



MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

Agenda Item 3

2005 Evergreen Street, Suite 1200
Sacramento, CA 95815-5401
Phone: (916) 263-2389
Fax: (916) 263-2499
www.mbc.ca.gov

Governor Edmund G. Brown Jr., State of California | Business, Consumer Services and Housing Agency | Department of Consumer Affairs

MIDWIFERY ADVISORY COUNCIL

Hearing Room
2005 Evergreen Street
Sacramento, CA 95815
August 16, 2018

MEETING MINUTES

Members Present:

Diane Holzer, L.M., Chair
AnneMarie Adams, M.D.
Claudia Breglia, L.M.
Jocelyn Dugan
Chemin Perez, L.M.

Members Absent:

Barbara Yaroslavsky

Staff Present:

April Alameda, Chief of Licensing
Kimberly Kirchmeyer, Executive Director
Christine Lally, Deputy Director
Tonya Morairty, Staff Services Analyst
Monique Murray, Staff Services Manager I
Regina Rao, Associate Governmental Program Analyst
AnnaMarie Sewell, Associate Governmental Program Analyst
Jennifer Simoes, Chief of Legislation
Kevin Valone, Staff Services Analyst
Kerrie Webb, Legal Counsel

Members of the Audience:

Rosanna Davis, L.M., California Association of Licensed Midwives
Karen Ehrlich, L.M., Midwifery Education Accreditation Council
Cynthia Hoover, California Association of Licensed Midwives
Kaleem Joy, L.M., Certified Professional Midwife
Jennifer Kamel, California Association of Licensed Midwives
Rachel Kiene, L.M., Certified Professional Midwife
Angelika Nugent, L.M.
Sharon Potteiger, L.M.
Rachel Schwartz
Madeline Shernock, L.M., Welcome Home Midwife
Marlene Smith, L.M.
Rachel Fox-Tierney, L.M., C.P.M.
Sue Wolcott, L.M., Shasta Midwives

Agenda Item 1 Call to Order/Roll Call/Establishment of a Quorum

Diane Holzer, Midwifery Advisory Council (MAC) Chair, called the meeting of the MAC to order on August 16, 2018, at 1:02 p.m. A quorum was present and due notice was provided to all interested parties.

Agenda Item 2 Public Comment on Items not on the Agenda

Ms. Joy came before the MAC by the recommendation of the prior Chair, Ms. Sparrevohn, to inform the Medical Board of California (Board) of a new pilot program named, The New Licensed Midwife Mentorship Program Pilot Project (Pilot Program). Ms. Joy stated that the Pilot Program was launched in October 2017 to increase the quality of care for midwives serving in-home, out-of-hospital, and birth centers, by matching an experienced midwife with a student midwife who has recently graduated from school. Ms. Joy stated that the mentorship will last for two years and will require the experienced midwife to meet with the student midwife on a monthly basis, either in person or virtually. The purpose of meeting on a monthly basis is to allow the experienced midwife and the student midwife to discuss action steps and quarterly goals to assist the student midwife in establishing their business, client selection, improve critical decision-making skills, and problem solving regarding their client load. Throughout the mentorship, the student midwife will provide monthly reviews to determine if the Pilot Program is efficient and if any areas require improvement. In addition, Ms. Joy stated that the Pilot Program will require quarterly conference calls requesting support and guidance to improve the Pilot Program with the anticipation of it being statewide.

Ms. Joy stated that the goal of the Pilot Program is to create better relationships with the community as a means of resources and to improve the quality of the student midwife's critical decision-making skills. The Pilot Program has prepared a start-up and reference guide, which outlines how to be an autonomous midwife. Specifically, Ms. Joy stated that it will outline information about the MAC, Board, state organizations, filing a Licensed Midwife Annual Report (LMAR), midwifery assistants and students, becoming mandated reporters, and information about business and all the required accounts. The Pilot Program created templates for referrals such as anti-neonatal, post-neonatal, gynecology, and newborns using an SBAR (Situation, Background, Assessment, Recommendation) format, which is commonly used in the medical community. Ms. Joy stated that the Pilot Program also created template forms for consent, which is used for GBS (group B strep) and newborn screening.

Ms. Joy stated that once the Pilot Program is complete, it will be available to the state, with the anticipation that a state organization will adopt and continue the Pilot Program. Ms. Joy stated that the Board may want to consider using the Pilot Program as a source of rehabilitation or remediation in support of midwives in California.

Ms. Davis requested to make a presentation at the next MAC meeting regarding protective peer review and what the new status for licensed midwives would be and the implications of a protective peer review.

Agenda Item 3 Minutes from the March 16, 2018 Midwifery Advisory Council Meeting

Ms. Breglia requested the following changes to the March 1, 2018 meeting minutes: page five, paragraph three, needs to be revised to state that Ms. Breglia was the president of the California Association of Midwives, and the representative to the Board and MAC; and a revision on page eight, last paragraph to read 2017, not 2007.

Ms. Holzer made a motion to approve the March 1, 2018 meeting minutes with the recommended changes; s/Dr. Adams. Motion carried unanimously (5-0).

Agenda Item 4 Report from the Midwifery Advisory Council Chair

Ms. Holzer stated that since this is her first meeting as Chair, she did not have an update.

Agenda Item 5 Update on Midwifery Legislation

Ms. Simoes stated that there has not been any new legislation. Ms. Simoes also stated that Assembly Bill (AB) 2682, related to removing physician supervision for certified nurse midwives did not move forward.

Agenda Item 6 Update on the Continuing Regulatory Efforts Required by Assembly Bill 1308 (Chapter 665, Statutes of 2013)

Ms. Webb stated that there were no changes to the progress of the regulations and it would be helpful to have legislation to move this forward.

Ms. Davis stated that the California Association of Licensed Midwives plans to seek a bill in 2019 that would remedy issues that resulted in the regulatory stalemate.

Agenda Item 7 Update on the Licensed Midwife Annual Report Task Force

Ms. Alameda stated that at the April Board meeting, Board Members approved the recommendation from the MAC regarding the revisions to the LMAR reporting tool. Ms. Alameda informed the MAC that Board staff is currently working on updating the data system and will work with the Office of Statewide Health Planning and Development (OSHPD) to begin the new data reporting for the 2018 reporting period. Information related to the changes will be provided to the licensed midwives by the end of the year.

Ms. Alameda stated that pursuant to Business and Professions Code (BPC) section 2516, each licensed midwife has until March 30 of each year to complete the LMAR and submit it to OSHPD. Failure to do so will result in a renewal hold placed on the licensed midwife license. OSHPD must provide the final report to the Board by July 30 of each year. The Board has received several inquiries whether the data that was submitted late will be reflected in the final report prepared by OSHPD.

Ms. Alameda contacted OSHPD regarding this matter and was informed that the data collected will reflect all data received as of the date the report is generated. Ms. Alameda stated that this will not change the fact that licensed midwives are required to submit the LMAR by the March 30 deadline.

Agenda Item 8 Discussion and Possible Action on Midwifery Advisory Council Term Limits

Ms. Alameda stated the MAC members requested Board staff to provide background information at the August 2018 MAC meeting on the term limits that the Board utilizes and the term limits that other state boards utilize. BPC section 2509 established the MAC, but did not address the length of term nor maximum number of consecutive terms; however, the law did specify that at least one-half of the MAC members must be California licensed midwives. Board staff recommended that the MAC consists of six members; three licensed midwives, two public members and one licensed physician, which was adopted by the Board in February 2007. Ms. Alameda stated that in April 2011, the MAC discussed possible term limits but it was decided, at that time, not to pursue any action.

Ms. Alameda provided the MAC with information related to current term limits with the Board as well as other state boards. Board Members are appointed to a position with a four-year term and may not serve more than two consecutive full terms and members of various committees do not have formal term limits. The Special Faculty Permit Review committee does not have formal term limits, each committee member is a representative of a medical school located in California. The California Physician Assistant Board members serve two consecutive terms. In a review of 24 other states that have licensed midwives, ten require no more than two consecutive terms, one requires no more than one consecutive year, and the other states do not have term limits. It was recommended by Board staff that MAC members be appointed for a term of three years with a maximum of two consecutive terms and two-year term limits for officers.

Ms. Perez stated that 13 of her peers in Los Angeles are in support of term limits and there should be a discussion on what those should be. Ms. Perez also stated that seven senior students agreed.

Ms. Breglia expressed concern with the term limits because of the lack of response of midwives applying to participate on the MAC and the difficulty of finding a physician member who can be involved and be supportive to midwives. Ms. Breglia is concerned that the term limits could become a problem rather than a solution.

Ms. Dugan agreed and stated that an experienced member leaving the MAC, without a suitable replacement, can create a problem.

Ms. Perez stated the importance of educating new members joining the MAC as well as those that may join in the future. Ms. Perez stated she was impressed with the history that was provided at the last meeting and suggested that information be provided to students in order to educate them on the roles and responsibilities of the MAC and the Board, and the role of a MAC member. Ms. Perez believes term limits are a good idea, but more mentoring and understanding of a MAC position is necessary.

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Dr. Adams indicated she has the same concerns as Ms. Breglia. Dr. Adams stated that the term limits are not a bad idea because it allows different voices to be heard, but is concerned with a position being filled with an individual who is not dedicated.

Ms. Perez stated she is aware of physicians interested in a MAC position and asked if that would be a problem.

Ms. Holzer stated it has been difficult to find physicians willing to participate on the MAC. Ms. Holzer indicated it does not appear that there is a consensus and recognizes it will be hard to put forth a motion.

Ms. Perez made a motion to support the use of term limits and asked if the term limits would be for two terms.

Ms. Holzer stated three years with a maximum term of two years

Ms. Holzer indicated that she would like to motion for term limits, but asked for discussion on what that would look like.

Ms. Webb stated that Ms. Perez already moved to support imposing term limits. If approved, then discussion about the term limits would occur, if the motion fails, the matter is over.

Ms. Holzer asked if there is a second to the motion. ***The motion was not seconded. Therefore, the motion died.***

Ms. Dugan asked for an explanation as to why this was brought to the MAC.

Ms. Alameda stated that Ms. Sparrevohn presented this at the March 2018 meeting and requested that Board staff provide background information at this meeting for discussion and possible action. Ms. Alameda stated that this was brought before the MAC in April 2011, and the same concerns occurred at that time.

Dr. Adams stated that she would need reassurance that the MAC will not have empty positions before she votes in favor. Dr. Adams stated that she welcomes a different proposal for discussion.

Ms. Alameda asked what the MAC would need from Board staff to help with their decision-making.

Dr. Adams stated what would be the purpose of having term limits if there was not an individual willing to fill a vacancy and asked if a term limit could be extended in the event that the position was unable to be filled.

Ms. Kirchmeyer stated that terms could be three-year terms with a limit of two consecutive terms with the option of extending the limit if there are no candidates available for the position. The MAC may make that motion now or Board staff can write the language and present it to the MAC at the next meeting.

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Dr. Adams asked if she could make a motion that Board staff provide proposed language at the December 2018 MAC meeting.

Ms. Kirchmeyer stated that other boards provide grace periods and the MAC member continues to serve during a grace period.

Ms. Webb stated that Dr. Adam's motion is acceptable; however, there needs to be further discussion to address issues such as if the Board does not receive an application for a MAC vacancy or if there is one that applies, then does the MAC have to accept the one person who applied. Ms. Webb stated that there is room to work with this and provide another option to consider.

Ms. Adams requested a list of qualifications to fill a MAC vacancy be provided at the next meeting.

Ms. Webb stated that qualifications already exist.

Dr. Adams asked if the qualifications include a requirement for the members to attend a certain percentage of meetings.

Ms. Alameda stated that the discussion appears to be two part, qualifications to apply to the MAC and possible term limits. Ms. Alameda asked if the MAC is requesting Board staff to review the current qualifications.

Ms. Kirchmeyer stated that the Board has an administrative manual and suggested that the MAC review it to determine if one should be developed for the MAC. Ms. Kirchmeyer stated that any issues with attendance would be addressed by the MAC chair.

Ms. Alameda asked if this should be an agenda item for the December 2018 meeting, appoint a task force, or have Board staff develop an administrative manual and present it at the next meeting.

Ms. Webb stated that the suggestion is to bring forth the administrative manual that the Board adopted to discuss what sections would be beneficial for the MAC.

Ms. Kirchmeyer suggested including Ms. Perez's suggestion related to MAC member education in the administrative manual.

Dr. Adams made a motion to bring the matter back for the next MAC meeting with additional proposals provided by Board staff; s/Ms. Perez.

Ms. Breglia stated that if MAC members are going to use an administrative manual, it would be better to revisit term limits at that time.

Ms. Ehrlich stated that as one of the original members of the MAC, she and Ms. Sparrevohn both served three-year terms and were the only ones who served that long. Ms. Ehrlich indicated that it created problems if someone resigned in the middle of their term. If another person was appointed, it was not necessarily to complete the person's term, it was for another three-year term. Ms. Ehrlich

stated that several MAC members resigned and it was clear that institutional knowledge is necessary and asked that it be taken into account if an administrative manual is created.

Ms. Dugan asked Ms. Perez if her colleagues indicated their reason for supporting term limits. Ms. Perez indicated that times are changing and many midwives would like to become involved with the meetings and the MAC.

Ms. Dugan asked if this is the best allocation of resources, if it would be better to think about the issue and decide at a later time. Ms. Dugan suggested conducting an education outreach program about the MAC. Ms. Dugan indicated that she is not sure she can vote on anything during this meeting.

Ms. Perez indicated that the midwives in her area discussed how busy and difficult it is to attend MAC meetings and she was offered assistance from her peers to allow her the opportunity to attend.

Ms. Holzer stated that a consensus could not be reached and the MAC is not able to vote at this time.

Ms. Dugan made a motion to table this agenda item until the December 6, 2018 MAC meeting; s/Dr. Adams. Motion passed unanimously (5-0).

Agenda Item 9 Selection of Midwifery Advisory Council Vice Chair

Ms. Holzer nominated Ms. Yaroslavsky as Vice Chair; s/Ms. Dugan.

Dr. Adams asked if Ms. Yaroslavsky was aware of this nomination and agreed to it. Ms. Holzer stated that she was not aware if Ms. Yaroslavsky had been informed; therefore, she withdrew her nomination.

Ms. Holzer made a motion to table this agenda item until the December 6, 2018 meeting; s/Dr. Adams. Motion carried unanimously (5-0).

Agenda Item 10 Discussion on Outreach Opportunities for the Hospital Transfer Reporting Form

Ms. Alameda stated that a letter to inform California medical facilities of the requirement of reporting transfers by a licensed midwife of a planned out-of-hospital birth to a hospital has been drafted and is expected to be sent out in the future.

Agenda Item 11 Program Update

Ms. Murray reviewed the Licensing Statistics indicating that in the fourth quarter of the fiscal year 2017/2018, the Board received two new applications, issued six new licenses, and had 413 renewed and current licensed midwives.

Ms. Murray indicated that the Board received 40 hospital reporting forms, all of which were licensed midwives.

Ms. Murray reviewed the Enforcement Statistics for licensed midwives indicating that the Board received seven complaints, two referred for criminal action, and no complaints were referred to investigation or to the Attorney General's Office. Ms. Murray stated that the Board received five complaints for unlicensed midwives; there were five complaints received in the last quarter. Ms. Murray indicated that on page 11C-3 are the Enforcement Statistics for transfer of an out of hospital planned delivery to hospital reporting form; the number of complaints received for licensed midwives was 40, with one referred to investigation. Ms. Murray stated that on page 11C-4, the Enforcement Statistics for transfer of planned out of hospital delivery to hospital reporting form for unlicensed midwives indicated there were no complaints received.

Ms. Murray provided an overview on the 2017 LMAR summary. She stated for 2017, there were 449 midwives expected to report. Of those, 398 reported, leaving 51 unreported. Ms. Murray noted that the total number of clients during the calendar year was 5,932, an increase of 512 from the previous year. The number of clients who left care was 258, slightly up from last year.

Ms. Murray referred to section E, which identified the outcome per county in which birth, fetal demise, infant, or maternal deaths occurred. Ms. Murray stated that compared to last year, the number of deaths for fetal demise increased by six and the number of infant deaths decreased by one.

Ms. Murray referred to section F, the number of planned out of hospital births at the onset of labor, was 3,981 compared to 3,664 last year, an increase of 317. The number of completed births in an out of hospital setting was 3,297 compared to 3,018 last year, an increase of 279.

Ms. Holzer stated she had received calls from midwives asking what happens during an investigation.

Ms. Webb stated that this matter would need to be on a future agenda item.

Ms. Potteiger referred to item 11C-3, asking if a hospital reporting form equals a complaint received.

Ms. Webb stated that any document received by the Board is reviewed to determine whether it needs to be reviewed for the quality of care, so it is counted, documented, reviewed, and processed accordingly.

Ms. Joy stated that by looking at the statistics, it appears that all reporting forms received by the Board are treated as investigations, where as in previous meetings, it was mentioned that it will not be treated as complaints.

Ms. Kirchmeyer stated that each form, just like a mandatory reporting form for a physician, is entered into the Board's complaint database and is triaged. If additional information is needed, staff gathers the additional information and forwards it to investigation for further review and possible action. Otherwise, the complaint is closed; however, it is captured as a complaint, triaged, and handled accordingly just like every other reporting form. Ms. Kirchmeyer reminded everyone that the Board is a consumer protection agency and that is the role of the Board as a regulatory agency in the State of California. Ms. Kirchmeyer stated that until legislation is changed, the Board will follow this process.

Ms. Kiene stated this may be semantics and there may not be any negative consequences for 39 out of those 40 midwives who transferred those patients, but it seems like important semantics, if every hospital reporting form is listed on a piece of paper as a complaint. She finds it ridiculous and offensive that her transferring a healthy patient to a hospital for a higher level of care would be considered a complaint.

Ms. Joy stated that having been through this process before, understanding that this is the process and the role of the Board is to ensure public safety, suggested that there be a bulletin or a document to educate the midwives on the reporting form and the compliant process. Ms. Joy stated that it is known that reporting forms are not always accurate, depending on what caused the midwife to transfer the client to the hospital. Ms. Joy stated that there are challenges and midwives need to be educated on what to do if they are contacted by the Board.

Ms. Ehrlich suggested that the Board create a category to report the number of hospital transfer reports.

Ms. Joy asked if this is something to address in their proposed legislation.

Ms. Kirchmeyer stated this would be difficult for the Board to address since it is a consumer protection agency.

Ms. Davis stated that CALM's proposed legislation would eliminate the reporting form.

Ms. Wolcott asked if the completed form can be viewed.

Ms. Kirchmeyer stated the form comes directly from the hospital.

Dr. Adams suggested to the midwives to fill out as much of the reporting form as they can before submitting it to the hospital to assist with accuracy.

Ms. Perez stated that she has attempted this in the past, but found it to be difficult. Ms. Perez suggested that midwives should learn about the risk assessment of each hospital, learn their out-of-hospital transfer plan, identify who is in charge, meet with that individual and discuss personal statistics, and why midwives generally transfer patients. Ms. Perez further suggested to develop working relationships with the local hospitals in the area.

Ms. Kamel indicated that from a consumer perspective, it would be easier to understand the statistics if a separate line was created titled Hospital Forms Received. Ms. Kamel stated that currently it appears as though 40 people called in and complained about their midwife, which can be confusing.

Ms. Holzer stated it would be beneficial for the Board to change the word complaint to Hospital Form Received and asked if that was a possibility.

Ms. Webb stated that the Board would take that suggestion under submission.

Agenda Item 12 Agenda Items for the December 6, 2018 Midwifery Advisory Council Meeting in Sacramento

- Report from the Midwifery Advisory Council Chairperson
- Update on AB 1308
- Update on the Midwifery Task Force
- Update on Midwifery Legislation
- Update on the LMAR Task Force
- Update on the Midwifery Program
- Discussion on Term Limits
- Election of vice chair
- Presentation on protected peer review from Ms. Davis
- Discussion and consideration of an administrative procedure manual for MAC members
- Discussion on upcoming MAC meeting dates for 2019
- Overview of the enforcement process for complaint and investigations

Agenda Item 13 Adjournment

Ms. Holzer adjourned the meeting at 2:27 p.m.

The full meeting can be viewed at http://www.mbc.ca.gov/About_Us/Meetings/2018/