

NURSING BOARD[655]

Notice of Intended Action

**Proposing rulemaking related to certified professional midwives
and providing an opportunity for public comment**

The Board of Nursing hereby proposes to adopt a new Chapter 16, “Certified Professional Midwives,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 148I.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2023 Iowa Acts, House File 265.

Purpose and Summary

This proposed rulemaking implements 2023 Iowa Acts, House File 265, by creating rules for the licensure and regulation of certified professional midwives. The proposed chapter sets out requirements for certified professional midwives to obtain a license in the state of Iowa, including initial licensure, renewal and reactivation.

A Regulatory Analysis was published in the March 20, 2024, Iowa Administrative Bulletin. A public hearing on the Regulatory Analysis was held on April 9, 2024. No public comments were received at the public hearing. The Board received one written public comment related to the requirement of submitting a high school diploma, language regarding consultation/referral for high-risk pregnancies, and a recommendation to remove the list of reasons to refer contained in paragraph 16.3(6)“b.” The Board made no changes from the Regulatory Analysis based on these comments and will continue to seek public comment throughout the process on these items.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 655—Chapter 15.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking. Written or oral comments in response to this rulemaking must be received by the Department of Inspections, Appeals, and Licensing no later than 4:30 p.m. on June 4, 2024. Comments should be directed to:

Emily DeRonde
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.249.7038
Email: emily.deronde@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

June 4, 2024 10 to 10:30 a.m.	6200 Park Avenue Des Moines, Iowa
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June 5, 2024 10 to 10:30 a.m.	6200 Park Avenue Des Moines, Iowa
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Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 655—Chapter 16:

CHAPTER 16 CERTIFIED PROFESSIONAL MIDWIVES

655—16.1(148I) Definitions. As used in this chapter, in addition to those listed below, definitions as stated in Iowa Code section 148I.1 apply to this chapter.

“*Administer*” means the same as defined in Iowa Code section 155A.3(1).

“*Consultation*” means discussing the aspects of an individual client’s circumstance with other professionals to ensure comprehensive and quality care for the client, consistent with the objectives in the client’s treatment plan or for purposes of making adjustments to the client’s treatment plan. Consultation may include history-taking; examination of the client; rendering an opinion concerning diagnosis or treatment; or offering service, assistance or advice.

“*Professional conduct*” means behavior that adheres to the practice standards set out in rule 655—16.3(148I).

“*Unprofessional conduct*” means unethical conduct, including but not limited to acts or behavior that is inconsistent with Iowa Code chapter 148I or any violations of this chapter.

655—16.2(148I) Licensure.

16.2(1) Initial license. An individual seeking initial licensure as a certified professional midwife (CPM) will submit the following:

- a. A completed application for licensure.
- b. Payment of the application fee.

c. A dated copy of the applicant's current certification issued by the North American Registry of Midwives or its successor organization, including the applicant's education or midwifery bridge certificate in accordance with Iowa Code section 148I.2.

d. An official transcript or certificate denoting the date of high school graduation and diploma or equivalent.

e. A dated certificate of completion of mandatory reporter training.

f. A written plan in accordance with Iowa Code section 148I.4(1) "g."

g. Two completed fingerprint cards and a signed waiver form to facilitate a national criminal history background check.

h. If the applicant has a criminal history, a copy of all documents required by rule 655—3.11(272C).

16.2(2) *Renewal of license.* A CPM license may be renewed beginning 60 days prior to the license expiration date and ending 30 days after the license expiration date. To renew, a licensee shall submit the following:

a. A completed application for licensure.

b. Payment of the application fee.

c. A dated copy of the applicant's current certification issued by the North American Registry of Midwives or its successor organization.

d. Attestation of fulfillment of the continuing education and peer review requirements established by the North American Registry of Midwives or its successor organization.

e. Attestation of reporting client data to the Iowa department of health and human services by way of filing the paperwork required to obtain a birth certificate in accordance with Iowa Code section 148I.4(1) "i."

16.2(3) *Inactive status.* Failure to renew a CPM license within 30 days after its expiration will result in an inactive CPM license.

a. Continuing to work as a CPM with an inactive CPM license may result in disciplinary action.

b. To reactivate the license, the licensee must complete the license renewal process established in subrule 16.2(2).

16.2(4) *Fees.* The following fees apply to licensure for CPMs.

a. Application fee for an initial license is \$81 for a period of licensure up to three years.

b. Evaluation fee of the fingerprint cards and the criminal history background check by the Federal Bureau of Investigation (FBI) and the state division of criminal investigation (DCI) is \$50.

c. Fee for renewal of license to practice as a CPM is \$81.

d. Fee for late renewal of a license to practice as a CPM is \$50, plus the renewal fee.

e. Fee for reactivation of a license to practice as a CPM is \$81 for any period of licensure up to three years.

f. All other fees are the same as defined in rule 655—3.1(148I).

16.2(5) *Exceptions to licensure.* Exceptions to licensure are established in Iowa Code section 148I.3.

655—16.3(148I) Practice standards. A CPM shall practice within the legal boundaries for certified professional midwifery as set forth in Iowa Code chapter 148I, this chapter, and any other pertinent law or regulation. A licensed CPM shall:

16.3(1) Comply with the practice standards accepted by the North American Registry of Midwives as defined by the National Association of Certified Professional Midwives (NACPM) or its successor organization, as of February 1, 2024, found at nacpm.org.

16.3(2) Demonstrate professionalism and accountability in the practice of certified professional midwifery, including:

a. Demonstrating honesty and integrity in practice.

b. Basing decisions in practice on knowledge, judgment, skills, and the needs of clients.

c. Maintaining competence through completion of the continuing education requirements in subrule 16.2(2) and application of such education in practice.

d. Reporting to appropriate authorities instances of unsafe practice by a CPM.

e. Being accountable for judgments and individual actions as a CPM and competence, decisions, and behaviors in the practice of certified professional midwifery.

16.3(3) Maintain a record of, and provide to each client orally and by written consent form, all information and consents in accordance with Iowa Code section 148I.4(1)“*h.*”

16.3(4) Comply with Iowa Code sections 136A.6 and 136A.5A.

16.3(5) File a birth certificate for each birth in accordance with Iowa Code section 148I.4.

16.3(6) Consult with a licensed physician or certified nurse midwife for high-risk pregnancies and births.

a. A CPM shall consult with a licensed physician or a certified nurse midwife providing obstetrical care whenever there are significant deviations, including but not limited to abnormal laboratory results, relative to a client’s pregnancy or to a neonate. If a referral to a physician is needed, the CPM shall refer the client to a physician and, if possible, remain in consultation with the physician until resolution of the concern.

b. A CPM shall consult with a licensed physician or certified nurse midwife with regard to any mother who presents with or develops the following risk factors or presents with or develops other risk factors that in the judgment of the CPM warrant consultation:

(1) Antepartum.

1. Pregnancy-induced hypertension, as evidenced by a blood pressure of 140/90 on two occasions greater than six hours apart.

2. Persistent, severe headaches; epigastric pain; or visual disturbances.

3. Persistent symptoms of urinary tract infection.

4. Significant vaginal bleeding before the onset of labor not associated with uncomplicated spontaneous abortion.

5. Rupture of membranes prior to the thirty-seventh week of gestation.

6. Noted abnormal decrease in or cessation of fetal movement.

7. Anemia resistant to supplemental therapy.

8. Fever of 102°F or 39°C or greater for more than 24 hours.

9. Nonvertex presentation after 38 weeks of gestation.

10. Hyperemesis or significant dehydration.

11. Isoimmunization, Rh-negative sensitized, positive titers, or any other positive antibody titer that may have a detrimental effect on mother or fetus.

12. Elevated blood glucose level unresponsive to dietary management.

13. Positive HIV antibody test.

14. Primary genital herpes infection in pregnancy.

15. Symptoms of malnutrition or anorexia or protracted weight loss or failure to gain weight.

16. Suspected deep vein thrombosis.

17. Documented placental anomaly or previa.

18. Documented low-lying placenta in a woman with a history of previous cesarean delivery.

19. Labor prior to the thirty-seventh week of gestation.

20. History of prior uterine incision.

21. Lie other than vertex at term.

22. Known fetal anomalies that may be affected by the site of birth.

23. Marked abnormal fetal heart tones.

24. Abnormal nonstress test or abnormal biophysical profile.

25. Marked or severe polyhydramnios or oligohydramnios.

26. Evidence of intrauterine growth restriction.

27. Significant abnormal ultrasound findings.

28. Gestation beyond 42 weeks by reliable confirmed dates.

(2) Intrapartum.

1. Rise in blood pressure above baseline, more than 30/15 points or greater than 140/90.

2. Persistent, severe headaches; epigastric pain; or visual disturbances.

3. Significant proteinuria or ketonuria.

4. Fever over 100.6°F or 38°C in absence of environmental factors.
 5. Ruptured membranes without onset of established labor after 18 hours.
 6. Significant bleeding prior to delivery or any abnormal bleeding, with or without abdominal pain; or evidence of placental abruption.
 7. Lie not compatible with spontaneous vaginal delivery or unstable fetal lie.
 8. Failure to progress after five hours of active labor or following two hours of active second-stage labor.
 9. Signs and symptoms of maternal infection.
 10. Active genital herpes at onset of labor.
 11. Fetal heart tones with nonreassuring patterns.
 12. Signs or symptoms of fetal distress.
 13. Thick meconium or frank bleeding with birth not imminent.
 14. Client or CPM desires physician consultation or transfer.
- (3) Postpartum.
1. Failure to void within six hours of birth.
 2. Signs or symptoms of maternal shock.
 3. Febrile: 102°F or 39°C and unresponsive to therapy for 12 hours.
 4. Abnormal lochia or signs or symptoms of uterine sepsis.
 5. Suspected deep vein thrombosis.
 6. Signs of clinically significant depression.
- c. A CPM shall consult with a licensed physician or certified nurse midwife with regard to any neonate who is born with or develops the following risk factors:
- (1) Apgar score of six or less at five minutes without significant improvement by ten minutes.
 - (2) Persistent grunting respirations or retractions.
 - (3) Persistent cardiac irregularities.
 - (4) Persistent central cyanosis or pallor.
 - (5) Persistent lethargy or poor muscle tone.
 - (6) Abnormal cry.
 - (7) Birth weight less than 2,300 grams.
 - (8) Jitteriness or seizures.
 - (9) Jaundice occurring before 24 hours or outside of normal range.
 - (10) Failure to urinate within 24 hours of birth.
 - (11) Failure to pass meconium within 48 hours of birth.
 - (12) Edema.
 - (13) Prolonged temperature instability.
 - (14) Significant signs or symptoms of infection.
 - (15) Significant clinical evidence of glycemic instability.
 - (16) Abnormal, bulging, or depressed fontanel.
 - (17) Significant clinical evidence of prematurity.
 - (18) Medically significant congenital anomalies.
 - (19) Significant or suspected birth injury.
 - (20) Persistent inability to suck.
 - (21) Diminished consciousness.
 - (22) Clinically significant abnormalities in vital signs, muscle tone or behavior.
 - (23) Clinically significant color abnormality, cyanotic, or pale or abnormal perfusion.
 - (24) Abdominal distension or projectile vomiting.
 - (25) Signs of clinically significant dehydration or failure to thrive.
- 16.3(7)** Not use forceps or a vacuum extractor in accordance with Iowa Code section 148I.4.

655—16.4(148I) Delegation process.

16.4(1) *Delegation to another CPM.* The CPM shall apply the delegation process when delegating to another CPM by:

- a. Delegating only those midwifery tasks that fall within the delegate's scope of practice, education, experience, and competence.
- b. Matching the client's needs and circumstances with the delegate's qualifications and resources.
- c. Communicating directions and expectations for completion of the delegated activity and receiving confirmation of understanding of the communication from the delegate.
- d. Monitoring performance, progress and outcomes and ensuring appropriate documentation is complete.
- e. Evaluating client outcomes as a result of the delegation process.
- f. Intervening when problems are identified and revising plan of care when needed.
- g. Retaining accountability for properly implementing the delegation process.
- h. Promoting a safe and therapeutic environment by:
 - (1) Providing appropriate monitoring of the care environment.
 - (2) Identifying unsafe care situations.
 - (3) Correcting problems or referring problems to a physician as described in Iowa Code section 148.1 or advanced registered nurse practitioner as defined in Iowa Code section 152.1.

16.4(2) *Delegation to unlicensed assistive personnel (UAP)*. The CPM shall apply the delegation process when delegating to UAP by:

- a. Ensuring UAP have the appropriate education and training and have demonstrated competency to perform the delegated task.
- b. Ensuring the task does not require assessment, interpretation, and independent midwifery judgment or midwifery decision during the performance or completion of the task.
- c. Ensuring the task does not exceed the scope of practice of a CPM.
- d. Verifying that, in the professional judgment of the delegating CPM, the task poses minimal risk to the patient.
- e. Communicating directions and expectations for completion of the delegated activity and receiving confirmation of understanding of the communication from UAP.
- f. Supervising UAP and evaluating the client outcomes of the delegated task.

655—16.5(148I) Testing and drugs.

16.5(1) A licensee may:

- a. Obtain and administer drugs in accordance with Iowa Code section 148I.4.
- b. Request board approval to obtain and administer other drugs, not otherwise stated in Iowa Code section 148I.4(1) "d," consistent with the practice of certified professional midwifery.
- c. Obtain appropriate screening and testing for clients in accordance with Iowa Code section 148I.4(1) "c."
- d. Administer prescription drugs prescribed by a licensed health care provider to a client in accordance with Iowa Code section 148I.4(1) "e."

16.5(2) A licensee who dispenses or administers controlled substances must adhere to 657—Chapter 10.

16.5(3) Standards of practice for controlled substances. In addition to following the standards of practice for treating a client described in rule 655—16.3(148I), a CPM who administers a controlled substance shall practice in accordance with the following:

- a. The client's health history will include a personal and family substance abuse risk assessment performed by a licensed prescribing health care provider or the documented rationale for not performing the assessment.
- b. The client's health record must include documentation of the presence of one or more recognized indications for the use of a controlled substance.
- c. A CPM who administers any controlled substance will maintain an active Drug Enforcement Administration (DEA) registration and active controlled substances Act (CSA) registration when required by the DEA and the board of pharmacy.

655—16.6(148I) Discipline. A licensee may be disciplined for failure to comply with Iowa Code chapter 148I or this chapter or for any wrongful act or omission related to the licensee’s practice, licensure, or professional conduct, including but not limited to the following:

16.6(1) In accordance with Iowa Code section 147.55(1), behavior that constitutes fraud in procuring a license that may include but need not be limited to the following:

a. Falsification of the application, certification, or records submitted to the board for licensure or license renewal as a CPM.

b. Fraud, misrepresentation, or deceit in taking the licensing examination or in obtaining a license as a CPM.

16.6(2) In accordance with Iowa Code section 147.55(2), professional incompetency that may include but need not be limited to the following:

a. Lack of knowledge, skill, or ability to discharge professional obligations within the scope of the practice of midwifery.

b. Deviation by the licensee from the standards of learning, education, or skill ordinarily possessed and applied by other CPMs in the state of Iowa acting in the same or similar circumstances.

c. Willful or repeated departure from or failure to form to the minimum standards of acceptable and prevailing practice of midwifery in the state of Iowa.

16.6(3) In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) that constitutes unethical conduct or practice harmful or detrimental to the public that may include but need not be limited to the following:

a. Engaging in practice contradictory to NACPM standards of practice.

b. Performing services beyond the authorized scope of practice for which the individual is licensed or prepared.

c. Allowing another person to use one’s license for any purpose.

d. Failing to comply with any rule promulgated by the board related to minimum standards of care.

e. Improper delegation of services, functions or responsibilities.

f. Committing an act or omission that may adversely affect the physical or psychosocial welfare of the client.

g. Committing an act that causes physical, emotional, or financial injury to the client.

h. Violating the confidentiality or privacy rights of the client.

i. Discriminating against a client because of age, sex, race, ethnicity, national origin, creed, illness, disability, sexual orientation, or economic or social status.

j. Failing to assess, accurately document, evaluate, or report the status of a client when necessary.

k. Misappropriating or attempting to misappropriate medications, property, supplies, or equipment of the client.

l. Fraudulently or inappropriately using or permitting the use of prescriptions, obtaining or attempting to obtain prescription medications under false pretenses, or assisting others to obtain or attempt to obtain prescription medication under false pretenses.

m. Practicing midwifery while under the influence of alcohol, marijuana, or illicit drugs or while impaired by the use of pharmacological agents or medications, even if legitimately prescribed.

n. Being involved in the unauthorized manufacture or distribution of a controlled substance.

o. Being involved in the unauthorized possession or use of a controlled substance.

p. Engaging in behavior that is contradictory to professional decorum.

q. Failing to report suspected wrongful acts or omissions committed by the licensee of the board.

r. Failing to comply with an order of the board.

s. Administering drugs:

(1) In an unsafe manner.

(2) Without accurately documenting the drug or without assessing, evaluating, or instructing the patient or client.

(3) To individuals who are not clients.

t. Failing to properly safeguard or secure medications.

u. Failing to properly document or perform medication wastage.

16.6(4) In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) that constitutes unethical conduct or practice harmful or detrimental to the public that may include but need not be limited to the professional boundaries violations in paragraphs 16.6(4) “*a*” through “*e*.” For purposes of this subrule, “client” includes the client and the client’s family that are present with the client while the client is under the care of the licensee.

a. Sexual contact with a client, regardless of the client’s consent.

b. Making lewd, suggestive, demeaning, or otherwise sexual comments, regardless of client consent.

c. Participating in, initiating, or attempting to initiate a sexual or emotional relationship with a client, regardless of client consent.

d. Soliciting, borrowing, or misappropriating money or property from a client, regardless of client consent.

e. Engaging in a sexual, emotional, social or business relationship with a former client when there is a risk of exploitation or harm to the client, regardless of client consent.

16.6(5) In accordance with Iowa Code section 147.55(4), habitual intoxication or addiction to the use of drugs that may include but need not be limited to the following:

a. Excessive use of alcohol that may impair a licensee’s ability to practice the profession with reasonable skill and safety.

b. Excessive use of drugs that may impair a licensee’s ability to practice the profession with reasonable skill and safety.

16.6(6) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or if the circumstances under which the offense was committed are circumstances customary to the profession.

16.6(7) In accordance with Iowa Code section 147.55(5), fraud in representation as to skill or ability.

16.6(8) In accordance with Iowa Code section 147.55(6), use of untruthful or improbable statements in advertisements.

16.6(9) In accordance with Iowa Code section 147.55(7), willful or repeated violations of provisions of Iowa Code chapter 147, 148I, or 272C.

16.6(10) In accordance with Iowa Code section 147.55(10), other acts or offenses as specified by board rules, including the following:

a. Failing to provide written notification of a change of address to the board within 30 days of the event.

b. Failing to notify the board within 30 days from the date of the final decision in a disciplinary action taken by the licensing authority of another state, territory, or country.

c. Failing to notify the board of a criminal conviction within 30 days of the action, regardless of whether the judgment of conviction or sentence was deferred, and regardless of the jurisdiction where it occurred.

d. Failing to submit an additional completed fingerprint packet as required and the applicable fee, when a previous fingerprint submission has been determined to be unacceptable, within 30 days of a request made by board staff.

e. Failing to respond to the board during a board audit or submit verification of compliance with continuing education requirements or exceptions within the time period provided.

f. Failing to respond to the board during a board audit or submit verification of compliance with training in child or dependent adult abuse identification and reporting or exceptions within the time period provided.

g. Failing to respond to or comply with a board investigation or subpoena.

h. Engaging in behavior that is threatening or harassing to the board, board staff, or agents of the board.

16.6(11) In accordance with Iowa Code section 147.2 or 147.10:

- a. Engaging in the practice of midwifery in Iowa prior to licensure.
- b. Engaging in the practice of midwifery in Iowa on an inactive license.

655—16.7(148I) Telehealth.

16.7(1) *Telehealth permitted.* A CPM may, in accordance with all applicable laws and rules, provide services to a client through telehealth.

16.7(2) *License required.* A CPM who provides services through telehealth to a client physically located in Iowa must be licensed by the board. A CPM who provides services through telehealth to a client physically located in another state shall be subject to the laws and jurisdiction of the state where the client is physically located.

16.7(3) *Standard of care.*

a. A CPM who provides services through telehealth shall be held to the same standard of care as is applicable to in-person settings. A CPM shall not perform any service via telehealth unless the same standard of care can be achieved as if the service were performed in person.

b. Prior to initiating contact with a client for the purpose of providing services to the client using telehealth, a CPM shall:

- (1) Review the client's history and all relevant medical records; and
- (2) Determine as to each unique client encounter whether the CPM will be able to provide the same standard of care using telehealth as would be provided if the services were provided in person.

16.7(4) *Scope of practice.* A CPM who provides services through telehealth must ensure the services provided are consistent with the CPM's scope of practice, education, training and experience.

16.7(5) *CPM-client relationship.*

a. Prior to providing services through telehealth, the CPM shall first establish a CPM-client relationship. A CPM-client relationship is established when:

- (1) The client seeks assistance from the CPM;
- (2) The CPM agrees to provide services; and
- (3) The client agrees to be treated, or the client's legal guardian or legal representative agrees to the client being treated, by the CPM regardless of whether there has been a previous in-person encounter between the CPM and the client.

b. A CPM-client relationship can be established through an in-person encounter, consultation with another CPM or health care provider, or telehealth encounter.

c. Notwithstanding paragraphs 16.7(5) "a" and "b," services may be provided through telehealth without first establishing a CPM-client relationship in the following settings or circumstances:

- (1) In response to an emergency or disaster;
- (2) Via informal consultations with another health care provider performed by a CPM outside of the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
- (3) A substitute CPM acting on behalf and at the designation of an absent CPM in the same specialty on an on-call or cross-coverage basis.

16.7(6) *Consent to telehealth.* Prior to providing services via telehealth, the CPM shall obtain consent from the client, or the client's legal guardian or legal representative, to receive services via telehealth.

16.7(7) *Technology.* A CPM providing services through telehealth shall utilize technology that is secure and compliant with the Health Insurance Portability and Accountability Act (HIPAA), as effective [effective date of this rulemaking]. The technology must be of sufficient quality, size, resolution, and clarity such that the CPM can safely and effectively provide the telehealth services and abide by the applicable standard of care.

16.7(8) *Records.* A CPM who provides services through telehealth shall maintain a record of the care provided to the client. Such records shall comply with all applicable laws, rules, and standards of care for recordkeeping, confidentiality, and disclosure of a client's medical record.

16.7(9) *Follow-up care.* A CPM who provides services through telehealth shall refer a client for follow-up care when required by the standard of care.

These rules are intended to implement Iowa Code section 148I.4.