

**VIA TELECONFERENCE
SOUTH DAKOTA BOARD OF CERTIFIED PROFESSIONAL MIDWIVES
BOARD MEETING**

South Dakota Board of Certified Professional Midwives Office
27705 460th Ave. Chancellor SD
Thursday, April 21, 2022 1:00pm - 4:00pm (Central Standard Time)
Public Hearing at 1:30pm (CST)

President Debbie Pease **called the meeting to order at 1:00 p.m.** She gave some instructions to those on teleconference concerning use of electronics and procedures for speaking. The roll was called. A quorum was present.

Members of the board in attendance: Debbie Pease President, Sue Rooks Vice President, Jackie Lopez and Kimberlee McKay were all present via phone. Autumn Cavender-Wilson Secretary joined the meeting after it was in progress.

Others in attendance: Tammy Weis, SD Board of CPM Exec Secretary at the CPM office. Steven Blair, Assistant to the Attorney General and legal counsel for the board was present via phone. Joining the call in progress were Bob Mercer, Keloland News; Dr Keith Hanson, Sanford Health and Justin Bell, Attorney on behalf of the SDSMA; Eudine Stevens CPM, Alaina Kerhove, CPM, Debbie Eakes CPM, and Evie DeWitt, Midwife Assistant and Doula;

Weis requested that the dates on the minutes to be reviewed be corrected before the agenda was approved. Pease requested that the Agenda be approved with flexibility to accommodate the Public Hearing to be held at 1:30pm. McKay then moved to **accept the agenda as amended**, seconded by Lopez. The board voted unanimously. **MOTION PASSED**

There were no additions or corrections to the **Draft Meeting Minutes of Sept16, 2021**. Rooks moved to **accept them as presented**. McKay seconded. The board voted unanimously. **MOTION PASSED**

Weis presented the financial report Total expenses including mandatory fees through the Dept of Health were \$6,918 so far this fiscal year. We have had no travel expenses submitted and no attorney fees. We may need to plan for attorney fees in the near future. Our Cash Balance was \$1324.83 as of the beginning of April. We have had no meeting expenses this year as all board members have requested that they not receive the \$60 per meeting payment. This saves us \$300 per meeting for a total of \$600 this FY. Pease, McKay, Rooks and Lopez and once again requested that they not be compensated for the meeting. There were no questions or concerns.

Pease announced that we would have **election of officers**. Lopez moved that **we re-elect our current slate of officers if they are all willing to serve another term**. Rook seconded. Current officers were asked if they were willing to continue to serve Pease and Rooks affirmative. Weis stated that Cavender-Wilson had also agreed to serve another term. There was no other discussion. **Motion Carried. The Board voted unanimously.**

McKay moved to **approve the SD Dept of Health renewal contact with Exec Sec Tamera Weis** with a 6% cost of living increase. Second by Lopez. There was no discussion. **Motion Carried. The board voted unanimously.** Sec Weis was thanked for her service.

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Weis gave an office report including:

- The 11/1/2021 Administrative Rules Committee Hearing, where our rules changes were approved without any questions.
- Progress on making birth certificate documentation more streamlined for out of hospital births for all health care providers.
- An overview of birth reports and report assessments.

At 1:30pm Pease asked Blair to begin the Public Hearing for the rules.

PUBLIC HEARING: Please see Public Hearing minutes for those proceedings.

The Public Hearing deliberation and action was completed at 3:20pm.

Public Forum

Pease asked if there was any member of the public that would like to speak to the board.

Alaina Kerkhove CPM: Thanked the board for the work on this issue and stated that she felt very comfortable with the rules that the board approved.

Eudine Stevens CPM: Also thanked the board for the work on the change in the rules and stated that her practice relocation to South Dakota will be completed by the end of May 2022.

Weis resumed the Office report:

- Information clarifying when a birth report is necessary and the need to convey that information to all CPMs in SD.
- Progress on hiring a new attorney for licensing boards.
- There were no questions.

Announcements:

- **Our next meeting will be September 15, 2022 at 1-4pm CST**
- We now have **8 SD licensed CPMs and one student**. We have **3** more that **have begun the application** process for either CPM or Student CPM

At 3:31pm McKay moved to **adjourn**, Cavender-Wilsen second. There was no discussion. **Motion Carried. The board voted unanimously.**

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Public Hearing South Dakota Board of Certified Professional Midwives(CPM) Thursday, April 21, 2022 1:30pm (Central Standard Time)

Steven Blair, Assistant Attorney General and Legal Counsel for the SD Board of CPM, called the public hearing to order at 1:30 p.m. on Thursday, April 21 2022 by telecommunication. He noted this hearing is being held at SD Board of CPM office at 27705 460th Ave. Chancellor SD and telephonically. Publication of this time and date has been set and published pursuant to SDCL 1-26-4 and SDCL 1-26-4.1. Members of the public were invited to join the Public Hearing at the SD Board of CPM Office or telephonically. Blair noted that this is the time and place for the Board of Certified Professional Midwives Public Hearing to consider changes to the administrative rules:

§ Chapter 20:86:02:03. Duration of license.

§ Chapter 20:86:04:02 Biennial renewal

§Chapter 20:86:03 Appendix A THE FORMULARY

Adopted under the authority of SDCL 36-9C

Hearing Officer: Steven Blair, Assistant Attorney General and Legal Counsel for the SD Board of CPM
Rapid City

Members of the Board in attendance via teleconference: President Debbie Pease, Vice President Susan Rooks CNM, Kimberley McKay OB/GYN, and Jackie Lopez CPM. Secretary Autumn Cavender-Wilson CPM joined after the meeting was in progress.

In attendance in person: Board Executive Secretary Tammy Weis

Guests in attendance by telecommunication: Eudine Stevens CPM, Debbie Eakes CPM, Alaina Kerkhove CPM, Evie DeWitt Midwife's Assistant and Doula, Justin Bell, Legal Counsel for South Dakota State Medical Association (SDSMA) and Dr. Keith Hanson OB/GYN speaking on behalf the of SDSMA, Bob Mercer, Keloland News.

Blair stated that those in attendance and statements made during the hearing were being recorded in the minutes and that a quorum of the board was present. Before beginning with any comments, and for the public record, he verified that the following information was in the CPM Board's file for the record:

- Copy of proposed rules were submitted to Dept. of Health: 3/14/2022
- Sec. has given authorization to proceed: 3/14/2022
- Notice of Hearing prepared: 3/17/2022
- Notice publ. 3 papers gen. circulation
 - Rapid City Journal 3/19/2022
 - Brookings Register 3/ 21/2022
 - Aberdeen News 3/19/2022
- Affidavits of Publication from the papers received 4/1/2022
- Fiscal Note prepared by Tammy Weis 3/14/2022
- Small Business impact statement prepared 3/15/2022

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- Dir./LRC was served at least 20 days prior hrg. 3/16/2022
 - w/ Proposed rules, Notice Hearing, Fiscal Note & Small Business impact statement
- Comm/BFM served at least 20 days prior hearing. 3/20/2022
 - Same materials as LRC
- Mail to interested parties none requested

The rules were presented by Tammy Weis Board Secretary. §Chapter 20:86:03 Appendix A and § Chapter 20:86:02:03, § Chapter 20:86:04:02.

Statute 36-9C-13 (SD Codified Laws, 2021) refers to prescription drugs that a licensed CPM may administer. These are as follows:

Vitamin K
Post-partum anti-hemorrhagic medication
Local anesthetic
IV antibiotics for treatment of Group B Strep
Oxygen
Eye prophylaxis
RhoGAMn

This rule change would add IV fluid and Tranexamic Acid (TXA) to the Post-partum anti-hemorrhagic medication in an emergency situations. It will also include follow-up emergency treatment for allergic reactions that might arise from the use of the medications listed above. The final change will make the renewal of licenses more expedient, equitable, and in compliance with SDCL 36-9C-16.

The reason for adopting the proposed rules is to provide a greater protection for public safety.

Written Testimony:

Letter from SD Birth Matters, received April 15, 2022 –Proponent

- Meghan Olson, Co-Chair, SD Birth Matters ,Clear Lake, SD
- Mandy Ulvestad, Co-Chair SD Birth Matters Pierre, SD
- § Chapter 20:86:02:03. Duration of license. § Chapter 20:86:04:02 Biennial renewal and §Chapter 20:86:03 Appendix A THE FORMULARY
- In favor and support of all proposed rule changes

Letter from Eudine Stevens CPM, Conde, SD- received April 18, 2022- Proponent

- 20:86:03 Appendix A THE FORMULARY
- Authorized use of IV antibiotics implies that a treatment for allergic reaction is also authorized.
- TXA is recommended by World Health Organization regardless of the level of the health system resources

Letter from American College of Obstetricians and Gynecologists-received April 18, 2022-Opponet

- Mark Ballard, MD Ob/Gyn, FACOG SD ACOG Section Chair
- 20:86:03 Appendix A THE FORMULARY
- Much of this 2 page letter is not germane to the rules hearing.
 - It cites IV fluids for hydration while we are discussing IV fluids as an emergency medication for postpartum hemorrhage.

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- It discusses Epinephrine HCL for circulatory collapse while we are looking at a medication for severe allergic reactions to support the woman until she can be treated at a medical facility.
- It doesn't cite a source or rationale why "We believe authorization for the use of this medication (Tranexamic Acid) is potentially dangerous."
- The writer is obviously not familiar with the education and certificates held by all licensed SD midwives.
- It was difficult to find ways to address the comments or concerns because they were not on topic.

The board then heard public testimony from one opponent and five proponents.

Oral Testimony:

Opponent:

Dr Keith Hanson Ob/GYN from Sioux Falls, SD on behalf of the SDSMA, spoke first by prior arrangement. *(Please note: the summary of Dr Hanson's testimony has a few edits from the paper copy provided to legislators. His review and request for edits came after the paper copies were mailed. TW)*

- Post-partum hemorrhage used to be a primary cause of maternal death but is now a rare occurrence because of good medical interventions now available
- Hemorrhage used to be one of the top 3 causes of postpartum morbidity and mortality.
- There are three primary causes of postpartum hemorrhage
 - Uterine atony
 - Retained placental tissue
 - Lacerations or trauma to cervical, vaginal or perineal tissues
 - Rare coagulopathies
- All three (four) would require expeditious transfer to the hospital for medical treatment
- Improvements in education, training, blood banking and medications have reduced morbidity and mortality from postpartum hemorrhage.
- Tranexamic Acid (TXA) side effects include blood clotting issues, which are life threatening must be addressed in a hospital setting
- IV side effects can include Pulmonary Edema from too much fluid too fast
- IV starts can be very difficult in hemorrhaging patients.
- Epinephrine HCL has a history of dosage mistakes (even) in the hospital setting.
- EpiPen® has a fixed dose
- Primary Concerns of SDSMA**
- Adding medication options may delay transfer to the hospital
- Dosage mistakes could be deadly
- Treatments for the noted side effects are unavailable outside of the hospital setting.

Proponents:

Eudine Stevens CPM from Conde, SD testified from Walla Walla, WA

- In rural areas it can take from 5-30 minutes for EMS to arrive.
- She has been present for over 200 out of hospital births and never had to use TXA but has worked with midwives who did have to use it.
- When bleeding is due to trauma, it can be very heavy with few direct pressure options
- 15 minutes while waiting for transfer can be life or death.

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- Replacing fluid volume while waiting for transfer allows the hospital to receive the woman in better condition.

Alaina Kerkhove CPM from Colman, SD testified next

- She has lived in a rural South Dakota area for 27 years.
- Her local EMT is staffed by volunteers 25 miles away.
- They are EMT and not paramedics/ Many rural EMT crews cannot start IVs
- The closest hospital that has the capacity to manage obstetrical emergencies is further away than the local hospital.
- Preloaded EpiPens® have no dosage risks for adults.

Evie DeWitt Midwife's Assistant and Doula, Mitchell, SD

- Supports all four changes
- Agrees with all of the other proponent testimony
- Thanks the board for making birth safer for those who choose out of hospital birth

Debbie Eakes CPM- Montevideo, MN

- Thanked the board for taking up these issues for emergency situations
- Supports the changes and agrees with other proponent testimony

Blair closed the testimony period of the hearing at 1:55pm after hearing no more requests to testify.

The board began discussion and deliberation with the change in the renewal of licenses, § Chapter 20:86:02:03. Duration of license and § Chapter 20:86:04:02 Biennial renewal. LRC recommended corrections and changes were made. Pease suggested a change in the language to add “for” between “valid” and “two year” to clarify the beginning of the licensure period. Discussion: changing rule 20:86:02:03 made the first sentence in rule 20:86:04:02 unnecessary. Pease moved to adopt both rules as amended, Rooks Second. The voice vote was **unanimous. Motion passed.**

Final adopted rules:

20:86:02:03. Issuance of license. Licenses will be renewed biennially on October 30th.

Duration of license. A license is valid for two years from the date that it was issued by the board.

Source: 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-9C-32(1).

Law Implemented: SDCL ~~36-9C-14~~, 36-9C-15

20:86:04:02. Biennial renewal. ~~Each person licensed to practice within this state shall renew the license biennially on October 31st.~~ The renewal fee is \$1,500. Failure to secure a renewal certificate shall result in a lapsed license. A lapsed license may be reinstated as provided in § 20:86:02:06.

Source: 45 SDR 31, effective September 10, 2018.

General Authority: SDCL 36-9C-32(4).

Law Implemented: SDCL 36-9C-19(2).

FORMULARY CHANGE #1

Next the board discussed **the expansion of the use of IV fluids from prophylactic antibiotic use only to use for postpartum hemorrhage as well.** McKay addressed the concerns of the medical association, including the difficulty of IV starts when a woman is bleeding, and the possibility of delayed hospital transfer. The board was reminded that the initial concern that prompted the change to the rules was the question of:

1. If the CPM has the equipment to start an IV
2. If the CPM has the education and experience to start an IV
3. If the CPM **doesn't** start an IV in the event of a postpartum hemorrhage **because the rules do not specifically give authority to do so**, will the CPM be considered negligent? (Especially in the case of an adverse event).

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4. If the CPM **does** start and IV in the event of a postpartum hemorrhage and **because the rules do not specifically give authority to do so**, this action could be considered outside their scope of practice.

Discussion was active. All were in agreement that if Pitocin was not immediately effective, additional assessment and an early IV placement (earlier access is much easier) is the best safeguard to be prepared for a transfer if necessary. This is especially important in rural areas where EMTs may not have IV capacity and wait times for EMTs might be long. Final language was added to assure that hospital transfer was not delayed. The time that it takes to infusion the first liter (7-15 minutes) can be used for assessment and treatment. **“With the start of the second liter, transport to hospital is required and local medical support will be notified.”** This addresses the medical association’s concerns that transport be prioritized and ensures that the woman has replacement fluids during the transport process. LRC changes were previously made.

Cavender-Wilson moved to **adopt the new rule as amended**, Rooks second. The board voted with a **unanimous** voice vote. **Motion passed**

FORMULARY CHANGE #2

The next **addition to the Formulary is Tranexamic Acid (TXA) for use for Postpartum Hemorrhage, to be used when initial anti-hemorrhagic therapies fail and with notification of local medical support.** LRC corrections had been previously made. There was little discussion as it was more completely discussed at our previous meeting. Rooks moved to adopt the rule as written (after LRC changes) Cavender-Wilson second. The voice vote was unanimous. **Motion passed**

FORMULARY CHANGE #3

Epinephrine HCL Is an important medication used for **post-exposure treatment for severe allergic reactions.** The board’s discussion of this medication centered around two issues

1. Epinephrine HCL has a terrible **history of dosage mistakes** by medical professionals. **The dosages are weight dependent** and a mistake is often deadly.
 - a. The board addressed this issue by removing the dosage component and changed the request to use of an adult metered dose auto-injector also known as an EpiPen®
 - b. The pen dosage is set at the pharmacy and cannot be changed.
 - c. The board added “Maternal” to the indication because infant allergic reactions are extremely rare and will most likely not be needed.
2. The SDCL does **not specifically name** Epinephrine HCL.
 - a. While it is not specifically named, “The ability for a health care provider to carry and to administer drugs of antibiotics, anti-hemorrhagic, or in the care for the newborn implies that they are also able to carry and administer the antidote in case of an allergic reaction...” Stevens CPM, written testimony.
 - b. Severe allergic reactions to medications are rare but have become more prevalent.
 - c. Many people at risk already carry an EpiPen®, but **an** allergic reaction can occur suddenly, requiring immediate response.
 - d. The board is **aware the LRC recommended** that we remove this change but requested that the ARSD legislators consider public safety, the implied authority to carry the antidote to any medication that could potentially cause anaphylaxis and the safety of the EpiPen®.

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- e. The board will work toward changing the verbiage in the statute as soon as possible. For the interim, the board is requesting this addition to take place immediately in order to avoid the rare possibility of an adverse event, should rural EMS be too far away.

Final discussion was CPMs will “Seek medical support immediately after administration of first injection.” Activation of the EMS verbiage was rejected because sometimes it is faster to transport to the hospital via private vehicle.

Rooks moved to adopt the rule as amended, McKay second. The board voted by unanimous voice vote. **Motion carried**

Additions to the formulary

Drug	Indication	Dose	Route of Administration	Duration of Treatment
<u>Epinephrine HCL</u>	<u>Maternal post-exposure treatment for severe allergic reaction as follow-up to any approved medication</u>	<u>Adult metered dose auto-injector</u>	<u>Intramuscular injection into anterolateral aspect of the thigh via metered dose auto-injector</u>	<u>Seek medical support immediately after administration of first injection. May be given every 5-15 minutes as needed for up to 4 doses</u>
<u>Tranexamic Acid (TXA)</u>	<u>Postpartum Hemorrhage</u> <u>To be used when initial anti-hemorrhagic therapies fail and with notification of local medical support</u>	<u>100mg/ml (1 g)</u>	<u>IV at 1 ml per minute</u>	<u>2nd dose if bleeding continues past 30 min or restarts with 24 hours</u>
<u>IV Fluids</u> <ul style="list-style-type: none"> <u>Lactate Ringers (LR)</u> <u>.45% Saline</u> <u>.9% Normal Saline</u> 	<u>Postpartum Hemorrhage</u>	<u>Infuse 1 liter at wide-open rate</u>	<u>IV line with 16-18 gauge needle</u>	<u>After first liter, a second liter may be titrated to client's condition. With the start of the second liter, transport to hospital is required and local medical support will be notified.</u>

The board completed discussion, deliberation and voting to adopt the rules. There being no further business the public hearing was adjourned at 3:20.

Respectfully Submitted

Tammy Weis Exec. Secretary

Expense Cat	SubObject	Account Name	Fiscal Year					Grand Total
			2019	2020	2021	2022	2023	
Other	5101030	BOARD & COMM MBRS FEES	840.00	600.00	480.00	60.00		1,980.00
	5102010	OASI-EMPLOYER'S SHARE	64.26	45.90	36.72	4.59		151.47
	5203100	LODGING/IN-STATE	0.00					0.00
	5204080	LEGAL CONSULTANT			0.00			0.00
	5204090	MANAGEMENT CONSULTANT	6,341.80	7,216.26	8,043.76	7,232.30	1,786.46	30,620.58
	5204160	WORKSHOP REGISTRATION FEE	75.35	76.05				151.40
	5204181	BIT DEVELOPMENT COSTS			84.10	89.50		173.60
	5204200	CENTRAL SERVICES	289.19	320.11	350.12	298.61	59.63	1,317.66
	5204207	HUMAN RESOURCES SERVICES	376.54	225.87	173.46		28.28	804.15
	5204360	ADVERTISING-NEWSPAPER	696.42			276.81		973.23
	5204510	RENTS-OTHER		23.91				23.91
	5204590	INS PREMIUMS & SURETY BDS	900.00	880.00	245.00	825.00		2,850.00
	5208080	REFUND OF PRIOR YRS REV			1,000.00			1,000.00
	5228000	OPER TRANS OUT -NON BUDGT			917.39			917.39
Grand Total			9,583.56	9,388.10	11,330.55	8,786.81	1,874.37	40,963.39

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 08/31/2022

AGENCY: 09 HEALTH

BUDGET UNIT: 09213 BOARD OF CERTIFIED PROF MIDWIVES - INFO

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092100062401	1140000	627.79	DR	BOARD OF CERTIFIED PROFESSIONAL MIDWIVES
COMPANY/SOURCE TOTAL 6503 624			627.79	DR *	
COMP/BUDG UNIT TOTAL 6503 09213			627.79	DR **	
BUDGET UNIT TOTAL 09213			627.79	DR ***	
AGENCY TOTAL 09			15,314,904.59	DR ****	

FORM 11
APPROVAL OF RULES

RECEIVED
MAY 03 2022
S.D. SEC. OF STATE

Following public hearing held on April 21, 2022, the following rules, attached, are approved and will become effective twenty days after filing with the Office of the Secretary of State:

§ Chapter 20:86:02:03. Duration of license. § Chapter 20:86:04:02 Biennial renewal

§ Chapter 20:86:03 Appendix A THE FORMULARY — *Reverted Epinephrine rule*

4/27/2022 5/3/2022
[Date] [Date]

Sammy Oleis Ex Sec *JRMUR*
SD Board of CPM LEGISLATIVE RESEARCH COUNCIL

A majority of the members of the board or commission must sign this form. Original copies of this form must be maintained by the Agency. Extra signed copies may be photocopied after the original has been signed. Include as many signature lines as there are board members. For any signature by a department secretary, the name of the department and a signature line for the department secretary are substituted for those of the board.

Filed this 3 day of
May 2022
Steve Barnett
SECRETARY OF STATE



Instructions: Only for use for licensed certified professional or nurse midwives by agreement with the Board and DOH. All data fields are required and this form will not be accepted if not completed properly. All licenses will be electronically verified.

Evidence necessary to establish the facts of birth pursuant to SDCL 34-25-9.1 (2)

Mother's Maiden Name _____

Child's Full Name _____

County of Birth: _____ Date of Birth: _____

Certified Professional/Nurse Midwife _____

Please print legibly

1. Pregnancy Certification:

Pursuant to South Dakota Administrative Rule 44:09:02:13 (1) (b)

I certify the pregnancy of the above named client was documented in the medical record on _____.

Date

2. Live Birth Certification:

Pursuant to South Dakota Administrative Rule 44:09:02:13 (2) (a)

I certify that the above named infant was born alive in my presence on _____.

Date

3. Mother's Presence in the state:

Pursuant to South Dakota Administrative Rule 44:09:02:13 (3) (iv)

I certify that the above named infant was born at _____

Address

_____ in the state of SOUTH DAKOTA.

I declare that, to the best of my knowledge and belief, the information above is true and complete

South Dakota Licensed Medical Professional

SD License #

South Dakota Administrative Rules 44:09:02:13.
Source: 24 SDR 60, effective November 13, 1997.
General Authority: SDCL 34-25-9.1.
Law Implemented: SDCL 34-25-9.1.

Licensed Verified Date: _____

By: _____

Date Created: 07/2022



SOUTH DAKOTA BOARD OF CERTIFIED PROFESSIONAL MIDWIVES

27705 460th Avenue, Chancellor, SD 57015

Phone: 605-743-4451 Email: cpmsdlicense@gmail.com

Home Page: doh.sd.gov/boards/midwives/

Birth Report Instructions

SDCL [36-9C-37](#). Review of birth registration and reportable information--Report of neonatal or maternal mortality.

The board shall review birth registration and reportable information for each out-of-hospital birth for evaluation and quality management purposes. The certified professional midwife shall provide additional documentation to the board upon request for review.

The certified professional midwife shall report within forty-eight hours to the board any neonatal or maternal mortality in a patient for whom the certified professional midwife has cared in the perinatal period. Source: SL 2017, ch 172, § 39.

Birth Reports are how the Board of CPM fulfills SDCL [36-9C-37](#). Legislators, the Dept of Health and the public expect the board to know when there was need for transfer for medical care or intervention. The Birth Report is also the first document reviewed when a complaint is received so timeliness and accuracy are important.

When should you send a birth report?

1. **Prenatal** - If you transfer care after 22 weeks (viability), please provide a Birth Report (completed with the information you have) with a copy of any medical record that you supplied and a typed narrative of why you transferred care. This must be sent within 30 days of the transfer. There is no fee.
2. **Intra partum** – If you transfer care during labor or birth, please provide a Birth Report (completed with the information you have) with a copy of any medical record that you supplied and a typed narrative of why you transferred care. This must be sent within 30 days of the transfer. There is no fee.
3. **Post partum** – If there is no transfer of care, please provide a completed Birth Report with the \$100 birth delivery fee within 30 days of the birth.
4. **Post partum** - If you transfer care, or require medical intervention and then resume care within 42 days of the birth, please provide a completed Birth Report with a copy of any medical record that you supplied and a typed narrative of why you transferred care (and resumed care if necessary). Include the \$100 birth delivery fee. This must be sent within 30 days of the birth. If the transfer occurs after the Birth Report has been sent, send a copy of the medical record and narrative separately.
5. **Neonatal Transfer** - If you transfer care, or require medical intervention and then resume care of the neonate, within 42 days of the birth, please provide a completed Birth Report with a copy of any medical record that you supplied and a typed narrative of why you transferred care (and resumed care if necessary). Include the \$100 birth delivery fee. This must be sent within 30 days of the birth.
6. **Late Reports**- Reports received after 30 days will be subject to disciplinary action.

Algorithm For Handling Complaints Against Certified Professional Midwives

Complaint is Received

Within five business days of receipt of a complaint, the Executive Secretary reviews the complaint to determine if it falls within the Board's jurisdiction. If so, the complaint is referred to the President of the Board.

Investigator is Appointed

The President of the Board appoints a Board member to serve as the Investigator for each complaint received against a CPM licensed by the Board.

Injunction

The President of the Board, on behalf of the Board, may apply for an injunction in the circuit court for the county of the person's residence to enjoin any person who is practicing as a midwife without a license issued by the Board, or is practicing as a CPM under a license that has lapsed, has been suspended or has been revoked.

Stop

Intake and Notifications

The Investigator shall notify the Certified Professional Midwife (CPM) that a complaint has been received and that a written response to this complaint is requested within 15 business days. The notice shall include the basis for the complaint, the names of the complaining party, and the board member assigned to investigate the complaint.

The Investigator shall inform the complainant that the CPM has been notified of the allegation and that the CPM's response shall be forwarded to the complainant.

A copy of the rules for procedures shall be included in the notifications to both the CPM and the complainant.

CPM Responds Within 15 Days

Investigative Process

After reviewing the complaint and the response, the Investigator may request further documentation from either or both parties. Written statements from others involved in the case may be collected. The Investigator reviews all components of the case and prepares a report to present to the Board. The report shall include the identity of the complainant, the allegations that form the basis of the complaint, the position of the CPM against whom the complaint is lodged and any documents, statements or other information relevant to the investigation.

The Investigator may make recommendations for action, if any, that the Board should take with regard to the complaint.

CPM Does NOT Respond Within 15 Days

Investigator's Report and Recommendations are Sent to the Board. The Board Takes Action.

OR

OR

Acceptance of Investigator's Recommendations

If the Board accepts the Investigator's recommendations, a written decision shall be issued and sent to the complainant, the CPM and/or their respective attorney(s) by certified mail.

Stop

(Note: If the Investigator recommends urgent Board action, the Board shall assemble as soon as a quorum can attend. An expedited, but temporary injunction may be requested in the circuit court for the county of the CPM's residence, if by reason of a physical or mental condition, her/his continued midwifery practice appears to present an imminent danger to the public. Within ninety days, the temporary injunction shall be followed by a more conclusive decision by the Board.

Dismissal of the Complaint

The Board may dismiss the complaint, if the complaint is found to be frivolous or clearly unfounded in fact.

If the case is to be dismissed, the Board shall issue a written decision, which shall be sent to the complainant, the CPM and/or their respective attorney(s) by certified mail.

Stop

Informal Conference

If the complaint is found to have merit, the Board, or a committee assigned by the President of the Board shall afford the CPM a hearing in the form of an informal conference, to determine a remedial stipulation, satisfactory to both the CPM and the Board. Remedial stipulations may include:

1. An advisory letter to the CPM from the Board, providing evidence-based recommendations for improved practice.

AND/OR

2. A consent decree signed by the CPM, stating that certain activities will or will not continue within her/his midwifery practice.

AND/OR

3. A required number of CEU's related to the substance of the complaint, which the CPM shall successfully complete at their own expense and report to the Board within a set time frame.

Resolution by remedial stipulation

If the remedial stipulation is agreed upon, and the terms of the remedial stipulation are met, referral for formal hearing is not required.

Stop

Complaint is determined to warrant a formal hearing or no agreement is reached or there is failure to comply with remedial stipulation

Formal Hearing

An executive session shall convene for a full evidentiary hearing to proceed with one of the following actions:

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graph TD; A[ ] --> B[Dismissal of the Complaint]; A --> C[Suspension of CPM's License]; A --> D[Revocation of CPM's License]; B --> B_Stop[Stop]; C --> E[Compliance with terms of suspension]; C --> F[Failure to Comply with Terms of Suspension]; E --> E_Stop[Stop]; F --> D; D --> D_Stop[Stop];
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Dismissal of the Complaint

The Board may still dismiss the complaint, if the complaint is found to be frivolous or clearly unfounded in fact.

If the case is to be dismissed, the Board shall issue a written decision, which shall be sent to the complainant, the CPM and/or their respective attorney(s) by certified mail.

Stop

Suspension of CPM's License

The Board may suspend the license of a CPM who commits any of the violations listed in (statute) 36-9C-22 or (rule) 20:86:05:06, or exhibits conditions described in (statute) 36-9C-24. A CPM whose license has been suspended shall not practice midwifery outside of the terms of suspension established by the Board. These terms may include:

1. Successful completion of CEU's, at the CPM's own expense, related to the substance of the complaint.

AND/OR

2. A probationary period, during which the CPM may only provide midwifery services under the direct supervision of another CPM, at the CPM's own expense, who is licensed by the Board. In such cases, the number of supervised pregnancies and births shall be assigned.

AND/OR

3. Documentation of a medical or psychiatric examination, paid for by the CPM, indicating that the physical or mental competence of the CPM is sufficient to perform the legal responsibilities of midwifery.

AND/OR

4. A re-take of the NARM exam, at the CPM's own expense resulting in a passing score.

If a CPM's license is to be suspended, the Board shall issue a written decision, which shall be sent to the complainant, the CPM, the CPM and/or their respective attorney(s). Likewise, a report of completion of the terms will be sent to the complainant, the CPM and/or their respective attorney(s), when all terms of suspension have been met. A history of all suspensions shall remain in the Board's files.

Compliance with terms of suspension
Reinstate license.

Stop

Failure to Comply with Terms of Suspension

Revocation of CPM's License

The Board may revoke the license of a CPM who commits any of the violations listed in (statute) 36-9C-22 or (rule) 20:86:05:06, or exhibits conditions described in (statute) 36-9C-24.

If a CPM's license is to be revoked, the Board shall issue a written decision, which shall be sent to the complainant, the CPM and/or their respective attorney(s) by certified mail.

A history of all revocations shall remain in the Board's files.

Names of CPMs, previously licensed by the South Dakota Board of CPMs, whose licenses have been revoked, may be listed for public view on the Board's website.

Stop

Complaint Information & Due Process

Filing a Complaint:

Any person who believes a nurse has violated the Nurse Practice Act, may report the violation to the Board in the form of a written complaint.

Board staff will investigate every written complaint received that falls under the Board's legal jurisdiction.

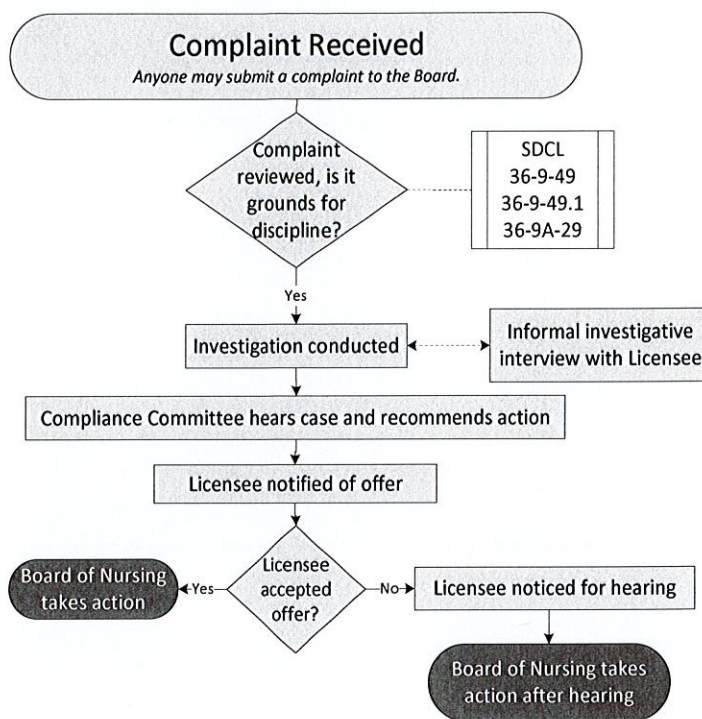
Licensee's Due Process:

A licensee, against whom a complaint is made, is *always* afforded due process and will be given notice and a copy of the complaint.

Board staff may request and schedule an informal meeting as a part of the investigation to discuss the complaint. Attendees at the meeting may include board staff, the licensee, and attorneys, if requested.

Following investigation, the case will be heard by the Board's Compliance Committee, a subcommittee of the full Board. The committee meets prior to each regularly scheduled Board meeting and offers a proposed settlement on a case. If the settlement is accepted, the case is brought to the full Board for acceptance at their next meeting.

If a settlement is rejected, the Board will proceed with a *Contested Case Hearing* under SDCL 1-26. After the hearing, the full Board, except Compliance Committee members, decides the appropriate action to take. The Board may take **non-disciplinary** or **disciplinary** action, which may be anything from **Dismissal** to **Revocation**, based on the nature of the violation.



Non-Disciplinary Action

- Dismissal of Complaint
- Letter of Concern
- Substance Abuse or Health Evaluation
- Mandated Participation in Health Professionals Assistance Program (HPAP)

Disciplinary Action

- Letter of Reprimand
- Denial of Licensure
- Probation
- Suspension
- Revocation

* A licensee always has the right to request a *Contested Case Hearing* before the full Board anytime formal disciplinary action or mandated participation in HPAP is recommended.

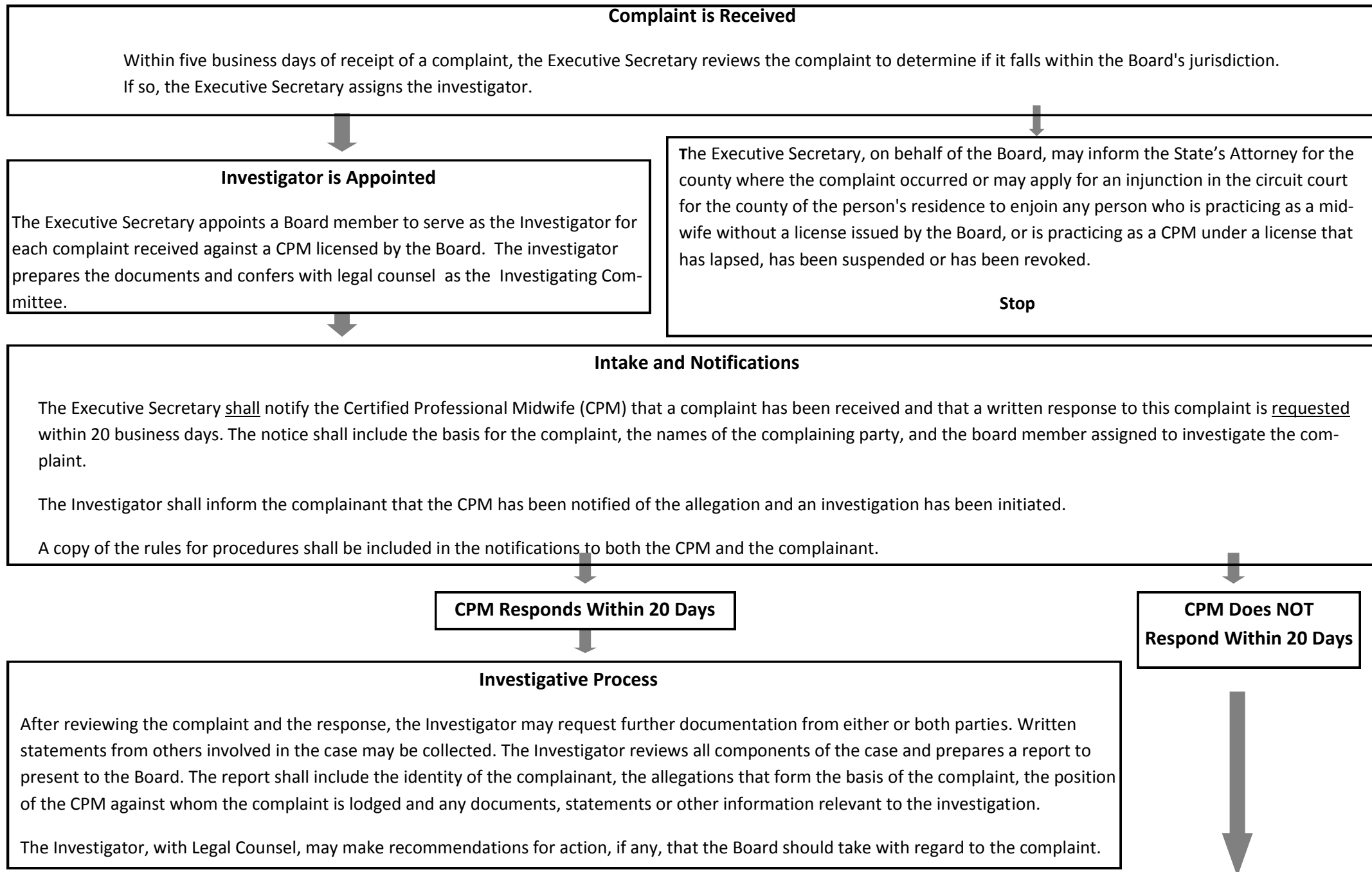
Board actions involving **discipline** will be published in the Board's newsletter, the *South Dakota Nursing News*, on the Board's website and Nursys® website, and reported to the National Practitioner Data Bank (NPDB) as required by law.

Emergency Board Action:

If there is an immediate risk of harm to the public, the Board may take emergency action to temporarily suspend a license until a formal hearing can be held.

More information is available on the South Dakota Board of Nursing website:
<http://doh.sd.gov/boards/nursing/complaints.aspx>

Algorithm For Handling Complaints Against Certified Professional Midwives



Investigator's Report and Recommendations are Sent to the Board. The Board Takes Action.

OR

OR

Acceptance of Investigator's Recommendations

If the Board accepts the Investigator's recommendations, a written decision shall be issued and sent to the complainant, the CPM and/or their respective attorney(s) by certified mail.

Stop

(Note: If the Investigator recommends urgent Board action, the Board shall assemble as soon as a quorum can attend. An expedited, but temporary injunction may be requested in the circuit court for the county of the CPM's residence, if by reason of a physical or mental condition, her/his continued midwifery practice appears to present an imminent danger to the public. Within ninety days, the temporary injunction shall be followed by a more conclusive decision by the Board.

Dismissal of the Complaint

The Board may dismiss the complaint, if the complaint is found to be frivolous or clearly unfounded in fact.

If the case is to be dismissed, the Board shall issue a written decision, which shall be sent to the complainant, the CPM and/or their respective attorney(s) by certified mail.

Stop

Informal Conference

If the complaint is found to have merit, the Board, or a committee assigned by the President of the Board shall afford the CPM a hearing in the form of an informal conference, to determine a remedial stipulation, satisfactory to both the CPM and the Board. Remedial stipulations may include:

1. An advisory letter to the CPM from the Board, providing evidence-based recommendations for improved practice.

AND/OR

2. A consent decree signed by the CPM, stating that certain activities will or will not continue within her/his midwifery practice.

AND/OR

3. A required number of CEU's related to the substance of the complaint, which the CPM shall successfully complete at their own expense and report to the Board within a set time frame.

Resolution by remedial stipulation

If the remedial stipulation is agreed upon, and the terms of the remedial stipulation are met, referral for formal hearing is not required.

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Complaint is determined to warrant a formal hearing or no agreement is reached or there is failure to comply with remedial stipulation

Formal Hearing

An executive session shall convene for a full evidentiary hearing to proceed with one of the following actions:

