

Title 17. Professions, Occupations, and Businesses

Chapter XI. Department of Health, State Board of Health, Generally

Subchapter A. Generally

Part 47. Rules Governing the Practice of Licensed Lay Midwifery in Arkansas

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"101. PURPOSE AND AUTHORITY

Act 838 of 1983 provided for the lawful practice of Licensed Lay Midwifery in counties having 32.5% or more of their population below the poverty level. Act 481 of 1987 superseded Act 838 of 1983, and expanded the lay midwifery licensure statewide. These Rules govern the practice of Licensed Lay Midwives (LLMs) in Arkansas.

The following Rules are promulgated pursuant to the authority conferred by the Licensed Lay Midwife Act A.C.A. § 17-85-101 et seq. and A.C.A. § 20-7-109. Specifically, the LLM Act directs the Arkansas State Board of Health to administer the provisions of the Act and authorizes and directs the Board to adopt rules governing the qualifications for licensure of lay midwives and the practice of Licensed Lay Midwifery. The broad authority vested in the Board of Health, pursuant to ACA § 20-7-109, to regulate and to ultimately protect the health of the public is the same authority the Board utilizes in enforcing the Rules, determining sanctions, revoking licenses, etc.

102. ADMINISTRATION OF PROGRAM

The State Board of Health (BOH) has delegated the authority to the Arkansas Department of Health (ADH)."

"May 23, 2022"

"700. SEVERABILITY.

If any provision of these Rules, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of these Rules which can give effect without the invalid provisions or applications; and to this end the provisions hereto are declared to be severable.

800. REPEAL.

All Rules and parts of Rules in conflict herewith are hereby repealed.

900. CERTIFICATION

This will certify that the Rules Governing the Practice of Licensed Lay Midwifery in Arkansas were prepared pursuant to A.C.A. 20-7-109 and A.C.A. 17-85-101 et seq.

This will also certify that the foregoing Rules Governing the Practice of Licensed Lay Midwifery in Arkansas were adopted by the Arkansas Board of Health at a regular session of same held in Little Rock, Arkansas on the 28th day of October, 2021"

Subpart 1. General Provisions

17 CAR § 47-101. Definitions.

As used in this part, the terms below will be defined as follows, except where the context clearly requires otherwise:

(1)(A) "Advertisement" and "advertising" means any statements, oral or written, disseminated to or before the public, with the intent of:

- (i) Selling professional services; or
- (ii) Offering to perform professional services.

(B) Advertising includes, but is not limited to, promotional literature, websites, and social media sites used for the purpose of selling services;

(2) "Apprentice" means a person who is training to become an LLM in Arkansas working under the direct supervision of a preceptor;

(3) "Arkansas Department of Health clinician" means a Department of Health physician, certified nurse midwife (CNM), or nurse practitioner providing Department of Health maternity services at a local health unit;

(4) "Arkansas rules examination" means the exam that tests knowledge of the Rules Governing the Practice of Licensed Lay Midwifery in Arkansas;

(5) "Automatic licensure" means granting the occupational licensure without an individual having met occupational licensure requirements provided:

(A) Under the Arkansas Code; or

(B) By other provisions in this part;

(6) "Birthing center" or "birth center" means any facility licensed by the Department of Health which is organized to provide family-centered maternity care in which births are planned to occur in a homelike atmosphere away from the mother's usual residence following a low-risk pregnancy;

(7)(A) "Certified midwife (CM)" means individuals who:

(i) Have or receive a background in a health-related field other than nursing; and

(ii) Graduate from a midwifery education program accredited by the Accreditation Commission for Midwifery Education (ACME).

(B) Graduates of an ACME-accredited midwifery education program take the same national certification examination as CNMs but receive the professional designation of certified midwife;

(8)(A) "Certified nurse midwife (CNM)" means a person who is:

(i) Certified by the American College of Nurse-Midwives; and

(ii) Also currently licensed by the Arkansas State Board of Nursing or the appropriate licensing authority of a bordering state to perform nursing skills relevant to the management of women's health care for compensation, focusing on:

- (a) Pregnancy;
- (b) Childbirth;
- (c) The postpartum period;
- (d) Care of the newborn;
- (e) Family planning; and
- (f) The gynecological needs of women.

(B) The CNM must be currently practicing midwifery unless stated otherwise in this part;

(9) "Certified professional midwife (CPM)" means a professional midwifery practitioner who has met the standards for certification set by the North American Registry of Midwives (NARM);

(10) "Client" means a pregnant woman, a postpartum woman for a minimum of thirty (30) days, or her healthy newborn for the first fourteen (14) days of life who is the recipient of LLM services;

(11)(A) "Consultation" means the process by which an LLM who maintains primary responsibility for the client's care, seeks the advice of a:

- (i) Physician;
- (ii) CNM; or
- (iii) Department of Health clinician.

(B) This may be:

- (i) By phone;
- (ii) In person; or
- (iii) By written request.

(C) The physician, CNM, or Department of Health clinician may require the client to come into their office for evaluation;

(12)(A) "Contact hour" means a unit of measure to describe fifty (50) to sixty (60) minutes of an approved, organized learning experience that is designed to meet professional educational objectives.

(B) It is a measurement for continuing education.

(C) One (1) contact hour is equal to one-tenth of one (0.1) CEU.

(D) Ten (10) contact hours are equal to one (1) CEU;

(13) "Labor support attendant" means an individual who is present at the request of the client to provide emotional or physical support for the client and her family;

(14) "LLM assistant" means an individual who is present at the request of the LLM at any point during the course of midwifery care of the client to provide services under LLM supervision;

(15)(A) "Licensed lay midwife (LLM)" means any person who:

(i) Is licensed by the Department of Health to practice midwifery; and
(ii) Performs for compensation those skills relevant to the management of care of women in the antepartum, intrapartum, and postpartum periods of the maternity cycle.

(B) LLMs also manage care of the healthy newborn for the first fourteen (14) days of life;

(16) "Local health unit" means a community-based Department of Health clinic site that provides medical and environmental services;

(17) "Midwifery bridge certificate" means a certification administered by NARM awarded to CPMs following the completion of accredited, approved continuing education contact hours based upon identified areas to address emergency skills and the International Confederation of Midwives (ICM) competencies;

(18) "North American Registry of Midwives (NARM)" means the international certification agency that established, and continues to administer, certification for the credential "Certified Professional Midwife" (CPM) and the Midwifery Bridge Certificate (MBC);

(19)(A) "Physician" means a person who is currently licensed by the Arkansas State Medical Board, or the appropriate licensing authority of a bordering state, to practice medicine or surgery.

(B) For the purposes of any sections of this part governing the care of pregnant and postpartum women, "physician" refers to those currently practicing obstetrics.

(C) For the purposes of any sections of this part governing the care of newborn infants, "physician" refers to those physicians who currently include care of newborns in their practices;

(20)(A) "Preceptor" means a legally practicing obstetric or midwifery practitioner who:

(i) Participates in the teaching and training of apprentice midwifery students; and

(ii) Meets NARM preceptor standards including credentials, years of experience, and birth attendance requirements.

(B) A preceptor assumes responsibility for supervising the practical (clinical obstetric) experience of an apprentice and for the midwifery services they render during their apprenticeship.

(C) In the case of transitional apprentices, the definition of preceptor in Appendix B applies;

(21) "Referral" means the process by which the client is directed to a physician, CNM, or Department of Health clinician for management of a particular problem or aspect of the client's care after informing the client of the risks to the health of the client or newborn;

(22) "Supervision" means the direct observation and evaluation by the preceptor of the clinical experiences and technical skills of the apprentice while present in the same room;

(23) "Transfer of care" means the process by which the LLM relinquishes care of her or his client for pregnancy, labor, delivery, or postpartum care to a physician, CNM, or Department of Health clinician, after informing the client of the risks to the health or life of the client;

(24) "Uniformed service member" means an:

(A) Active or reserve component member of the United States Air Force, United States Army, United States Coast Guard, United States Marine Corps, United States Navy, United States Space Force, or National Guard;

(B) Active component member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or

(C) Active or reserve component member of the United States Commissioned Corps of the Public Health Service; and

(25) "Uniformed service veteran" means a former member of the United States uniformed services discharged under conditions other than dishonorable.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CEU" means continuing education unit.

17 CAR § 47-102. Scope of practice.

(a)(1) The LLM may provide midwifery care according to the protocols in this part only to healthy women, determined through a physical assessment and review of the woman's health and obstetric history:

(A) Who are at low risk for the development of medical or obstetric complications of pregnancy or childbirth; and

(B) Whose expected outcome is the delivery of:

(i) A healthy newborn; and

(ii) An intact placenta.

(2) The LLM shall be responsible for care of the healthy newborn immediately following delivery and for the first fourteen (14) days of life (unless care is transferred to a physician or APRN specializing in the care of infants and children before that).

(3) After fourteen (14) days the LLM is no longer responsible and the client should seek further care from a physician or an APRN specializing in the care of infants and children.

(4) If any abnormality is suspected, including, but not limited to, a report of an abnormal genetic/metabolic screen or positive antibody screen, the newborn must be sent for medical evaluation as soon as possible but no later than seventy-two (72) hours.

(5) This does not preclude the LLM from continuing to provide counseling regarding routine newborn care and breastfeeding.

(b)(1) Although the Department of Health Licensed Lay Midwifery program is supervised by department physicians, each LLM is encouraged to develop a close working relationship with one (1) or more specific physicians in obstetric and pediatric practice, or CNMs in obstetric practice who agree to serve as a referral/consultation source for the LLM.

(2) This relationship is optional.

(3) The referral physician and LLM relationship, or the CNM and LLM relationship, can be terminated by either party at any time.

(c) Apprentice midwives and LLM assistants may only work under the onsite supervision of their preceptor.

(d)(1) At various points during the course of midwifery care, the LLM must inform the client of the requirement for tests, procedures, treatments, medications, or referrals specified in 17 CAR § 47-301 et seq., which are for the optimal health and safety of the mother and baby, and refusal is strongly discouraged.

(2) However, continuing care of a client who refuses some of these requirements is permitted if the LLM meets certain requirements as outlined in subsections (e) – (h) of this section.

(e) LLMs who have a current certified professional midwife (CPM) credential but do not have a Midwifery Bridge Certificate (MBC) may continue care of clients who:

(1) Refuse the following tests listed in 17 CAR § 47-303(b):

- (A) Pap test/HPV test;
- (B) Test for gonorrhea and chlamydia;
- (C) Test for syphilis;
- (D) Hepatitis B test; and
- (E) HIV counseling and test;

(2) Refuse recommended Rh immunoglobulin as outlined in 17 CAR § 47-303(e);

(3) Refuse a referral or to follow advice against home birth as a result of the identification of these pre-existing conditions listed in 17 CAR § 47-304(f):

(A) History of seven (7) or more deliveries;

(B) Maternal age greater than or equal to forty (40) at estimated date of delivery;

(C) Previous infant weighing less than five (5) pounds or more than ten (10) pounds; or

(D) Pregnancy termination or loss of greater than or equal to three (3);

and

(4) Refuse the newborn procedures listed in 17 CAR § 47-309(d) and (e):

(A) Administration of eye medication if indicated; and

(B) Administration of vitamin K.

(f) LLMs who have both a current CPM and the MBC, or LLMs who have a CNM or CM, may continue care of clients who refuse any test, procedure, treatment, referral, or medication, except for:

(1) The precluded conditions listed in 17 CAR § 47-304(e);

(2) The requirement of having the risk assessments listed in 17 CAR § 47-303(a); or

(3) Conditions requiring immediate transport as listed in 17 CAR § 47-306(a), 17 CAR § 47-308(a), and 17 CAR § 47-310(a).

(g)(1) LLMs who do not have a current CPM credential are not permitted to continue care for clients who refuse any of the required tests, procedures, treatments, medications, or referrals specified in this part except for recommended Rh immunoglobulin as outlined in 17 CAR § 47-303(e).

(2) Should a client refuse Rh immunoglobulin, the LLM must follow 17 CAR § 47-102(h)(2) – (6).

(h) Should a client of the LLM with a CPM, CM, CNM, or CPM/MBC refuse any of the tests or procedures pursuant to subsections (e) and (f) of this section:

(1) The LLM must inform the client that the LLM is only permitted to continue to provide care to the client if the LLM's certification meets the required standard as outlined in subsections (e) and (f) of this section;

(2)(A) The LLM must inform the client of the potential risks to herself or her baby.

(B) It is the responsibility of the LLM to provide current evidence and adequate information, both written and verbal, to the client regarding the risks of declining the test, procedure, treatment, medication, or referral, including the risks and benefits of no action at all.

(C) This must include the review of any available and relevant department-approved sources on each test, procedure, treatment, medication, or referral being refused;

(3) The LLM must document the client's refusal using the department Informed Refusal Form and include:

(A) The information shared with the client as outlined in subdivision (h)(2) of this section and the department-approved sources used;

(B) The client's written assertion refusing the:

(i) Test;

(ii) Procedure;

(iii) Treatment;

(iv) Medication; or

(v) Referral;

(C) The client's affirmation of her understanding and acceptance of the risks; and

(D) A plan of care for the condition, including a plan for transfer of care if indicated;

(4)(A) The department Informed Refusal Form must be signed and dated by both the LLM and the client and a copy must be kept by the LLM in the client's file.

(B) Signing the form shows they have discussed the risks and benefits of continuing under the care of the LLM;

(5) Each signed refusal form must be documented by completing an Incident Report Form and noting the Informed Refusal on the next LLM Caseload and Birth Report Log; and

(6) Documentation of refusal must be included in the client's record in the event a client changes her mind concerning an informed refusal.

(i)(1)(A) It is the responsibility of the LLM to engage in a process of continuous evaluation, beginning with the initial consultation and continuing throughout the provision of care.

(B) This includes continuously assessing safety considerations and risks to the client and informing her of the same.

(2)(A) The LLM is expected to use their judgment in assessing when the client's condition or health needs exceed the LLM's:

- (i) Knowledge;
- (ii) Experience; or
- (iii) Comfort level.

(B) The LLM has the right and responsibility to terminate care under these circumstances.

(j) If any medications that are provided by the department or prescribed by a physician or CNM in accordance with this part are administered at the home birth site, the LLM shall document this in the client health record and include the following:

- (1) The name of the medication;
- (2) The lot number and date of expiration;
- (3) The strength and amount or dose of the medication;
- (4) The date and time the medication is administered;
- (5) The name of the prescriber; and
- (6) Document:

(A) The name and the credentials of the nurse administering the medication; or

(B) That the client, or LLM as agent to the client, administered medication to the newborn.

(k) The LLM is required to comply with all provisions of HIPAA (Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191).

(l) The LLM is required to comply with all provisions of CLIA (Clinical Laboratory Improvement Amendments of 1988, Pub. L. No. 100-578) when tests are performed for the purpose of providing information for the health care of midwife clients.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "APRN" means advanced practice registered nurse.

"CEU" means continuing education unit.

"CM" means certified midwife.

"CNM" means certified nurse midwife.

"HIV" means human immunodeficiency virus.

"HPV" means human papillomavirus.

"LLM" means licensed lay midwife.

17 CAR § 47-103. Title protection.

(a)(1) A person may not practice or offer to act as a lay midwife in Arkansas unless licensed by the State Board of Health.

(2) It is unlawful for any person not licensed as a lay midwife by the board to:

(A) Receive compensation for attending births as an LLM; or

(B) Indicate that they are licensed to practice lay midwifery in Arkansas,

excluding licensed:

(i) CNMs; and

(ii) Physicians.

(b) Anyone unlawfully practicing lay midwifery without a license shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by:

(1) A fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500);

(2) Imprisonment in the county jail for a period of not less than one (1) week nor more than six (6) months; or

(3) Fine and imprisonment.

(c) The courts of this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of midwifery in a proceeding by:

(1) The State Board of Health or any member thereof; or

(2) Any citizen of this state in:

(A) The county in which the alleged unlawful practice occurred;

(B) Which the defendant resides; or

(C) Pulaski County.

(d) The issuance of an injunction shall not relieve a person from criminal prosecution for violation of the provisions of the Licensed Lay Midwife Act, Arkansas Code § 17-85-101 et seq., but remedy of the injunction shall be in addition to liability to criminal prosecution.

(e) An LLM must use the title "Licensed Lay Midwife" or the initials "LLM" on all materials related to their practice, including all promotional materials.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CNM" means certified nurse midwife.

"LLM" means licensed lay midwife.

17 CAR § 47-104. Delegation of licensed lay midwifery functions.

(a)(1) An LLM assistant may be engaged by the LLM to complement their work, but shall not be used as a substitute for the LLM.

(2) Tasks that may be delegated to the LLM assistant before an assessment of the client's care needs is completed by the LLM include:

(A) Noninvasive and non-sterile tasks if, in the judgment of the LLM, the LLM assistant has the appropriate knowledge and skills to perform the task;

(B) The collecting, reporting, and documentation of temperature, weight, intake, output, and contractions, indicating their frequency and duration;

(C) Reporting changes from baseline data established by the LLM;

(D) Assisting the client with:

(i) Ambulation;

(ii) Positioning; or

(iii) Turning;

(E) Assisting the client with personal hygiene; and

(F) Reinforcing health teaching planned or provided by the LLM.

(3) Tasks that must never be delegated to an LLM assistant include, but are not exclusive to, the following:

(A) The performance of a physical assessment or evaluation;

(B) Physical examination which includes, but is not limited to:

(i) Fetal heart rate auscultation;

(ii) Cervical exams; and

(iii) Blood pressure measurements;

(C) The provision of sterile invasive treatments;

(D) The administration of any prescription drugs; and

(E) The use of any medical devices.

(b) The LLM shall monitor and document the care and procedures performed by any LLM assistant or labor support attendant in the client's medical record.

(c) An LLM who has agreed to provide care to a client is held accountable to act according to the standards of care set out in this part, until such a time as that care is terminated by the client or the LLM in accordance with this part.

(d)(1) An LLM may request a registered nurse to perform selected acts, tasks, or procedures that are outside the scope of the LLM's practice but which do not exceed the scope of practice of the nurse's license.

(2) It is the nurse's responsibility to be informed and act in accordance with both the Arkansas Nurse Practice Act and the Arkansas State Board of Nursing Rules, 17 CAR pt. 120.

(e)(1) An LLM who also holds an Arkansas nursing license is required to act in accordance with the following:

(A) The Rules Governing the Practice of Licensed Lay Midwifery in Arkansas;

(B) The Arkansas Nurse Practice Act, as codified in Arkansas Code § 17-87-101 et seq.; and

(C) The Arkansas State Board of Nursing Rules, 17 CAR pt. 120, as promulgated by the Arkansas State Board of Nursing.

(2) An LLM practicing under the scope of her or his nursing license while acting as an LLM may be referred to the board if any improper conduct is suspected.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-105. Advertising.

(a) The Department of Health permits advertising by LLMs regarding the practice of licensed lay midwifery in accordance with this part.

(b)(1) No LLM shall disseminate or cause the dissemination of any advertisement or advertising that is in any way false, deceptive, or misleading.

(2) Any advertisement or advertising shall be deemed to be false, deceptive, or misleading if it:

(A) Contains a misrepresentation of facts;

(B) Makes only a partial disclosure of relevant facts;

(C) Contains any representation or claims as to services that the LLM cannot legally perform;

(D) Contains any representation, statement, or claim which misleads or deceives; or

(E) Could lead a reasonably prudent person to believe that the LLM is licensed to practice nursing or medicine when not so licensed in the State of Arkansas.

(c) Advertising that crosses into other states must clearly state if any of the services offered are legal only in certain states in which the LLM practices.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-106. Immunizations.

All LLMs and their apprentices are strongly encouraged to:

- (1) Have routine vaccinations to the fullest extent unless contraindicated; and
- (2) Not to rely on the immunization status of others or herd immunity to protect them, their clients, and their families.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-107. Midwifery Advisory Board.

(a) The State Board of Health shall establish and appoint the Midwifery Advisory Board (MAB) to advise the Department of Health and the State Board of Health on matters pertaining to the regulation of midwifery.

(b) Purpose, duties, and responsibilities.

(1) Reviewing and advising the department and the State Board of Health regarding the rules.

(2) Reviewing and advising the department regarding approval of continuing education units (CEUs).

(3) Reviewing and advising the department regarding quality improvement data and information.

(4) Serving as community liaisons to educate the public and other providers regarding the practice of midwifery.

(5) Promoting the safe practice of midwifery by addressing issues and concerns regarding the practice of midwifery of the department, State Board of Health, public consumers of midwifery services, and LLMs.

(6) **Reviewing reports.**

(A) **Statistical reports.**

(i) A draft of the annual LLM statistical report will be available to MAB members for comment prior to the presentation to the State Board of Health.

(ii) Up to two (2) MAB members may consult with department program staff in determining the plan for the collection of data.

(B) **Disciplinary case reports.**

(i) The department will notify the MAB of all disciplinary hearings taken before the State Board of Health.

(ii) A copy of the final order will be made available to the MAB.

(c) **Composition of the MAB.** The composition of the MAB will be as follows:

(1) Four (4) Arkansas LLMs;

(2) One (1) CNM, currently licensed as a CNM in Arkansas, preferably practicing;

(3) One (1) member at large; and

(4) Three (3) public consumers who have either had a midwife-attended birth, are the spouse of someone who has had a midwife-attended birth, or are persons who have been involved in promoting midwifery or home birth in the State of Arkansas.

(d) **Nomination of members.**

(1)(A) Members of the MAB are appointed by the State Board of Health.

(B) The State Board of Health requests nominations from the MAB through the department.

(2) The process for applying to serve on the MAB is as follows:

(A) Individuals interested in either proposing a nomination or serving on the MAB must obtain an "Application for Midwifery Advisory Board Appointment" from the MAB; and

(B) The applicant will complete the application form and submit it to the MAB according to the instructions.

(e) Terms of Midwifery Advisory Board members.

(1) Midwifery Advisory Board (MAB) members shall serve terms of up to four (4) years.

(2) No member may serve more than two (2) consecutive full terms.

(3) Members may be eligible for reappointment two (2) years after the date of the expiration of the second full term.

(f) Organizational structure of the Midwifery Advisory Board.

(1) MAB members shall establish and annually review the Bylaws of the Midwifery Advisory Board.

(2) Additionally, an organizational chart with delegation of duties of MAB members and officers shall be developed.

(3) MAB members shall elect a chair, vice-chair, and secretary at its first meeting each year that will serve until their successors are elected.

(4) The MAB will schedule and conduct meetings at least two (2) times a year and at other times, as necessary.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CEU" means continuing education unit.

"CNM" means certified nurse midwife.

"LLM" means licensed lay midwife.

17 CAR § 47-108. Continuing education activities of the Midwifery Advisory Board.

For the purpose of this part, the MAB will process the review of continuing education credits by the following criteria:

- (1) The application for review:
 - (A) Must be received by the MAB at least sixty (60) days prior to the scheduled course date; and
 - (B) Shall be submitted simultaneously to the Department of Health;
- (2) The MAB will review and evaluate the application for the continuing education course and make a recommendation to the department;
- (3)(A) The documentation will be reviewed for appropriate content applicable to the protocols and clinical practice of the licensed lay midwifery program of Arkansas.
 - (B) Each application shall be evaluated on the following criteria:
 - (i) Completeness of application;
 - (ii) Agenda;
 - (iii) Intended audience;
 - (iv) Method of delivery (lecture, video, correspondence, online, other);
 - (v) Course description and objectives; and
 - (vi) Biographical data for each speaker including pertinent education and experience; and
- (4)(A) The recommendation of the MAB shall be submitted in writing for department approval, no less than thirty (30) days prior to the scheduled course date.
 - (B) The department will make the final decision for approval of continuing education courses, after consideration of timely received MAB recommendations.
 - (C) All final decisions by the department denying approval for continuing education courses may be appealed to the State Board of Health within thirty (30) days of receiving the denial.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "MAB" means Midwifery Advisory Board.

Subpart 2. Licensing

17 CAR § 47-201. Generally.

(a)(1) An LLM license, valid for up to three (3) years, is issued upon application and favorable review.

(2) Application materials and instructions are available:

(A) From the Department of Health website; or

(B) By contacting the Women's Health Section of the Department of Health for assistance.

(b) Unless otherwise specified by this part, individuals who wish to become licensed as an LLM in Arkansas are required to have either current:

(1) NARM CPM certification;

(2) Certification by the American Midwifery Certification Board as a CNM or CM; or

(3) Certification deemed equivalent and approved by the department.

(c)(1) LLMs seeking renewal of their license must have current CPM, CNM, or CM certification unless they:

(A) Were licensed continuously prior to this part; and

(B) Have never been certified as a CPM.

(2) Those LLMs may renew their license by:

(A) Showing documentation of CEUs as required in 17 CAR § 47-203(b)(4); and

(B) Completing the renewal application process.

(d)(1) It is the responsibility of the LLM to ensure their credentials and certifications are current at all times.

(2) These include, but are not limited to:

- (A) CPM;
- (B) CPR; and
- (C) Neonatal resuscitation.

(3) The licensee must provide documentation upon request.

(e)(1) LLMs who receive a CPM or MBC must provide verification with initial application and for license renewal, or within thirty (30) days of initial certification.

(2) A notarized copy of the certificate or a verification letter sent directly from NARM must be submitted to the department.

(f) In the event of a lapse or revocation of any licensure or certification held the LLM must notify the department within thirty (30) days of revocation.

(g) If the name used on the application is not the same as that on any of the supporting documentation, the applicant must submit proof of name change with application.

(h) Apprentices who hold a valid permit prior to the effective date of this part will follow the requirements for licensure found in Appendix B: Transitional Provisions and Forms.

(i) If an application for licensure or renewal is denied, the applicant may appeal that denial to the State Board of Health within thirty (30) days of receipt of the denial.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CEU" means continuing education unit.

"CM" means certified midwife.

"CNM" means certified nurse midwife.

"CPM" means certified professional midwife.

"CPR" means cardiopulmonary resuscitation.

"LLM" means licensed lay midwife.

"MBC" means midwifery bridge certificate.

"NARM" means North American Registry of Midwives.

17 CAR § 47-202. Eligibility requirements for initial licensure.

Applicants for initial licensure must meet the following requirements, except for those noted in 17 CAR § 47-201(c):

- (1) An applicant for an initial license to practice midwifery shall submit:
 - (A) A completed application, provided by the Department of Health;
 - (B) A passport style and size photo of the applicant, showing head and shoulders, taken within sixty (60) days prior to the submission date of the application and attached to the application;
 - (C) A copy of one (1) of the following documents that demonstrates the applicant is twenty-one (21) years of age or older:
 - (i) The applicant's birth certificate;
 - (ii) The applicant's United States passport, United States driver's license, or other state-issued identification document; or
 - (iii) Any document issued by federal, state, or provincial registrar of vital statistics showing age;
 - (D)
 - (i) Documentation of a high school diploma or its equivalent and documentation of the highest degree attained after high school.
 - (ii) This documentation should include the name of the issuing school or institution and the date issued;
 - (E)
 - (i) Documentation that applicant is:

(a) Certified by NARM as a CPM or by the American Midwifery Certification Board (AMCB) as a CNM or a CM, or holds a certification deemed equivalent; and

(b) Approved by the department.

(ii) Documentation may be received in the form of a verification letter directly from the credentialing body or a notarized copy of the applicant's credential.

(iii) The department may request additional documentation to support applicants' qualifications or certifications.

(iv) It is the responsibility of the licensee to ensure relevant credentials are current at all times and documentation must be provided upon request;

(F)(i) If applicable, documentation that applicant holds an MBC issued by NARM.

(ii) Documentation may be received in the form of a verification letter directly from the certifying body or a notarized copy of the applicant's certificate; and

(G)(i) A list on the application form of all current professional health-related licensure including those from other jurisdictions.

(ii) The department may request verification;

(2) Upon satisfactory review of the application by the department, the applicant:

(A) Shall take the Arkansas Rules Examination, which will be administered at the department, three (3) times each year on dates chosen and publicized by the department;

(B) Shall provide proof of identity upon request in the form of a government-issued photographic identification card at the time of testing;

(C)(i) Shall receive a written notice of examination results.

(ii) If the applicant scores eighty percent (80%) or higher on the Arkansas Rules Examination, a license will be issued; and

(D) Shall be permitted to re-test if their score is below eighty percent (80%);

(3) All final decisions by the department denying issuance of license may be appealed to the State Board of Health pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.;

(4) Prohibiting criminal offenses.

(A) An individual is not eligible to receive or hold a license issued by the department if that individual has pleaded guilty or nolo contendere to or been found guilty of any of the offenses detailed in Arkansas Code § 17-3-102 et seq., by any court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court, unless the conviction was:

(i) Lawfully sealed under the Comprehensive Criminal Record Sealing Act of 2013, Arkansas Code § 16-90-1401 et seq.; or

(ii) Otherwise sealed, pardoned, or expunged under prior law.

(B) The department may grant a waiver as authorized by Arkansas Code § 17-3-102 in certain circumstances.

(C)(i) For the purpose of issuing a lay midwife license, the department is not authorized to conduct criminal background checks, but may inquire about criminal convictions upon application or renewal of a license.

(ii) Any applicant or licensee who provides false information to the department regarding a criminal conviction may be subject to suspension, revocation, or denial of a license; and

(5) Prelicensure prohibiting offense determination.

(A) Pursuant to Acts 2019, No. 990, an individual may petition for a prelicensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.

(B) The individual must obtain the prelicensure criminal background check petition form from Appendix A of this part.

(C) The department will respond with a decision in writing to a completed petition within a reasonable time.

(D) The department response will state the reason or reasons for the decision.

(E) All decisions of the department in response to the petition will be determined by the information provided by the individual.

(F) Any decision made by the department in response to a prelicensure criminal background check petition is not subject to appeal.

(G) The department will retain a copy of the petition and response and it will be reviewed during the formal application process.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CM" means certified midwife.

"CNM" means certified nurse midwife.

"CPM" means certified professional midwife.

"MBC" means midwifery bridge certificate.

"NARM" means North American Registry of Midwives.

17 CAR § 47-203. Renewal.

(a)(1) Licenses expire on August 31 of the renewal year, and applications and documentation must be submitted by July 2 of the renewal year to be timely.

(2) Renewal will only occur upon receipt of application and favorable review of required activity reports by the Department of Health.

(3) This review will ensure that the LLM has acted in accordance with this part.

(b) Applications for renewal for LLMs who have been continuously licensed in the State of Arkansas prior to the effective date of this part, and who have never received certification as a CPM, must include:

(1) A completed application for renewal provided by the department;

(2)(A) A copy of both sides of current certification in adult and infant cardiopulmonary resuscitation (CPR).

(B) Approved CPR courses include courses that are approved by NARM.

(C) **Note.**

(i) Only certification from courses which include a hands-on skills component are accepted.

(ii) Online-only courses are not accepted.

(D) It is the responsibility of the licensee to ensure this certification is current at all times and documentation must be provided upon request;

(3)(A) A copy of both sides of current certification in neonatal resuscitation through a course approved by NARM.

(B) **Note.**

(i) Only certification from courses which include a hands-on skills component are accepted.

(ii) Online-only courses are not accepted.

(B) It is the responsibility of the licensee to ensure this certification is current at all times and documentation must be provided upon request; and

(4)(A) Documentation of thirty (30) hours of continuing clinical education within the past three (3) years.

(B) Continuing education units (CEUs) and contact hours will be approved according to the following guidelines:

(i) A maximum of five (5) hours may be granted for documented peer review;

(ii) CPR or neonatal resuscitation courses may not be used as part of your CEU totals; and

(iii) Workshops or conferences relevant to the clinical practice of midwifery in Arkansas that are sponsored by the following organizations are preapproved by the Licensed Lay Midwifery Advisory Board for CEUs:

(a) American College of Nurse Midwives;

(b) American College of Obstetrics and Gynecology;

- (c) The department;
- (d) International Childbirth Education Association;
- (e) La Leche League International;
- (f) University of Arkansas for Medical Sciences;
- (g) Midwifery Education Accreditation Council (MEAC);
- (h) Any state nurses association; and
- (i) Arkansas Osteopathic Medical Schools.

(c) Applications for renewal for the LLM licensed by the department and certified as a CPM, CNM, or CM or having a certification previously approved by the department (17 CAR § 47-202(1)(E)) must include:

(1) A completed application for renewal in a format provided by the department;

(2)(A) Proof that the relevant credential is current.

(B) Documentation may be received in the form of:

- (i) Verification letter sent directly from the certifying agency; or
- (ii) Notarized copy of the certificate;

(3)(A) A list of all professional health-related licensure in other jurisdictions on the renewal application.

(B) The department may request verification; and

(4)(A) The department may request additional documentation to support applicants' qualifications or certifications.

(B) It is the responsibility of the licensee to ensure relevant credentials are current at all times and documentation must be provided upon request.

(d)(1) The Arkansas Rules Examination must be taken for each licensing period within one hundred eighty (180) days prior to the expiration of the midwifery license.

(2) A score of eighty percent (80%) or higher must be achieved.

(3) The test for renewal of licenses will be available:

(A) On the department website; or

(B) By contacting the Women's Health Section of the department for information.

(4) The applicant must submit a copy of the certificate of completion with the application for license renewal.

(e) All final decisions by the department denying renewal of license may be appealed to the State Board of Health pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CM" means certified midwife.

"CNM" means certified nurse midwife.

"CPM" means certified professional midwife.

"LLM" means licensed lay midwife.

"NARM" means North American Registry of Midwives.

17 CAR § 41-204. Grounds for denial of application, discipline, suspension, or revocation of license.

The Department of Health may refuse to issue, suspend, or revoke a license for violation of the Licensed Lay Midwife Act, Arkansas Code § 17-85-101 et seq., or any provision of this part, including, but not limited to, any of the following reasons:

- (1) Securing a license or permit through:
 - (A) Deceit;
 - (B) Fraud; or
 - (C) Intentional misrepresentation;
- (2) Submitting false or misleading information to the:
 - (A) Department;
 - (B) State Board of Health; or

(C) MAB;

(3) Practicing midwifery on expired credentials;

(4) Knowingly making or filing a false report or record, intentionally or negligently failing to file a report or record required by this part, or willfully impeding or obstructing such filing;

(5) Failure to submit requested midwifery records in connection with an investigation;

(6) Engaging in unprofessional conduct or dereliction of any duty imposed by law, which includes, but is not limited to, any departure from, or failure to conform to, the standards of the practice of midwifery as established by this part;

(7) Revocation of CPM certification by NARM;

(8) Permitting another person to use the licensee's license or permit;

(9) Knowingly or negligently employing, supervising, or permitting (directly or indirectly) any person to perform any work not allowed by this part;

(10) Obtaining any fee by fraud or misrepresentation;

(11) Knowingly or negligently allowing an LLM apprentice to practice midwifery without a supervising preceptor present, except in an emergency;

(12) Using, causing, or promoting the use of any advertising material, promotional literature, or any other representation, however disseminated or published, which is misleading or untruthful;

(13) Representing that the service or device of a person licensed to practice medicine will be used or made available when that is not true, or using the words "doctor", "registered nurse", "Certified Nurse Midwife", or similar words, abbreviations, acronyms, or symbols including MD (Medical Doctor), DO (Doctor of Osteopathic Medicine), RN (Registered Nurse), CNM, CM, APRN (Advanced Practice Registered Nurse), RNP (Registered Nurse Practitioner), EMT (Emergency Medical Technician) or paramedic, falsely implying involvement by such a medical professional;

(14) Use of the designation "birth center" or "birthing center" in reference to the LLM's home or office, or charging facility fees for delivery in a "birth center" or

“birthing center”, unless that center is licensed as such in compliance with the requirements set forth by the Rules for Free-Standing Birthing Centers, 20 CAR pt. 44;

(15) Violation of the Arkansas Legend Drugs and Controlled Substances Law, Arkansas Code § 20-64-501 et seq., or the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.;

(16) Displaying the inability to practice midwifery with reasonable skill and safety because of:

(A) Illness;

(B) Disability; or

(C) Psychological impairment;

(17) Practicing while knowingly suffering from a contagious or infectious disease that may be transmitted through the practice of midwifery;

(18) Practicing midwifery while under the influence of any intoxicant or illegal drug;

(19) Judgment by a court of competent jurisdiction that the individual is mentally impaired;

(20) Disciplinary action taken by another jurisdiction affecting the applicant’s legal authority to practice midwifery in that jurisdiction;

(21) Disciplinary action taken by another licensing or credentialing body due to:

(A) Negligence;

(B) Willful disregard for patient safety; or

(C) Other inability to provide safe patient care;

(22) Gross negligence;

(23) Conviction of a felony;

(24) Failure to comply with an order issued by the State Board of Health or a court of competent jurisdiction; and

(25) Practicing outside the scope of practice and protocols as outlined in this part.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CM" means certified midwife.

"CNM" means certified nurse midwife.

"CPM" means certified professional midwife.

"LLM" means licensed lay midwife.

"MAB" means midwifery advisory board.

"NARM" means North American Registry of Midwives.

17 CAR § 47-205. Disciplinary actions.

(a)(1) Suspected cases involving violation of the Licensed Lay Midwifery Act, Arkansas Code § 17-85-101 et seq. or this part may be referred by the Department of Health to the State Board of Health for a hearing, according to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(2) If the board finds that a person holding a license or permit has violated the Licensed Lay Midwifery Act, Arkansas Code § 17-85-101 et seq., or this part, sanctions, which include but are not limited to the following, may be imposed:

- (A) Revocation of license or permit;
- (B) Suspension of a license or permit for a determinate period of time;
- (C) Written or verbal reprimand of a licensee or permit holder;
- (D) Probation of license or permit;
- (E) Limitations or conditions on the practice of a person holding a license or permit;
- (F) Continuing education requirements to address known deficiencies; and
- (G) Fines as imposed by the board under its general authority to regulate.

(b) The department will notify licensee of any actions to be imposed.

(c) Decisions may be appealed to the circuit court pursuant to the Arkansas Administrative Procedure Act.

(d) Any applicable certification or licensing agencies will be notified of final actions on licenses including, but not limited to, NARM and any states where the midwife holds a license.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "NARM" means North American Registry of Midwives.

17 CAR § 47-206. Inactive status.

(a) Inactive status is automatic on the day after the license expires.

(b)(1) LLMs who do not maintain a current license will be considered inactive.

(2) Inactive status may be maintained for up to three (3) years.

(c) An LLM with inactive status may not practice midwifery until the license is reactivated.

(d) To reactivate a license with inactive status, the applicant must:

(1) Submit a copy of their current CPM, CNM, or CM credential or, if the applicant was licensed prior to the effective date of this part, document additional continuing education credits totaling ten (10) hours for each year of inactive status;

(2) Submit current CPR certification;

(3) Submit current NARM-approved neonatal resuscitation certification; and

(4) Take the Arkansas Rules Examination and achieve a score of eighty percent (80%) or higher.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CM" means certified midwife.

"CNM" means certified nurse midwife.

"CPM" means certified professional midwife.

"CPR" means cardiopulmonary resuscitation.

"LLM" means licensed lay midwife.

"NARM" means North American Registry of Midwives.

17 CAR § 47-207. Reactivation of expired license.

(a) After three (3) years, a license in inactive status automatically expires.

(b) To become relicensed the applicant must successfully fulfill all of the requirements for initial licensure as outlined in 17 CAR § 47-202.

Authority. Arkansas Code § 17-85-107.

17 CAR § 47-208. Apprenticeships.

(a) Apprentices who hold a valid permit prior to the effective date of this part will follow the requirements found in Appendix B: Transitional Provisions and Forms.

(b)(1) An LLM will be responsible for notifying the Department of Health of any apprentices accepted under their supervision within thirty (30) days of signing, but prior to the apprentice providing any services.

(2)(A) The department Preceptor-Apprentice Agreement form (found in Appendix A or available on the department website) shall be used for this notification.

(B) Preceptors must meet all NARM preceptor requirements.

(3) Any changes in the apprentice's contact information must be provided to the department by the LLM within thirty (30) days of the status change.

(4) If the apprentice is still under the LLM's supervision after three (3) years, the LLM must complete a new form indicating this status.

(c)(1) Should the Preceptor-Apprentice Agreement be terminated by either party, it is the responsibility of both parties to notify the department immediately.

(2) An apprentice must not continue to perform under any preceptor or preceptors unless a new signed Preceptor-Apprentice Agreement is on file with the department.

(3) A signed Preceptor-Apprentice Agreement for every preceptor under whom an apprentice trains must be signed and sent to the department.

(d) Apprentices shall follow all applicable Arkansas laws and this part.

(e) Apprentices are required to comply with all provisions of HIPAA (Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191).

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

"NARM" means North American Registry of Midwives.

17 CAR § 47-209. Licensure of uniformed service members, uniformed service veterans, and their spouses.

(a) **Applicability.** This section applies to:

(1) A uniformed service member stationed in the State of Arkansas;

(2) A uniformed service veteran who resides in or establishes residency in the State of Arkansas; and

(3) The spouse of subdivision (a)(1) or subdivision (a)(2) of this section including a uniformed service member who is:

(A) Assigned a tour of duty that excludes the spouse from accompanying the uniformed service member and the spouse relocates to Arkansas; or

(B) Killed or succumbed to his or her injuries or illness in the line of duty if the spouse establishes residency in Arkansas.

(b) **Automatic licensure.** Automatic licensure shall be granted to persons listed in subdivision (a)(1) of this section if the person is a holder in good standing of occupational licensure with similar scope of practice issued by another state, territory, or district of the United States.

(c) **Credit toward initial licensure.** Relevant and applicable uniformed service education, training, or service-issued credentials shall be accepted toward initial licensure for a uniformed service member or a uniformed service veteran who makes an application within one (1) year of his or her discharge from uniformed service.

(d) **Expiration dates and continuing education.**

(1) A license expiration date shall be extended for a deployed uniformed service member or spouse for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(2) A uniformed service member or spouse shall be exempt from continuing education requirements in 17 CAR § 47-203(b)(4) for one hundred eighty (180) days following the date of the uniformed service member's return from deployment.

(3) Any uniformed service member or spouse exercising the exemption shall provide evidence of completion of continuing education before renewal or grant of a subsequent license.

(e) The Department of Health shall grant such automatic licensure upon receipt of all of the below:

(1) Evidence that the individual holds a substantially equivalent license in another state;

(2) Evidence that the applicant is a qualified applicant under subsection (a) of this section;

(3)(A) The applicant shall hold his or her occupational licensure in good standing.

(B) The applicant shall not have had a license revoked for:

(i) An act of bad faith; or

(ii) A violation of:

(a) Law;

(b) Rule; or

(c) Ethics.

(C) The applicant shall not hold a suspended or probationary license in a United States jurisdiction;

(4) A completed application, provided by the department;

(5) A passport-style and passport-size photo of the applicant, head and shoulders:

(A) Taken within sixty (60) prior to the submission date of the application;

and

(B) Attached to the application;

(6)(A) If applicable, documentation that applicant holds an MBC issued by NARM.

(B) Documentation may be received in the form of a:

(i) Verification letter directly from the certifying body; or

(ii) Notarized copy of the applicant's certificate; and

(7)(A) A list on the application form of all current professional health-related licensure, including from other jurisdictions.

(B) The department may request verification.

(f) All applicants who are licensed pursuant to this section must adhere to all LLM protocols as outlined in this part.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

"MBC" means midwifery bridge certificate.

"NARM" means North American Registry of Midwives.

17 CAR § 47-210. Reciprocal licensure.

(a)(1) Pursuant to Acts 2019, No. 1011, reciprocal licensure will be granted based on substantially equivalent licensure in another United States jurisdiction.

(2) Refer to 17 CAR § 47-202(1)(E) of this part for all certifications deemed substantially equivalent.

(b) Reciprocity.

(1) **Required qualifications.** An applicant applying for reciprocal licensure shall meet the following requirements:

(A)(i) The applicant shall hold a substantially similar license in another United States jurisdiction.

(ii) Refer to 17 CAR § 47-202(1)(E) of this part for all certifications deemed substantially equivalent.

(iii) The applicant shall hold his or her occupational licensure in good standing.

(iv) The applicant shall not have had a license revoked for:

(a) An act of bad faith; or

(b) A violation of law, rule, or ethics.

(v) The applicant shall not hold a suspended or probationary license in a United States jurisdiction;

(B) The applicant shall be sufficiently competent in lay midwifery; and

(C) The applicant will provide documentation to the Department of Health verifying current certification is held as required by 17 CAR § 47-202(1)(E).

(2) **Required documentation.** An applicant shall submit the documentation described below:

(A) A completed application, provided by the department;

(B) A passport style and size photo of the applicant, showing head and shoulders, taken within sixty (60) days prior to the submission date of the application and attached to the application;

(C)(i) A list on the application form of all current professional health-related licensure, including those from other jurisdictions.

(ii) The department may request verification;

(D) As evidence that the applicant's license from another jurisdiction is substantially similar to Arkansas's, the applicant shall submit the following information:

(i)(a) Evidence of current and active licensure in that state.

(b) The department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other state's licensing board; and

(ii)(a) Evidence that the other state's licensure requirements match those listed in 17 CAR § 47-202(1)(E).

(b) The department may verify this information online or by telephone to the other state's licensing board;

(E) To demonstrate that the applicant meets the requirements in subdivisions (b)(1)(A)(iii) – (v) of this section, the applicant shall provide the department with:

(i) The names of all states in which the applicant is currently licensed or has been previously licensed;

(ii)(a) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant:

(1) Has not had his or her license revoked for the reasons listed in subdivision (b)(1)(A)(iv) of this section; and

(2) Does not hold a license on suspended or probationary status as described in subdivision (b)(1)(A)(v) of this section.

(b) The department may verify this information online if the jurisdiction at issue provides primary source verification on its website or by telephone to the other state's licensing board; and

(F)(i) As evidence that the applicant is sufficiently competent in the field of lay midwifery, an applicant shall provide documentation to the department verifying current certification is held as required by 17 CAR § 47-202(1)(E).

(ii) If applicable, documentation that applicant holds an MBC issued by NARM.

(iii) Documentation may be received in the form of a verification letter directly from the certifying body or a notarized copy of the applicant's certificate.

(c) Temporary license.

(1) The department shall issue a temporary license immediately upon receipt and satisfactory review of the application and the documentation required under subdivision (b)(2) of this section.

(2) The temporary license shall be effective for ninety (90) days or until the department makes a decision on the application, unless the department determines that the applicant does not meet the requirements in subdivisions (c)(1) and (c)(2) of this section, in which case the temporary license shall be immediately revoked.

(3) An applicant may provide the rest of the documentation required in 17 CAR § 47-202 in order to receive a license, or the applicant may only provide the information necessary for the issuance of a temporary license.

(4) Upon issuance of a temporary license, the applicant will have up to ninety (90) days to successfully complete the Arkansas Rules Examination as specified in 17 CAR § 47-202(2).

(5) Upon successful completion of the Arkansas Rules Examination, the applicant will be issued a standard Arkansas Lay Midwife License valid for up to three (3) years.

(6) All standard license holders will follow the renewal process outlined in 17 CAR § 47-203 of this part.

(7) If the applicant does not successfully complete the Arkansas Rules Examination within ninety (90) days of issuance of a temporary and provisional license, the temporary license will be considered invalid.

(8) If the applicant scores less than eighty percent (80%) on the Arkansas Rules Examination, the temporary license will be considered invalid.

(9) A temporary license cannot be reissued or extended.

(10) The applicant must successfully complete the Arkansas Rules Examination as specified in 17 CAR § 47-202(2) in order to obtain a standard Arkansas Lay Midwife License.

(d)(1) License for person from a state that does not license profession.

(2) Applicants from another United States jurisdiction where substantially equivalent licensure is not available, refer to 17 CAR § 47-202 for licensure requirements.

(e) All applicants who are licensed pursuant to 17 CAR § 47-210 must adhere to all LLM protocols as outlined in this part.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

"MBC" means midwifery bridge certificate.

"NARM" means North American Registry of Midwives.

Subpart 3. Protocols

17 CAR § 47-301. Generally.

The LLM must adhere to the LLM protocols as outlined in this part.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-302. Requirements for licensed lay midwifery practice.

(a) The following requirements must be met before a LLM can legally accept a client:

(1) **Licensing.**

(A) The LLM must possess a current Arkansas Lay Midwife License.

(B) See 17 CAR § 47-201 et seq.;

(2) Disclosure form.

(A) At the time a request is made for care, the LLM must discuss certain information concerning LLM assisted home deliveries with the client.

(B) This discussion must be documented by use of the disclosure form (found in Appendix A or available on the Department of Health website).

(C) It must be signed and dated by the client at the same time the LLM and client enter into an agreement for services and sign a contract.

(D) This form must be filed in the client's medical record and noted on the next caseload and birth report log sent to the department by the LLM; and

(3) Emergency plan.

(A) As part of the disclosure form, an individual emergency plan must be established by the LLM and client.

(B) The plan must include:

(1) The name and contact information of the physicians who will be consulted for the mother and the newborn;

(2) The arrangements for transport from the delivery site to a hospital, if needed;

(3) The hospital with obstetric services, or the hospital where the physician or CNM has obstetric privileges, that will be used for transport, which must be located within fifty (50) miles of the delivery site; and

(4) The nearest hospital to the delivery site.

(b) Termination of care.

(1) An LLM shall terminate care of a client only in accordance with this subsection (b) unless a transfer of care results from an emergency situation.

(2) Once the LLM has accepted a client, the relationship is ongoing and the LLM cannot refuse to continue to provide midwifery care to the client unless the:

(A) Client has no need of further care;

(B) Client terminates the relationship; or

(C) LLM formally terminates the relationship due to a provision of this part or for any other reason.

(3) The LLM may terminate care for any reason by:

(A)(i) Providing a minimum of thirty (30) days' written notice, during which time the LLM shall continue to provide midwifery care until the client is able to select another healthcare provider.

(ii) If continuing care would cause the LLM to violate this part, care can be terminated by the LLM without giving thirty (30) days' notice.

(iii) Justification for this action must be documented in the client's record;

(B)(i) Attempting to tell the client in person, and in the presence of a witness, of the LLM's wish to terminate care.

(ii) If the client will not meet with the LLM, the LLM must document that the attempt was made and how it was made;

(C) Providing the client with referrals to other healthcare providers; and

(D) Documenting the termination of care in the client medical record and submission of a department incident report.

(c) Transfer of care.

(1) If a transfer of care recommendation occurs during labor, delivery, or the immediate postpartum period and the client refuses transfer, the midwife shall:

(A) Call 911; and

(B) Provide further care as indicated by the situation.

(2) If the midwife is unable to transfer to a healthcare professional, the client will be transferred to the nearest appropriate healthcare facility.

(3) The midwife shall attempt to contact the facility and continue to provide care as indicated by the situation.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CNM" means certified nurse midwife.

17 CAR § 47-303. Protocol for required antepartum care.

(a) Risk assessment or assessments.

(1) Risk assessments shall be performed by a physician, a CNM, or a Department of Health clinician.

(2) The purpose of these visits is to ensure that the client has no potentially serious medical conditions and has no medical contraindications to home birth.

(3) Each risk assessment must be filed in the client's medical record.

(4) The risk assessments must be comprehensive enough for the LLM to identify potentially dangerous conditions that may preclude midwifery care or that require physician or CNM consultation.

(5) Each client must be evaluated by a physician, a CNM, or a department clinician at the following times:

(A) At or near the time care is initiated with the LLM and the evaluation must include the Required Antepartum Services listed in subsection (b) of this section;

(B) At or near the thirty sixth week of gestation and must include:

(i) Review of the client's complete prenatal record;

(ii) Review of the results of all prenatal testing;

(iii) Interval medical and obstetric history;

(iv) Review of systems;

(v) Pertinent physical examination, including:

(a) Measurements of blood pressure, weight;

(b) Fundal height;

(c) Estimated gestational age;

(d) Fetal presentation/position; and

(vi) Group B strep testing, according to department-approved guidelines;

(C)(i) Between forty-one (41) weeks, zero out of seven (0/7) days and forty-two (42) weeks, zero out of seven (0/7) days of gestation, the requirements for the thirty-sixth week assessment shall be repeated and may include additional tests or procedures.

(ii) A documented plan for care beyond forty-two (42) weeks, zero out of seven (0/7) days gestational age must be submitted to the department as an additional required incident report.

(iii) If a referral or this risk assessment is not made, or if the clinician advises against home delivery, the client must be transferred; and

(D)(i) The LLM is responsible for reviewing the risk assessment data and ensuring that her or his client is low risk for home delivery.

(ii) The LLM must base her or his decision on all information, results, and recommendations received from the clinician performing the risk assessment, including any statement in the client's record by a physician, CNM, or department clinician indicating that the client is not suitable for home birth.

(b) Required antepartum services at or near the initiation of care.

(1)(A) The LLM must ensure each client receives the following services at or near the initiation of care from a physician, CNM, or department clinician.

(B) Exceptions to these required services are at the discretion of the physician, CNM, or department clinician who performs the risk assessment and must be documented in the client's medical record.

(2) The services are:

(A)(i) Medical, obstetric, and nutritional history.

(ii) The history must be comprehensive enough to identify potentially dangerous conditions that:

(a) May preclude midwifery care; or

(b) Require physician or CNM consultation;

(B) A physical examination comprehensive enough to identify potentially dangerous conditions that may preclude midwifery care;

(C) Estimation of gestational age;

(D) Measurements of blood pressure, height, and weight; and

(E) Prenatal testing:

(i) Pap test/HPV test;

(ii) Test for gonorrhea and chlamydia;

(iii) Blood sample for blood group and Rh determination and antibody screen;

(iv) CBC with platelets or hematocrit or hemoglobin;

(v) Test for syphilis;

(vi) Urine culture;

(vii)(a) Blood sugar.

(b) Test according to national standards as approved by the department and available on the department website;

(viii) Hepatitis B test;

(ix) Counsel client concerning maternal serum genetic testing, if before twenty (20) weeks gestation;

(x) Rubella test if previous immunity not documented; and

(xi) HIV counseling and test.

(c) Collection of laboratory specimens.

(1)(A) For LLMs who are trained in the collection of laboratory specimens and collect the specimens themselves, the specimens must be submitted to a standard lab.

(B) The reports and test results must be sent for review and interpretation by a:

(i) Physician;

(ii) CNM; or

(iii) Department clinician.

(C) All reports and test results, including reviews and interpretations, must be recorded in the client record.

(2)(A) If blood sugar testing is performed by the LLM, they shall:

(i) Use only a United States Food and Drug Administration-approved device for the Clinical Laboratory Improvement Amendments of 1988, Pub.L. No. 100-578 (e.g., HemoCue Blood Glucose Analyzer); and

(ii) Follow the department-approved standards for diabetes testing.

(B) The results of all testing must be interpreted by a physician, CNM, or department clinician within ten (10) days.

(d) Routine antepartum LLM care.

(1) **Frequency of visits.** Routine antepartum visits must be made approximately every four (4) weeks during the first twenty-eight (28) weeks of gestation, approximately every two (2) weeks from the twenty-eighth to thirty-sixth weeks, and weekly thereafter until delivery.

(2) **Routine visit services.** At each visit the LLM will perform and record the following services:

- (A) Weight;
- (B) Blood pressure;
- (C) Fundal height;
- (D) Determination of fetal position;
- (E) Urine testing for:
 - (i) Glucose;
 - (ii) Protein; and
 - (iii) Nitrites;
- (F) Fetal heart rate;
- (G) Medical and nutritional history since last visit; and
- (H) Check for edema of:
 - (i) Legs;
 - (ii) Face; or
 - (iii) Hands.

(e) Required antepartum services at twenty-four (24) to twenty-eight (28) weeks gestation.

(1) Except for women with known gestational diabetes all women must be screened for gestational diabetes between twenty-four (24) to twenty-eight (28) weeks according to national standards approved by the department.

(2) All women with negative Rh factor must be treated as follows:

- (A)(i) Repeat antibody screening at twenty-eight (28) weeks.
- (ii) If it is negative, advise client that an Rh immunoglobulin injection is recommended.

(iii) If the client is enrolled in a local health unit maternity clinic, Rh immunoglobulin can be administered at the clinic, otherwise she must be referred to a physician or CNM to obtain the Rh immunoglobulin;

(B) If antibody screen is positive, refer the client or consult a physician or CNM as soon as possible.

(C)(i) If client declines Rh immunoglobulin, repeat antibody screening must be performed at twenty-eight (28) weeks and the LLM is responsible for providing the client with written information provided by the department outlining the risks of isoimmunization and the benefits of Rh immunoglobulin.

(ii) A copy of the signed refusal form needs to be documented and filed in the client's record.

(3) Testing for CBC with platelets.

(f) Required antepartum service at thirty-five (35) to thirty-seven (37) weeks gestation. Screening for group B strep according to department-approved guidelines available on the department website.

(g) Antepartum preparation for home birth.

(1) Pre-delivery home visit.

(A) The LLM is required to make, prior to delivery, at least one (1) visit to the home where the birth will take place.

(B)(i) The LLM should inform the client of the equipment and supplies that must be available at the time of delivery.

(ii) She or he should instruct the client and family of requirements for an aseptic delivery site.

(2) Obtaining department newborn care package.

(A) The newborn care package provided by the department:

(i) Contains the required newborn medications and other necessary items; and

(ii) Is available to all LLM clients.

(B) If the mother chooses to obtain the newborn care package from the department, she must notify the local health unit in sufficient time to allow the local health unit one (1) month to obtain the care package.

(3) Obtaining medications for newborn.

(A)(i) The LLM must advise the client that the newborn may need either Erythromycin one-half of one percent (0.5%) Ophthalmic or Tetracycline one percent (1.0%) Ophthalmic in individual dose packaging for newborn eye care.

(ii) The mother may obtain one (1) of these medications before thirty-seven (37) weeks, zero out of seven (0/7) days of the pregnancy either by:

(a) Prescription from a private physician;

(b) CNM;

(c) Other licensed prescriber; or

(d) Prior arrangement with a local health unit.

(B)(i) The LLM must advise the client that the newborn should receive vitamin K within two (2) hours of birth.

(ii) The medication should be obtained by prescription before thirty-seven (37) weeks, zero out of seven (0/7) days of pregnancy:

(a) From a private physician, CNM, or other licensed prescriber;

or

(b) By prior arrangements with a local health unit.

(C) The LLM must advise the client that:

(i) All medications must be administered to the newborn by a person licensed by the State of Arkansas to administer medications (nurse, physician), and that prior arrangements should be made in order to ensure the licensed person will be available to administer the medications soon after birth;

(ii) The client has the option to administer the medications to her newborn with instructions from the licensed prescriber (physician, CNM, or department clinician); or

(iii) The client has the option to allow the LLM to act as her agent to administer to her newborn the following medications:

(a) Erythromycin one half of one percent (0.5%) Ophthalmic or Tetracycline one percent (1.0%) Ophthalmic; and

(b) Vitamin K, only allowed to be administered orally by the LLM.

(4) Obtaining intrapartum and postpartum medications for mothers.

The LLM will discuss with her or his client the protocol for each of the following medications that require the client to make arrangements to obtain the prescriptions and establish a plan for the administration of medications prior to the onset of labor:

(A) Rh immunoglobulin for Rh negative mothers with an Rh positive newborn;

(B) GBS prophylaxis according to department-approved guidelines; and

(C) Benzocaine fourteen percent (14%) available in gel form, solution, or spray that may be used for the repair of first and second degree lacerations by the LLM after birth.

(5) Preparing bottle-feeding mothers.

(A) For the client planning to bottle feed her newborn, commercially prepared, client-selected formula shall be available for an initial feeding within the first two (2) to three (3) hours after birth.

(B) Client-selected formula must be available for newborn feedings.

(6) Education of client for required genetic/metabolic screening.

(A) The LLM is responsible for advising the client of the:

(i) Law that requires newborn screening (Arkansas Code § 20-15-302); and

(ii) Procedure for conducting newborn screening.

(B) Information is available on the department website.

(7) Completion of newborn hearing screening.

(A) The LLM is responsible for advising the client of the:

(i) Newborn infant hearing screening law (Arkansas Code § 20-15-1101 et seq.); and

(ii) Available resources to obtain the newborn hearing screening.

(B) Information is available on the department website.

(8) Preparation for well-baby care.

(A) The LLM is responsible for advising the mother that beyond the first fourteen (14) days of life, the LLM is no longer responsible and the mother should seek further care from a physician or an APRN specializing in the care of infants and children.

(B) This does not preclude the LLM from providing counseling regarding routine newborn care and breastfeeding.

(9) Preparation for secondary prevention of newborn early-onset group B strep. The LLM shall advise the mother of the necessity for newborn evaluation by a physician within twenty-four (24) hours of birth when:

(A)(i) Maternal GBS status is unknown and membranes are ruptured in labor more than eighteen (18) hours before birth.

(ii) Refer to 17 CAR § 17-310(b)(7)(H); and

(B)(i) The mother has indications for GBS prophylaxis in labor, regardless of adequate antibiotic treatment prior to birth and regardless of the presence or absence of symptoms of illness.

(ii) Refer to 17 CAR § 17-304(g)(3)(B).

Authority. Arkansas Code § 17-85-107.

Codification Notes. "APRN" means advanced practice registered nurse.

"CBC" means complete blood count.

"CNM" means certified nurse midwife.

"GBS" means group B streptococcus.

"HIV" means human immunodeficiency virus.

"HPV" means human papillomavirus.

"LLM" means licensed lay midwife.

17 CAR § 17-304. Protocol for antepartum conditions requiring intervention.

(a) Each client is to have a risk assessment (see 17 CAR § 47-303(a)) documented by a physician, CNM, or Department of Health clinician at or near the initiation of care and again around the thirty-sixth week.

(b)(1) The following sections detail the actions to be followed by the LLM if the client exhibits or develops one (1) of the specified conditions.

(2) The LLM will refer women for medical evaluation as soon as possible after the condition is identified.

(c) The LLM is expected to use their judgment regarding the need for consultation, referral, or transfer when problems arise that are not specified in this part.

(d) In addition to the birth log, such care will be documented on an incident report and submitted to the department.

(e) Conditions precluding midwifery care.

(1)(A) The following conditions preclude midwifery care and the client must be transferred to a physician, CNM, or department clinician upon diagnosis.

(B) There may be additional high-risk conditions judged by either a physician, CNM, department clinician, or LLM that could also preclude midwifery care.

(2) The conditions are:

(A) Previous cesarean delivery;

(B) Multiple gestation;

(C) Documented placenta previa in the third trimester;

(D) Insulin-dependent diabetes; and

(E)(i) Pregnancy that extends beyond forty-two (42) weeks, zero out of seven (0/7) days gestational age unless there is a third risk assessment and a documented plan of care submitted to the department.

(ii) If the clinician advises against home delivery, the client must be transferred.

(f) Pre-existing conditions requiring antepartum consultation, referral, or transfer of care.

(1) If any of the following pre-existing conditions are identified, the client must be examined by a:

- (A) Physician;
- (B) CNM; or
- (C) Department clinician.

(2)(A) A plan of care for the condition must be established, including a plan for transfer of care if indicated, and execution of the plan of care must be documented.

(B) Midwives caring for these clients will be required to submit additional incident reports to the department.

(C) If a referral is not made or if the clinician advises against home birth, the care must be transferred to a physician or CNM.

(3) The pre-existing conditions are:

- (A) Heart disease;
- (B) Epilepsy;
- (C) Diabetes;
- (D) Neurological disease;
- (E) Sickle cell or other hemoglobinopathies;
- (F) Cancer;
- (G) Psychiatric disorders;
- (H) Active tuberculosis;
- (I) Chronic pulmonary disease;
- (J) Thrombophlebitis;
- (K) Endocrinopathy;
- (L) Collagen vascular diseases or other severe collagen disease;
- (M) Renal disease;
- (N) Hypertension;

- (O) Drug or alcohol use during current pregnancy;
- (P) Significant congenital or chromosomal anomalies;
- (Q) History of postpartum hemorrhage not caused by placenta previa or abruption;
- (R) Rh negative isoimmunization (positive Coombs);
- (S) Structural abnormalities of the reproductive tract including fibroids;
- (T) HIV positive or AIDS;
- (U) Previous infant with GBS disease;
- (V) History of unexplained perinatal death;
- (W) History of seven (7) or more deliveries;
- (X) Maternal age greater than or equal to forty (40) at estimated date of delivery;
- (Y) Previous infant weighing less than five (5) pounds or more than ten (10) pounds;
- (Z) Previous surgery involving the uterus or cervix; and
- (AA) Pregnancy termination or loss more than or equal to three (≥ 3).

(g) Antepartum conditions requiring consultation, referral, or transfer of care.

- (1) If any of the following antepartum conditions are identified:
 - (A) A physician/CNM consultation, referral, or transfer is required; and
 - (B) The client must be examined by a physician or CNM currently practicing obstetrics.
- (2)(A) Department clinicians may accept referrals per department protocol.
- (B) A plan of care for the condition must be established and execution of the plan must be documented.
- (C) Midwives caring for these clients shall submit additional required incident reports to the department.
- (D) If a referral is not made or if the clinician advises against home delivery the client must be transferred immediately to a physician or CNM.
- (3) The antepartum conditions are:

(A) A sudden decrease in fetal movement or kick count of fewer than ten (10) per hour after twenty-seven (27) weeks, six out of seven (6/7) days;

(B) Group B strep prophylaxis indication.

(i)(a) Centers for Disease Control and Prevention-approved group B strep intrapartum prophylaxis (per department-approved guidelines) must be obtained for the clients listed below (subdivision (g)(3)(B)(ii) of this section).

(b) Clients who refuse antibiotics will be transferred from midwifery care to a physician for hospital care unless a physician agrees to supervise the LLM care of the client.

(c) The plan of care agreed to by the physician and the LLM must be documented and submitted as an incident report to the department.

(ii) The clients are:

(a)(1) Clients who test positive for group B strep in the urinary tract at any time in the current pregnancy (regardless of repeated testing that is negative for group B strep).

(2) Vaginal/rectal testing for group B strep is not indicated when the urine testing is positive for group B strep in the current pregnancy;

(b) Clients who test positive for group B strep in the vagina or rectum at any time in the current pregnancy (regardless of repeated testing that is negative for group B strep);

(c) Clients with positive history of birth of an infant with early-onset group B strep disease; and

(d) Clients with antepartum group B strep culture status that is unknown at the time of labor onset and:

(1) Temperature in labor (greater than or equal to one hundred and four tenths of one degrees Fahrenheit ($\geq 100.4^{\circ}$ F));

(2)(A) Rupture of membranes more than sixteen (>16) hours (17 CAR § 47-306(12)).

(B) Prophylactic antibiotics are indicated by eighteen (18) hours of ruptured membranes; or

(3) Preterm labor (less than thirty seven (<37) weeks, zero out of seven (0/7) days of gestation);

(C) Cervical effacement or dilatation prior to thirty-seven (37) weeks, zero out of seven (0/7) days;

(D)(i) Late term pregnancy greater than forty-one (>41) weeks, zero out of seven (0/7) days.

(ii) The third risk assessment is required between forty-one (41) weeks, zero out of seven (0/7) days and forty-two (42) weeks, zero out of seven (0/7) days, and transfer of care may be required depending on results (17 CAR § 47-303(a)(5)(C));

(E) Genital herpetic lesions;

(F) Clients with a previous preterm delivery must be co-managed until thirty-seven (37) weeks, zero out of seven (0/7) days;

(G) Suspected or confirmed fetal death;

(H) Vaginal bleeding heavier than a normal period;

(I) Persistent or significant weight loss after the first trimester;

(J) Abnormal weight gain;

(K) Symptoms of vaginitis refractory to treatment;

(L) Symptoms of UTI refractory to treatment;

(M) Hematocrit of less than thirty (<30) or hemoglobin of less than ten (<10), or platelets less than one hundred thousand (<100,000);

(N) Hyperemesis with weight loss;

(O) Two (2) blood pressure readings at least one (1) hour apart of systolic greater than or equal to one hundred forty (≥ 140) or diastolic greater than or equal to ninety (≥ 90);

(P) Size/date discrepancy of three (3) or more weeks on two (2) successive exams;

(Q) Positive antibody screen;

(R) Abnormal pap test;

(S) Sexually transmitted infection;

(T)(i) Ruptured membranes without onset of labor within twenty-four (24) hours and group B strep testing is negative.

(ii) Refer to 17 CAR § 47-304(g)(3)(B) for mothers who are GBS positive or have unknown GBS status;

(U) Signs and symptoms of preeclampsia;

(V) Fetal heart rate below one hundred ten beats per minute (110 bpm) or above one hundred sixty beats per minute (160 bpm);

(W) Spontaneous rupture of membranes prior to thirty-seven (37) weeks, zero out of seven (0/7) days;

(X) Gestational diabetes, as defined by department-approved guidelines;

(Y) Rh negative mothers with abdominal trauma, with or without antepartum bleeding; or

(Z) Position other than vertex any time after thirty-five (35) weeks, six out of seven (6/7) days.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "AIDS" means acquired immunodeficiency syndrome.

"APRN" means advanced practice registered nurse.

"CBC" means complete blood count.

"CLIA" means Clinical Laboratory Improvement Amendments.

"CNM" means certified nurse midwife.

"GBS" means group B streptococcus.

"HIV" means human immunodeficiency virus.

"HPV" means human papillomavirus.

"LLM" means licensed lay midwife.

"UTI" means urinary tract infection.

17 CAR § 47-305. Protocol for required intrapartum care.

(a) **Initial labor assessment.** As soon as possible but within one (1) hour following the onset of active labor (five to six centimeters (5 – 6 cm) with regular and painful contractions) or as soon as possible but within one (1) hour following the prelabor rupture of membranes, the LLM must assess and record:

(1) Physical conditions including temperature, pulse, respiration, blood pressure, and urinalysis for glucose and protein;

(2) Labor status including:

(A) Assessment of contractions;

(B) Status of membranes;

(C) Cervical dilatation; and

(D) Effacement;

(3)(A) Fetal position, station, size, presenting part, and heart rate.

(B) Establish a fetal heart rate baseline by checking rate and rhythm every fifteen (15) minutes for the first hour of observation; and

(4)(A) In case of suspected prelabor rupture of membranes, avoid digital exams unless the client is in active labor or delivery is imminent.

(B) A sterile speculum examination is advised to inspect for umbilical cord prolapse and to assess the cervix.

(b) **Management of labor.**

(1) **First stage.** The LLM must assess and record:

(A) Fetal heart rate and rhythm (immediately following a contraction):

- (i) At least every hour until five to six centimeters (5-6 cm), then at least every thirty (30) minutes until cervix is completely dilated;
 - (ii) Immediately after rupture of membranes and during and after the next two (2) contractions to rule out prolapsed cord;
 - (iii) After any treatment, procedure, or intervention;
 - (iv) When there is a change in contractions or labor pattern; and
 - (v) When there is any indication that a medical or obstetric complication is developing;
- (B) Duration, interval, and intensity of uterine contractions at least every two (2) hours or more frequently if indicated;
- (C) Maternal blood pressure and heart rate in active labor:
- (i) Every two (2) hours, or more frequently if indicated;
 - (ii) Blood pressure every fifteen (15) minutes when there is a systolic reading of greater than or equal to one hundred forty (≥ 140) or a diastolic of greater than or equal to ninety (≥ 90); and
 - (iii) Heart rate every fifteen (15) minutes when maternal heart rate is fewer than seventy beats per minute (< 70 bpm) or greater than one hundred ten beats per minute (> 110 bpm); and
- (D) Temperature:
- (i) Every two (2) hours in active labor;
 - (ii) Every two (2) hours following rupture of membranes; and
 - (iii) Every thirty (30) minutes when oral temperature is ninety-nine and one half degrees Fahrenheit (99.5° F) or higher.

(2) **Second stage and third stage.** The LLM's duties include but are not limited to:

- (A) Assessing and documenting:
 - (i) That labor is progressing; and
 - (ii) Maternal and fetal well-being, including fetal heart rate at least every fifteen (15) minutes, or more frequently if indicated; and
- (B) Delivering the newborn and placenta.

(c) All services should be provided in a supportive manner and in accordance with this part.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-306. Protocol for intrapartum conditions requiring physician or CNM intervention.

(a) **Immediate transport.** The following intrapartum conditions preclude midwifery care, and when identified, the client must be transported to the planned hospital by the most expedient method of transportation available to obtain treatment/evaluation:

- (1) Position other than vertex;
- (2) Active genital herpes lesions;
- (3) Labor prior to thirty-seven (37) weeks, zero out of seven (0/7) days gestation;
- (4) Bleeding in labor that exceeds scant amount with each cervical examination;
- (5) Thick meconium if birth is not imminent;
- (6) Prolapsed cord;
- (7)(A) Non-reassuring fetal heart rate (FHR) patterns (Category II or Category III) that are repetitive and do not promptly respond to maternal position changes, unless birth is imminent.

(B) Category I FHR patterns are reassuring and are not an indication to transport.

(C) Characteristics of Categories II and III include:

- (i) **Variable decelerations.** Abrupt decreases in the FHR by fifteen beats per minute (15 bpm) or more lasting fifteen (15) seconds or more;

(ii) **Late decelerations.** Gradual decreases in the FHR occurring in the latter portion of the contraction, returning to baseline after the end of the contraction;

(iii) **Prolonged decelerations.** A decrease in the FHR baseline by fifteen beats per minute (15 bpm) or more lasting between two (2) minutes and ten (10) minutes;

(iv) **Tachycardia.** FHR baseline greater than one hundred sixty beats per minute (>160 bpm); and

(v) **Bradycardia.** FHR baseline fewer than one hundred ten beats per minute (<110 bpm);

(8) Signs of maternal infection include any of the following:

(A) Temperature of greater than or equal to one hundred and four tenths of one degrees ($\geq 100.4^\circ$);

(B) Fetal tachycardia (baseline heart rate greater than one hundred sixty beats per minute (>160 bpm)); and

(C) Maternal tachycardia (heart rate greater than one hundred ten beats per minute (>110 bpm));

(9) **Signs of fetal infection.** Baseline FHR greater than one hundred sixty (>160) or a baseline FHR that is continually increasing;

(10) Suspected or confirmed fetal death;

(11) Two (2) high blood pressure readings, meaning a systolic of greater than or equal to one hundred forty (≥ 140) or a diastolic of greater than or equal to ninety (≥ 90), two (2) hours apart unless birth is imminent; or

(12)(A) Unknown GBS status prior to sixteen (16) hours of ruptured membranes, when delivery is not imminent.

(B) Prophylactic antibiotics are indicated by eighteen (18) hours of ruptured membranes.

(b) **Physician consultation.**

(1)(A) The following intrapartum conditions require consultation with a physician or CNM who has obstetric privileges in a hospital within fifty (50) miles of the delivery site.

(B)(i) A plan of care must be established and execution documented.

(ii) Midwives caring for these clients will submit additional required incident reports (found in Appendix A or available on the Department of Health website).

(iii) If consultation is not available the client must be transported to the hospital per the emergency plan.

(iv) If the client's condition is not stable she should be transported to the nearest hospital.

(2) The intrapartum conditions are:

(A) Prolonged labor in a primagravida defined as more than:

(i) Twenty (20) hours from onset of contractions to five centimeters (5 cm);

(ii) Seventeen (17) hours from five centimeters (5 cm) to complete dilation;

(iii) Two and a half (2.5) hours pushing; or

(iv) One (1) hour from delivery of the infant to delivery of the placenta; and

(B) Prolonged labor in the multigravida defined as more than:

(i) Fourteen (14) hours from onset of contractions to five centimeters (5 cm);

(ii) Sixteen (16) hours from five centimeters (5 cm) to complete dilation;

(iii) One (1) hour pushing; or

(iv) One (1) hour from delivery of the infant to delivery of the placenta.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CNM" means certified nurse midwife.

"GBS" means group B streptococcus.

17 CAR § 47-307. Protocol for required postpartum care.

(a) **Immediate care.** The LLM must remain in attendance for at least two (2) hours after the delivery and shall assess and record the following:

(1) Immediately following the delivery of the placenta, the LLM shall:

(A) Determine that the uterus is firmly contracted without excessive bleeding;

(B) Ascertain that the placenta has been delivered completely; and

(C) Determine the number of cord vessels;

(2)(A) LLMs may repair first and second degree perineal lacerations.

(B) LLMs may apply topical benzocaine fourteen percent (14%) (available in gel form, solution, or spray) for repair of lacerations.

(C) Benzocaine requires a prescription from a physician, CNM, or Department of Health clinician for the client and the prescription must be written in the client's name;

(3)(A) During the two-hour postpartum period, the LLM shall assess, as needed:

(i) Uterine firmness;

(ii) Vaginal bleeding;

(iii) Vaginal swelling or tearing;

(iv) Maternal blood pressure; and

(v) Pulse.

(B) The LLM shall remain in attendance until:

(i) These signs are well within normal limits; or

(ii) A physician or CNM is in attendance if they are found to be abnormal; and

(4) The LLM shall leave instructions for follow-up care that include signs and symptoms of conditions that require medical evaluation such as:

- (A) Excessive bleeding;
- (B) Increasing pain;
- (C) Severe headaches or dizziness; and
- (D) Inability to void.

(b) Follow-up postpartum care.

(1) A follow-up home visit shall be performed between twelve (12) to thirty-six (36) hours postpartum to evaluate for:

- (A) Excessive bleeding;
- (B) Infection; or
- (C) Other complications.

(2) For all mothers with Rh negative blood and a newborn who is Rh positive, the LLM must counsel the mother to obtain postpartum Rh immunoglobulin within seventy-two (72) hours of delivery.

(3)(A) The LLM is required to follow the mother for a minimum of thirty (30) days from delivery.

(B) Care shall include family planning counseling and education on the need for updated immunizations, including the rubella vaccine if susceptible.

(C) The final postpartum evaluation shall be performed between four (4) to six (6) weeks after delivery.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CNM" means certified nurse midwife.

"LLM" means licensed lay midwife.

17 CAR § 47-308. Protocol for postpartum conditions requiring physician or CNM intervention.

(a) **Immediate transport.** The following postpartum conditions preclude midwifery care and when identified, the client must be transported to the hospital indicated in the emergency plan by the fastest method of transportation available to obtain treatment/evaluation:

- (1) **Hemorrhage.** Estimated blood loss of five hundred milliliters (500 mL) or more;
- (2) Exhibiting signs of shock:
 - (A) Systolic BP less than ninety (<90);
 - (B) Diastolic BP less than sixty (<60);
 - (C) Heart rate fewer than fifty beats per minute (<50) or greater than one hundred twenty beats per minute (>120);
 - (D) Respiratory rate fewer than ten (<10) or greater than thirty (>30); or
 - (E) Maternal agitation, confusion, or unresponsiveness;
- (3) Elevated BP:
 - (A) Systolic greater than or equal to one hundred sixty (≥ 160); or
 - (B) Diastolic greater than or equal to one hundred (≥ 100);
- (4) Third and fourth degree lacerations;
- (5) Maternal temperature greater than one hundred and four tenths of one degrees (>100.4°) on two (2) occasions one (1) hour or more apart; and
- (6) Inability to urinate by six (6) hours after delivery.

(b) **Consultation or referral.**

- (1)(A) The following postpartum conditions require consultation with a physician or a CNM.
 - (B) A plan of care must be established and execution documented.
 - (C) Midwives caring for these clients will submit additional required incident reports to the Department of Health (found in Appendix A or available on the department website).
- (2) The postpartum conditions are:
 - (A) Signs and symptoms of postpartum infection:
 - (i) Endometritis;

- (ii) Mastitis; and
- (iii) Urinary tract infection;
- (B) Signs and symptoms of sub-involution;
- (C) Signs and symptoms of postpartum preeclampsia; and
- (D) Signs and symptoms of postpartum depression.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "BP" means blood pressure.

"CNM" means certified nurse midwife.

17 CAR § 47-309. Protocol for required newborn care.

(a)(1) The LLM shall be responsible for newborn care immediately following the delivery and care of the healthy newborn for the first fourteen (14) days of life unless care is transferred to a physician or APRN specializing in the care of infants and children before that.

(2) After fourteen (14) days the LLM is no longer responsible and the mother should seek further care from a physician or an APRN specializing in the care of infants and children.

(3) If any abnormality is suspected, including, but not limited to, a report of an abnormal genetic/metabolic screen or positive antibody screen, the newborn must be sent for medical evaluation as soon as possible but no later than seventy-two (72) hours.

(4) This does not preclude the LLM from providing counseling regarding routine newborn care and breastfeeding.

(b) **Immediate care.** The following services must be provided by the LLM as part of immediate newborn care:

- (1) Suction nose and mouth prior to delivery of shoulders if needed;
- (2) Assess presence of meconium;

(3) Assess baby's status at birth as vigorous or non-vigorous;
(4) Immediately after delivering entire body, suction mouth, then nose again, if needed;

(5) Clamp and cut the cord;

(6)(A) Directly place baby skin-to-skin with mother, covering baby with a blanket.

(B) The baby should ideally remain in direct skin-to-skin contact with their mother immediately after birth until the first feeding is accomplished;

(7) Determine Apgar scores at one (1) and five (5) minutes after delivery while baby is with mother;

(8)(A) Routine care can be done with the baby and mother in skin-to-skin contact to insure warmth.

(B) Observe and record:

(i) Skin color and tone;

(ii) Heart rate;

(iii) Respiration rate and character;

(iv)(a) Estimated gestational age.

(b) Indicate average, small, or large for gestational age;

(v) Axillary temperature; and

(vi) Weight, length, head circumference; and

(9) Obtain cord blood for Rh and antibody screen if mother is Rh negative.

(c) **Feeding.**

(1) Newborn should be placed at the breast as soon as stable after delivery.

(2) The bottle-fed newborn should be offered formula of choice within the first two (2) to three (3) hours after birth.

(3) Instruct the mother in normal and abnormal feeding patterns.

(d)(1) If indicated, the LLM must advise parents that the newborn must receive either Erythromycin one-half of one percent (0.5%) Ophthalmic or Tetracycline one percent (1.0%) Ophthalmic within one (1) hour of birth.

(2) The LLM must document in the client's medical record whether or not medication was administered to the newborn and by whom.

(e)(1) The LLM must advise parents that the newborn must receive vitamin K within two (2) hours of birth.

(2) The LLM must document in the client's medical record whether or not medication was administered to the newborn and by whom.

(f) **Newborn screening.**

(1) **Genetic/metabolic screening.**

(A) All newborns must have a capillary blood sample within the required time frame for the newborn screening as mandated by law and as specified on the Department of Health collection form.

(B) Information can be obtained by contacting the department Newborn Screening Program.

(2) **Infant hearing screening.**

(A) The LLM must instruct the mother in available resources to obtain the infant hearing screen.

(B) Assistance in completing and submitting the required form can be obtained by contacting the department Infant Hearing Program.

(g) **Cord care.** The LLM must instruct the mother in routine cord care.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "APRN" means advanced practice registered nurse.

"LLM" means licensed lay midwife.

17 CAR § 47-310. Protocol for newborn conditions requiring physician intervention.

(a) **Immediate transport.**

(1) The following newborn conditions, when identified, require immediate transport of the newborn to the hospital by the most expedient method of transportation available to obtain treatment/evaluation.

(2) LLMs who participate in the care of these newborns are required to submit additional incident reports (found in Appendix A or available on the Department of Health website).

(3) The conditions are:

(A) Respiratory distress;

(B) Central cyanosis;

(C) Seizures;

(D)(i) If a temperature outside the normal range of ninety-seven and seven tenths degrees Fahrenheit (97.7°F) or thirty-six and five tenths degrees Celsius (36.5°C), to ninety-nine and three tenths degrees Fahrenheit (99.3°F) or thirty-seven and four tenths degrees Celsius (37.4°C) per axilla is noted:

(a) Appropriate corrective measures must be taken; and

(b) Temperature must be taken hourly for the next two (2)

hours.

(ii) Three (3) persistently out-of-range temperatures warrant transfer;

(E) Jaundice at zero (0) to twenty-four (24) hours;

(F) Apgar score of less than five (<5) at one (1) minute or less than seven (<7) at five (5) minutes;

(G) Apnea lasting more than ten (>10) seconds;

(H) Heart rate greater than one hundred sixty beats per minute (>160 bpm) or fewer than one hundred beats per minute (<100 bpm);

(I) Pallor and poor capillary refill;

(J) Poor suck or refusal to feed;

(K) High-pitched cry;

(L) Any significant congenital anomaly including ambiguous genitalia;

(M) Skin with petechiae or significant bruises;

(N) Poor response to sound or touch; or

(O) Poor tone (floppy).

(b) Physician consultation.

(1) The newborn must be weighed weekly.

(2) During the first two (2) weeks of life the newborn must be immediately referred to a pediatric or family medicine provider for any illness or abnormal physical finding.

(3) The newborn must also be referred if there are any concerns about:

(A) Weight gain;

(B) Feeding;

(C) Elimination;

(D) Development; or

(E) Abnormal screening results.

(4) The following newborn conditions require immediate (unless otherwise indicated) consultation with a physician whose practice includes pediatrics.

(5)(A) A plan of care must be established and execution documented.

(B) Midwives caring for these newborns will be required to submit additional required incident reports to the department (found in Appendix A or available on the department website).

(6)(A) If consultation is not available, the newborn must be transported to the hospital listed in the plan of care.

(B) The LLM:

(i) Is responsible for the coordination of the physician consultation with the child's parents; and

(ii) Must follow up on this consultation and document the outcome in the client's record.

(7) The conditions are:

(A) Jaundice at twenty-four (24) to forty-eight (48) hours of life;

(B) No urination at twelve (12) hours of life;

(C) Birth weight of less than five and one-half pounds (5 1/2 lb) or more than ten pounds (10 lb);

- (D) Abnormal cry;
- (E) No stool after forty-eight (48) hours;
- (F) Vomiting after feedings;
- (G) Tachypnea of greater than sixty (60) breaths per minute after four (4) hours of life;
- (H) Mother's membranes ruptured for more than eighteen (18) hours and unknown GBS status;
- (I) Infant born to mother with indications for GBS prophylaxis in labor that did not receive antibiotics more than or equal to four (≥ 4) hours prior to birth (per department-approved guidelines found on department website);
- (J) Jittery;
- (K) Floppy; or
- (L) Eye rolling.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "GBS" means group B streptococcus.

"LLM" means licensed lay midwife.

Subpart 4. Emergency Measures

17 CAR § 47-401. Emergency measures.

- (a) The LLM must:
 - (1) Consult a licensed physician or CNM whenever there are significant deviations from normal in either the mother or the newborn; and
 - (2) Act in accordance with the instructions of the physician or CNM.
- (b) In those situations requiring transport to a hospital, the LLM must:
 - (1) Notify the emergency room or labor and delivery unit of the designated hospital of an imminent transport; and

(2) Provide a copy of the complete medical record to the appropriate staff at the receiving facility.

(c) The LLM is expected to use their judgment regarding the need for referral or emergency transport when problems arise that are not specified in the protocol.

(d) No licensed lay midwife may assist labor by any forcible or mechanical means, attempt to remove adherent placenta, administer, prescribe, advise, or employ any prescription drug or device, or attempt the treatment of a precluded condition, except in an emergency when the attendance of a physician or CNM cannot be speedily secured.

(e)(1) Any authorized or unauthorized emergency measures must be reported to the Department of Health in an incident report (found in Appendix A or available on the department website).

(2) In the case of actions/procedures authorized by a physician or CNM in the case of a specific emergency, the LLM will:

(A) Document these orders with an order signed by the physician or CNM;
and

(B) Submit it to the department on the tenth of the following month.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "CNM" means certified nurse midwife.

"LLM" means licensed lay midwife.

Subpart 5. Record Keeping and Reporting Requirements

17 CAR § 47-501. Monthly reports.

(a) A monthly reporting log, referred to as the "Caseload" and "Birth Log" (found in Appendix A or available on the Department of Health website), will be maintained and

sent to the department postmarked no later than the tenth of each month regardless of any changes or additions to the log.

(b) Each woman receiving care for two (2) or more visits shall be listed on the Caseload and Birth Log in the following month of care, regardless of whether or not the LLM attended the birth.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-502. Incident reports.

(a)(1) When any complication occurs (whether or not the LLM remained in attendance) the care must be documented in greater detail using Department of Health forms (found in Appendix A or available on the department website).

(2) The LLM shall send these forms to the department by the tenth of the month following the event.

(b)(1) When an LLM's client delivers outside the hospital without attendance by an LLM, the LLM must submit an incident report (form found in Appendix A or available on the department website) describing the circumstances and outcome of the unattended birth.

(2) The LLM shall send these reports to the department by the tenth of the month following the event.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-503. Record audits.

(a) The Department of Health will audit selected records from each LLM's practice each year.

(b) The purpose of the audit will be to confirm compliance with this part.

(c) The LLM will be required to submit the records for each client selected by the department for auditing.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-504. Documentation by LLM apprentices.

(a)(1) LLMs supervising an apprentice midwife should record the name of the apprentice on the Birth Log when the apprentice provided care during the intrapartum and immediate postpartum period.

(2) Because the LLM is responsible for the clinical work of their apprentices, all reports will be filed by the attending LLM.

(b)(1) Clinical services provided by apprentice midwives shall be documented by the apprentice in the client record and cosigned by the LLM.

(2) Initials may be used provided the initials clearly identify the person providing care.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-505. Reporting maternal, fetal, or newborn events.

(a) The LLM is required to track maternal and newborn events for thirty (30) days unless care is terminated by the client.

(b) Maternal events, pregnancy loss at any gestational age, or newborn events must be reported according to the following schedule.

(c) In each of these instances, LLMs will:

(1) Complete the required incident report (found in Appendix A or available on the Department of Health website); and

(2) Submit it, with a complete copy of the client record, to the department.

(d) Complications resulting in intrauterine fetal death, or death of a mother or newborn within forty-eight (48) hours of delivery must be reported to the department within two (2) business days.

(e) Maternal or newborn deaths that occur between two (2) through thirty (30) days of birth must be reported to the department within five (5) business days.

(f) Maternal or newborn hospitalizations that occur within thirty (30) days of delivery must be reported to the department within five (5) business days.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-506. Client health record.

(a) The LLM is responsible for ensuring that all required services are documented on client records maintained by the LLM.

(b) Each page of the client record must contain the client ID number.

(c) The records will remain confidential.

(d) They are subject to periodic review by the Department of Health staff.

(e) All client records must be maintained for at least twenty-five (25) years.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

"ID" means identification.

17 CAR § 47-507. Vital records.

The LLM shall follow all applicable laws pertaining to vital records.

Authority. Arkansas Code § 17-85-107.

Subpart 6. Department of Health Responsibilities

17 CAR § 47-601. Granting new permits and licenses.

The Department of Health shall review applications for licensure and issue licenses or permits.

Authority. Arkansas Code § 17-85-107.

17 CAR § 47-602. Registration listing.

The Department of Health shall maintain a list of all LLMs and Apprentice Midwives in the State of Arkansas, and make this list available to the public.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-603. Monitoring outcomes.

(a) The Department of Health shall monitor perinatal outcomes of home births attended by LLMs and publish these statistics annually.

(b) The department shall also review LLMs' records to ensure that such LLMs are practicing within regulatory guidelines and standards of care.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-604. Investigation.

(a) The Department of Health will conduct investigations regarding complaints or deviations from this part.

(b) The department will consider all available information that is relevant and material to the investigations.

(c)(1) Where, in the opinion of the Director of the Department of Health, the public's health, safety, or welfare imperatively requires emergency action, the department may temporarily suspend the license of an LLM pending proceedings for revocation or other action.

(2) All proceedings initiated under this provision shall be promptly instituted and determined.

(3) The licensee may request a hearing on a temporary suspension with five (5) days of receiving notice.

Authority. Arkansas Code § 17-85-107.

Codification Notes. "LLM" means licensed lay midwife.

17 CAR § 47-605. Administration of tests.

The Department of Health shall administer the Arkansas Rules Examination at least three (3) times per year.

Authority. Arkansas Code § 17-85-107.

Appendix A. Forms

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/68/17CARpt.47AppendixA.pdf>

Appendix B. Transitional Provisions and Forms

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/69/17CARpt.47AppendixB.pdf>

Appendix C. CEU Calculations

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/70/17CARpt.47AppendixC.pdf>