# MEDICAL BOARD OF CALIFORNIA
**Licensing Operations**

## Midwifery Advisory Council
**Hearing Room**
**2005 Evergreen Street**
**Sacramento, CA 95815**

**December 5, 2013**
**MINUTES**

**Agenda Item 1 Call to Order/Roll Call**
The Midwifery Advisory Council (MAC) of the Medical Board of California (Board) was called to order by MAC Chair Carrie Sparrevohn at 10:13 a.m. A quorum was present and notice was sent to interested parties.

**Members Present:**
Carrie Sparrevohn, L.M., Chair
James Byrne, M.D.
Karen Ehrlich, L.M.
Tosi Marceline, L.M.
Monique Webster
Barbara Yaroslavsky

**Staff Present:**
Diane Dobbs, Department of Consumer Affairs, Legal Counsel
Kimberly Kirchmeyer, Interim Executive Director
Natalie Lowe, Licensing Manager
Armando Melendez, Business Services Analyst
Destiny Pavlacka, Administrative Assistant
Jennifer Simoes, Chief of Legislation
See Vang, Business Services Analyst
Kerrie Webb, Legal Counsel
Curtis Worden, Chief of Licensing

**Members of the Audience:**
Bruce Ackerman, Midwives Alliance North America
Deborah Bartte
Jennifer Brown, L.M.
Rosanna Davis, California Association of Midwives
Rachel Fox-Tierney, L.M.
Chelsea Fredlund
Faith Gibson L.M., California College of Midwives
Rachel Hansen, L.M.

Diane Holzer, L.M.
Kaleem Joy
Rebekah Lake, California Association of Midwives
Lesley Nelson
Kelly Olmsteal, L.M., California Association of Midwives
Laura M. Perez, California Association of Midwives
Constance Rock, L.M., California Association of Midwives
Alexandra Rounds
Marlene Smith, California Association of Midwives
Shannon Smith-Crowley, American Congress of Obstetricians and Gynecologists
Linda Walsh, LMN, California Nurse-Midwives Association

**Agenda Item 2 Public Comment on Items not on the Agenda**
***No public comment was provided.***

**Agenda Item 3 Approval of the August 8, 2013 Midwifery Advisory Council Meeting Minutes**

Ms. Ehrlich made a motion to accept the August 8, 2013 meeting minutes.

Ms. Sparrevohn commented on paragraph three, on page six of the minutes, that Senate Bill 304 (SB 304) does not currently include language to add Certified Nurse-Midwives (CNMs) as student supervisors, and believed this may be incorrect.

Ms. Sparrevohn stated that she thought physician supervision was already written in as removed from AB 1308, and asked for someone to verify the information. Ms. Rock stated that she did not believe that the language was written in to remove physician supervision from AB 1308.

Ms. Sparrevohn commented on paragraph three, on page seven of the minutes, regarding a report that was not properly identified in the August 8, 2013 Minutes. Ms. Sparrevohn requested that the information pertaining to the Mandatory Hospital reporting form be added to the August 8, 2013 Minutes.

Ms. Sparrevohn commented on paragraph five, on page seven of the minutes. She stated that the minutes were misworded regarding who would submit the report. She stated that the August 8, 2013 minutes read as if the midwives would submit the report, when actually it would be the hospitals who submit the report.

Ms. Ehrlich commented on paragraph three, on page seven of the minutes, stating that the paragraph should use different language. Specifically, the part of the third paragraph that reads "Normal birth is defined as a singleton vertex between 37-42 weeks with no pre-existing disease or condition that could significantly impact the pregnancy or pregnancy related diseases," she requested that the Board should add "with no pregnancy related and change diseases to outcomes."

Ms. Sparrevohn stated that the MAC was referring to what the actual language in AB 1308 says, and the language says diseases, not outcomes.

Mr. Worden agreed with Ms. Sparrevohn's statement.

Ms. Ehrlich had a comment regarding the language in the minutes for AB 1308 that states "the bill would allow" she questioned if this meant the MAC, or the Board.

Ms. Sparrevohn confirmed that the bill reads the Board and the MAC, but stated that language was still being adjusted at that point.

Ms. Ehrlich had a question on the first paragraph, on page eight of the minutes, questioning if the statement "A patient is given a stipulation to provide emergency sessions for 30 days" should read "to be provided." Mr. Worden confirmed that the statement was verbatim.

Ms. Ehrlich mentioned a typo on page eight, of the August 8, 2013 minutes. The paragraph that starts with "Dr. Byrne mentioned," she stated that the last word should be threatening, not threating.

Ms. Sparrevohn asked for public comment. No comments were provided.

***Ms. Ehrlich made a motion to accept the August 8, 2013 minutes with edits; s/Webster. Motion carried. Abstention by Barbara Yaroslavsky who was absent at the August 8, 2013 meeting.***

**Agenda Item 4 Report from the Midwifery Advisory Council Chairperson**

Ms. Sparrevohn commented on the progress that was made in 2013 for licensed midwives in California; specifically, the passage of Assembly Bill 1308 (AB 1308), and the removal of physician supervision from midwifery requirements.

Ms. Sparrevohn stated that she was looking forward to working with all of the interested parties to create the regulations dictated by AB 1308 and was confident that the MAC could move forward in ways that would help protect the autonomy and the safety of birthing women.

Ms. Sparrevohn asked for public comment. No comments were provided.

**Agenda Item 5 Update on Assembly Bill 1308 - Practice of Midwifery**

Ms. Simoes provided an update on AB 1308 stating that the bill had been signed into law by the governor. The bill removes the physician supervision requirement for licensed midwives (LMs) and requires LMs to only accept clients that meet the criteria for normal pregnancy and childbirth, as specified in the bill. If a potential client does not meet the criteria for normal pregnancy and childbirth, the LM can refer that client to a physician trained in obstetrics and gynecology for examination; the LM can only accept the client if the physician examines the client and determines that the risk factors are not likely to significantly affect the course of pregnancy and childbirth.

The bill also allows LMs to directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing, and receive reports that are necessary to his or her practice of midwifery and consistent with the LMs scope of practice. The bill requires LMs to obtain informed consent, as specified in the bill.

The bill requires LMs to provide records and speak to the receiving physician if the client is transferred to a hospital. The bill requires the hospital to report each transfer of a planned out-of-hospital birth to the Board and to the California Maternal Quality Care Collaborative, using a form developed by the Board.

The bill requires all LMs to complete midwifery education programs and does not allow new licensees to substitute clinical experience for formal didactic education beginning January 1, 2015. The bill allows the Board, with input from the MAC, to look at the data elements required to be reported by LMs, to better coordinate with other reporting systems, including the reporting system of the Midwives Alliance of North America (MANA).

Lastly, the bill allows LMs to attend births in Alternative Birth Centers (ABCs) and changes the standards of certification that must be met by an ABC to those established by the American Association of Birth Centers.

Ms. Simoes stated that the Board plans to notify all licensed midwives of the changes in the bill and will be working on updating the Board's website to reflect the changes in the law. The next step will be to work with interested parties and stakeholders to develop regulations. which will occur at interested parties meetings. Board staff will be working on developing processes and procedures for hospital reporting of each transfer of a planned out-of-hospital birth and will be developing a form. Board staff will also be providing outreach to future applicants to inform them that the challenge mechanism will no longer be available after January 1, 2015.

Ms. Sparrevohn asked if the challenge mechanism could stay in place for those midwives that were formally trained outside of the country with didactic training. She stated that she believed that the bill did not completely remove the challenge mechanism, but allowed for some didactic training, rather than only clinical experience. She explained how some midwives come from places like Iran, the UK, Canada, and other places, where they have had formal training that meets the Board's requirements, but the only way to become licensed in California would be to utilize the challenge mechanism.

Ms. Simoes stated that she would have to refer to legal counsel. When the bill was going through the process of negotiation the question was discussed, and her understanding was that the challenge mechanism would be removed.

Ms. Sparrevohn asked if the Board had a mechanism for accepting educational background from outside of the country.

Ms. Yaroslavsky suggested that the MAC should move forward with the bill, as it is now, and review prior to when legislation would need to be implemented for the coming year.

Ms. Sparrevohn asked for further clarification, as to whether there was currently a process for licensees coming from outside of the country, who had attended a program that met the requirements of the law, but was not approved by the Board to become licensed.

Ms. Ehrlich stated that the statute reflects that new licensees shall not substitute clinical experience for formal didactic education.

Ms. Sparrevohn stated that her interpretation of the statute was that they should be able to go through the challenge mechanism.

Public comment was made by Sarah Davis, representing the California Association of Midwives, who explained that the bill was written the way it was to allow for the continuance of the challenge mechanism, just not for apprentice-only trained midwives, otherwise the entire paragraph would have been removed.

Dr. Byrne commented that both physicians and registered nurses who have trained outside the U.S. often have to repeat their training or validate their credentialing when they come to California and apply for licensure. He asked if foreign midwifery training constitutes California state standards, and if foreign didactic training without the challenge mechanism needed to be validated in comparison with California standards.

Ms. Sparrevohn responded that a midwife would need to complete the challenge mechanism, which is a way to validate their previous training and experience. She explained that the process includes a series of exams to validate.

Ms. Ehrlich explained that the challenge mechanism includes verification of skills, information, and knowledge. Ms. Ehrlich also stated that the challenge mechanism was stringent and included the submittal of charts, and having them read by a certified nurse midwife [or licensed midwife] and a physician, as well as having to take a series of clinical and skills exams.

Ms. Sparrevohn stated that the Board's intention was to eliminate the pathway of the purely apprentice-trained midwife who had never had didactic training. She explained that the midwives who are affected are primarily from the U.S.

Ms. Simoes stated that Board staff and legal counsel would review the issue again, as implementation would not occur until January 1, 2015.

Ms. Sparrevohn asked if legal counsel could interpret Business and Professions Code section 2516 (g) because there was confusion about whether data elements currently collected in the LMAR could be changed. She believed the intent was to delete the statement where it needed to come into line with MANA, but she did not know if it was possible to remove anything from the law.

Ms. Webb stated that the statute was still in effect, and a regulation that was in conflict with that statute would not be possible. She explained that it would be possible to provide additional clarification, but deleting items would require a statutory change.

Ms. Sparrevohn asked if it was possible to add data elements to the section.

Ms. Webb stated that through regulation, additional data elements could be added, but could not be changed to take something away that was required in statute.

Ms. Ehrlich suggested the MAC could require additional information about the number, reason, and outcome for each urgent or emergency transport of an infant or mother during the intra-

partum or immediate post-partum period.

Ms. Webb suggested adding in some examples or an e.g., that would help clarify what was being asked.

Ms. Ehrlich mentioned that a couple of issues had been brought to her attention by midwives in the area stating that some certified nurse midwives (CNMs) would like to become LMs and receive an LM license. She suggested that there may need to be some adjusting of the application in order to allow this. She explained that the CNMs have didactic training and have clinical experience. She continued to explain that the CNMs are primarily functioning out of hospitals, and feel as though this license would better suit what they actually do. She also stated that she has had registered nurses (RNs) talk to her about how they might take advantage of becoming LMs; possibly by utilizing some of their RN training and experience. Ms. Ehrlich suggested that the Board may want to consider these issues as the Board continues to make changes to the law.

Ms. Sparrevohn stated that CNMs would not be exempt from taking the NARM exam, because it is required by statute.

Mr. Worden stated that such an adjustment would need to be evaluated by the Board's legal counsel to see what would be required for someone who is a CNM to become licensed as an LM. He continued to state that there is a difference between the two license types and the qualifications required, and that it would take time for staff to look into, to see if it is something the Board could do, and that it was not as simple as just changing the application.

Ms. Ehrlich asked that the MAC be updated as information became available.

Mr. Worden responded by stating that once Board staff was further along in the process that an update would be provided.

Ms. Sparrevohn commented that at this juncture without any changes in statute, CNMs would have to go through the challenge mechanism because there are no CNM schools approved by the Board.

Ms. Ehrlich expressed the difficulties that some midwives have had obtaining lab accounts, ultrasounds, and oxygen, despite the authorization by current law; even though there was a letter on the Board's website stating that it is within an LMs rights to have access. Ms. Ehrlich asked if the Board could send out letters to all the LMs stating that LMs have the ability to order labs, ultrasounds, and oxygen under the LM license. She stated that it may be beneficial so that midwives could take the letter to supply houses and hospitals. She stated that some of the people she had spoken to at supply houses have said that the lab manager and the account manager require a letter with a date and signature of a Board staff person, or the letters would not be accepted as valid.

Ms. Sparrevohn asked why the actual statute could not be used. She stated that providing them with a copy of the law should be sufficient.

Ms. Ehrlich agreed with Ms. Sparrevohn, but pointed out that despite the law stating that LMs could have lab accounts, some labs were still refusing the requests.

Ms. Simoes stated that the reason there were issues with midwives obtaining supplies, tests, and reports was the requirement for a physician supervisor to sign off on it first. The Board met with CDPH, and had someone from CDPH communicate that it was not the labs or supply houses responsibility to worry about the LM's physician supervisor. She reiterated what Ms. Sparrevohn stated, that the law was changed and a physician supervisor was no longer required, and all that should be needed is a copy of the law.

Ms. Yaroslavsky agreed with Ms. Ehrlich stating that a letter in the hand of a midwife may not be considered as official as something coming directly from the Board. She suggested taking the law, or having the Board do better outreach with labs and pharmacy entities, to ensure that they are either directed to the Board's website, or send an email with a link to the website with a clarification letter from the Board.

Ms. Sparrevohn suggested since the law was newly implemented the MAC should give it a month to take effect and revisit the issue at the next MAC meeting.

Ms. Sparrevohn asked for public comment. No comments were provided.

**Agenda Item 6 Licensed Midwife Annual Report (LMAR) Statistical Reporting Comparison**

Ms. Ehrlich referenced a chart on the outcomes of out-of-hospital births, based on all of the Licensed Midwives Annual Reports (LMARs) from 2007 through 2012 that was provided as part of the meeting materials. She explained that she had hoped to have the entire breakdown available, from 2007 to 2012, but had experienced computer issues and as a result, the data she had with her was not available to disseminate. Ms. Ehrlich stated that she would make sure that it was available for the March MAC meeting. She stated that the data she had reviewed, dating back to 2007, had been consistent, which epidemiologists have informed her, helps to validate the data. She suggested that in the future it may be necessary to get better data, especially related to prenatal deaths. There are three lines in the LMAR that refer to infant and mother deaths: sections E, O and P; all three of which reflect different numbers of babies who died. She commented that it is difficult to get concrete perinatal death statistics, and hopes that with the annual report mandated changes that this issue could be addressed.

Ms. Sparrevohn asked for public comment. No comments were provided.

**Agenda Item 7 Discussion on Licensees in Surrendered Status Returning to Practice**

Ms. Lowe provided a brief overview of the petition process, which is used when a licensee is in a surrendered status, revoked status, or on probation and wishes to return to active or unrestricted practice.

Ms. Lowe referenced Business and Professions Code section 2307, and stated that in order to petition for reinstatement, the petitioner would need to contact the Board's Discipline Coordination Unit and request a petition packet be provided to them. The packet that would be

sent to the petitioner was provided to MAC members for reference. The packet outlines the requirements to petition as well as the processes involved.

The packet requires the petitioner complete the application, answering questions as to their practice background, current occupation, employment history, rehabilitation, and questions pertaining to their activities, including if they have any pending criminal action, have been convicted of any criminal offense, charged or disciplined by another board, etc.

The petition packet must also include a brief narrative statement giving a factual description of the offense that was the basis of the action which prompted the original order. For petitions for reinstatement, the narrative must also include answers to the questions:
-During the period of time that your license has been revoked or surrendered, how have you earned a living?
-What aspect of your rehabilitation do you feel will protect against the recurrence of your prior conduct?
-What are your plans if your license is reinstated?
-Where will you practice and what type of practice will it be?

The packet also requires two verifiable letters of recommendation be provided from midwives licensed in any state, who have personal knowledge of the petitioner's activities since the date of order. Fingerprints must also be submitted at the time of application.

Once the Board receives the petition packet, it is reviewed to insure completeness and that it is a viable application. Viable meaning that it meets the requirements of law. As referenced in law, the petition cannot be submitted until a certain timeframe has passed based on the type of reinstatement. For a petition for reinstatement, a person may file a petition after a period of at least three years from the elapsed time from the effective date of the surrender or revocation for unprofessional conduct. For a petition for early termination of probation, if the ordered period of probation is three years or more, a petition may be filed when at least two years have elapsed from the effective date of the disciplinary action. For modification of probation, a petition may be filed when at least one year has elapsed from the effective date.

Once the Board determines the application is complete, the petition will be filed with the Attorney General's office. Approximately 120 days later a hearing is set. The hearing is presided over by an administrative law judge, who will listen to the case. At that time, the petitioner is able to provide evidence of rehabilitation and state their reason for requesting a return to active status.

After the hearing, the judge is permitted 30 days to render a decision upon which the Board will act, either adopting or non-adopting the decision.

The petition process can take approximately one year from the date the completed packet is received by the Board until the Board renders a final decision in the matter.

Ms. Sparrevohn asked for public comment. No comments were provided.

**Agenda Item 8 Program Update**

Prior to providing the program update, Ms. Sparrevohn asked if Ms. Lowe could briefly tell the committee and audience what BreEZe was.

Ms. Lowe explained that BreEZe is the Department of Consumer Affairs' online licensing system that is used for internal processing of applications, renewals, issuing licenses, as well as an online site that consumers can verify licenses and file complaints. She stated that she would be providing additional information as part of the program update.

Ms. Lowe stated that the Board was in the process of hiring behind the previous midwifery analyst; that the duty statement was being reviewed, and was currently pending at the Department; and, that as soon as the Board received the approved duty statement back, the hiring process and interviews would begin. Ms. Lowe also stated that numerous calls and inquiries regarding the midwifery program had been received and that Board staff were doing their best to respond to the calls and emails, as well as review incoming applications.

Ms. Lowe updated the MAC with some of the known issues of BreEZe which were impacting the midwifery program, including the inability to timely receive fingerprint clearances, and issues with the renewals being processed timely and accurately. Ms. Lowe stated that the Board was working directly with the Department to insure the issues were being addressed.

Ms. Yaroslavsky asked if midwives were being notified of the issues and suggested that the Board make an effort to inform people that applications were being received, but with the system issues, the process may take a little longer.

Ms. Lowe stated that Board staff would be in contact with those midwives affected.

Ms. Ehrlich commented that on BreEZe there were a couple of places where one choice or another had to be made in order to move forward and that they were not easy to see. She asked that the font be larger than the regular type of font on the rest of the screen.

Ms. Lowe responded that Board staff had tested the system and applications that are available online and have made numerous requests for changes; however, many of the requests have been denied. Ms. Lowe stated that some things are still a work in progress and will be changed in future releases.

Ms. Sparrevohn asked for public comment.

Ms. Holzer commented that she was aware of a delay in the processing of renewals and had specific midwives who were concerned with the processing timeframes as their licenses were soon to expire or even past expiration date.

Ms. Lowe responded that Ms. Holzer could provide the information to her after the meeting and that she would look into it.

Ms. Sparrevohn suggested that CAM put a message out to all members informing them of the new process and potential delays resulting from the new process. She suggested informing the

midwives that if six weeks had passed and the renewal had not been processed, they should contact the Board.

Ms. Lowe stated that the Board did not have a backlog of renewals, and did not believe that the Department did either. She stated that the delays were more that after the renewal was processed if the licensee failed to sign the applicable statements on the renewals, there were delays in generating the letters out to the licensees reflecting the deficiencies. This was another issue that was being addressed.

Ms. Yaroslavsky commented that she thinks that if licensees or consumers are having issues with the system or renewing that they should contact the Board.

Ms. Marceline asked if once BreEZe was fully operational, if paper and mail documents would still be accepted.

Ms. Lowe responded that paper applications and renewals would continue to be accepted. She added that once the online renewal process was available the process would be much faster. One of the benefits being that the midwife would only have to answer a few questions, verify their address, and enter credit card information and the renewal would be completed (if the questions were answered correctly), and then the expiration date would be updated immediately. Currently, if the renewal was mailed in, the process would take about 7-10 days for the expiration date to be updated. The Board would encourage all licensees to use the online system for renewing once it becomes available.

Ms. Sparrevohn asked what the time frame would be for renewals to be available online.

Ms. Lowe stated that she did not have a timeframe of when the midwifery renewals will be available on line and that she would provide an update at the March MAC meeting.

Ms. Lowe then provided an update on the licensing statistics for the first quarter of fiscal year 2013/2014 stating that during this time two new applications were received, one license was issued, and at the end of the quarter 298 licenses were in a renewed or current status, and 24 were in a delinquent status. Additional statistics were also provided in the meeting packet materials for reference.

Ms. Lowe discussed the enforcement statistics stating that during the quarter two new complaints were received, one against a licensed midwife and one against an unlicensed midwife; two new investigations were opened during the quarter; and there were no referrals for disciplinary or criminal actions. Additional statistics were also provided in the meeting packet materials for reference.

Ms. Sparrevohn asked what the latest date was that a midwife could submit their LMAR online without having to get a paper one for the current year. She knew of a midwife who had let her license lapse for several years because she was not practicing. Her license was renewed, but one of the issues was that she could not go to the LMAR report for the current year.

Ms. Lowe stated that she believed a license had to be in a current status to submit the LMAR online. She stated that if the issue occurred again, the Board would have to work with the licensee and OSHPD to get the issue resolved.

Ms. Sparrevohn asked why a license needs to be in current status to submit a LMAR, and suggested the issue be resolved proactively.

Ms. Lowe stated that the change would need to be made to the online reporting system, and that she would work to get the issue resolved.

Ms. Sparrevohn asked for public comment.

Ms. Davis stated that she had a colleague who was an LM that had died some years ago and that her license was still reported as delinquent on the Web site. She asked if there was a mechanism for updating that information.

Ms. Ehrlich stated that a death certificate needs to be sent to the Board.

Ms. Lowe stated that if the Board does not receive documentation of someone's death, the license will go into a canceled status after it has been expired for five years. Until the Board receives notification, the information could not be officially updated.

Ms. Davis stated that she was in possession of the deceased midwife's client's records, and did not know what to do with them.

Ms. Lowe stated that she would talk to Ms. Davis after the MAC meeting to provide additional information.

No further comments were provided.

**Agenda Item 9 Appoint a Task Force to Create a Midwife Information Packet for Board Members**

Ms. Sparrevohn stated that at the last Board Meeting it was approved to create a task force to create an information packet to provide to new Board members so they could have a better understanding of what a licensed midwife does, how they are trained, and provide some history on the profession. Ms. Sparrevohn asked Ms. Gibson if she was willing to work with one or two people to condense this information into a style that the Board members would be interested in reading.

Ms. Gibson stated there is a website that currently provides the information. She recommended creating an attenuated version for Board members to read, with information on how to learn more, gather background material or historical information. She stated she would be happy to work with others on this assignment.

Ms. Sparrevohn commented that she thought if the packet was greater than one or two pages it may be overlooked, and asked Dr. Byrne for his opinion.

Dr. Byrne stated that he would recommend the packet not be only specifically for Board members, but for the community as well. The packet could be utilized as part of a web page to prompt people to conduct further research. He suggested the packet contain some basics, including the distinction in California between the licensed midwife and the certified nurse midwife, the physician's role, background on training, and background on scope of practice. Dr. Byrne stated he could sum up the first part in about three sentences, and he would be happy to work Ms. Gibson. He stated that he thinks that for the lay public, and policy makers, a very concise description between the different maternity providers would be very valuable.

Ms. Gibson stated that the original purpose of the packet was for people who sat on the Board.

Ms. Yaroslavsky commented that Dr. Byrne's suggestion could be a whole new opportunity.

Dr. Byrne commented that if the MAC is going to put the work into the packet, there may be a benefit for a larger audience.

It was agreed that Ms. Gibson and Dr. Byrne would work on creating the packet and would update the MAC of their progress at the next meeting.

Ms. Sparrevohn asked for public comment. No comments were provided.

**Agenda Item 10 Discussion on Assistants for a Licensed Midwife**

Ms. Sparrevohn stated that there is a need to define or delineate what a midwife assistant scope is, what tasks they are able to perform, and what their training should involve. She stated that the issue will require a task force to be created which will take place following the March meeting and asked for staff availability to coordinate this.

Mr. Worden stated a task force could be possible, and asked for clarification from the MAC as to what constituted an assistant at this time; whether other licensed midwives or student midwives were being utilized for the tasks, or if certain tasks were being performed by lay persons. The point of the task force would be to develop guidelines of the tasks that could be performed that may exceed the abilities of a lay person, but would not require a bonafide student or licensed midwife to perform.

Ms. Sparrevohn asked if that would also include medical assistants, stating that medical assistants were not licensed and yet they could perform tasks that might require a license, such as giving injections. Ms. Sparrevohn stated that clarification would need to be provided on what specific tasks the assistant would be able to perform.

Mr. Worden responded that medical assistants actually have written guidelines on what tasks can be performed that are written in statute. He pointed out that there is currently no laws or regulations pertaining to midwifery assistants at this time.

Ms. Sparrevohn stated that it is important to clarify the roles for assistants to insure that they are not stepping over the line of what is legal for them to do and also to provide guidance as to what is legal for them to do. Assistants need to know where they stand.

Ms. Yaroslavsky asked what defines an assistant today.

Ms. Sparrevohn responded that midwife assistants are generally trained by licensed midwives and their training is similar to the training of a medical assistant, in that a medical assistant trains with a physician and may not actually have formal education. Ms. Sparrevohn stated that there are no midwifery assistant schools, and that all of the midwife assistants are being trained by licensed midwives.

Ms. Yaroslavsky asked if there was any educational expectation required of the assistant or if the on-the-job training was sufficient.

Ms. Sparrevohn responded that the on-the-job training was considered sufficient for training the midwifery assistant.

Ms. Ehrlich stated that the midwife whom the assistant is working with verifies that the assistant is capable of performing the required duties of an assistant.

Ms. Yaroslavsky asked if the midwife would be considered a supervisor to which Ms. Ehrlich responded yes.

Ms. Yaroslavsky asked if what the MAC was trying to do was establish terms and conditions for a supervisor to have an assistant.

Ms. Sparrevohn stated yes, that the MAC was trying to determine when the duties of an assistant crosses the line and places the licensed midwife at risk of prosecution.

Ms. Yaroslavsky asked if an assistant shows up to a birth prior to the midwife if they would be able to proceed with their tasks.

Mr. Worden answered no.

Ms. Sparrevohn stated that ultimately, the MAC will need to seek a statute change to clarify the roles and guidelines of a midwifery assistant and that the MAC was in the process of creating something of that nature. The MAC had created a task force a year ago to address the issues, and there had been other overriding issues that took precedent, so the MAC had not been able to move forward with the assistant issue. In 2015 the MAC could go back to legislature, but in the meantime in the interest of public safety, midwives who cannot access a student or another LM, need to have an assistant with them to protect the woman. It is a public safety issue if you have a mother and a baby, who [both] need attention at the same time as two sets of hands may be needed. Ms. Sparrevohn would like to facilitate having some sort of minimal guidelines that are okay for assistants to do.

Ms. Yaroslavsky suggested a task force or work group be created that could report back in 30 days to Board staff with suggested guidelines and see if that would be considered fair and reasonable workplace rules.

Ms. Sparrevohn commented that there must exist within the Board, some documentation of what constitutes practicing medicine without a license. She asked if that could be researched by legal and provided in March to have a better delineation of possibly what that might look like. She stated that what she wanted to get at during the meeting were things that absolutely crossed the line. Until requirements could be placed in statute, it would at least be on record that certain tasks are being performed that are not strictly legal, but are also not strictly illegal either.

Ms. Ehrlich suggested that a midwifery assistant should be allowed to set up in preparation of labor prior to the midwife actually showing up to the location.

Ms. Webb stated that there are three avenues right now to be involved in the practice of midwifery: the licensed midwife, a bonafied student, or someone who is doing something that does not require a license. How that plays out can be found in case law, in part. She suggested looking at the Bowland case, and other cases where someone has practiced without a license to see what they have done that has been deemed by the courts to have crossed the line. Ms. Webb further stated that the MAC would not be able to give an answer during the meeting with a list of things that are permissible and what definitely will cross the line. Ms. Webb's opinion was that an assistant arriving before the licensed midwife could put that person and the midwife in a dangerous predicament.

Ms. Ehrlich stated that if no one were to tend to the woman at all it puts the midwife in a predicament.

Ms. Gibson stated that according to the Business and Professions Code section 2063 called the Emergency Exemption Clause, in a bonafied emergency, such as a midwife in a rural area that does not have access to another midwife and only has an unlicensed assistant with her and something happens, whatever needs to be done can be done by anyone, whether they are licensed or not. That it would be considered a different kind of situation than the structure of ordinary life. Under certain circumstances, actually meeting the need is the issue, not keeping the midwife from possibly being criticized. The emergency exemptions clause comes from 1876, and it is one of the oldest parts of the Medical Practice Act, and it covers everything. Ms. Gibson requested that the MAC make the distinction between the organized practice of medicine and midwifery and not confuse them with each other.

Dr. Byrne commented that this was an opportunity through many different medians to elevate the status of licensed midwives, which would elevate the professionalism, and elevate the levels of respect. As part of elevating the status, it would also mean elevating the status of those who serve in conjunction with the licensed midwife. Dr. Byrne agreed that the Emergency Exemption Clause was wise, but questioned whether it would be considered an emergency when a team has already planned on working together, and that it would make more sense to have the licensed midwife have an assistant with the skills to provide what is needed.

Ms. Sparrevohn agreed and felt that they were two separate issues and that the actual issue was defining what the scope would look like for a midwifery assistant who is not licensed and not a student.

Ms. Sparrevohn stated that she thought it would be incumbent on the student to decide what the student is going to do at that point. Ms. Sparrevohn stated that more discussion about the matter was needed. She suggested that more background information be gathered and then a task force could be set following the March meeting.

Mr. Worden agreed that having the task force after the March meeting would give the Board time to work on the assignment.

Ms. Ehrlich stated that she has heard of registered nurses (RNs) who are licensed to give injections, and are licensed to do medical functions. Ms. Ehrlich stated that some midwives have asked to hire and supervise RNs at births. Ms. Ehrlich asked Board staff to research the legality of it.

Mr. Worden stated that the issue would affect different license types and would require involvement from a different board as well.

Ms. Sparrevohn asked what would need to happen to allow that to happen.

Mr. Worden stated that it could not currently happen and whether it could work in the future, he did not know, but that Board staff could look into it while they were looking into the midwifery assistant issue. He felt that the midwifery assistant was probably a more viable option. For medical assistants the physician is responsible for the supervision and it would be their license on the line for the medical assistant and for everything that they do. For a midwifery assistant, the midwife's license would be on the line for everything the midwifery assistant did. Even though there are not bonafide guidelines of what would constitute a midwifery assistant, any assistant would be the responsibility of the midwife and subject the midwife's license to action. If a complaint was filed with the Board, it would be investigated and ultimately that investigation could lead to administrative action against a licensed midwife, and possibly a criminal filing for practicing without a license. Mr. Worden clarified that he was not referring to the bonafide emergencies that Ms. Gibson had mentioned.

Ms. Sparrevohn asked for public comment. No comments were provided.

**Agenda Item 11 Future Midwifery Advisory Council Meeting Dates**

After discussion, it was decided by the MAC that the 2014 MAC meetings would be held on March 27, 2014, August 14, 2014 and December 4, 2014.

Ms. Sparrevohn asked for public comment. No comments were provided.

**Agenda Item 12 Agenda Items for the next Midwifery Advisory Council Meeting**

The following agenda items were identified by Ms. Sparrevohn for the March 27, 2014 MAC meeting:

- Midwifery Program Update
- Update on Implementation of Assembly Bill 1308
- Report from the MAC Chair

- Midwifery Assistants Taskforce
- Update on New Board Member Packet
- MANA Statistical Reporting Comparison

Ms. Sparrevohn asked for any public comment. No comments were provided.

**Agenda Item 13 Adjournment**
***Ms. Sparrevohn adjourned the meeting at 11:56 a.m.***