

100-28b-X. Definitions. As used in this article, each of the following terms shall have the meaning specified in this regulation:

- (a) "Abortion" has the meaning specified in K.S.A. 65-6701, and amendments thereto.
- (b) "Antepartum" means the stage of care that commences when a pregnant woman presents herself for care during pregnancy and ends at the onset of labor.
- (c) "Approved national certification" means certification as a certified nurse-midwife by the American midwifery certification board.
- (d) "Birthing center" means a facility which provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility as defined by K.S.A. 65-425, and amendments thereto.
- (e) "Confer" means to discuss, compare views or seek an informal opinion or advice from a physician.
- (f) "Consultation" means a physician's review of a patient or newborn's medical history and present condition, with recommendations for care and treatment.
- (g) "Family planning services" means the provision of contraceptive methods, preconception health services, and sexually transmitted infection screening and treatment to patients.
- (h) "Home birth" means an attended birth in a private residence or a location other than a birth center or hospital.
- (i) "Hospital" has the meaning specified in K.S.A. 65-425, and amendments thereto.
- (j) "Identifiable risks" mean conditions which may affect the course of pregnancy, labor, delivery or the health of the patient or newborn.

(k) "Initial care of a normal newborn" means clinical services provided to a normal newborn during the first 28 days of life and lactation services provided to a patient and breastfeeding infant.

(l) "Intrapartum" means the stage of care commencing with the onset of labor and ending after the delivery of the placenta.

(m) "Licensee" means a certified nurse-midwife licensed by the Board to engage in the independent practice of midwifery as defined in K.S.A. 65-28b02, and amendments thereto.

(n) "Minor vaginal laceration" means a laceration that extends beyond the fourchette, perineal skin and vaginal mucosa to perineal muscles and fascia, but not the anal sphincter.

(o) "Newborn" means a newborn infant during the first 28 days of life after birth.

(p) "Normal newborn" means a newborn infant that has been clinically determined to have no complications or be at low risk of developing complications.

(q) "Normal, uncomplicated delivery" means delivery of a singleton cephalic vaginal birth that has been clinically determined to be at low risk for complications.

(r) "Normal, uncomplicated pregnancy" means a pregnancy that is initially determined to be at a low risk for a poor pregnancy outcome and that remains at a low risk throughout the pregnancy.

(s) "Patient" means a woman for which an independent certified nurse-midwife provides clinical services.

(t) "Physician" means a person licensed to actively practice medicine and surgery in Kansas.

(u) "Poor pregnancy outcome" means any outcome other than a live, healthy patient and newborn.

(v) "Postpartum" means the stage of care commencing with the delivery of the placenta and ending six weeks after birth. (Authorized by and implementing K.S.A. 2016 Supp. 65-28b07; effective P-)

K.A.R. 100-28b-X. Fees. (a) The following fees shall be collected by the board:

- (1) Application for license \$ 100.00
- (2) Annual renewal of license:
 - (A) Paper renewal \$ 75.00
 - (B) On-line renewal \$ 50.00
- (3) Late renewal:
 - (A) Paper renewal. \$ 50.00
 - (B) On-line renewal \$ 25.00
- (4) Application for reinstatement \$ 100.00
- (5) Certified copy of license. \$ 20.00
- (6) Verified copy of license. \$ 20.00

(b) If a licensee's initial licensure period is six months or less before the first annual renewal period, the first annual renewal fee shall be prorated at \$10.00 per month for any full or partial month. (Authorized by K.S.A. 2016 Supp. 65-28b07; implementing K.S.A. 2016 Supp. 65-28b03 and 65-28b05; effective-_____.)

100-28b-X. Application for licensure.

Each applicant for licensure to engage in the independent practice of midwifery shall, in addition to the fee established by rule and regulation, submit the following:

- (a) A completed application on a form adopted by the board;
- (b) a signed waiver agreement and statement for fingerprint-based record checks;
- (c) a photograph of the applicant measuring two inches by three inches and showing the head and shoulder areas only. The photograph shall be taken within 90 days of submission of the application for licensure;
- (d) an official transcript for the applicant from the course of study in a school of nurse-midwifery, that indicates the degree awarded to the applicant;
- (e) official verification of licensure to practice as a certified nurse-midwife received from the state board of nursing;
- (f) official verification of certification as a certified nurse-midwife received from the American midwifery certification board;
- (g) official verification from each state or jurisdiction where the applicant holds a current license, registration, or certification to practice any profession.

(Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03, K.S.A. 65-28b04, K.S.A. 65-28b05, K.S.A. 65-_____; effective, T-_____, _____; effective_____.)

100-28b-X. Approved course of study in nurse-midwifery. The course of study in nurse-midwifery required and approved by the board to obtain authorization to engage in the independent practice of midwifery shall be any educational and training program for advance practice registered nurses approved by the Kansas State Board of Nursing as meeting the standards set out in K.S.A. 65-1133, and amendments thereto. (Authorized by K.S.A. 65-28b07; implementing K.S.A. 65-28b03; effective, P-_____)

K.A.R. 100-28b-X. Expiration and cancellation of license. (a) Each independent certified nurse-midwife license issued within the seven-month period beginning June 1 and ending December 31 shall expire on September 30 of the following year and be cancelled on October 30 unless renewed.

(b) Each certified nurse-midwife license issued within the five-month period beginning January 1 and ending May 31 shall expire on September 30 and be cancelled on October 30 of the same year unless renewed. (Authorized by K.S.A. 65-28b04 and 65-28b07; implementing K.S.A. 65-28b04; effective P-_____.)

100-28b-X. Continuing education. (a) As a condition of renewal each licensee shall submit evidence of satisfactory completion within the preceding one-year period of at least 15 contact hours of continuing education for a licensed independent certified nurse-midwife, in addition to the annual application for renewal of licensure, except as specified in subsection (b).

(b) An individual initially licensed less than 12 months before the renewal date shall not be required to submit the evidence of satisfactory completion of continuing education required by subsection (a) for the first renewal period.

(c) Proof of completion of 15 contact hours of approved continuing education related to the independent practice of certified nurse-midwifery, as defined in K.S.A. 2016 Supp. 65-28b02 and amendments thereto, may be requested by the board.

(d) A contact hour shall consist of 50 minutes of instruction pertaining to the independent practice of certified nurse-midwifery. Meals and breaks shall not be included in the calculation of contact hours.

(e) Each licensee shall maintain evidence of completion of all continuing education activities for at least five years. Copies of this documentation may be required by the board at any time. This documentation shall consist of the following:

(1) Documented evidence of any attendance at or successful completion of continuing education activities; and

(2) personal verification of any self-instruction from reading professional literature.

(f) All continuing education activities shall be related to the independent practice of certified nurse-midwifery and shall pertain to the following:

(1) Clinical skills;

(2) administration and management techniques;

(3) educational principles when providing service to patients, families, health professionals, health professional students, or the community;

(4) health care and the health care delivery system; and

(5) problem solving, critical thinking, medical record keeping, and ethics.

(g) Any applicant for renewal who cannot meet the requirements of subsection (a) may request an extension from the board to submit evidence of continuing education. Each request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension not more than six months may be granted by the board for a substantiated medical condition, natural disaster, death of a spouse or an immediate family member, or any other compelling reason that in the judgment of the board renders the licensee incapable of meeting the requirements of subsection (a).

(h) Continuing education shall be acquired from any of the following:

(1) Lecture. "Lecture" shall mean a live discourse for the purpose of instruction given before an audience. One contact hour shall be awarded for each hour of instruction.

(2) Panel. "Panel" shall mean the presentation multiple views by several professional individuals on a given subject, with none of the views considered a final solution. One contact hour shall be awarded for each hour of panel presentation.

(3) Workshop. "Workshop" shall mean a series of meetings designed for intensive study, work, or discussion in a specific field of interest. One contact hour shall be awarded for each hour of workshop meeting.

(4) Seminar. "Seminar" shall mean directed advanced study or discussion in a specific field of interest. One contact hour shall be awarded for each hour of seminar.

(5) Symposium. "Symposium" shall mean a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers. One contact hour shall be awarded for each hour of symposium.

(6) In-service training. "In-service training" shall mean an educational presentation given to employees during the course of employment that pertains solely to the enhancement of independent certified nurse-midwifery skills in the evaluation, assessment, or treatment of patients. One contact hour shall be awarded for each hour of in-service training.

(7) Administrative training. "Administrative training" shall mean a presentation that enhances the knowledge of a independent certified nurse-midwife on the topic of quality assurance, risk management, reimbursement, hospital and statutory requirements, or claim procedures. One contact hour shall be awarded for each hour of administrative training.

(8) Self-instruction.

(A) "Self-instruction" shall mean either of the following:

(i) Reading professional literature directly related to the independent practice of certified nurse-midwifery. A maximum of two contact hours shall be awarded for reading professional literature; or

(ii) completion of a home study, correspondence, audio, video, or internet course for which a printed verification of successful completion is provided by the person or organization offering the course. One contact hour shall be awarded for each hour of coursework for each completed course. On-line courses labeled as "live course" shall be considered self-instruction.

(B) No more than seven contact hours shall be awarded each year for self-instruction.

(9) Continuing education program presentation. "Continuing education program presentation" shall mean the preparation and presentation of a continuing education program that meets the requirements of this subsection Three contact hours shall be awarded for each hour spent presenting.

(i) No contact hours shall be awarded for any repeated continuing education activity on the same topic within a 24-month period. (Authorized by K.S.A. _____; implementing K.S.A.; effective, T- _____, _____; effective P- _____.)

K.A.R. 100-74-7. Title; prohibited acts; act not to include certain persons. (a) Prior to providing clinical services to any patient, each licensee shall be identified to the patient as an independent certified nurse-midwife and shall use the term independent certified nurse-midwife or the abbreviation C.N.M.-I to designate such license.

(b) It shall be unlawful for any person who is not licensed under the independent practice of midwifery act, and amendments thereto, or whose license has been revoked or suspended to engage in the practice as an independent certified nurse-midwife ~~as defined by this act~~.

(c) It shall be unlawful for any person who is not licensed under the independent practice of midwifery act, and amendments thereto, or whose license has been suspended or revoked in any manner to represent oneself as an independent certified nurse-midwife or to use in connection with such person's name the words independent certified nurse-midwife or use the abbreviation CNM-I, or any other letters, words, abbreviations or insignia, indicating or implying that such person is an independent certified nurse-midwife.

(d) The provisions of the independent practice of midwifery act, and amendments thereto, shall not be construed to include the following persons:

(1) Persons rendering gratuitous services in the case of an emergency;

(2) Persons whose professional services are performed through a collaborative agreement or by order of a physician;

(3) Other health care providers licensed, registered, certified or otherwise credentialed by agencies of the state of Kansas when practicing within the scope of such license, registration, certificate or other credentials; and

(4) Persons whose professional services are performed under the supervision of an individual who is licensed under the independent practice of midwifery act.

(e) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon licensee to engage in any activity not conferred by article 28b of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. (Authorized by K.S.A. 2016 Supp. 65-28b07; implementing K.S.A. 2016 Supp. 65-28b06; effective, T-_____, _____; effective P-_____.)

100-74-8. Scope of practice; limitations. (a) A licensee may perform clinical services within the scope of practice set forth in K.S.A. 65-28b02, and amendments thereto, including:

- (1) ordering and interpreting laboratory and diagnostic tests;
- (2) prescribing and administering prescription-only medications, including controlled substances;
- (3) distributing manufacturers' samples of prescription-only medications;
- (4) prescribing the use of medical devices;
- (5) ordering ancillary professional services;
- (6) a clinically indicated episiotomy;
- (7) repair of a minor vaginal laceration;
- (8) an uncomplicated circumcision on a male, normal newborn;
- (9) insertion and placement of contraceptive devices;
- (10) routine primary care services that are inherent to antepartum care;
- (11) antepartum care to a patient with a prior cesarean section delivery; and
- (12) lactation services to a patient and breastfeeding infant.

(b) A licensee shall perform clinical services involving labor and delivery in a hospital if the patient requires any of the following interventions:

- (1) pharmacologic induction or augmentation of labor; or
- (2) spinal or epidural anesthesia.

(c) A licensee shall not provide clinical services to a patient with any of the following conditions:

- (1) Multiple gestation pregnancy; or

(2) Noncephalic presentation of the fetus at the onset of labor or rupture of membranes.

(d) A licensee shall not provide intrapartum care to a patient with a prior cesarean section delivery. (Authorized by K.S.A. _____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.)

100-28b-X. Dual practice as an advanced practice registered nurse. During the course of providing clinical services, if the condition of the patient no longer falls within the scope of the independent practice of midwifery, a licensee may continue to provide care as an advanced practice registered nurse within the scope of the individual's license under the nurse practice act and as authorized by a collaborative agreement with a person licensed to practice medicine and surgery if the licensee documents in the patient record that clinical services are no longer being provided under the independent practice of midwifery. (Authorized by and implementing K.S.A. 2016 Supp. 65-28b07; effective-_____.)

K.A.R. 100-28b-X. Supervision of and delegation to others; requirements and limitations. (a)

The services of a licensee may be supplemented by the assignment of tasks to an individual licensed by the board of nursing or by the delegation of selected nursing tasks or procedures to unlicensed personnel under the supervision of the licensee.

(b) Every licensee who supervises acts, which would constitute the independent practice of midwifery, shall:

(1) be actively engaged in the independent practice of midwifery in Kansas;

(2) supervise only those acts and functions which the licensee knows or has reason to believe can be competently performed by such person and is not in violation of any other statute or regulation; and

(3) supervise only those acts and functions which are within the competence and lawful practice of the licensee.

(c) Failure to meet the requirements of this regulation shall constitute unprofessional conduct.

(Authorized by K.S.A. _____; implementing K.S.A.; effective, T-_____,
_____; effective P-_____.)

100-28b-X. Assessment of patient for identifiable risks. Each licensee shall perform and document an initial and ongoing assessment of any identifiable risks to the course of labor, delivery or health of the patient or newborn to determine whether the pregnancy is a normal, uncomplicated pregnancy, including the following:

(a) Age of the patient;

(b) Gestational age;

(c) major medical problems including any of the following:

(1) Chronic hypertension, heart disease, or pulmonary embolus;

(2) any congenital heart defect assessed as pathological by a cardiologist that places the patient or fetus at risk;

(3) a renal disease;

(4) a drug addiction or required use of anticonvulsant drugs;

(5) diabetes mellitus;

(6) thyroid disease; or

(7) a bleeding disorder or hemolytic disease;

(d) previous history of a significant obstetrical complication or medical condition, including any of the following:

(1) RH sensitization;

(2) a previous uterine wall surgery, including cesarean section;

(3) seven or more term pregnancies;

(4) a previous placental abruption; or

(5) a previous preterm birth.

(e) medical indication of any of the following:

(1) uncontrolled gestational hypertension;

- (2) polyhydramnios or oligohydramnios;
- (3) placental abruption;
- (4) chorioamnionitis;
- (5) known fetal anomaly;
- (6) multiple gestations;
- (7) intrauterine growth restriction;
- (8) fetal distress;
- (9) alcoholism or drug addiction;
- (10) thrombophlebitis; or
- (11) pyelonephritis.

(Authorized by K.S.A. _____; implementing K.S.A.; effective, T-_____,
_____; effective P-_____.)

100-28b-X. Duty to confer, refer or transfer care. (a) A licensee shall immediately confer with, refer for consultation or transfer care of a patient to a person licensed to practice medicine and surgery, or transfer the patient to a hospital if at any time the patient's medical history or condition presents identifiable risks to the course of pregnancy, labor, delivery, or health of the patient or newborn.

(b) A licensee may continue or resume providing clinical services to the patient if a physician has determined that the patient's medical history or condition has been resolved or that any risk factors presented by the patient's medical history or condition are not likely to affect the course of pregnancy, labor, delivery, or health of the patient or newborn.

(c) A licensee shall immediately confer with, refer for consultation or transfer care of a newborn to a physician or transfer the newborn to a hospital if at any time the newborn's condition presents identifiable risks to the health of the newborn.

(d) A licensee may continue or resume providing clinical services to the newborn if a physician has determined that the newborn's condition has been resolved or that any risk factors presented by the newborn's condition are not likely to affect the health of the newborn.

(Authorized by K.S.A. _____; implementing K.S.A.; effective, T-_____,
_____; effective P-_____.)

100-74-XX. Identifiable Risks Requiring Transfer of Care of Patient.

(a) A licensee shall immediately transfer the care of a patient to a hospital or other appropriate level of care if the patient has any of the following conditions:

- (1) Maternal fever in labor of more than 100.4 degrees Fahrenheit, in the absence of environmental factors;
- (2) Suggestion of fetal jeopardy, such as frank bleeding before delivery, any abnormal bleeding, with or without abdominal pain, evidence of placental abruption, or detection of abnormal fetal heart tones;
- (3) Current spontaneous premature labor;
- (4) Current premature rupture of membranes;
- (5) Current pre-eclampsia;
- (6) Current hypertensive disease of pregnancy;
- (7) Continuous uncontrolled bleeding;
- (8) Postpartum bleeding that does not subside with the administration of oxytocin or other anti-hemorrhagic agent;
- (9) Delivery injuries to the bladder or bowel;
- (10) Grand mal seizure;
- (11) Uncontrolled vomiting;
- (12) Coughing or vomiting blood;
- (13) Severe chest pain; or
- (14) Sudden onset of shortness of breath and associated labored breathing.

(b) A licensee who deems it necessary to transfer or terminate care of a patient pursuant to the rules and regulations of the Board, shall not be regarded as having abandoned care or wrongfully terminated services. Before non-emergent discontinuation of services, the licensee shall notify the patient in writing, provide the patient with names of licensed physicians and contact information for the nearest hospital emergency room and offer to provide copies of medical records regardless of whether copying costs have been paid by the patient.

(Authorized by K.S.A. _____; implementing K.S.A. _____, effective, T- _____; effective P- _____.)

100-74-XX. Identifiable Risks Requiring Transfer Care of Newborn.

(a) A licensee shall immediately transfer the care of a newborn to a hospital for emergency care or to a pediatric physician if the newborn has any of the following conditions:

- (1) Respiratory distress defined as respiratory rate greater than 80 or grunting, flaring, or retracting for more than one hour;
- (2) Any respiratory distress following delivery with meconium stained fluid;
- (3) Central cyanosis or pallor for more than ten (10) minutes;
- (4) Apgar score of six or less at five minutes of age;
- (5) Abnormal bleeding;
- (6) Any condition requiring more than eight hours of continuous postpartum evaluation;
- (7) Any vesicular skin lesions;
- (8) Seizure-like activity;
- (9) Poor feeding effort due to lethargy or disinterest for more than two hours immediately following birth;
- (10) Temperature instability, defined as a temperature less than 96.8 degrees Fahrenheit or greater than 100.4 Fahrenheit documented two times more than fifteen minutes apart;
- (11) Murmur lasting more than 24 hours immediately following birth;
- (12) Cardiac arrhythmia;
- (13) Congenital anomalies;
- (14) Failed critical congenital heart disease screening;

(15) Birth injury;

(16) Clinical evidence of prematurity, including but not limited to, low birth weight of less than two thousand five hundred (2,500) grams, smooth soles of feet, or immature genitalia;

(17) Any jaundice in the first twenty-four (24) hours after birth or significant jaundice at any time;

(18) No stool for more than twenty-four (24) hours immediately following birth;

(19) No urine output for more than twenty-four (24) hours; or

(20) Development of persistent poor feeding effort at any time.

(b) A licensee who deems it necessary to transfer or terminate care of a newborn pursuant to the rules and regulations of the Board, shall not be regarded as having abandoned care or wrongfully terminated services. Before non-emergent discontinuation of services, the licensee shall notify the patient in writing, provide the client with names of licensed pediatric physicians and contact information for the nearest hospital emergency room and offer to provide copies of medical records regardless of whether copying costs have been paid by the patient. (Authorized by K.S.A. _____; implementing K.S.A. _____, effective, T- _____; effective P- _____.)

100-28b-X. Transfer protocol requirements.

(a) A licensee shall have a written protocol in place for each patient and newborn for the timely and safe transfer to a prespecified hospital with an obstetrical unit and physician or medical group within a reasonable proximity of the location of labor and delivery if extended or advanced medical services or emergency services. Each written protocol shall include:

(1) A plan for transporting the patient or newborn by an emergency medical services entity;

(2) a plan for notification of the specified hospital and physician or medical group; and

(3) a plan for communication about the patient's or newborn's medical history and present condition;

(4) the informed consent of the patient regarding the specified hospital and physician or medical group; and

(5) at least one of the following:

(A) A plan for patient transfer to the specified hospital and physician or medical group;

(B) evidence of a transfer agreement with the specified hospital and physician or medical group;

or

(C) evidence that the licensee has admitting privileges at the specified hospital.

(b) Each licensee shall ensure that all staff attending the patient's labor and delivery have immediate access to a working telephone or another communication device and all necessary information for transferring a patient or a newborn in case of an emergency. (Authorized by

K.S.A. _____; implementing K.S.A.; effective, T-_____, _____;
effective P-_____.

100-28b-X . Patient record requirements. (a) Each licensee shall maintain an adequate record for each patient for whom the licensee performs a professional service.

(b) Each patient record shall meet the following requirements:

- (1) Be legible;
- (2) contain only those terms and abbreviations that are or should be comprehensible to similar licensees;
- (3) contain adequate identification of the patient;
- (4) indicate the date on which each professional service was provided;
- (5) contain all clinically pertinent information concerning the patient's condition;
- (6) contain all obstetrical risk assessments performed on the patient, including the dates of the assessments;
- (7) reflect the examinations, vital signs, and tests obtained, performed, or ordered and the findings and results of each;
- (8) indicate the medications prescribed, dispensed, or administered and the quantity and strength of each;
- (9) reflect the treatment performed or recommended;
- (10) document the patient's progress during the course of treatment provided by the licensee;
- (11) contain documentation of instruction and education provided to the patient related to the childbearing process;
- (12) document the date and time of the onset of labor;
- (13) document the course of labor, including all pertinent examinations and findings;

(14) document the date and exact time of birth, the presenting part of the newborn's body, the sex of the newborn, and the newborn's Apgar scores;

(15) document the time of expulsion and the condition of the placenta;

(16) document the condition of the patient and newborn, including any complications and action taken;

(17) contain the results of all examinations of the newborn and of the postpartum patient;

(18) contain all treatments rendered to the newborn, including prescribed medications and the time, type and dose of eye prophylaxis;

(19) contain documentation of all medical conferences and consultations concerning the patient and the newborn;

(20) contain documentation of all referrals for medical care and transfers to medical care facilities, including the reasons for each referral and transfer;

(21) contain the written instructions given to the patient regarding postpartum care, family planning, care of the newborn, arrangements for metabolic testing, immunizations, and follow-up pediatric care; and

(26) include all patient records received from other health care providers, if those records formed the basis for a treatment decision by the licensee.

(c) Each entry in the patient record shall be authenticated by the person making the entry.

(d) Each authentication in the patient record for an entry documenting clinical services performed by the licensee as an independent certified nurse-midwife shall include the letters "CNM-I" after the licensee's name.

(e) Each patient record shall include any writing intended to be a final record, but shall not require the maintenance of rough drafts, notes, other writings, or recordings once this information is converted to final form. The final form shall accurately reflect the care and services rendered to the patient.

(f) For the purposes of the act and this regulation, an electronic patient record shall be deemed a written patient record if both of the following conditions are met:

(1) Each entry in the electronic record is authenticated by the licensee.

(2) No entry in the electronic record can be altered after authentication. (Authorized by K.S.A. _____; implementing K.S.A. 65-XXXX; effective P-_____.)

100-28b-X. Written prescription requirements. Each written prescription ordered by a licensee shall meet the following requirements:

(a) Contain the name, address, and telephone number of the licensee.

(b) Be signed by the licensee with the letters "CNM-I" following the signature.

(Authorized by K.S.A. _____; implementing K.S.A.; effective, T- _____,
_____; effective P- _____.)

100-28b-X. Release of records. (a) Unless otherwise prohibited by law, each licensee shall, upon receipt of a signed release from a patient, furnish a copy of the patient record to the patient, to another licensee designated by the patient, or to a patient's legally designated representative. However, if the licensee reasonably determines that the information within the patient record is detrimental to the mental or physical health of the patient, then the licensee may withhold the record from the patient and furnish the record to another licensee designated by the patient.

(b) A licensee may charge a person or entity for reasonable costs to retrieve or reproduce a patient record. A licensee shall not condition the furnishing of a patient record to another licensee upon prepayment of these costs.

(c) Any departure from this regulation shall constitute prima facie evidence of unprofessional conduct pursuant to K.S.A. 65-28b08, and any amendments thereto.

(Authorized by K.S.A. _____; implementing K.S.A.; effective, T-_____,
_____; effective P-_____.)

100-28b-X. Maintenance and storage of patient records. (a) Each licensee shall maintain the patient record for pregnancy, delivery, post-partum and newborn care for a minimum of 25 years from the date the licensee provided the professional service recorded.

(b) Each licensee may designate an entity, another licensee, or health care facility to maintain the record if the licensee requires the designee to store the record in a manner that allows lawful access and that maintains confidentiality.

(c) Each licensee shall maintain the patient record for family planning services and treatment of sexually transmitted infections for a minimum of 10 years from the date the licensee provided the professional service recorded.

(d) Patient records may be stored by an electronic data system, microfilm, or similar photographic means. A licensee may destroy original paper records stored in this manner if the stored record can be reproduced without alteration from the original.

(e) Each electronically stored record shall identify existing original documents or information not included in that electronically stored record.

(f) Each licensee who terminates active practice within this state shall, within 30 days of such termination, provide to the board the following information:

- (1) The location where patient records are stored;
- (2) if the licensee designates an agent to maintain the records, the name, telephone number, and mailing address of the agent; and
- (3) the date on which the patient records are scheduled to be destroyed, as allowed by this regulation. (Authorized by K.S.A. _____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.)

100-28b-X. Unprofessional Conduct. For the purposes of this act, “unprofessional conduct” means:

- (a) Committing fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.
- (b) Soliciting patients through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee.
- (c) Representing to a patient that a manifestly incurable disease, condition or injury can be permanently cured.
- (d) Assisting in the care or treatment of a patient without the consent of the patient or the patient’s legal representatives.
- (e) Using any letters, words, or terms, as an affix, on stationery, in advertisements, or otherwise indicating that such person is entitled to practice any profession regulated by the board or any other state licensing board or agency for which such person is not licensed.
- (f) Performing, procuring or aiding and abetting in the performance or procurement of a criminal abortion.
- (g) Willful betrayal of confidential information.
- (h) Advertising professional superiority or the performance of professional services in a superior manner.
- (i) Advertising to guarantee any professional service or to perform any operation painlessly.
- (j) engaging in conduct related to practice as an independent certified nurse-midwife that is likely to deceive, defraud or harm the public.
- (k) Making a false or misleading statement regarding the licensee’s skill or the efficacy or value

of the drug, treatment or remedy prescribed by the licensee or at the licensee's direction in the treatment of any disease or other condition of the body or mind.

(l) Commission of any act of sexual abuse, misconduct or other improper sexual contact, which exploits the licensee-patient relationship, with a patient or a person responsible for health care decisions concerning such patient.

(m) Using any false, fraudulent or deceptive statement in any document connected with the independent practice of certified nurse-midwifery including the intentional falsifying or fraudulent altering of a patient or medical care facility record.

(n) Obtaining any fee by fraud, deceit or misrepresentation.

(o) Failing to transfer patient records to another licensee when requested to do so by the subject patient or by such patient's legally designated representative.

(p) Performing unnecessary tests, examinations or services which have no legitimate medical purpose.

(q) Charging an excessive fee for services rendered.

(r) Prescribing, dispensing, administering or distributing a prescription drug or substance, including a controlled substance, in an improper or inappropriate manner, or for other than a valid medical purpose, or not in the course of the licensee's professional practice.

(s) Repeated failure to practice with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

(t) Failure to keep written patient records which accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

(u) Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.

(v) Failing to properly supervise, direct or delegate acts which constitute the independent practice of certified nurse-midwifery to persons who perform professional services pursuant to such licensee's direction, supervision, order, referral, delegation or practice protocols.

(w) Willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of independent certified nurse-midwifery.

(x) Unlawfully any profession regulated by the board in which the licensee is not licensed to practice.

(y) Willfully or repeatedly violating the act, any implementing regulations, any regulations of the secretary of health and environment that govern the practice of independent certified nurse-midwifery, or any lawful order or directive of the board previously entered by the board.

(z) Being found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction.

(aa) Prescribing, selling, administering, distributing or giving a controlled substance to any person for other than medically accepted or lawful purposes.

(bb) Violating a federal law or regulation relating to controlled substances.

(cc) Failing to furnish the board, or its investigators or representatives, any information legally requested by the board.

(dd) Having sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(ee) Failing to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(ff) Surrendering a license or authorization to practice nursing in another state or jurisdiction, surrendering the authority to utilize controlled substances issued by any state or federal agency, agreeing to a limitation to or restriction of privileges at any medical care facility or surrendering the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(gg) Failing to report to the board a surrender of the licensee's license or authorization to practice nursing in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(hh) Having an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would

constitute grounds for disciplinary action under this section.

(ii) Failing to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(jj) Failing to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a, and amendments thereto.

(kk) Failing to pay the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(ll) Knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(mm) Giving a worthless check or stopping payment on a debit or credit card for fees or moneys legally due to the board.

(nn) Knowingly or negligently abandoned medical records.

(oo) Engaging in conduct which violates patient trust and exploits the licensee-patient relationship for personal gain.

(pp) Obstructing a board investigation including, but not limited to, engaging in one or more of the following acts:

(1) Falsifying or concealing a material fact;

(2) knowingly making or causing to be made any false or misleading statement or writing; or

(3) other acts or conduct likely to deceive or defraud the board.

(b) "False advertisement" means any advertisement which is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken

into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(c) "Advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services. (Authorized by K.S.A. _____; implementing K.S.A.; effective, T-_____, _____; effective P-_____.)

100-28b-X. Interagency reporting of violations. Any complaint, allegation or other information that may involve a violation of the independent practice of midwifery act or a violation of the nurse practice act by an individual holding a license as an independent certified nurse-midwife and as an advance practice registered nurse in the role of nurse-midwife shall be provided by the agency that initially received the information to the other agency within five business days of its receipt. Authorized by K.S.A. _____; implementing K.S.A.; effective, T- _____, _____; effective P- _____.)