



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/

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

27705 460th Ave. Chancellor SD

Thursday, March 20, 2025 1:00pm - 4:00pm (CST)

Dial-in Number: **(605) 472-5220**

Access Number: **117-198**

Online Meeting ID: **cpmsdlicense**

Please let me know if you have any questions.

Tammy Weis
Executive Secretary
South Dakota Board of Certified Professional Midwives

Persons interested in joining the meeting may do so by appearing in person for the teleconference at the location listed above or by calling 605-743-4451 to arrange for a dial in number for the teleconference



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27705 460th Ave. Chancellor SD

Thursday Sept 19, 2024 1pm – 4:00pm (CST)

Acting President Eudine Stevens **called the meeting to order at 1:05pm**, welcomed everyone and offered some instruction to help run the meeting more effectively.

Secretary Susan Rooks called the roll. A quorum was present. **Members of the board in attendance:** Eudine Stevens Vice President, Sue Rooks Secretary, Amy Lueking were all present via phone. Also present by phone was Steve Blair, Legal Counsel, Grace Fox CPM, Elaine Arnold CPM and Alaina Kerhove, CPM. Tammy Weis, Exec Secretary was present at the CPM office.

The agenda was adjusted to reflect the correct date on the minutes of the last meeting, then **Rooks moved to approve the corrected agenda.** Lueking second. The board voted unanimously. **MOTION CARRIED.**

During the Public Forum, Alaina Kerkhove CPM addressed the board concerning the use of the new Transfer Forms when a client transfers to seek medical care and the CPM is not present. A short discussion followed and it was decided to address the issue during discussion of the use of the new forms.

Rooks moved to **approve the draft minutes from March 21 and May 16, 2024.** Lueking second. The board voted unanimously. **MOTION PASSED**

Weis presented the office update.

Financial Report : Expenditures of \$909 and income of \$1623.05 as of August 31 for this fiscal year.

Board Member Compensation changed from \$60 to \$166 per meeting beginning in July 1, 2024-- Board Members, **Cavender-Wilson, Rooks and Stevens** have requested not to receive compensation for board meetings for their term.

Licenses: 8 CPMs, 2 Midwifery Students, 1 Inactive Status

What happens when a preceptor and a student **terminate their Preceptor agreement** was discussed. Legal council was consulted. **Rooks** moved to accept whatever recommendation that Blair (Legal Counsel) offers after he studies the issue more thoroughly. **Stevens** Second. Motion carried.

Birth Reports for 2024 53 Birth Reports as of 9-18-24

No **complaints** since our last meeting

No plans for changes during **Legislative session**

An index page for quick referral to the ARSD in alphabetical order was presented. Rooks moved that the Index be posted on our web page after it is proofread and approved. Stevens second. Motion carried unanimously

Doulas in SD are exploring licensing as a way to be eligible for Medicaid payment. One idea that they are exploring is **being licensed as a part of our board.**

New genetic testing option available to predict Pre-eclampsia/ eclampsia was introduced. If the company calls again we will request literature to be distributed to board members.

Dr Lueking offered a board policy for **care by CPMs for prenatal care and loss of pregnancy** (Spontaneous Abortion (SAB) and Intrauterine Fetal Demise (IUFD)). We will write it as a document and bring it to our spring meeting for board approval.

We recently **revised three forms: Renewal Form, Transfer Form, and Birth Report Assessment Form.** There was one question about the Transfer Form when the midwife is not with a client or newborn during the transfer. Clarification will be added to the form. The rest of the forms are satisfactory.

Governor's Office or the Dept of Health have not updated us about the replacement our **member of the public that has received midwifery care.**

Next meeting March 20, 2025 (1-4pm CST)

Rooks moved that we **adjourn at 2:11pm.** Lueking second. Motion carried.

STATE OF SOUTH DAKOTA
 REVENUE SUMMARY BY BUDGET UNIT
 FOR PERIOD ENDING: 02/28/2025

AGENCY 09 HEALTH
 BUDGET UNIT 09213 BOARD OF CERTIFIED PROF MIDWIVES - INFO

CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
COMPANY NO		6503				
COMPANY NAME		PROFESSIONAL & LICENSING BOARDS				
092130062401	6503	4293209	STUDENT LICENSE FEE	.00	500.00	
092130062401	6503	4293217	BIRTH DELIVERY FEE	600.00	5,500.00	
ACCT:	4293	BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)		600.00	6,000.00	*
ACCT:	42	LICENSES, PERMITS & FEES		600.00	6,000.00	**
092130062401	6503	4920045	NONOPERATING REVENUES	.00	223.05	
ACCT:	4920	NONOPERATING REVENUE		.00	223.05	*
ACCT:	49	OTHER REVENUE		.00	223.05	**
CNTR:	092130062401			600.00	6,223.05	***
CNTR:	092130062			600.00	6,223.05	****
CNTR:	0921300			600.00	6,223.05	*****
COMP:	6503			600.00	6,223.05	*****
B UNIT:	09213			600.00	6,223.05	*****

AVAILABLE FUNDS
AS OF: 02/28/2025
FY YEAR REMAINING: 33.7%
PAY DAYS REMAINING: 7

MONTHLY

BUDGET UNIT 09213

DATE 03/01/2025

BUDGET UNIT NAME BOARD OF CERTIFIED PROF MIDWIVES - INFO

COMP	ORIGINAL APPROPRIATION	APPROPRIATION TRANSFERS	YEAR-TO-DATE COMMITMENTS	YEAR-TO-DATE ENCUMBRANCES	YEAR-TO-DATE EXPENDITURES	AVAILABLE APPROPRIATIONS	CASH BALANCE
6503-I	21,999.00	0.00	0.00	7,862.00	7,100.72	7,036.28	0.00
BUDGETED TOT	21,999.00	0.00	0.00	7,862.00	7,100.72	7,036.28	
ALL COMP TOT	21,999.00	0.00	0.00	7,862.00	7,100.72	7,036.28	

TOTAL BUDGETED:

	OBJECT OF EXPENDITURE	AMOUNT BUDGETED	COMMITMENTS YEAR-TO-DATE	ENCUMBRANCES YEAR-TO-DATE	EXPENDITURES		BUDGET AVAILABLE	PCT AVL
					MONTHLY	YEAR-TO-DATE		
5101	EMPLOYEE SALARIES	1,980.00	0.00	0.00	0.00	0.00	1,980.00	100.0
5102	EMPLOYEE BENEFITS	181.00	0.00	0.00	0.00	0.00	181.00	100.0
5203	TRAVEL	3,236.00	0.00	0.00	0.00	0.00	3,236.00	100.0
5204	CONTRACTUAL SVCS	15,902.00	0.00	7,862.00	1,000.00	7,100.72	939.28	5.9
5207	CAPITAL OUTLAY	700.00	0.00	0.00	0.00	0.00	700.00	100.0
	TOTALS	21,999.00	0.00	7,862.00	1,000.00	7,100.72	7,036.28	32.0

BREAKOUT BY COMPANY:

COMPANY 6503-I PROFESSIONAL & LICENSING BOARDS

5101000	EMPLOYEE SALARIES	1,980.00	0.00	0.00	0.00	0.00	1,980.00	100.0
5102000	EMPLOYEE BENEFITS	181.00	0.00	0.00	0.00	0.00	181.00	100.0
5203000	TRAVEL	3,236.00	0.00	0.00	0.00	0.00	3,236.00	100.0
5204000	CONTRACTUAL SVCS	15,902.00	0.00	7,862.00	1,000.00	7,100.72	939.28	5.9
5207000	CAPITAL OUTLAY	700.00	0.00	0.00	0.00	0.00	700.00	100.0
	PS SUBTOTALS	2,161.00	0.00	0.00	0.00	0.00	2,161.00	100.0
	OE SUBTOTALS	19,838.00	0.00	7,862.00	1,000.00	7,100.72	4,875.28	24.6
	COMPANY 6503-I TOT	21,999.00	0.00	7,862.00	1,000.00	7,100.72	7,036.28	32.0



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Authorization: SDCL 36-9C

Activities: The board shall submit records, information, and reports in the form and as required by the secretary of health. The board shall report at least annually to the Department of Health.

Organization: Department of Health

Composition: The Governor shall appoint a board consisting of two certified professional midwives who are licensed and in good standing pursuant to this Act, one certified nurse midwife who is licensed and in good standing pursuant to chapter 36-9A, one physician with experience in maternity care who is licensed and in good standing pursuant to chapter 36-4, and one public member who has received midwifery care in an out-of-hospital setting. Each member of the board shall be a citizen of the United States, a resident of this state for a minimum of two years before appointment to the board, and shall file with the secretary of state an oath of office before beginning the member's term of office. However, until at least five certified professional midwives meet the residency requirement, the Governor may appoint certified professional midwives, who are licensed in this state, who reside in other jurisdictions to serve on the board. Initial appointments to the board may include certified professional midwives who are eligible for licensure under this Act and who intend to apply for licensure in this state when it is available.

Term of Appointment: The term of office for members of the board is three years and expires on October 30. No member may serve more than three consecutive full terms.

Frequency of Meetings: 2 meetings per year

Are Members Allowed to Call into Meetings: Yes

Contact Info: Tammy Weis, Executive Secretary | 27711 460th Avenue | Chancellor, SD 57015 | 605-743-4451

Mission Statement: The mission of the South Dakota Board of Certified Professional Midwives is to secure safe, out-of-hospital childbirth attended by licensed and competent midwives, to protect the consumer of midwifery services by holding these midwives accountable to the statutes and rules pertaining to their profession, to update rules as needed to meet current, evidence-based standards of midwifery practice, to license qualified midwives, and to process complaints in a fair and expeditious manner.

FORM 10
MINUTES OF PUBLIC HEARING
South Dakota Department of Health

The Department of Health Office of Licensure and Certification convened at 9:03 AM Central on October 2, 2024, in the Robert Hayes Building, 600 E. Capitol Avenue, Pierre, SD 57501.

The purpose of the meeting was to conduct a public hearing on the proposed rules of Department of Health Office of Licensure and Certification numbered:

§§ 44:69:01:01; 44:69:04:01; 44:69:04:06; 44:69:04:07; 44:69:05:01; 44:69:05:03; 44:69:05:05; 44:69:06:01; 44:69:07:01; 44:69:07:02; 44:69:08:01; 44:70:04:12; 44:70:10:20; 44:70:10:23; 44:70:10:38; 44:73:01:01; 44:73:01:02; 44:73:01:03; 44:73:01:04; 44:73:01:05; 44:73:01:06; 44:73:01:07; 44:73:01:07.01; 44:73:01:08; 44:73:01:09; 44:73:01:10; 44:73:02:02; 44:73:02:05; 44:73:02:06; 44:73:02:07; 44:73:02:08; 44:73:02:09; 44:73:02:10; 44:73:02:11; 44:73:02:12; 44:73:02:12.01; 44:73:02:13; 44:73:02:15; 44:73:02:18; 44:73:02:19; 44:73:02:20; 44:73:02:21; 44:73:02:22; 44:73:02:23; 44:73:03:01; 44:73:03:02; 44:73:04:03; 44:73:04:04; 44:73:04:05; 44:73:04:06; 44:73:04:07; 44:73:04:08; 44:73:04:09; 44:73:04:10; 44:73:04:11; 44:73:04:12; 44:73:04:12.01; 44:73:04:13; 44:73:04:14; 44:73:04:15; 44:73:04:16; 44:73:04:17; 44:73:04:18; 44:73:05:02; 44:73:05:03; 44:73:05:04; 44:73:05:06; 44:73:05:07; 44:73:06:03; 44:73:06:04; 44:73:06:05; 44:73:06:07; 44:73:06:08; 44:73:06:09; 44:73:06:10; 44:73:06:13; 44:73:07:02; 44:73:07:03; 44:73:07:05; 44:73:07:06; 44:73:07:07; 44:73:07:08; 44:73:07:09; 44:73:07:11; 44:73:07:12; 44:73:07:13; 44:73:07:14; 44:73:07:15; 44:73:07:16; 44:73:07:17; 44:73:08:01; 44:73:08:02; 44:73:08:03; 44:73:08:04; 44:73:08:05; 44:73:08:06; 44:73:08:07; 44:73:08:08; 44:73:08:09; 44:73:08:10; 44:73:08:11; 44:73:08:12; 44:73:09:01; 44:73:09:02; 44:73:09:03; 44:73:09:04; 44:73:09:05; 44:73:09:06; 44:73:09:07; 44:73:09:08; 44:73:09:09; 44:73:10:02; 44:73:10:03; 44:73:10:04; 44:73:10:05; 44:73:11:01; 44:73:11:02; 44:73:11:03; 44:73:11:04; 44:73:11:06; 44:73:11:08; 44:73:11:09; 44:73:11:10; 44:73:11:11; 44:73:11:12; 44:73:11:13; 44:73:11:14; 44:73:12:01; 44:73:12:02; 44:73:12:03; 44:73:12:04; 44:73:12:05; 44:73:12:06; 44:73:12:07; 44:73:12:08; 44:73:12:09; 44:73:12:11; 44:73:12:12; 44:73:12:13; 44:73:12:14; 44:73:12:15; 44:73:12:16; 44:73:12:17; 44:73:12:19; 44:73:12:20; 44:73:12:22; 44:73:12:23; 44:73:12:24; 44:73:12:26; 44:73:12:27; 44:73:12:28; 44:73:12:29; 44:73:12:30; 44:73:12:32; 44:73:12:33; 44:73:12:35; 44:73:12:36; 44:73:12:38; 44:73:12:41; 44:73:12:44; 44:73:12:46; 44:75:03:01; 44:75:04:11; 44:75:13:22; 44:75:13:25; 44:75:13:37;

adopted under the authority of SDCL 34-1-17, 34-12-7, 34-12-13, 34-12-29, 34-12-62, 34-22-9.

Hearing Officer: Howard Pallotta

Members of the Department of Health in Attendance: Diana Weiland, RN; Jean Koch, RN; Cassie Deffenbaugh, RN

Others in Attendance: Brett Hoffman, Jacob Parsons, Megan EisenVos, Mark Deak, Tim Engel

Written Testimony

- Katherine Thomsen, President; Charla Burill, Sr. Director, State Legislative & Government Affairs
 - South Dakota Academy of Nutrition and Dietetics
 - September 25, 2024

- Proponent – Supportive of many of these changes and believe these revisions will support the Department in achieving its stated aims
 - 44:73:01:01- Recommended change to definition of dietician as "a person who is registered with the Commission on Dietetic Registration as a dietician and holds a current license to practice in South Dakota pursuant to SDCL chapter 36-10B" for enhanced clarity since the Commission on Dietetic Registration issues multiple credentials. Requested revision to therapeutic diet to include dietitians authorized by a physician, physician assistant or nurse practitioner to order therapeutic diets consistent with a registered dietitians scope of practice.
 - 44:73:07:09 – Supported the addition of dietitians to the list of providers who may prescribe diets. As detailed in the already stated rationale, we support this addition and believe it is in the best interest of patients to support timely, qualified care."
 - DOH agrees with requested changes.
 - ARSD 44:73:01:01 updated to reflect revised definitions for dietitian and therapeutic diet.
- Tim Rave, President and CEO
 - South Dakota Association of Healthcare Organizations (SDAHO)
 - October 4, 2024
 - Proponent – Generally supports all of the proposed rules changes, as they look to strengthen the services that are provided for our long-term care residents and their families across South Dakota."
 - 44:73:04:05 – Support addition of training on advanced directives for facility personnel and recognition of the importance that advanced directives play in the planning process, as well as the need to make sure staff are not only qualified to assist, but also feel confident in their ability to do so."
 - 44:73:07:11 – Support the updates to the qualifications for director of dietetic services and looking out for staff and residents of nursing facilities in making sure the individual running the dietetic services has qualified experience to do so. By making the definition broader and allowing more individuals to be able to fulfill that role, it will allow our more rural members to be able to both recruit and retain qualified staff for their facilities."
 - 44:73:10:04 – Support updates to the requirements for social worker or social services designee to help ensure quality care for both the residents and their family members. Federal requirements dictate that an individual must have one year supervised social work experience in a health care setting, whereas this rule change proposes a minimum of two years. Requested DOH align language with the federal regulations for ease of practice and interpretation for our members. Also requested language used to define social services reflect the title protection of social worker.
 - "SDAHO generally supports all of the proposed rules changes, as they look to strengthen the services that are provided for our long-term care residents and their families across South Dakota."
 - DOH agrees with requested changes.
 - ARSD 44:73:10:04 updated to reflect alignment with federal regulations and title protection for social workers.
- Barbara Smith, CEO
 - South Dakota State Medical Association
 - October 11, 2024
 - Opponent – Oppose changes to ARSD 44:69 as a matter of public safety.
 - The Association has concerns regarding the expanded definition of the term "practitioner" to include certified professional midwives (CPM) and its consequences. The expanded use of the definition, in conjunction with the changes

to 44:69:05:01, would allow CPMs to own and operate birth centers without the direct onsite availability of a physician or certified midwife. We oppose this change, believing it to be a matter of public safety.

- While the DOH does not believe the proposed changes to permit CPMs to practice in a license birth center does not expand the scope of practice of CPMs or lower the standard of care of clients served in birth centers, the rules proposed for birth centers have been removed from the adopted rules package to allow for continued discussion on needed changes.
- Ally Brandner
 - Sanford Health
 - October 11, 2024
 - Opponent – Oppose changes to ARSD 44:69 and defining certified professional midwives as practitioner as it is misleading to patients.
 - Requested definition of practitioner remain as physician or certified nurse midwife (CNM). SDCL 36-9C-13 already allows CPMs to attend and support labor and birth in a licensed birth center. For the purposes of this chapter, the practice of a certified professional midwife is the management and care of the low-risk mother-baby unit in an out-of-hospital setting during pregnancy, labor, delivery, and postpartum periods. A CPM may attend and support the natural process of labor and birth (§ 36-9C-13(4)). However, Sanford Health does not feel CPMs should be able to be on duty while a client is in labor, without a physician, CNM or registered nurse, in the event that complications arise during labor. Sanford Health believes that a physician or CNM should remain the ones who can determine if the birth center can provide safe and effective care and asses potential clients prior to accepting the client for admission. The rule change allows more authority than the law that passed in 2017 intended for.
 - Sanford Health does support 44:69:05:03.01. Log book for registration of birth and requirements for birth centers to maintain a log book for the registration of births.
 - While the DOH does not believe the proposed changes to permit CPMs to practice in a license birth center does not expand the scope of practice of CPMs or lower the standard of care of clients served in birth centers, the rules proposed for birth centers have been removed from the adopted rules package to allow for continued discussion on needed changes.
- Alaina Kerkhove, SD Birth Matters
 - October 11, 2024
 - Proponent – South Dakota Birth Matters participated in the the legislative process for both the birth center and CPM bills. The CPM licensure ensure rigorous training to be licensed and work in SD. CPMs are licensed and tracked by the South Dakota Board of Certified Professional Midwives. We have had CPMs licensed in the state since 2019. The change to the rules makes sense as a natural progression to a credential specifically trained for community birth settings.
 - 44:69:04:06 – remove the work "skin" in order to allow for all forms of TB testing.
 - 44:69:05:01 – add "certified professional midwife" to the last sentence.
 - The rules proposed for birth centers have been removed from the adopted rules package to allow for continued discussion on needed changes.

Oral Testimony

- Mark Deak, Executive Director
 - South Dakota Health Care Association (SDHCA)

- Proponent – general appreciation to the Department for bringing rules forward.
- Brett Hoffman, Director of Public Policy and Communications
 - South Dakota Health Care Association (SDHCA)
 - Proponent – Supportive of the rules changes and that they are necessary to update citations, legal style changes, manual changes to update to current citations, among other changes
 - 44:73:07:03 – Requested in instances when the changes result in a change to how a facility operates, that when the Department of Health surveys a facility, the changes are implemented within the letter of law that allows flexibility for facilities that are within the needs of the residents. Specifically, SDHCA members flagged 44:73:07:03 as a potential concern regarding nutritional adequacy. The national standard was updated to reflect current guidance regarding the number of servings for residents. SDHCA members were concerned that this change will result in additional food waste. Brett indicated that SDHCA has had discussion with the Department of Health around this concern and asks that the Department implement this rule with as much flexibility as possible. Brett expressed that SDHCA is happy to work with the Department to ensure providers are providing care in accordance with the administrative rules.
 - The Department appreciates the comment and feels the rule as written supports the flexibility requested. 44:73:07:03 states, “The dietetic service of the facility shall prepare food that is nutritionally adequate in accordance with the Recommended Dietary Allowances and is chosen from each of the five basic food groups listed in the Dietary Guidelines for Americans, 2020-2025, U.S. Department of Agriculture, in accordance with consideration for individual needs and reasonable preferences.” The Department updated the year of the Dietary Guidelines for Americans to reflect the most recent version from 2010 to 2020-2025. The concern was that the update from 2010 to 2020-2025 increases portion sizes which could result in food waste. However, the rule continues to state, “in accordance with consideration for the individual needs and reasonable preferences” which allows providers flexibility in considering the individual needs of the residents to prevent concerns related to waste.
 - No change made.
- Megan EisenVos, Registered Dietician
 - South Dakota Academy of Nutrition and Dietetics (SD Academy)
 - Proponent
 - 44:73:01:01 – Commended the Department on changes to update and clarify the minimum regulations and indicated the SD Academy has provided written comment for consideration regarding the role of a dietician in nursing facilities. The SD Academy recommends the Department of Health enhance the definition of “dietician” to clarify the official credentialing body. SD Academy also recommends updating the definition of “therapeutic diets” to include the ability for dieticians to the list of providers who may order a therapeutic diet as within their scope of practice. Megan highlighted the Center for Medicaid and Medicare Service’s recognition of positive patient outcomes and cost savings associated with allowing dieticians to prescribe therapeutic diets. SD Academy is happy to work with the Department to ensure changes are clearly understood.
 - DOH agrees with requested changes.
 - ARSD 44:73:01:01 updated to reflect revised definitions for dietitian and therapeutic diet.

- Tim Engel
 - South Dakota State Medical Association (SDSMA)
 - Opponent
 - 44:69
 - Tim indicated that SDSMA continues to oppose certified professional midwives practicing without supervision of physicians. Tim presented to the hearing to express concern on behalf of the association and intends to submit written comments by October 12th.
 - While the DOH does not believe the proposed changes to permit CPMs to practice in a license birth center does not expand the scope of practice of CPMs or lower the standard of care of clients served in birth centers, the rules proposed for birth centers have been removed from the adopted rules package to allow for continued discussion on needed changes.

Summary of Changes to Proposed Rules Because of the Public Hearing or Comment

- ARSD 44:69 – Removed from the adopted rules.
- ARSD 44:73:01:01
 - Definitions of dietitian and therapeutic diet updated to reflect requested changes by the South Dakota Academy of Nutrition and Dietetics.
 - Department of Health agrees changes provided clarification.
- ARSD 44:73:10:04
 - Changed the requirement for a social worker designee to have one year social work experience in a health care setting to align with federal regulations. Added language defining social worker to reflect title protection.
 - Department of Health agrees with proposed changes.

Adjournment: 9:14 a.m.

Respectfully submitted,



Cassie Deffenbaugh
 Administrator
 Office of Licensure & Certification



3708 W. Brooks Place • Sioux Falls, SD 57106 • (605) 361-2281

October 4, 2024

Melissa Magstadt, Secretary
Department of Health
600 East Capitol Avenue
Pierre, SD 57501

RE: Health Care Facilities Proposed Rule

Dear Secretary,

The South Dakota Association of Healthcare Organizations (SDAHO) serves as a voice for South Dakota's hospitals and healthcare organizations encompassing the full continuum of care. SDAHO members include hospitals, healthcare systems, nursing facilities, home health agencies, assisted living centers, and hospice organizations. SDAHO's mission includes advancing healthy communities across the healthcare continuum.

I am writing in support of the South Dakota Department of Health's administrative rules changes for Assisted Living Centers and Nursing Facilities. The changes generally update the administrative rules to the standards that our members are adhering to today. There are a few I'd like to specifically call out.

44:73:04:05 adds training on advanced directives for facility personnel. We appreciate the Department recognizing the important that advance directives play in the planning process, as well as the need to make sure staff are not only qualified to assist, but also feel confident in their ability to do so.

44:73:07:11 updates the qualifications for director of dietetic services. We appreciate the Department in looking out for the staff and residents of nursing facilities in making sure the individual running the dietetic services has qualified experience to do so. By making the definition broader and allowing more individuals to be able to fulfill that role, it will allow our more rural members to be able to both recruit and retain qualified staff for their facilities.

44:73:10:04 updates the requirements for social worker or social services designee. SDAHO applauds the Department for taking this step to help ensure quality care for both the residents and their family members. Federal requirements dictate that an individual must have one year supervised social work experience in a health care setting, whereas this rule change proposes a minimum of two years. We would request that the Department consider aligning with the federal regulations for ease of practice and interpretation for our members.

We would also request that the language used to define social services reflect the title protection of social worker. A recommendation would be to change the language to "The staff social worker will be licensed, or the social services designee must have a degree in in a behavioral science field..."



3708 W. Brooks Place • Sioux Falls, SD 57106 • (605) 361-2281

SDAHO generally supports all of the proposed rules changes, as they look to strengthen the services that are provided for our long-term care residents and their families across South Dakota. Thank you for allowing us to submit our comments and please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Tim Rave".

Tim Rave
President and CEO
South Dakota Association of Healthcare Organizations

SOUTH  DAKOTA
STATE MEDICAL ASSOCIATION
Values. Ethics. Advocacy.

2600 W. 49th Street, Suite 100
Sioux Falls, SD 57105-6569
605-336-1965
Fax 605-274-3274
www.sdsma.org

October 11, 2024

Lynne Valenti, Deputy Secretary, Division Director
Licensure and Accreditation
South Dakota Department of Health
600 E. Capitol Ave.
Pierre, SD 57501

RE: Administrative Rules of South Dakota §44:69, 44:73, 44:70, 44:75

Dear Ms. Valenti:

On behalf of the South Dakota State Medical Association (the "Association"), and the physicians, residents, and medical students that we represent, I am writing you to express our concerns with the proposed changes to ARSD 44:69 and 44:73.

The Association has concerns about the currently proposed changes to ARSD 44:69, primarily the expanded definition of the term "practitioner" to include certified professional midwives (CPM) and its consequences. The expanded use of the definition, in conjunction with the changes to 44:69:05:01, would allow CPMs to own and operate birth centers without the direct onsite availability of a physician or certified nurse midwife. We oppose this change, believing it to be a matter of public safety.

The general public deserves certain expectations for safety associated with health care facilities licensed and regulated by the state. The adoption of these rules as currently written removes that expectation. At the time the bill that would become the law establishing birth centers was being discussed, the SDSMA voiced its belief that licensed birth centers should only allow licensed health professionals to provide professional services and that others should be prohibited from being employed by these facilities (Addendum #1).

The SDSMA ultimately supported the Department of Health's (DOH) legislation to regulate and license birth centers but did so predicated on the understanding and reassurance from DOH that our concerns would be addressed during the administrative rulemaking process (Addendum #2). The currently proposed rules are a departure from those previous assurances from DOH and thus the cause for our concerns.

Approximately one in five of the women who planned births outside a hospital setting were transferred, either prior to or after delivery, to a hospital due to complications or the need for additional care. When complications occur, mothers and babies deserve the best care possible. CPMs lack the necessary medical training and experience to provide medical care for a mother and/or her newborn if something were to go wrong.

In closing, I thank you for the opportunity to provide our input. Please contact Justin Ohleen, SDSMA Director of Advocacy and Policy at johleen@sdsma.org or 605.336.1965 with any questions. We look forward to working with you toward enactment of these rules.

Sincerely,



Barbara A. Smith, CEO
South Dakota State Medical Association

Enclosures: SDSMA Advocacy Letters (January 4, 2011; February 1, 2011)

cc: Jennifer Tinguely, MD, MPH
SDSMA President

SOUTH  DAKOTA
STATE MEDICAL ASSOCIATION
Values. Ethics. Advocacy.

2600 W. 49th Street
PO Box 7406
Sioux Falls, SD 57117-7406
605-336-1965
Fax 605-274-3274
www.sdsma.org

January 4, 2011

The Honorable Doneen B. Hollingsworth
Secretary of Health
South Dakota Department of Health
600 East Capitol Avenue
Pierre, SD 57501

Dear Secretary Hollingsworth:

Thank you for the opportunity to review and comment on the draft birth center bill being considered by the Department of Health. The SDSMA has several concerns we believe need to be addressed prior to taking a position on this bill, or it being introduced.

In an earlier meeting, stakeholders discussed the fact that H.R. 3590 Section 2301 does not clearly state the necessity nor does it call for the licensure of free-standing birth centers. Rather, it implies that if birth centers are authorized under state statute, Medicaid payment must be made. We believe clarification of this federal statute should be provided prior to a decision being made to introduce (or support) a bill. Our concern in introducing a bill or working to amend a bill is that it will be used as a platform for lay midwives to point to federal statute as a reason to include them among the professionals who should be allowed to practice in these facilities. We believe this would be a quality of care issue.

Further, we believe that any bill to license birth centers should only allow licensed health professionals to provide professional services and that lay midwives should be prohibited from being employed by these facilities. Such facilities should also be required to meet minimum limits for malpractice or professional liability insurance similar to those defined in South Dakota Administrative Rule 20:76:05:01.

In closing, thank you for your consideration of our concerns, and we welcome an opportunity to discuss these issues further prior to your decision on whether or not the DOH will introduce a birth center licensure bill. We understand you either need to introduce the bill as an agency bill without this clarification or SDSMA's position of support, or seek clarification and address these issues and work with legislators to introduce the bill as a non-agency bill. We are hopeful we can work to clarify the necessity to license birth centers and further discuss strategies to address birth center requirements.

Sincerely,



Thomas J. Huber, MD
President
South Dakota State Medical Association

cc. Barbara A. Smith, CEO

Chief Executive Officer
Barbara A. Smith

President
Thomas J. Huber, MD
Pierre

President-Elect
Karta K. Murphy, MD
Sioux Falls

Vice President
Robert L. Allison, MD
Pierre

Secretary
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Sioux Falls

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Tim M. Ridgway, MD
Sioux Falls

SOUTH  DAKOTA
STATE MEDICAL ASSOCIATION
Values. Ethics. Advocacy.

February 1, 2011

The Honorable Doneen B. Hollingsworth
Secretary of Health
South Dakota Department of Health
600 East Capitol Avenue
Pierre, SD 57501

Dear Secretary Hollingsworth:

In a letter sent on behalf of the SDSMA on January 1, 2011, we expressed concern that licensure of free-standing birth centers would be used as a platform for lay midwives to use federal and state statute as reason to be included among health care professionals qualified and licensed to assist in labor and delivery. Further, we expressed concern regarding the issue of medical liability – and the likelihood of malpractice claims being brought against physicians and hospitals who are unfortunate recipients of birth center deliveries gone awry.

Despite these concerns, as well as further concern that birth centers be required to meet nationally recognized accreditation standards, the SDSMA has decided to support SB 22, the Department of Health's (DOH) bill to regulate and license birth centers. We are supporting this bill based upon your understanding and reassurance that the DOH will address these concerns during the administrative rulemaking process.

Specifically, the SDSMA believes that free-standing birth centers should be required to meet minimum limits for malpractice or professional liability insurance. At minimum, administrative rules should require birth centers to notify patients prior to receiving care if the center has no liability coverage. If birth centers are not required to carry liability insurance, we believe the burden of proof should be for a plaintiff to prove that a receiving hospital or physician did something wrong at their facility or in their care. If SB 22 is passed, the SDSMA will facilitate a meeting with stakeholders to discuss this issue.

Regarding standards for free-standing birth centers, the SDSMA believes that all centers should be required to meet the accreditation standards of the Accreditation Association for Ambulatory Health Care or the Joint Commission, and would request that administrative rules rely upon and reference these sources, and no other sources.

In closing, thank you for your consideration of our concerns. We welcome an opportunity to discuss these issues further prior to or during the process of drafting the administrative rules.

Sincerely,



Thomas J. Huber, MD
President

cc. Barbara A. Smith, CEO

From: Admin and Rules <DOHAdminRules@state.sd.us>
Sent: Friday, October 11, 2024 7:00 AM
To: DOH Admin Rules
Subject: Comment on : South Dakota Department of Health - Health Care Facilities

Name: Sanford Health

Address:

City: Sioux Falls

State: SD

Zip: 57108

Email: ally.brandner@sanfordhealth.org

Phone:

Comment: Sanford Health respectfully opposes the proposed rule changes to Certified Professional Midwives (CPMs). We believe that defining CPMs as practitioners can be misleading to patients. The proposal would be to leave the aforementioned verbiage of physicians and certified nurse midwives as well as any other types of practitioners added to the verbiage specifically. The law passed in 2017, already allows CPMs to attend and support labor and birth in a licensed birth center. 36-9C-13. Practice in out-of-hospital setting. For the purposes of this chapter, the practice of a certified professional midwife is the management and care of the low-risk mother-baby unit in an out-of-hospital setting during pregnancy, labor, delivery, and postpartum periods. A certified professional midwife may perform the following scope of practice in an out-of-hospital setting including a licensed birth center: (4) Attending and supporting the natural process of labor and birth; However, we do not feel that CPMs should be able to be on duty while a client is in labor, without a physician, certified nurse midwife or registered nurse. A physician, certified nurse midwife, or registered nurse should be present, in the event that complications arise during labor. We believe that a physician or certified nurse midwife should remain the ones who can determine if the birth center can provide safe and effective care and assess potential clients prior to accepting the client for admission. The following rule change allows more authority than the law that passed in 2017 intended for. Sanford Health does support 44:69:05:03.01. Log book for registration of birth and requirements for birth centers to maintain a log book for the registration of births. Sanford Health is committed to providing a safe, personalized and comfortable birthing environment. Common sense and all reliable data provide that birth in a hospital setting empower mothers and babies with the best medical tools and expertise to survive and thrive. Our top priority is the life of the mother and baby, and we appreciate the opportunity to provide feedback on this proposed rule.

Sporrer, Susan

From: alaina kerkhove <alainababies@yahoo.com>
Sent: Friday, October 11, 2024 11:56 PM
To: Deffenbaugh, Cassandra
Subject: Re: [EXT] Birth center rule changes

Thank you so much for answering my questions. Below you will find SD Birth Matters comments to the rule changes.

We appreciate the opportunity to update the birth center rules to include licensed Certified Professional Midwives- CPMs. South Dakota Birth Matters participated in the the legislative process for both the birth center and CPM bills. The CPM licensure ensure rigorous training to be licensed and work in SD. CPMs are licensed and tracked by the South Dakota Board of Certified Professional Midwives. We have had CPMs licensed in the state since 2019. The change to the rules makes sense as a natural progression to a credential specifically trained for community birth settings.

In addition to the changes Debbie Pease recommended, Birth Matters would also like the following changes considered.

- 1.) Page 8 remove the word "skin" in order to allow for all forms of TB testing.
- 2.) Page 10 add "Certified Professional Midwife" to the last sentence.

Alaina Kerkhove
Licensed Certified Professional Midwife
Board Member SD Birth Matter
Colman, South Dakota

From: Deffenbaugh, Cassandra <Cassandra.Deffenbaugh@state.sd.us>
Date: Tue, Oct 15, 2024, 12:24 PM
Subject: RE: Birth Center ARSD
To: cpmsdlicense@gmail.com <cpmsdlicense@gmail.com>

Hi Tammy,

I received your voicemail message from our secretary.

I wanted to let you know that the Department has chosen to remove the birth center rules from our adopted rules for the upcoming scheduled interim rules review committee meeting.

If needed, we can continue discussion following legislative session.

Cassie

From: Deffenbaugh, Cassandra
Sent: Friday, October 11, 2024 10:04 AM
To: cpmsdlicense@gmail.com
Subject: Birth Center ARSD

Hi Tammy,

I wanted to follow-up to our call from yesterday. I realize our phone service was not great.

You indicated that you had been forwarding questions regarding the proposed ARSD for the birth centers to SD Birth Matters.

The DOH has already held the public hearing and is accepting public comment on the rules until tomorrow. You can submit comments for consideration until October 12th. You can submit your comments to me at this email address or via the South Dakota administrative rules [portal](#). The minutes are not finalized until the public comment period is closed which is 10/12. We then submit the minutes and forms to the IRRC by 10/15. The hearing minutes will be posted to the LRC website [rules.sd.gov | home](https://rules.sd.gov)

The interim rules review committee meeting is scheduled for October 22nd, 2024. If anyone from the Board wishes to testify at the hearing, you must contact Kelly Thompson with the Legislative Research Council at least 48 hours prior to the October 22nd hearing in order to get a Teams link. Kelly's email is kelly.thompson@sdlegislature.com.

CASSIE DEFFENBAUGH, MSN, BSN, RN

Administrator

Office of Licensure and Certification | Division of Licensure & Accreditation

605.773.3356 | 600 E. Capitol Ave, Pierre
