

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or Section Number:**

**R156-44a**

**Filing ID: 56872**

**Agency Information**

<b>1. Title catchline:</b>	Commerce, Professional Licensing	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E. 300 S.	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state and zip:</b>	Salt Lake City,, UT 84114-6741	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jeff Busjahn	801-530-6789	JBusjahn@Utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule or section catchline:</b>
R156-44a. Nurse Midwife Practice Act Rule
<b>3. Purpose of the new rule or reason for the change:</b>
The Division of Professional Licensing (Division) in collaboration with the Certified Nurse Midwife Board is filing these proposed amendments to clarify and update the rule and implement certain requirements in accordance with statutory changes made by H.B. 274 passed during the 2020 General Session and H.B. 534 passed during the 2024 General Session.  Secondly, the fine schedule table is being updated.  Finally, under Executive Order No. 2021-12, formatting changes are made throughout to streamline licensure pathways and to update the rule consistent with the Rulewriting Manual for Utah and remove duplicate language already present in the Utah Code.
<b>4. Summary of the new rule or change:</b>
In accordance with H.B. 274 (2020), the definition of delegation is being updated and referred to the Nurse Practice Act Rule. Per Executive Order No. 2021-12, formatting changes are also made throughout to conform the rule to the current edition of the Rulewriting Manual for Utah definitions have been corrected. The name of the Certified Nurse Midwife Board is being updated to combine with the Board of Nursing.  Finally, the fine schedule table has been updated to the correct amounts.

**Fiscal Information**

<b>5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The Division estimates that the proposed amendments will indirectly benefit state agencies who employ certified nurse midwives by providing a more concise and easier to understand rule regarding delegation of nurse tasks and existing CNM rules. The full fiscal and non-fiscal impacts on these state agencies cannot be estimated because the data necessary to determine how the proposed rule will impact licensees will vary widely depending on the requirements of the agencies and the individual characteristics of each certified nurse midwife. The remainder of these proposed amendments are expected to have no measurable impact on state government revenues or expenditure as they are not expected to impact state government practices or procedures and are made in accordance with Executive Order No. 2021-12. Combining the Certified Nurse Midwife Board and Board of Nursing will represent minimal savings to the State Budget.

**B) Local governments:**

The Division estimates that the proposed amendments will indirectly benefit local governments who employ certified nurse midwives by providing a more concise and easier to understand rule regarding delegation of nurse tasks. The full fiscal and non-fiscal impacts on local government cannot be estimated because the data necessary to determine how the proposed rule will impact licensees will vary widely depending on the requirements of each local government entity and the individual characteristics of each certified nurse midwife. The remainder of these proposed amendments are expected to have no measurable impact on local government revenues or expenditure as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 and are not expected to impact local government practices or procedures.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

The proposed amendments to Rule R156-44a may indirectly benefit the estimated 5 small businesses in Utah comprising establishments employing certified nurse midwives, such as private or group practices, hospitals, or medical centers (NAICS 621399, 621498, 621111, 622110,622310,622210 and 621610), as the amendments are expected to facilitate the ability of these businesses to hire qualified certified nurse midwives to practice in Utah; however, the full fiscal and non-fiscal impacts on small businesses cannot be estimated because the data necessary to determine how many such licensees might be hired is unavailable, and because the benefits that a small business may experience will vary widely depending on the requirements of the small business and the individual characteristics of each certified nurse midwife. The remainder of these proposed amendments are expected to have no measurable impact on small business revenues or expenditures as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 and conform the rule to the mandates of H.B. 274 (2020).

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

The proposed amendments to Rule R156-44a may indirectly benefit the estimated 30 small businesses in Utah comprising establishments employing certified nurse midwives, such as private or group practices, hospitals, or medical centers (NAICS 621399, 621498, 621111, 622110,622310,622210 and 621610), as the amendments are expected to clarify the existing rule; however, the full fiscal and non-fiscal impacts on small businesses cannot be estimated because the data necessary to determine how many such licensees might be impacted is unavailable, and because the benefits that a small business may experience will vary widely depending on the requirements of the small business and the individual characteristics of each certified nurse midwife. The remainder of these proposed amendments are expected to have no measurable impact on small business revenues or expenditures as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 and conform the rule to the mandates of H.B. 274 (2020).

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

The proposed amendments to Rule R156-44a are expected to benefit new and existing CNM license holders by clarifying the rule regarding delegation and streamlining the existing rule. The full fiscal and non-fiscal impacts on such persons cannot be estimated because the data necessary to determine how many such persons will benefit can vary widely depending on the individual characteristics of each certified nurse midwife and any employer requirements. The remainder of these proposed amendments are expected to have no measurable impact on other persons as they merely streamline and update the rule in accordance with Executive Order 2021-12 and conform the rule to the mandates of H.B. 274 (2020).

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

The Division does not anticipate any compliance costs for estimated 199 licensed certified nurse midwives from these proposed amendments because the proposed amendments will result in a benefit to affected persons and will have no measurable cost impact as they merely streamline and update the rule in accordance with Executive Order No. 2021-12 and conform the rule to the mandates of H.B. 274 (2020).

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this regulatory impact analysis.

**Citation Information**

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 58-1-307.1	Subsection 58-1-202(1)(a)	Subsection 58-1-106(1)(a)
Section 58-44a-101		

**Incorporations by Reference Information**

**7. Incorporations by Reference** (if this rule incorporates more than two items by reference, please include additional tables):

**A) This rule adds or updates the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	Core Competencies for Basic Midwifery Practice
<b>Publisher</b>	American College of Nurse Midwives
<b>Issue Date</b>	March 2020

**B) This rule adds or updates the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	Standards for the Practice of Midwifery
<b>Publisher</b>	American College of Nurse Midwives
<b>Issue Date</b>	2022

**C) This rule adds or updates the following title of materials incorporated by references** (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	Code of Ethics
<b>Publisher</b>	American College of Nurse Midwives
<b>Issue Date</b>	December 2013

**Public Notice Information**

**8. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 12/16/2024

**B) A public hearing (optional) will be held:**

Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):
12/03/2024	9:30 a.m.	160 E. 300 S, 4th floor, Salt Lake City, UT, and also via Google Meet  Google Meet joining info Video call link: <a href="https://meet.google.com/tbe-rxkk-shi">https://meet.google.com/tbe-rxkk-shi</a> Or dial: (US) +1 435-562-1559 PIN: 497 751 028# More phone numbers: <a href="https://tel.meet/tbe-rxkk-shi?pin=4451543203048">https://tel.meet/tbe-rxkk-shi?pin=4451543203048</a>

**9. This rule change MAY become effective on:** 12/23/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Mark B. Steinagel, Division Director	<b>Date:</b>	10/11/2024
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#### **R156. Commerce, ~~Occupational and~~ Professional Licensing.**

#### **R156-44a. Nurse Midwife Practice Act Rule.**

#### **R156-44a-101. Title -- Authority -- Relationship to Rule R156-1.**

(1) This rule is known as the "Nurse Midwife Practice Act Rule."

(2) This rule is adopted by the Division of Professional Licensing (Division) under Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 44a, Nurse Midwife Practice Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-101.

#### **R156-44a-102. Definitions.**

~~[In addition to the]~~ The following rule definitions supplement the definitions in Title 58, Chapter[s] 1, Division of Professional Licensing Act, and Title 58, Chapter 44a, Nurse Midwife Practice Act ~~[as used in Title 58, Chapters 1 and 44a or this rule]:~~

(1) "ACME" means the Accreditation Commission for Midwifery Education.

(2) "AMCB" means the American Midwifery Certification Board.

~~[(4)](3)~~ "Approved certified nurse midwifery education program" means an educational program ~~[which is]~~ accredited by the ~~[American Midwifery Certification Board (AMCB)]~~ AMCB, affiliated with the American College of Nurse-Midwives (ACNM).

~~[(2)](4)~~ "CNM" means a certified nurse midwife.

~~[(3)](5)~~ ["Delegation" means transferring to an individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability for the delegation."] "Delegate" is defined in Subsection R156-31b-102(14).

(6) "Delegatee" is defined in Subsection R156-31b-102(15).

(7) "Delegator" is defined in Subsection R156-31b-102(16).

~~[(4)](8)~~ "Direct supervision" as used in Subsection 58-44a-305(1)(d) means that the ~~[person providing supervision shall be]~~ supervisor is available on the premises ~~[at which]~~ where the supervisee or consultee is engaged in practice.

~~[(5)](9)~~ "Generally recognized scope and standards of nurse midwifery" in Subsection 58-44a-102(9)(b) means the following scope and standards of practice ~~[set forth in the]~~ published by the American College of Nurse-Midwives, which are incorporated by reference:

(a) ~~["]~~Core Competencies for Basic Midwifery Practice~~["]~~, ~~[June 2012, and]~~ March 2020;

(b) ~~[the "~~Standards for the Practice of Midwifery~~"]~~, ~~[September 2011]~~ 2022~~[, published by the American College of Nurse-Midwives which are hereby adopted and incorporated by reference, or as established by the professional community]; and~~

(c) Code of Ethics, December 2013.

~~[(6)]~~ "Intrapartum referral plan":

(a) is as defined in Section 58-44a-102; and

(b) as provided in Section 58-44a-102, does not require the signature of a physician.

(7) "Supervision" in Section R156-44a-601 means the provision of guidance or direction, evaluation and follow up by the certified nurse midwife for accomplishment of tasks delegated to unlicensed assistive personnel or other licensed individuals.]

(10) "Unlicensed assistive personnel" as defined in Subsection 58-44a-102(11), is further defined in Subsection R156-31b-102(38).

~~(8)~~(11) "Unprofessional conduct[7]" [as defined in Title 58, Chapters 1 and 44a,]is further defined in Sections R156-1-501 and R156-44a-502.

**~~R156-44a-103. Authority Purpose.~~**

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 44a.~~

**~~R156-44a-104. Organization Relationship to Rule R156-1.~~**

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.]~~

**R156-44a-302. Qualifications for Licensure - Examination Requirements.**

~~[In accordance with]Under Subsection 58-44a-302~~(6)~~(1)(c), the examination required for licensure is the [national certifying]CNM examination administered by the [American Midwifery Certification Board, Inc]AMCB.~~

**R156-44a-303. License Renewal [Cycle]- Procedures.**

(1) ~~[In accordance with]Under Subsections 58-1-308(1) and 58-44a-303(1), the renewal date for the two-year renewal cycle [applicable to]for licensees under Title 58, Chapter 44a, Nurse Midwife Practice Act is [established by rule.]in Subsection R156-1-308a(1).~~

(2) Renewal procedures shall be ~~[in accordance with Section R156-1-308e]~~under Sections R156-1-308b through R156-1-308l.

(3) Each applicant for licensure renewal shall hold ~~[a valid]current CNM certification from the [American Midwifery Certification Board, Inc]AMCB.~~

**R156-44a-305. Inactive Licensure.**

(1) A licensee may apply for inactive licensure status in accordance with Sections 58-1-305 and R156-1-305.

(2) To reactivate a license ~~[which]that~~ has been inactive for five years or less, the licensee ~~[must]shall~~ document current compliance with the continuing competency requirements ~~[as established]~~in Subsection R156-44a-303(3).

(3) To reactivate a license ~~[which]that~~ has been inactive for more than five years, the licensee ~~[must]shall~~ document one of the following:

(a) active licensure in another state or jurisdiction;

(b) completion of a refresher program approved by the American College of Nurse-Midwives; or

(c) ~~a~~ passing score on the required examination~~s~~ ~~[as defined in]under~~ Section R156-44a-302, within six months ~~[prior to]before~~ ~~[making]submitting~~ the application to reactivate ~~[a]the~~ license.

**R156-44a-402. Administrative Penalties.**

~~[In accordance with]Under Subsections 58-44a-102(1), 58-44a-402(1), and 58-44a-503(3), unless otherwise ordered by the presiding officer, the following fine schedule shall apply:~~

[TABLE

FINE SCHEDULE

<del>VIOLATION</del>	<del>FIRST OFFENSE</del>	<del>SUBSEQUENT OFFENSE</del>
<del>58-44a-501(1)</del>	<del>\$ 2,000 - \$ 5,000</del>	<del>\$ 5,000 - \$10,000</del>
<del>58-44a-501(2)</del>	<del>\$ 100 - \$ 500</del>	<del>\$ 200 - \$ 1,000</del>
<del>58-44a-501(3)</del>	<del>\$ 100 - \$ 500</del>	<del>\$ 200 - \$ 1,000</del>
<del>58-44a-501(4)</del>	<del>\$ 2,000 - \$ 5,000</del>	<del>\$ 5,000 - \$10,000</del>
<del>58-44a-502(1)</del>	<del>\$ 100 - \$ 500</del>	<del>\$ 200 - \$ 1,000</del>
<del>58-44a-502(2)</del>	<del>\$ 500 - \$ 2,000</del>	<del>\$ 2,000 - \$10,000</del>
<del>58-44a-502(3)</del>	<del>\$ 500 - \$ 2,000</del>	<del>\$ 2,000 - \$10,000</del>
<del>58-44a-502(4)</del>	<del>\$ 100 - \$ 500</del>	<del>\$ 200 - \$ 1,000</del>
<del>58-44a-502(5)</del>	<del>\$ 200 - \$ 1,000</del>	<del>\$ 500 - \$ 2,000</del>
<del>58-44a-502(6)</del>	<del>Double the original penalty amount, up to \$10,000</del>	
<del>58-44a-502(7)</del>	<del>\$ 500 - \$ 1,000</del>	<del>\$ 500 - \$ 1,000</del>
<del>58-44a-502(8)(a)</del>	<del>\$ 500 - \$ 1,000</del>	<del>\$ 500 - \$ 2,000</del>
<del>58-44a-502(8)(b)</del>	<del>\$ 500 - \$ 1,000</del>	<del>\$ 500 - \$ 2,000</del>
<del>58-1-501(1)(b)</del>	<del>\$ 500 - \$ 2,000</del>	<del>\$ 2,000 - \$10,000</del>
<del>58-1-501(1)(c)</del>	<del>\$ 500 - \$ 1,000</del>	<del>\$ 1,000 - \$ 5,000</del>
<del>1-501(1)(d)</del>	<del>\$ 500 - \$ 1,000</del>	<del>\$ 1,000 - \$ 5,000</del>
<del>58-1-501(1)(e)</del>	<del>\$ 500 - \$ 2,000</del>	<del>\$ 2,000 - \$10,000</del>
<del>58-1-502(2)(a)</del>	<del>\$ 500 - \$ 2,000</del>	<del>\$ 2,000 - \$10,000</del>
<del>58-1-502(2)(b)</del>	<del>\$ 500 - \$ 2,000</del>	<del>\$ 2,000 - \$10,000</del>
<del>58-1-502(2)(c)</del>	<del>\$ 500 - \$ 2,000</del>	<del>\$ 2,000 - \$10,000</del>
<del>58-1-502(2)(d)</del>	<del>\$ 100 - \$ 500</del>	<del>\$ 200 - \$ 1,000</del>

~~58-1-502(2)(e) \$ 100 - \$ 500 - \$ 200 - \$ 1,000~~  
~~58-1-502(2)(f) \$ 100 - \$ 500 - \$ 200 - \$ 1,000~~  
~~58-1-502(2)(g) \$ 500 - \$ 2,000 - \$ 2,000 - \$ 10,000~~  
~~58-1-502(2)(h) \$ 100 - \$ 500 - \$ 200 - \$ 1,000~~  
~~58-1-502(2)(i) \$ 100 - \$ 500 - \$ 200 - \$ 1,000~~  
~~58-1-502(2)(j) \$ 100 - \$ 500 - \$ 200 - \$ 1,000~~  
~~58-1-502(2)(k) \$ 100 - \$ 500 - \$ 200 - \$ 1,000~~  
~~R156-44a-502(1) \$ 100 - \$ 500 - \$ 200 - \$ 1,000~~  
~~R156-44a-502(2) \$ 250 - \$ 500 - \$ 1,000~~  
 Ongoing offense(s) \$ 1,000 per day but not less than the second offense.  
 Any other conduct which constitutes unprofessional or unlawful conduct: \$ 100 - \$ 500 - \$ 200 - \$ 1,000]

<u>TABLE</u>		
<u>Fine Schedule</u>		
<u>VIOLATION</u>	<u>FIRST OFFENSE</u>	<u>SUBSEQUENT OFFENSE</u>
58-44a-501(1)	\$ 2,000 - \$ 5,000	\$ 5,000 - \$ 10,000
58-44a-501(2)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-501(3)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-501(4)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-502(1)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-502(2)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-44a-502(3)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-44a-502(4)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-44a-502(5)	\$ 200 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(6)	Double the original penalty amount, up to \$10,000	
58-44a-502(7)	\$ 500 - \$ 1,000	\$ 500 - \$ 1,000
58-44a-502(8)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-44a-502(9)(a)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(9)(b)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(10)(a)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-44a-502(10)(b)	\$ 500 - \$ 1,000	\$ 500 - \$ 2,000
58-1-501(1)(a)(i)	\$ 500 - \$ 2,000	\$ 500 - \$ 10,000
58-1-501(1)(a)(ii)	\$ 500 - \$ 2,000	\$ 500 - \$ 10,000
58-1-501(1)(b)(i)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(1)(b)(ii)	\$ 500 - \$ 2,000	\$ 500 - \$ 10,000
58-1-501(1)(c)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
58-1-501(1)(d)	\$ 500 - \$ 1,000	\$ 1,000 - \$ 5,000
58-1-501(1)(e)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(1)(f)(i)(A)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(1)(f)(i)(B)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(1)(g)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(i)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(ii)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(iii)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(iv)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-501(2)(a)(v)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-501(2)(a)(vi)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-501(2)(a)(vii)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(viii)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-501(2)(a)(ix)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-501(2)(a)(x)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-501(2)(a)(xi)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
58-1-501(2)(a)(xii)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(xiii)(A)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(xiii)(B)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(xiv)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(xv)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
58-1-501(2)(a)(xvi)	\$ 500 - \$ 2,000	\$ 2,000 - \$ 10,000
R156-44a-502(1)	\$ 100 - \$ 500	\$ 200 - \$ 1,000
R156-44a-502(2)	\$ 250	\$ 500 - \$ 1,000

Ongoing offense	\$ 1,000 per day but not less than the second offense.	
Any other conduct which constitutes unprofessional or unlawful conduct:	\$ 100 - \$ 500	\$ 200 - \$ 1,000

**R156-44a-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

- (1) ~~the failure to abide by any one or more of the ["Code of Ethics" published by the American College of Nurse-Midwives, June 2015, which is hereby adopted and incorporated by reference;]~~ generally recognized scope and standards of nurse midwifery established under Subsections 58-44a-102(9) and R156-44a-102(9); and
- (2) ~~[failing to discuss the risks of using an opiate with a patient or the patient's guardian before issuing an initial opiate prescription, in accordance]~~ the failure to comply with Section 58-37-19, regarding discussion with a patient or the patient's parent or guardian before issuing an initial opiate prescription.

**R156-44a-601. Delegation of Nursing Tasks.**

~~[In accordance with Subsection 58-44a-102(11), the delegation of nursing tasks is further defined, clarified, or established as follows:~~

- ~~(1) The certified nurse midwife delegating tasks retains the accountability for the appropriate delegation of tasks and for the nursing care of the patient/client. The licensed nurse shall not delegate any task requiring the specialized knowledge, judgment and skill of a licensed nurse to an unlicensed assistive personnel. It is the licensed nurse who shall use professional judgment to decide whether or not a task is one that must be performed by a nurse or may be delegated to an unlicensed assistive personnel. This precludes a list of nursing tasks that can be routinely and uniformly delegated for all patients/clients in all situations. The decision to delegate must be based on careful analysis of the patient's/client's needs and circumstances.~~
- ~~(2) The licensed nurse who is delegating a nursing task shall:~~
  - ~~(a) verify and evaluate the orders;~~
  - ~~(b) perform a nursing assessment;~~
  - ~~(c) determine whether the task can be safely performed by an unlicensed assistive personnel or whether it requires a licensed health care provider;~~
  - ~~(d) verify that the delegatee has the competence to perform the delegated task prior to performing it;~~
  - ~~(e) provide instruction and direction necessary to safely perform the specific task; and~~
  - ~~(f) provide ongoing supervision and evaluation of the delegatee who is performing the task.~~
- ~~(3) The delegator shall evaluate the situation to determine the degree of supervision required to ensure safe care.~~
  - ~~(a) The following factors shall be evaluated to determine the level of supervision needed:~~
    - ~~(i) the stability of the condition of the patient/client;~~
    - ~~(ii) the training and capability of the delegatee;~~
    - ~~(iii) the nature of the task being delegated; and~~
    - ~~(iv) the proximity and availability of the delegator to the delegatee when the task will be performed.~~
  - ~~(b) The delegating nurse or another qualified nurse shall be readily available either in person or by telecommunication. The delegator responsible for the care of the patient/client shall make supervisory visits at appropriate intervals to:~~
    - ~~(i) evaluate the patient's/client's health status;~~
    - ~~(ii) evaluate the performance of the delegated task;~~
    - ~~(iii) determine whether goals are being met; and~~
    - ~~(iv) determine the appropriateness of continuing delegation of the task.~~
- ~~(4) Nursing tasks, to be delegated, shall meet the following criteria as applied to each specific patient/client situation:~~
  - ~~(a) be considered routine care for the specific patient/client;~~
  - ~~(b) pose little potential hazard for the patient/client;~~
  - ~~(c) be performed with a predictable outcome for the patient/client;~~
  - ~~(d) be administered according to a previously developed plan of care; and~~
  - ~~(e) not inherently involve nursing judgment which cannot be separated from the procedure.~~
- ~~(5) If the nurse, upon review of the patient's/client's condition, complexity of the task, ability of the unlicensed assistive personnel and other criteria as deemed appropriate by the nurse, determines that the unlicensed assistive personnel cannot safely provide care, the nurse shall not delegate the task.]~~ Under Subsections 58-44a-102(9) and (11), the standards and requirements for the delegation of nursing tasks by a certified nurse midwife are in Section R156-31b-701a.

**R156-44a-609. Standards for Out-of-State Programs Providing Certified Nurse Midwife Clinical Experiences in Utah.**

- (1) ~~[In order to]~~ To qualify its students for the exemption ~~[set forth]~~ in Subsection 58-1-30[4][7](1)(b), ~~[approval of]~~ a nurse midwifery education program ~~[located]~~ in another state that uses Utah health care facilities for one or more student clinical experiences with certified nurse midwives, ~~[for one or more students]~~ shall, ~~[prior to]~~ before placing a student, submit a written request for approval ~~[in writing]~~ as a recognized school to the ~~[Certified Nurse Midwife Board]~~ Board of Nursing and Certified Nurse Midwives, and demonstrate to the satisfaction of the Board that the program:

- (a) has been approved, if required, by the regulatory body responsible for certified nurse midwives in the program's home state;

- (b) holds current accreditation from the [~~Accreditation Commission for Midwifery Education (ACME)~~]ACME;
- (c) has clinical faculty who are employed by the nurse midwifery education program;
- (d) is affiliated with an institution of higher education; and
- (e) has established criteria for selection and supervision of:
  - (i) onsite preceptors; and
  - (ii) the clinical activities.
- (2) [~~Following~~]After approval by the Board of Nursing and Certified Nurse Midwives, the nurse midwifery program

shall:

- (a) reapply for Board review and approval when the program's ACME accreditation is reaffirmed; and
- (b) notify the Board[;] in writing[;] of any change in its accreditation status.

**KEY: licensing, midwifery, certified nurse midwife**

**Date of Last Change: [~~December 9, 2019~~]2024**

**Notice of Continuation: August 8, 2023**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-44a-101; 58-1-307.1**

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