
COLORADO REVISED STATUTES

Title 12 **Professions and Occupations**

Article 37 **Direct-Entry Midwives**

Effective July 1, 2011

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12-37-101. Scope of article-exemptions-legislative declaration.

(1) (a) This article applies only to direct-entry midwives and does not apply to those persons who are otherwise licensed by the state of Colorado under this title if the practice of midwifery is within the scope of such licensure.

(b) (I) A person who is a certified nurse-midwife authorized pursuant to section 12-38-111.5 or a physician as provided in article 36 of this title shall not simultaneously be so licensed and also be registered under this article. A physician or certified nurse-midwife who holds a license in good standing may relinquish the license and subsequently be registered under this article.

(II) A direct-entry midwife shall not represent himself or herself as a nurse-midwife or certified nurse-midwife.

(III) The fact that a direct-entry midwife may hold a practical or professional nursing license does not expand the scope of practice of the direct-entry midwife.

(IV) The fact that a practical or professional nurse may be registered as a direct-entry midwife does not expand the scope of practice of the nurse.

(c) It is the intent of the general assembly that health care be provided pursuant to this article as an alternative to traditional licensed health care and not for the purpose of enabling providers of traditional licensed health care to circumvent the regulatory oversight to which they are otherwise subject under any other article of this title.

(2) Nothing in this article shall be construed to prohibit, or to require registration under this article, with regard to:

(a) The gratuitous rendering of services in an emergency;

(b) The rendering of services by a physician licensed pursuant to article 36 of this title or otherwise legally authorized to practice in this state;

(c) The rendering of services by certified nurse-midwives properly licensed and practicing in accordance with the provisions of article 38 of this title; or

(d) The practice by persons licensed or registered under any law of this state, in accordance with such law, to practice a limited field of the healing arts not specifically designated in this section.

12-37-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) “Client” means a pregnant woman for whom a direct-entry midwife performs services. For purposes of perinatal or postpartum care, “client” includes the woman's newborn.

(2) “Direct-entry midwife” means a person who practices direct-entry midwifery.

(3) “Direct-entry midwifery” or “practice of direct-entry midwifery” means the advising, attending, or assisting of a woman during pregnancy, labor and natural childbirth at home, and during the postpartum period in accordance with this article.

(4) “Director” means the director of the division.

(5) “Division” means the division of registrations in the department of regulatory agencies.

(6) “Natural childbirth” means the birth of a child without the use of instruments, surgical procedures, or prescription drugs other than those for which the direct-entry midwife has specific authority under this article to obtain and administer.

(7) "Postpartum period" means the period of six weeks after birth.

(8) "Registrant" means a direct-entry midwife registered pursuant to section 12-37-103

12-37-103. Requirement for registration with the division of registrations-annual fee-grounds for revocation.

(1) Every direct-entry midwife shall register with the division of registrations by applying to the director in the form and manner the director requires. Said application shall include the information specified in section 12-37-104.

(2) Any changes in the information required by subsection (1) of this section shall be reported within thirty days after the change to the division in the form and manner required by the director.

(3) Every applicant for registration shall pay a registration fee to be established by the director in the manner authorized by section 24-34-105, C.R.S. Registrations shall be renewed or reinstated pursuant to a schedule established by the director and shall be renewed or reinstated pursuant to section 24-34-102 (8), C.R.S. The director may establish renewal fees and delinquency fees for reinstatement pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her registration pursuant to the schedule established by the director, such registration shall expire. Any person whose registration has expired shall be subject to the penalties provided in this article or section 24-34-102 (8), C.R.S.

(4) (Deleted by amendment, L. 96, p. 395, § 2, effective April 17, 1996.)

(4.5) A person who has had his or her registration revoked shall not apply for a new registration until at least two years have elapsed since the date of the revocation.

(5) To qualify to register, a direct-entry midwife must have successfully completed an examination evaluated and approved by the director as an appropriate test to measure competency in the practice of direct-entry midwifery, which examination must have been developed by a person or entity other than the director or the division and the acquisition of which shall require no expenditure of state funds. The national registry examination administered by the midwives' alliance of North America, incorporated, or its successor, must be among those evaluated by the director. The director is authorized to approve any existing test meeting all the criteria set forth in this subsection (5). In addition to successfully completing such examination, a direct-entry midwife is qualified to register if such person has:

(a) Attained the age of nineteen years;

(b) Earned at least a high school diploma or the equivalent;

(c) Successfully completed training approved by the director in:

(I) The provision of care during labor and delivery and during the antepartum and postpartum periods;

(II) Parenting education for prepared childbirth;

(III) Aseptic techniques and universal precautions;

(IV) Management of birth and immediate care of the mother and the newborn;

(V) Recognition of early signs of possible abnormalities;

(VI) Recognition and management of emergency situations;

(VII) Special requirements for home birth;

(VIII) Recognition of communicable diseases affecting the pregnancy, birth, newborn, and postpartum periods; and

(IX) Recognition of the signs and symptoms of increased risk of medical, obstetric, or neonatal complications or problems as set forth in section 12-37-105 (3);

(d) Acquired practical experience including, at a minimum, experience with the conduct of at least one hundred prenatal examinations on no fewer than thirty different women and observation of at least thirty births;

(e) Participated as a birth attendant, including rendering care from the prenatal period through the postpartum period, in connection with at least thirty births; and

(f) Filed documentation with the director that the direct-entry midwife is currently certified by the American heart association or the American red cross to perform adult and infant cardiopulmonary resuscitation (“CPR”).

(6) Effective July 1, 2003, in order to be deemed qualified to register, a direct-entry midwife must have graduated from an accredited midwifery educational program or obtained a substantially equivalent education approved by the director. Such educational requirement does not apply to direct-entry midwives who have registered with the division before July 1, 2003.

(7) For purposes of registration under this article, no credential, licensure, or certification issued by any other state meets the requirements of this article, and therefore there is no reciprocity with other states.

12-37-104. Mandatory disclosure of information to clients.

(1) Every direct-entry midwife shall provide the following information in writing to each client during the initial client contact:

(a) The name, business address, and business phone number of the direct-entry midwife;

(b) A listing of the direct-entry midwife's education, experience, degrees, membership in any professional organization whose membership includes not less than one-third of all registrants, certificates or credentials related to direct-entry midwifery awarded by any such organization, and the length of time and number of contact hours required to obtain said degrees, certificates, or credentials;

(c) A statement indicating whether or not the direct-entry midwife is covered under a policy of liability insurance for the practice of direct-entry midwifery;

(d) A listing of any license, certificate, or registration in the health care field previously or currently held by the direct-entry midwife and suspended or revoked by any local, state, or national health care agency;

(e) A statement that the practice of direct-entry midwifery is regulated by the department of regulatory agencies. The statement must provide the address and telephone number of the office of midwifery registration in the division and shall state that violation of this article may result in revocation of registration and of the authority to practice direct-entry midwifery in Colorado.

(f) A copy of the emergency plan as provided in section 12-37-105 (6);

(g) A statement indicating whether or not the direct-entry midwife will administer vitamin K to the client's newborn infant and, if not, a list of qualified health care practitioners who can provide that service; and

(h) A statement indicating whether or not the direct-entry midwife will administer Rho (D) immune globulin to the client if she is determined to be Rh-negative and, if not, a list of qualified health care practitioners who can provide that service.

(2) Any changes in the information required by subsection (1) of this section shall be reflected in the

mandatory disclosure within five days of the said change.

(3) (Deleted by amendment, L. 2011, (SB 11-088), ch. 283, p. 1261, § 7, effective July 1, 2011.)

12-37-105. Prohibited acts-practice standards-informed consent-emergency plan-risk assessment-referral-rules.

(1) A direct-entry midwife shall not dispense or administer any medication or drugs except in accordance with section 12-37-105.5.

(2) A direct-entry midwife shall not perform any operative or surgical procedure.

(3) A direct-entry midwife shall not provide care to a pregnant woman who, according to generally accepted medical standards, exhibits signs or symptoms of increased risk of medical or obstetric or neonatal complications or problems during the completion of her pregnancy, labor, delivery, or the postpartum period. Such conditions include but are not limited to signs or symptoms of diabetes, multiple gestation, hypertensive disorder, or abnormal presentation of the fetus.

(4) A direct-entry midwife shall not provide care to a pregnant woman who, according to generally accepted medical standards, exhibits signs or symptoms of increased risk that her child may develop complications or problems during the first six weeks of life.

(5) (a) A direct-entry midwife shall keep appropriate records of midwifery-related activity, including but not limited to the following:

(I) The direct-entry midwife shall complete and file a birth certificate for every delivery in accordance with section 25-2-112, C.R.S.

(II) The direct-entry midwife shall complete and maintain appropriate client records for every client.

(III) Before accepting a client for care, the direct-entry midwife shall obtain the client's informed consent, which shall be evidenced by a written statement in a form prescribed by the director and signed by both the direct-entry midwife and the client. The form shall certify that full disclosure has been made and acknowledged by the client as to each of the following items, with the client's acknowledgment evidenced by a separate signature or initials adjacent to each item in addition to the client's signature at the end of the form:

(A) The direct-entry midwife's educational background and training;

(B) The nature and scope of the care to be given, including the possibility of and procedure for transport of the client to a hospital and transferral of care prenatally;

(C) A description of the available alternatives to direct-entry midwifery care, including a statement that the client understands she is not retaining a certified nurse midwife or a nurse midwife;

(D) A description of the risks of birth, including those that are different from those of hospital birth and those conditions that may arise during delivery;

(E) A statement indicating whether or not the direct-entry midwife is covered under a policy of liability insurance for the practice of direct-entry midwifery; and

(F) A statement informing the client that, if subsequent care is required resulting from the acts or omissions of the direct-entry midwife, any physician, nurse, prehospital emergency personnel, and health care institution rendering such care shall be held only to a standard of gross negligence or willful and wanton conduct.

(IV) Until the liability insurance required pursuant to section 12-37-109 (3) is available, each direct-entry midwife shall, before accepting a client for care, provide such client with a disclosure statement

indicating that the midwife does not have liability insurance. Such statement, to comply with this section, must be printed in at least twelve-point bold-faced type and shall be read to the client in a language she understands. Each client shall sign the disclosure statement acknowledging that she understands the effect of its provisions. A copy of the signed disclosure statement shall be given to the client.

(b) As used in this subsection (5), “full disclosure” includes reading the informed consent form to the client, in a language understood by the client, and answering any relevant questions.

(6) A direct-entry midwife shall prepare a plan, in the form and manner required by the director, for emergency situations. The plan must include procedures to be followed in situations in which the time required for transportation to the nearest facility capable of providing appropriate treatment exceeds limits established by the director by rule. A copy of such plan shall be given to each client as part of the informed consent required by subsection (5) of this section.

(7) A direct-entry midwife shall prepare and transmit appropriate specimens for newborn screening in accordance with section 25-4-1004, C.R.S., and shall refer every newborn child for evaluation, within seven days after birth, to a licensed health care provider with expertise in pediatric care.

(8) A direct-entry midwife shall ensure that appropriate laboratory testing, as determined by the director, is completed for each client.

(9) A direct-entry midwife shall provide eye prophylactic therapy to all newborn children in such direct-entry midwife's care in accordance with section 25-4-303, C.R.S.

(10) A direct-entry midwife shall be knowledgeable and skilled in aseptic procedures and the use of universal precautions and shall use them with every client.

(11) To assure that proper risk assessment is completed and that clients who are inappropriate for direct-entry midwifery are referred to other health care providers, the director shall establish, by rule, a risk assessment procedure to be followed by a direct-entry midwife for each client and standards for appropriate referral. Such assessment shall be a part of each client's record as required in section 12-37-105 (5) (a) (II).

(12) At the time of renewal of a registration, each registrant shall submit the following data in the form and manner required by the director:

- (a) The number of women to whom care was provided since the previous registration;
- (b) The number of deliveries performed;
- (c) The Apgar scores of delivered infants, in groupings established by the director;
- (d) The number of prenatal transfers;
- (e) The number of transfers during labor, delivery, and immediately following birth;
- (f) Any perinatal deaths, including the cause of death and a description of the circumstances; and
- (g) Other morbidity statistics as required by the director.

(13) A registered direct-entry midwife may purchase, possess, carry, and administer oxygen. The department of regulatory agencies shall promulgate rules concerning minimum training requirements for direct-entry midwives with respect to the safe administration of oxygen. Each registrant shall complete the minimum training requirements and submit proof of having completed such requirements to the director before administering oxygen to any client.

(14) A registrant shall not practice beyond the scope of his or her education and training or with a mental or physical impairment sufficient to render the registrant unable to perform midwifery services with reasonable skill and with safety to the client.

12-37-105.5. Limited use of certain medications-limited use of sutures-limited administration of intravenous fluids-emergency medical procedures-legislative declaration-rules-repeal.

(1) A registrant may obtain prescription medications to treat conditions specified in this section from a registered prescription drug outlet, registered manufacturer, or registered wholesaler. An entity that provides a prescription medication to a registrant in accordance with this section, and who relies in good faith upon the registration information provided by the registrant, is not subject to liability for providing the medication.

(2) Except as otherwise provided in subsection (3) of this section, a registrant may obtain and administer:

- (a) Vitamin K to newborns by intramuscular injection;
- (b) Rho(D) immune globulin to Rh-negative mothers by intramuscular injection;
- (c) Postpartum antihemorrhagic drugs to mothers; and
- (d) Eye prophylaxis, approved pursuant to section 25-4-303, C.R.S., to newborns.

(3) (a) If a client refuses a medication listed in paragraph (a) or (b) of subsection (2) of this section, the registrant shall provide the client with an informed consent form containing a detailed statement of the benefits of the medication and the risks of refusal, and shall retain a copy of the form acknowledged and signed by the client.

(b) If a client experiences uncontrollable postpartum hemorrhage and refuses treatment with antihemorrhagic drugs, the registrant shall immediately initiate the transportation of the client in accordance with the emergency plan.

(4) A registrant shall, as part of the emergency medical plan required by section 12-37-105 (6), inform the client that:

(a) If she experiences uncontrollable postpartum hemorrhage, the registrant is required by Colorado law to initiate emergency medical treatment, which may include the administration of an antihemorrhagic drug by the registrant to mitigate the postpartum hemorrhaging while initiating the immediate transportation of the client in accordance with the emergency plan.

(b) If she experiences postpartum hemorrhage, the registrant is prepared and equipped to administer intravenous fluids to restore volume lost due to excessive bleeding.

(5) The director shall promulgate rules to implement this section. In promulgating such rules, the director shall seek the advice of knowledgeable medical professionals to set standards for education, training, and administration that reflect current generally accepted professional standards for the safe and effective use of the medications, methods of administration, and procedures described in this section, including a requirement that, to administer intravenous fluids, the registrant complete an intravenous therapy course or program approved by the director. The director shall establish a preferred drug list that displays the medications that a registrant can obtain.

(6) (a) The general assembly finds, determines, and declares that the issue of whether registrants should be authorized to perform suturing of perineal tears and, if so, what standards for education, training, and practice should be established for the exercise of that authority, is an issue requiring thorough study and consideration. Therefore, as soon as is practicable, representatives of the medical community, the midwife community, the department of regulatory agencies, and other interested parties shall meet and discuss the issue in an effort to reach an accord on what legislative and regulatory changes are appropriate to ensure greater client choice without unduly compromising client safety. The parties to

these meetings and discussions shall make the results publicly available through posting on the division's web site or by other appropriate means.

(b) This subsection (6) is repealed, effective July 1, 2013.

12-37-106. Director-powers and duties.

(1) In addition to any other powers and duties conferred on the director by law, the director has the following powers and duties:

(a) To adopt such rules as may be necessary to carry out the provisions of this article;

(b) To establish the fees for registration and renewal of registration in the manner authorized by section 24-34-105, C.R.S.;

(c) To prepare or adopt suitable education standards for applicants and to adopt a registration examination;

(d) To accept applications for registration that meet the requirements set forth in this article, and to collect the annual registration fees authorized by this article;

(e) To seek, through the office of the attorney general, an injunction in a court of competent jurisdiction to enjoin any person from committing an act prohibited by this article. When seeking an injunction under this paragraph (e), the director shall not be required to allege or prove the inadequacy of any remedy at law or that substantial or irreparable damage is likely to result from a continued violation of this article.

(f) To summarily suspend a registration upon the failure of the registrant to comply with any condition of a stipulation or order imposed by the director until the registrant complies with the condition, unless compliance is beyond the control of the registrant.

12-37-107. Disciplinary action authorized-grounds for discipline-injunctions-rules.

(1) If a direct-entry midwife has violated any of the provisions of section 12-37-103, 12-37-104, 12-37-105, or 12-37-109 (3), the director may deny, revoke, or suspend a registration, issue a letter of admonition to a registrant, place a registrant on probation, or apply for a temporary or permanent injunction against a direct-entry midwife, through the attorney general, in any court of competent jurisdiction, enjoining such direct-entry midwife from practicing midwifery or committing any such violation. Injunctive proceedings under this subsection (1) shall be in addition to, and not in lieu of, any other penalties or remedies provided in this article.

(2) (a) (I) The director may assess a civil penalty in the form of a fine, not to exceed five thousand dollars, for violation of a rule or order of the director or any other act or omission prohibited by this article.

(II) The director shall adopt rules establishing a fine structure and the circumstances under which fines may be imposed.

(b) Any moneys collected pursuant to this subsection (2) shall be transmitted to the state treasurer, who shall credit such moneys to the general fund.

(3) The director may deny, revoke, or suspend a registration or issue a letter of admonition or place a registrant on probation for any of the following acts or omissions:

(a) Any violation of section 12-37-103, 12-37-104, 12-37-105, or 12-37-109 (3);

(b) Failing to provide any information required pursuant to, or to pay any fee assessed in accordance with, section 12-37-103 or providing false, deceptive, or misleading information to the division that the

direct-entry midwife knew or should reasonably have known was false, deceptive, or misleading;

(c) Failing to respond in an honest, materially responsive, and timely manner to a letter of complaint from the director;

(d) Failing to comply with an order of the director, including an order placing conditions or restrictions on the registrant's practice;

(e) Engaging in any act or omission that does not meet generally accepted standards of safe care for women and infants, whether or not actual injury to a client is established;

(f) Abuse or habitual or excessive use of a habit-forming drug, a controlled substance as defined in section 12-22-303 (7), or alcohol;

(g) Procuring or attempting to procure a registration in this or any other state or jurisdiction by fraud, deceit, misrepresentation, misleading omission, or material misstatement of fact;

(h) Having had a license or registration to practice direct-entry midwifery or any other health care profession or occupation suspended or revoked in any jurisdiction;

(i) Violating any law or regulation governing the practice of direct-entry midwifery in another state or jurisdiction. A plea of nolo contendere or its equivalent accepted by any state agency of another state or jurisdiction may be considered to be the same as a finding of violation for purposes of a proceeding under this article.

(j) Falsifying, failing to make essential entries in, or in a negligent manner making incorrect entries in client records;

(k) Conviction of a felony or acceptance by a court of a plea of guilty or nolo contendere to a felony. A certified copy of the judgment of a court of competent jurisdiction of such conviction or plea shall be prima facie evidence of such conviction.

(l) Aiding or knowingly permitting any person to violate any provision of this article; or

(m) Advertising through newspapers, magazines, circulars, direct mail, directories, radio, television, web site, e-mail, text message, or otherwise that the registrant will perform any act prohibited by this article.

(4) Any proceeding to deny, suspend, or revoke a registration or place a registrant on probation shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S. Such proceeding may be conducted by an administrative law judge designated pursuant to part 10 of article 30 of title 24, C.R.S. Any final decision of the director shall be subject to judicial review by the court of appeals pursuant to section 24-4-106 (11), C.R.S.

(5) The director may accept as prima facie evidence of grounds for disciplinary action any disciplinary action taken against a registrant by another jurisdiction if the violation that prompted such disciplinary action would be grounds for disciplinary action under this article.

(6) (a) The director or an administrative law judge may administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all relevant papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter coming before the director. The director may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the director, including copies of hospital and physician records. The provider of such copies shall prepare the copies from the original record and shall delete the name of the patient or client, to be retained by the custodian of the records from which the copies were made, but shall identify the patient or client by a numbered code. Upon certification by the custodian that the copies are true and complete except for the

patient's or client's name, the copies shall be deemed authentic, subject to the right to inspect the originals for the limited purpose of ascertaining the accuracy of the copies. No privilege of confidentiality exists with respect to such copies and no liability lies against the director or the custodian or the director's or custodian's authorized employees for furnishing or using such copies in accordance with this section.

(b) Upon failure of any witness to comply with such subpoena or process, the district court of the county in which the subpoenaed person or registrant resides or conducts business, upon application by the director with notice to the subpoenaed person or registrant, may issue to the person or registrant an order requiring that person or registrant to appear before the director; to produce the relevant papers, books, records, documentary evidence, or materials if so ordered; or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(7) (a) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the director, does not warrant formal action by the director but that should not be dismissed as being without merit, a letter of admonition may be issued and sent, by certified mail, to the registrant.

(b) When a letter of admonition is sent by the director, by certified mail, to a registrant, such registrant shall be advised that he or she has the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(c) If the request for adjudication is timely made, the letter of admonition is vacated and the matter shall be processed by means of formal disciplinary proceedings.

(7.5) When a complaint or investigation discloses an instance of conduct that does not warrant formal action by the director and, in the opinion of the director, the complaint should be dismissed, but the director has noticed indications of possible errant conduct by the registrant that could lead to serious consequences if not corrected, a confidential letter of concern may be issued and sent to the registrant.

(8) When a complaint or an investigation discloses an instance of misconduct that, in the opinion of the director, warrants formal action, the complaint shall not be resolved by a deferred settlement, action, judgment, or prosecution.

(9) (a) If it appears to the director, based upon credible evidence as presented in a written complaint by any person, that a registrant is acting in a manner that is an imminent threat to the health and safety of the public or a person is acting or has acted without the required registration, the director may issue an order to cease and desist such activity. The order shall set forth the statutes and rules alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all unlawful acts or unregistered practices immediately cease.

(b) Within ten days after service of the order to cease and desist pursuant to paragraph (a) of this subsection (9), the respondent may request a hearing on the question of whether acts or practices in violation of this article have occurred. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

(10) (a) If it appears to the director, based upon credible evidence as presented in a written complaint by any person, that a person has violated any other portion of this article, then, in addition to any specific powers granted pursuant to this article, the director may issue to such person an order to show cause as to why the director should not issue a final order directing such person to cease and desist from the unlawful act or unregistered practice.

(b) A person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (10) shall be promptly notified by the director of the issuance of the order, along with a copy of the order, the factual and legal basis for the order, and the date set by the director for a hearing on the

order. Such notice may be served by personal service, by first-class United States mail, postage prepaid, or as may be practicable upon any person against whom such order is issued. Personal service or mailing of an order or document pursuant to this subsection (10) shall constitute notice thereof to the person.

(c) (I) The hearing on an order to show cause shall be commenced no sooner than ten and no later than forty-five calendar days after the date of transmission or service of the notification by the director as provided in paragraph (b) of this subsection (10). The hearing may be continued by agreement of all parties based upon the complexity of the matter, number of parties to the matter, and legal issues presented in the matter, but in no event shall the hearing commence later than sixty calendar days after the date of transmission or service of the notification.

(II) If a person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (10) does not appear at the hearing, the director may present evidence that notification was properly sent or served upon such person pursuant to paragraph (b) of this subsection (10) and such other evidence related to the matter as the director deems appropriate. The director shall issue the order within ten days after the director's determination related to reasonable attempts to notify the respondent, and the order shall become final as to that person by operation of law. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

(III) If the director reasonably finds that the person against whom the order to show cause was issued is acting or has acted without the required registration or has or is about to engage in acts or practices constituting violations of this article, a final cease-and-desist order may be issued directing such person to cease and desist from further unlawful acts or unregistered practices.

(IV) The director shall provide notice, in the manner set forth in paragraph (b) of this subsection (10), of the final cease-and-desist order within ten calendar days after the hearing conducted pursuant to this paragraph (c) to each person against whom the final order has been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall be effective when issued and shall be a final order for purposes of judicial review.

(11) If it appears to the director, based upon credible evidence presented to the director, that a person has engaged in or is about to engage in any unregistered act or practice, any act or practice constituting a violation of this article, any rule promulgated pursuant to this article, any order issued pursuant to this article, or any act or practice constituting grounds for administrative sanction pursuant to this article, the director may enter into a stipulation with such person.

(12) If any person fails to comply with a final cease-and-desist order or a stipulation, the director may request the attorney general or the district attorney for the judicial district in which the alleged violation exists to bring, and if so requested such attorney shall bring, suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of the final order.

(13) A person aggrieved by the final cease-and-desist order may seek judicial review of the director's determination or of the director's final order in a court of competent jurisdiction.

12-37-108. Unauthorized practice-penalties.

Any person who practices or offers or attempts to practice direct-entry midwifery without an active registration issued under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and, for the second or any subsequent offense, such person commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-37-109. Assumption of risk-no vicarious liability-legislative declaration

(1) (a) It is the policy of this state that registrants shall be liable for their acts or omissions in the performance of the services that they provide, and that no licensed physician, nurse, prehospital

emergency medical personnel, or health care institution shall be liable for any act or omission resulting from the administration of services by any registrant. This subsection (1) does not relieve any physician, nurse, prehospital emergency personnel, or health care institution from liability for any willful and wanton act or omission or any act or omission constituting gross negligence, or under circumstances where a registrant has a business or supervised relationship with any such physician, nurse, prehospital emergency personnel, or health care institution. A physician, nurse, prehospital emergency personnel, or health care institution may provide consultation or education to the registrant without establishing a business or supervisory relationship, and is encouraged to accept referrals from registrants pursuant to this article.

(b) (Deleted by amendment, L. 2011, (SB 11-088), ch. 283, p. 1268, § 12, effective July 1, 2011.)

(2) (Deleted by amendment, L. 2011, (SB 11-088), Ch. 283, p. 1268, § 12, effective July 1, 2011.)

(3) If the director finds that liability insurance is available at an affordable price, registrants shall be required to carry such insurance.

12-37-109.5. Immunity.

The director, the director's staff, any person acting as a witness or consultant to the director, any witness testifying in a proceeding authorized under this article, and any person who lodges a complaint pursuant to this article shall be immune from liability in any civil action brought against him or her for acts occurring while acting in his or her capacity as director, staff, consultant, or witness, respectively, if such individual was acting in good faith within the scope of his or her respective capacity, made a reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable belief that the action taken by him or her was warranted by the facts. Any person participating in good faith in lodging a complaint or participating in any investigative or administrative proceeding pursuant to this article shall be immune from any civil or criminal liability that may result from such participation.

12-37-109.7. Confidential files.

The director may keep confidential all files and information concerning an investigation authorized under this article until the results of the investigation are provided to the director and either the complaint is dismissed or notice of hearing and charges are served upon the person subject to the investigation.

12-37-110. Repeal of article.

(1) This article is repealed, effective September 1, 2016.

(2) Prior to such repeal, the registering of direct-entry midwives by the division of registrations shall be reviewed as provided in section 24-34-104, C.R.S.