

Board of Nursing – State of Idaho



PO Box 83720 (Mailing) 280 North 8th Street, Suite 210
Boise, Idaho 83720-0061
(208) 334-3110
Fax (208) 334-3262
TDD - 1-800-377-3529

INTERPRETIVE STATEMENT REGARDING MIDWIFERY

Statute: § 54-1413(1)(h), Idaho Code (Disciplinary Action)

Rules: IDAPA 23.01.01.100.09 (Grounds for Discipline)

IDAPA 23.01.01.101.04 (Standards of Conduct)

IDAPA 23.01.01.400.01 (Determining Scope of Practice)

Background:

The Board of Nursing (BON) regulates three (3) levels of nurses: licensed practical nurses (LPN), professional or registered nurses (RN), and advanced practice professional nurse (APPN). One of the four (4) roles of advanced practice nursing is nurse midwifery. A licensed RN who has graduated from a nurse midwifery education program accredited by the Accreditation Commission for Midwifery Education (ACME), passed a qualifying examination recognized by the BON and holds current certification from a BON recognized national organization, is qualified to be licensed by the BON as a “Certified Nurse-Midwife” (CNM). A CNM is educated at the BSN level or higher in the disciplines of both nursing and midwifery. A CNM provides primary healthcare to women of childbearing age and beyond, including before, during and after pregnancy and birth. A CNM’s practice includes the authority to diagnose and prescribe.

The Board of Midwifery regulates non-nurse midwives under the provisions of title 54, chapter 55, Idaho Code. A person issued a license by the Board of Midwifery is known as a “Licensed Midwife” (L.M.). Under these statutes, an L.M. is not required to have the special education, training or qualifications of a nurse. The scope of practice for an L.M. is severely restricted by statute and an L.M. is strictly prohibited from performing nursing functions.

While statute (§ 54-5508) allows a CNM to become licensed as an L.M., Idaho statutes are silent on the question of whether an LPN or RN can become an L.M.

Issue/Concern:

Is allowing an LPN or an RN, who is not also a CNM, to become licensed by the Board of Midwifery as an L.M., consistent with the intent and purposes of the BON’s statutes and rules?

Interpretation/Conclusion:

The BON’s primary statutory charge is to safeguard and protect the public from, among other things, “acts or conduct which may endanger the [public’s] health and safety.” Section 54-1401, Idaho Code. Conduct that tends to deceive, mislead or endanger a patient or the public is grounds for discipline of a licensed nurse. Section 54-1413(1)(h), Idaho Code, and BON rule 100.09. A nurse shall not assume any duty or perform any act within the practice of nursing for which she has not been adequately trained and qualified. BON Rule 101.04a Finally, a nurse must evaluate her conduct and determine whether or not each particular act is

within the legal scope of her license, including whether the act is limited to the scope of practice of an advanced practice nurse. BON Rule 400.01.

Historically, the BON has interpreted its statutes and rules to prohibit an LPN or an RN not also licensed as a CNM, from performing the practice of midwifery. This was because the discipline of midwifery exceeded the education, training and qualifications of either an LPN or an RN, and exclusively fell within the scope of practice of a CNM. The enactment of title 54, chapter 55, Idaho Code, in 2009 authorizing licensing on non-nurse midwives by the Board of Midwifery does not change or alleviate this concern. Indeed it heightens the concern. A nurse/L.M. will, either intentionally or unwittingly, exceed the scope of her nursing practice while performing as a midwife because of inherent disparities between the two disciplines. Furthermore, allowing an LPN or an RN to also be licensed as a non-nurse midwife (that is, a L.M.) creates the real and substantial potential that the public will be misled, deceived or confused regarding the qualifications of the nurse, to the extent that the public may reasonably believe that the nurse/L.M. is in actuality a CNM.

For the forgoing reasons, the BON is of the opinion that allowing an LPN or an RN, who is not also a CNM, to become licensed by the Board of Midwifery as an L.M., is inconsistent with the BON's philosophy on nursing practice, could potentially compromise the nurse's license specific to role and scope of practice and could potentially lead to the public misinterpreting the nurse's role. It is also inconsistent with the apparent intent of the legislature in passing the non-nurse midwifery legislation to authorize an alternative to traditional licensed health care (but only under carefully defined limits, restrictions and circumstances), and not for the purpose of enabling providers of traditional licensed health care (i.e., nurses licensed by the BON) to circumvent the regulatory oversight of the Board.

Adopted November 4, 2010 by Board of Nursing.