

## **FLORIDA MIDWIFERY LAW:**

### **Midwifery Practice, The Council of Licensed Midwifery, Patient's Bill of Rights and Responsibilities**

# **1 Contact Hour**

**Alene Burke & Associates is approved as a provider of Continuing Education by the Florida Board of Nursing, Provider # 50-2502**

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#### **PURPOSE OF THE COURSE:**

The purpose of this course is to provide midwives with knowledge about some of Florida State's statutes and rules that apply to their practice as a licensed midwife. Knowledge about Florida's statutes, rules and the Council of Licensed Midwifery protects midwives and more importantly, it protects the public. This course meets the one hour mandatory continuing education requirement for midwifery laws and rules, as mandated by the Florida Council of Licensed Midwifery.

The content includes information about legal midwifery practice, the roles and responsibilities of the Florida Council of Licensed Midwifery, including rules and rule making authority, and the Florida State Patient's Bill of Rights and Responsibilities.

#### **OBJECTIVES:**

At the conclusion of this course, the learner will be able to:

1. Detail and apply some of Florida's statutory licensed midwifery practice regulations into one's role and responsibilities.
2. Discuss the composition and roles of the Florida Council of Licensed Midwifery, including rule-making authority.
3. Relate the components of the Florida State Patient's Bill of Rights and Responsibilities.

#### **INTRODUCTION**

*"Ignorance of the law excuses no man; not that all men know the law, but because it is an excuse every man will plead, and no man can tell how to refute him."* (Selden 1584-1654)

Knowledge of, and adherence to, the law is an imperative professional responsibility. This course will provide you with some aspects of the law and how these laws impact your practice, however, it is up to you to periodically check with the State of Florida in order to know when laws and rules are changed and/or added. Ignorance of the law is not defensible.

## **FLORIDA STATE LICENSED MIDWIFERY**

All states throughout the nation have practice acts for all healthcare professionals, such as licensed midwives, nurses, pharmacists and all other healthcare providers. Generally speaking, these practice acts, or laws, are quite similar from state to state for each profession, however, there may be some minor differences. Licensed midwifery practice acts, with few exceptions across the nation include some basic definitions and some broad statements about the licensed midwife and their role in the healthcare team.

The protection of the public is the primary purpose of practice acts. These practice acts guide our practice and legally define and defend what we can and cannot do as a licensed midwife. Legally, licensed midwives must function within the limits of their scope of practice, as defined by their practice act.

## **RESPONSIBILITIES OF THE MIDWIFE**

The midwifery practice act, referred to as the Responsibilities of the Midwife, according to the statutes of the State of Florida (467.015) is, as follows:

“(1) A midwife shall accept and provide care for only those mothers who are expected to have a normal pregnancy, labor, and delivery and shall ensure that the following conditions are met:

(a) The patient has signed an informed consent form approved by the department pursuant to s. 467.016.

(b) If the patient is delivering at home, the home is safe and hygienic and meets standards set forth by the department.

(2) A midwife may provide collaborative prenatal and postpartal care to pregnant women not at low risk in their pregnancy, labor, and delivery, within a written protocol of a physician currently licensed

under chapter 458 or chapter 459, which physician shall maintain supervision for directing the specific course of medical treatment. The department shall by rule develop guidelines for the identification of high-risk pregnancies.

(3) A midwife licensed under this chapter may administer prophylactic ophthalmic medication, oxygen, postpartum oxytocin, vitamin K, rho immune globulin (human), and local anesthetic pursuant to a prescription issued by a practitioner licensed under chapter 458 or chapter 459, and may administer such other medicinal drugs as prescribed by such practitioner. Any such prescription for medicinal drugs shall be in a form that complies with chapter 499 and shall be dispensed in a pharmacy permitted under chapter 465 by a pharmacist licensed under chapter 465.

(4) The care of mothers and infants throughout the prenatal, intrapartal, and postpartal periods shall be in conformity with rules adopted by the department pursuant to this chapter and the public health laws of this state.

(5) The midwife shall:

(a) Prepare a written plan of action with the family to ensure continuity of medical care throughout labor and delivery and to provide for immediate medical care if an emergency arises. The family should have specific plans for medical care throughout the prenatal, intrapartal, and postpartal periods.

(b) Instruct the patient and family regarding the preparation of the environment and ensure availability of equipment and supplies needed for delivery and infant care, if a home birth is planned.

(c) Instruct the patient in the hygiene of pregnancy and nutrition as it relates to prenatal care.

(d) Maintain equipment and supplies in conformity with the rules adopted pursuant to this chapter.

(6) The midwife shall determine the progress of labor and, when birth is imminent, shall be immediately available until delivery is accomplished. During labor and delivery, the midwife shall comply with rules adopted by the department pursuant to this chapter, which shall include rules that govern:

(a) Maintaining a safe and hygienic environment;

(b) Monitoring the progress of labor and the status of the fetus;

(c) Recognizing early signs of distress or complications; and

(d) Enacting the written emergency plan when indicated.

(7)(a) The midwife shall remain with the postpartal mother until the conditions of the mother and the neonate are stabilized.

(b) The midwife shall instill into each eye of the newborn infant a prophylactic in accordance with s. 383.04." (Florida Statutes 467.015)

## **DEFINITIONS OF TERMS RELATING TO LICENSED MIDWIVES**

Some of the definitions included in the Florida Statutes include:

**Certified nurse midwife-** a person who is licensed as an advanced registered nurse practitioner under part I of chapter 464 and who is certified to practice midwifery by the American College of Nurse Midwives.

**Council** – the Florida State Council of Licensed Midwifery

**Intrapartal-** occurring during the process of giving birth

**Midwife-** a person not less than 21 years of age, other than a licensed physician or certified nurse midwife, who is licensed under this chapter to supervise the birth of a child.

**Midwifery-** is the practice of supervising the conduct of a normal labor and childbirth, with the informed consent of the parent; the practice of advising the parents as to the progress of the childbirth; and the practice of rendering prenatal and postpartal care.

**Normal labor and childbirth-** is the physiological process of a healthy woman giving birth to a healthy infant and expelling an intact placenta, without injury, complications, or undue strain to the mother.

**Postpartal or postpartum-** existing or occurring subsequent to birth.

**Prenatal or antepartal-** occurring during pregnancy up to the point of onset of labor.

**Stillbirth-** the death of a fetus of more than 20 weeks' gestation. (Florida Statutes 467.003)

## **FLORIDA STATE'S PATIENT'S BILL OF RIGHTS AND RESPONSIBILITIES (381.026)**

“(1) SHORT TITLE.--This section may be cited as the "Florida Patient's Bill of Rights and Responsibilities.”

(2) DEFINITIONS.--As used in this section and s. 381.0261, the term:

(a) "Department" means the Department of Health.

(b) "Health care facility" means a facility licensed under chapter 395.

(c) "Health care provider" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, or a podiatric physician licensed under chapter 461.

(d) "Responsible provider" means a health care provider who is primarily responsible for patient care in a health care facility or provider's office.

(3) PURPOSE.--It is the purpose of this section to promote the interests and well-being of the patients of health care providers and health care facilities and to promote better communication between the patient and the health care provider. It is the intent of the Legislature that health care providers understand their responsibility to give their patients a general understanding of the procedures to be performed on them and to provide information pertaining to their health care so that they may make decisions in an informed manner after considering the information relating to their condition, the available treatment alternatives, and substantial risks and hazards inherent in the treatments. It is the intent of the Legislature that patients have a general understanding of their responsibilities toward health care providers and health care facilities. It is the intent of the Legislature that the provision of such information to a patient eliminate potential misunderstandings between patients and health care providers. It is a public policy of the state that the interests of patients be recognized in a patient's bill of rights and responsibilities and that a health care facility or health care provider may not require a patient to waive his or her rights as a condition of treatment. This section shall not be used for any purpose in any civil or administrative action and neither expands nor limits any rights or remedies provided under any other law.

(4) RIGHTS OF PATIENTS.--Each health care facility or provider shall observe the following standards:

(a) *Individual dignity*.--

1. The individual dignity of a patient must be respected at all times and upon all occasions.

2. Every patient who is provided health care services retains certain rights to privacy, which must be respected without regard to the patient's economic status or source of payment for his or her care. The patient's rights to privacy must be respected to the extent consistent with providing adequate medical care to the patient and with the efficient administration of the health care facility or provider's office. However, this subparagraph does not preclude necessary and discreet discussion of a patient's case or examination by appropriate medical personnel.

3. A patient has the right to a prompt and reasonable response to a question or request. A health care facility shall respond in a reasonable manner to the request of a patient's health care provider for medical services to the patient. The health care facility shall also respond in a reasonable manner to the patient's request for other services customarily rendered by the health care facility to the extent such services do not require the approval of the patient's health care provider or are not inconsistent with the patient's treatment.

4. A patient in a health care facility has the right to retain and use personal clothing or possessions as space permits, unless for him or her to do so would infringe upon the right of another patient or is medically or programmatically contraindicated for documented medical, safety, or programmatic reasons.

(b) *Information.*--

1. A patient has the right to know the name, function, and qualifications of each health care provider who is providing medical services to the patient. A patient may request such information from his or her responsible provider or the health care facility in which he or she is receiving medical services.

2. A patient in a health care facility has the right to know what patient support services are available in the facility.

3. A patient has the right to be given by his or her health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis, unless it is medically inadvisable or impossible to give this information to the patient, in which case the information must be given to the patient's guardian or a person designated as the patient's representative. A patient has the right to refuse this information.

4. A patient has the right to refuse any treatment based on information required by this paragraph, except as otherwise provided by law. The responsible provider shall document any such refusal.

5. A patient in a health care facility has the right to know what facility rules and regulations apply to patient conduct.

6. A patient has the right to express grievances to a health care provider, a health care facility, or the appropriate state licensing agency regarding alleged violations of patients' rights. A patient has the right to know the health care provider's or health care facility's procedures for expressing a grievance.

7. A patient in a health care facility who does not speak English has the right to be provided an interpreter when receiving medical services if the facility has a person readily available who can interpret on behalf of the patient.

*(c) Financial information and disclosure.--*

1. A patient has the right to be given, upon request, by the responsible provider, his or her designee, or a representative of the health care facility full information and necessary counseling on the availability of known financial resources for the patient's health care.

2. A health care provider or a health care facility shall, upon request, disclose to each patient who is eligible for Medicare, in advance of treatment, whether the health care provider or the health care facility in which the patient is receiving medical services accepts assignment under Medicare reimbursement as payment in full for medical services and treatment rendered in the health care provider's office or health care facility.

3. A health care provider or a health care facility shall, upon request, furnish a patient, prior to provision of medical services, a reasonable estimate of charges for such services. Such reasonable estimate shall not preclude the health care provider or health care facility from exceeding the estimate or making additional charges based on changes in the patient's condition or treatment needs.

4. A patient has the right to receive a copy of an itemized bill upon request. A patient has a right to be given an explanation of charges upon request.

*(d) Access to health care.--*

1. A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, handicap, or source of payment.

2. A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide such treatment.

3. A patient has the right to access any mode of treatment that is, in his or her own judgment and the judgment of his or her health care practitioner, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of s. 456.41.

(e) *Experimental research.*--In addition to the provisions of s. 766.103, a patient has the right to know if medical treatment is for purposes of experimental research and to consent prior to participation in such experimental research. For any patient, regardless of ability to pay or source of payment for his or her care, participation must be a voluntary matter; and a patient has the right to refuse to participate. The patient's consent or refusal must be documented in the patient's care record.

(f) *Patient's knowledge of rights and responsibilities.*--In receiving health care, patients have the right to know what their rights and responsibilities are.

(5) RESPONSIBILITIES OF PATIENTS.--Each patient of a health care provider or health care facility shall respect the health care provider's and health care facility's right to expect behavior on the part of patients which, considering the nature of their illness, is reasonable and responsible. Each patient shall observe the responsibilities described in the following summary.

(6) SUMMARY OF RIGHTS AND RESPONSIBILITIES.--Any health care provider who treats a patient in an office or any health care facility licensed under chapter 395 that provides emergency services and care or outpatient services and care to a patient, or admits and treats a patient, shall adopt and make available to the patient, in writing, a statement of the rights and responsibilities of patients, including the following:

*SUMMARY OF THE FLORIDA PATIENT'S BILL OF RIGHTS AND RESPONSIBILITIES*

Florida law requires that your health care provider or health care facility recognize your rights while you are receiving medical care and that you respect the health care provider's or health care facility's right

to expect certain behavior on the part of patients. You may request a copy of the full text of this law from your health care provider or health care facility. A summary of your rights and responsibilities follows:

A patient has the right to be treated with courtesy and respect, with appreciation of his or her individual dignity, and with protection of his or her need for privacy.

A patient has the right to a prompt and reasonable response to questions and requests.

A patient has the right to know who is providing medical services and who is responsible for his or her care.

A patient has the right to know what patient support services are available, including whether an interpreter is available if he or she does not speak English.

A patient has the right to know what rules and regulations apply to his or her conduct.

A patient has the right to be given by the health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis.

A patient has the right to refuse any treatment, except as otherwise provided by law.

A patient has the right to be given, upon request, full information and necessary counseling on the availability of known financial resources for his or her care.

A patient who is eligible for Medicare has the right to know, upon request and in advance of treatment, whether the health care provider or health care facility accepts the Medicare assignment rate.

A patient has the right to receive, upon request, prior to treatment, a reasonable estimate of charges for medical care.

A patient has the right to receive a copy of a reasonably clear and understandable, itemized bill and, upon request, to have the charges explained.

A patient has the right to impartial access to medical treatment or accommodations, regardless of race, national origin, religion, handicap, or source of payment.

A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide treatment.

A patient has the right to know if medical treatment is for purposes of experimental research and to give his or her consent or refusal to participate in such experimental research.

A patient has the right to express grievances regarding any violation of his or her rights, as stated in Florida law, through the grievance procedure of the health care provider or health care facility which served him or her and to the appropriate state licensing agency.

A patient is responsible for providing to the health care provider, to the best of his or her knowledge, accurate and complete information about present complaints, past illnesses, hospitalizations, medications, and other matters relating to his or her health.

A patient is responsible for reporting unexpected changes in his or her condition to the health care provider.

A patient is responsible for reporting to the health care provider whether he or she comprehends a contemplated course of action and what is expected of him or her.

A patient is responsible for following the treatment plan recommended by the health care provider.

A patient is responsible for keeping appointments and, when he or she is unable to do so for any reason, for notifying the health care provider or health care facility.

A patient is responsible for his or her actions if he or she refuses treatment or does not follow the health care provider's instructions.

A patient is responsible for assuring that the financial obligations of his or her health care are fulfilled as promptly as possible.

A patient is responsible for following health care facility rules and regulations affecting patient care and conduct."

The Spanish version of the Florida State Patient's Bill of Rights and Responsibilities (381.026) can and should be accessed at <http://www.doh.state.fl.us/mqa/Profiling/billofrights.htm>

**THE FLORIDA STATE COUNCIL OF LICENSED MIDWIFERY**

The protection of the public is the primary purpose and goal of the Florida State Council of Licensed Midwifery, as it is for other state boards and councils of midwifery throughout our country.

According to Florida Statute 467.004:

“(1) The Council of Licensed Midwifery is created within the department and shall consist of nine members to be appointed by the secretary.

(2) One member of the council shall be a certified nurse midwife. One member of the council shall be a physician who is an obstetrician certified by the American Board of Obstetrics and Gynecology and one family physician certified by the American Board of Family Practice. One member of the council shall be a physician who is a pediatrician certified by the American Board of Pediatrics. Four members of the council shall be licensed midwives. The one remaining member shall be a resident of this state who has never been a licensed midwife and who has no financial interest in the practice of midwifery or in any health care facility, agency, or insurer. The council members shall serve staggered 4-year terms as determined by rule.

(3) The council shall:

(a) Assist and advise the department in developing rules relating to: training requirements, including core competencies, for persons training to become licensed midwives; the licensure examination; fees; the informed consent form; responsibilities of midwives; emergency care plans; records and reports to be filed by licensed midwives; and other regulatory requirements developed by the department.

(b) Assist the department in developing rules to implement s. 467.205, relating to approval of midwifery training programs.

(c) Monitor and inform the department on the practice of midwifery in other states and countries by persons who are not nurses.

(d) Educate the public and other providers of obstetrical care about the role of licensed midwives.

(e) Collect and review data regarding licensed midwifery.

(f) Recommend changes in the Midwifery Practice Act to the department and the Legislature.

(g) Address concerns and problems of practicing licensed midwives in order to promote improved safety in the practice of midwifery.

(4) Members of the council shall serve without pay. The council members shall be entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061.”

## **RULES AND RULEMAKING AUTHORITY**

There is a distinct difference between administrative rules and statutes, or laws. The Florida State Legislature passes laws and rules are promulgated and passed by boards and councils. Rules are more specific than statutes. They enable the Florida Council of Licensed Midwifery, as well as other councils and boards, to generate somewhat more detailed regulations about how the laws, or statutes, will be implemented and enforced.

All professional healthcare boards and councils, including the Florida Council of Licensed Midwifery, are given statutory power to adopt rules according to Florida Statutes 120.536(1) and 120.54.

In the state of Florida, administrative rules are found in the Florida Administrative Code. Licensed midwife rules are addressed in Section 64B24 of the Florida State Administrative Code. **(381.026)** 467

For example, Florida statute 467.012 states that the “department may by rule prescribe continuing education requirements, not to exceed 20 hours biennially, as a condition for renewal of a license.” Based on the authority given the Florida Council of Midwifery, the Council has written rules to further define how many hours of continuing education are needed and what continuing education courses are required, or mandatory, for relicensure. According to 64B24, the Florida Council of Licensed Midwifery requires the full 20 hour required by Florida statute 467.012 and it is further specified in the rules that the following is necessary for biennial license renewal:

- at least 1 hour must be in HIV/AIDS, and
- at least 1 hour must be in domestic violence and
- at least 1 hour must be in laws and rules and
- at least 2 hours must be in medical errors and
- the other 15 hours are considered general hours.

## **SUMMARY**

This course has provided you with a concise overview of some of Florida State’s laws and rules relating to the practice of midwifery. This

knowledge aims to protect the safety of those you provide care and services to. It also protects you, as the practitioner.

If you would like to learn more about Florida State laws and rules relating licensed midwifery practice, take our course entitled, "*FLORIDA MIDWIFERY LAW: Licensure, Informed Consent, Emergency Care and Disciplinary Actions?*"

## **REFERENCES**

Florida State (2004). Florida Administrative Code 64B24.  
<http://fac.dos.state.fl.us/faconline/chapter64.pdf>

Florida State (2004). Florida State Statutes: Chapter 381.  
[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0467/titl0467.htm&StatuteYear=2004&Title=%2D%3E2004%2D%3EChapter%20467](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0467/titl0467.htm&StatuteYear=2004&Title=%2D%3E2004%2D%3EChapter%20467)

Florida State (2004). Florida State Statutes: Chapter 467.  
[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0467/titl0467.htm&StatuteYear=2004&Title=%2D%3E2004%2D%3EChapter%20467](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0467/titl0467.htm&StatuteYear=2004&Title=%2D%3E2004%2D%3EChapter%20467)