midwife to administer or cause to be administered eye prophylaxis in accordance with Health and Safety Code, §81.091
- (c) The administration and possession of prophylaxis by a midwife is not a violation of the provisions of the Health and Safety Code, Chapter 483, concerning dangerous drugs.

115.120. Newborn Screening. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

- (a) Each midwife who assists at the birth of a child is responsible for performing the newborn screening tests according to the Health and Safety Code, Chapters 33 and 34, and 25 TAC §§37.51 - 37.65, or making a referral in accordance with this subsection. If the midwife performs the tests, then she or he must have been appropriately trained. Each midwife must have one of the following documents on file with the department in order to be licensed.
 - (1) Midwife Training Certification Form for Newborn Screening Specimen Collection. Should the midwife choose to do the newborn screening she or he will obtain training to perform this test from an appropriate health care facility. Instruction will be based upon the procedure for newborn screening developed by the Department of State Health Service's Newborn Screening Program under authority of the Health and Safety Code, Chapter 33. At the completion of the instruction for newborn screening blood collection, the midwife will request that the form Midwife Training Certification Form for Newborn Screening Specimen Collection be signed by the designated representative of the health care facility, attesting to the fact that the midwife has complied with this requirement. This training, as part of the licensure requirements, is only necessary once unless there is a change in screening procedures.
 - (2) Newborn Screening Agreement for Newborn Babies of Midwife Clients. The midwife could also choose to refer the family to have the infant's screening done at an appropriate health care facility. In this case, the midwife must use the form Newborn Screening Agreement for Newborn Babies of Midwife Clients to attest to her responsibility for seeing that the screening is done and to designate a facility for such screening. The form must include a section where the facility representative signs, agreeing that the facility will do the screening.

- (b) As long as the midwife has been approved to perform the newborn screening test, the act of collecting this specimen will not constitute "practicing medicine" as defined by the Medical Practice Act.
- (c) As long as one is available, a physician or an appropriately trained professional acting under standing delegation order from a physician at an appropriate health care facility shall instruct midwives in the proper procedure (newborn screening collection procedure of the Department of State Health Services' Newborn Screening Program) for newborn screening blood specimen collection and submission. The physician, registered nurse, or any other person who instructs a midwife in the approved techniques for newborn screening on the orders of a physician is immune from liability arising out of the failure or refusal of a midwife to:
 - (1) collect and submit the blood specimen in an approved manner; or
 - (2) send the samples to the laboratories designated by the Department of State Health Services in a timely manner.
- (d) Newborn Screening Test Objection Form. A midwife must obtain a completed and signed Newborn Screening Test Objection form from any parent who refuses to allow a midwife to perform the newborn screening tests.

115.121. Informed Choice and Disclosure Statement. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

The written informed choice and disclosure statement which has been approved by the department shall include:

- (1) an informed choice statement containing:
 - (A) statistics of the midwife's experience as a midwife;
 - (B) the date of expiration of the midwife's license;
 - (C) the date of expiration of the midwife's adult and infant cardiopulmonary resuscitation and neonatal resuscitation certification;
 - (D) the midwife's compliance with continuing education requirements; and
 - (E) medical backup arrangements; and
- (2) a disclosure statement, which includes the legal requirements of the midwife and prohibited acts as stated in the Act. The disclosure statement may not exceed 500 words and must be in Spanish and English; and must contain;
- (3) information on where to file a complaint against a licensed midwife, including the name, mailing address and telephone number for the department.

115.122. Obtain Complaint Information without Consent of Client. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

The department shall obtain all relevant midwifery records and medical records necessary to conduct an investigation of a complaint without the necessity of consent of the midwife's client.

115.123. Administrative Penalties and Sanctions. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

If a person or entity violates any provision of Texas Occupations Code, Chapters 51 or 203, this chapter, or any rule or order of the executive director or commission, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both in accordance with the provisions of Texas Occupations Code, Chapter 51 and 203 and any associated rules.

115.125. Enforcement Authority. *(New Section adopted effective October 1, 2016, 41 TexReg 4477)*

The enforcement authority granted under Texas Occupations Code, Chapters 51 and 203 and any associated rules may be used to enforce Texas Occupations Code, Chapters 51, 203 and this chapter.