Appendix I

Midwifery Program

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Section 1 – Background and Description of Midwifery Program

History and Functions of the Midwifery Program

A licensed midwife is an individual who has been issued a license to practice midwifery by the Medical Board of California (Board). The Midwifery Practice Act was chaptered in 1993 and implemented in 1994 with the first direct entry midwives licensed in September 1995. The practice of midwifery authorizes the licensee, under the supervision of a licensed physician, in active practice, to attend cases of normal childbirth, in a home, birthing clinic, or hospital environment.

Pathways to licensure for midwives include completion of a three-year postsecondary education program in an accredited school approved by the Board or through a Challenge Mechanism. Business and Professions (B&P) Code section 2513(a)-(c) allows a midwifery student and prospective applicant the opportunity to obtain credit by examination for previous midwifery education and clinical experience. Prior to licensure, all midwives must take and pass the North American Registry of Midwives (NARM) examination, adopted by the Board in 1996, which satisfies the written examination requirements set forth in law.

In order to provide the guidance necessary to the Board on midwifery issues, effective January 1, 2007, the Board was mandated to have a Midwifery Advisory Council. This Council is made up of licensed midwives (pursuant to B&P Code section 2509 at least half of the Council shall be licensed midwives), a Board Member, a physician, and a member of the public (currently an individual who has used a licensed midwife). The Board specifies issues for the Council to discuss/resolve and the Council also identifies issues and requests approval from the Board to develop solutions to the various matters. Some items that have been discussed include physician supervision, challenge mechanisms, required reporting, and student midwives. The Midwifery Advisory Council Chair attends the Board meetings and provides an update on the issues and outcomes of the Council.

Major Legislation/Regulations Since the Last Sunset Review

Legislation

- *SB 1638 (Figueroa, Chapter 536, Statutes of 2006) Midwifery Advisory Council and Midwife Annual Report*

This bill required the Board to create and appoint a Midwifery Advisory Council. It required licensed midwives to make annual reports to OSHPD on specified information regarding birth outcomes, with the first report due in March 2008. This bill also required each licensed midwife who assists or supervises childbirth occurring in an out-of-hospital setting to annually report to OSHPD specified information regarding his or her practice for the previous year. This bill required the data to be consolidated by OSHPD and reported back to the Board for inclusion in the Board's annual report.

- *SB 1575 (B&P Comm., Chapter 799, Statutes of 2012) Omnibus*

This bill established a retired license status for licensed midwives.

Regulations

➢ *Amend CCR section 1379.20*

This regulatory change in 2005 required a midwife, who does not carry liability insurance, to disclose this fact to the client in either written or oral form and note this disclosure in the patient's file.

➢ *Adopt CCR section 1379.19*

This new section added in 2006 defined the appropriate standard of care for licensed midwives and the level of supervision required for the practice of midwifery. The adoption of midwifery standards of care was necessary because midwifery is a distinct profession.

Section 2 – Performance Measures and Customer Satisfaction Surveys

Refer to Full 2012 Medical Board Sunset Report

Section 3 – Fiscal and Staff Issues

The fees collected for the Midwifery Program go into the Licensed Midwifery Fund. When this Program began in 1994, it received a $70,000 loan from the General Fund. In order to ensure solvency, this loan was paid off over the course of the next ten years, and paid in full in 2004.

This fund currently does not have any approved budget appropriation. Now that the fund is solvent, the Board will be seeking an augmentation to establish an appropriation in FY 2013/2014 to fund the personnel needed to administer the Midwifery Program. Each year, the Board would request repayment from the Midwifery Program for the staff resources to perform the licensing and enforcement functions of the Program. The Board will be analyzing the impact of this appropriation to determine if a future fee increase is necessary to ensure the solvency of this fund. There have been no General Fund loans from the Licensed Midwifery Fund.

The Licensed Midwives submit an application and initial license fee of $300 and have a biennial renewal fee of $200. The renewal fee comprises about 70% of the fees received in the Licensed Midwifery Fund.

Table 2. Fund Condition Midwifery					**Proposed**	**Proposed**
(Dollars in Thousands)	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14
Beginning Balance	78	101	121	154	186	217
Revenues and Transfers*	24	27	33	34	33	33
Total Revenue	102	128	154	188	219	250
Budget Authority	--	--	--	--	--	--
Expenditures	1	7		2	2	2
Loans to General Fund	--	--	--	--	--	--
Accrued Interest, Loans to General Fund	--	--	--	--	--	--
Loans Repaid From General Fund	--	--	--	--	--	--
Fund Balance	101	121	154	186	217	252

Table 4. Fee Schedule and Revenue							
Fee	Current Fee Amount	Statutory Limit	FY 2008/09 Revenue	FY 2009/10 Revenue	FY 2010/11 Revenue	FY 2011/12 Revenue	% of Total Revenue
LICENSED MIDWIFERY FUND							
Licensed Midwife Application and Initial License Fee (B&P 2520) (Title 16, CCR 1379.5)	300.00	300.00	5,700	5,400	12,300	9,900	29.60%
Licensed Midwife Biennial Renewal Fee (B&P 2520) (Title 16, CCR 1379.5)	200.00	200.00	16,400	21,200	19,400	23,400	69.95%
Licensed Midwife Delinquency Fee (B&P 2520) (Title 16, CCR 1379.5)	50.00	50.00	300	250	100	150	0.45%

For staffing issues, refer to Full 2012 Medical Board Sunset Report.

Section 4 – Licensing Program

Application Review

CCR section 1379.11 requires the Board to inform an applicant for licensure as a midwife in writing within 30 days of receipt of an application as to whether the application is complete and accepted for filing or is deficient and what specific information is required. The midwifery program's goals have been to review all applications received within 30 days. The program has met these goals for the past four fiscal years and is currently reviewing applications for licensure as a midwife within 30 days. The Board is currently in compliance with the mandated timeframes and is also reaching the internal goals that have been set by the program.

Due to the small number of new applications received, processing times have neither decreased nor increased significantly in the last few years. The Board has seen a slight increase in applications each year and anticipates that these numbers will continue to grow. Pending applications for the Midwifery program are very small and those in a pending status are outside of the Board's control. The Board is continuously striving to review and approve applications within the set timeframes to ensure compliance with the law is met and has ensured that this occurs by reviewing policies and procedures within the program for best practices.
The tables below show the Midwifery Program licensee population, licenses issues and licenses renewed.

Table 6. Licensee Population

		FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Licensed Midwife	Active	199	219	252	270
	Out-of-State	21	22	21	20
	Out-of-Country	0	0	0	0
	Delinquent	21	18	19	28

Table 7a. Licensing Data by Type

	Licensed Midwife	Received	Approved	Closed	Issued	Pending Applications			Cycle Times		
						Total (Close of FY)	Outside Board control*	Within Board control*	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2009/10	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	16	20	0	20	2	2	0	-	-	29
	(Renewal)	99	n/a	n/a	99	n/a	n/a	n/a	n/a	n/a	n/a
FY 2010/11	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	41	40	0	40	2	2	0	-	-	25
	(Renewal)	98	n/a	n/a	98	n/a	n/a	n/a	n/a	n/a	n/a
FY 2011/12	(Exam)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	(License)	33	31	1	31	4	4	0	-	-	23
	(Renewal)	125	n/a	n/a	125	n/a	n/a	n/a	n/a	n/a	n/a

* Optional. List if tracked by the board.

Table 7b. Total Licensing Data			
	FY 2009/10	FY 2010/11	FY 2011/12
Initial Licensing Data:			
Initial License/Initial Exam Applications Received	16	41	33
Initial License/Initial Exam Applications Approved	20	40	31
Initial License/Initial Exam Applications Closed	0	0	1
License Issued	20	40	31
Initial License/Initial Exam Pending Application Data:			
Pending Applications (total at close of FY)	2	2	4
Pending Applications (outside of board control)*	2	2	4
Pending Applications (within the board control)*	0	0	0
Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):			
Average Days to Application Approval (All - Complete/Incomplete)	29	25	23
Average Days to Application Approval (incomplete applications)*	-	-	-
Average Days to Application Approval (complete applications)*	-	-	-
License Renewal Data:			
License Renewed	99	98	125
* Optional. List if tracked by the board.			

Verification of Application Information

Applicants are required by law to disclose truthfully all questions asked on the application for licensure. Out-of-state and out-of-country applicants must meet the same requirements as California applicants.

The application forms and Letters of Good Standing are valid for one year. After one year, they must be updated to ensure that correct and current information accurately reflects any change in an applicant's credentials. The Board requires primary source verification for certification of midwifery education, examination scores, Letters of Good Standing, diplomas, certificates, and challenge documentation.

Two questions on the application refer to discipline by any other licensing jurisdiction for the practice of midwifery or any other healing arts license type. If an affirmative response to either of these questions is provided, the applicant must provide a detailed narrative of the events and circumstances leading to the action(s). The involved institution or agency must also provide a detailed summary of the events and circumstances leading to any action. Certified copies of all orders of discipline must be provided directly by the appropriate agency. Copies of pertinent investigatory and disciplinary documents must be provided to the Board directly by the appropriate authority.

One question on the application refers to convictions, including those that may have been deferred, set aside, dismissed, expunged or issued a stay of execution. If an affirmative response to this

question is provided, the applicant must submit a detailed narrative describing the events and circumstances leading to the arrest and/or conviction. Certified copies of the police report, arrest report and all court documents must be provided directly by the issuing agency to the Board. If the records are no longer available, the court must provide a letter to that effect.

All reports of criminal history, prior disciplinary actions, or other unlawful acts of the applicant are reviewed on a case by case basis to determine if a license should be issued or whether the applicant is eligible for licensure.

Individuals applying for a midwifery license must submit either fingerprint cards or a copy of a completed Live Scan form in order to establish the identity of the applicant and in order to determine whether the applicant has a record of any criminal convictions in this state or in any other jurisdiction. Criminal record history reports are obtained from both the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) prior to issuing a license.

All Licensed Midwives with a current license have been fingerprinted. As fingerprinting is a requirement for license, a midwife's license will not be issued prior to completion of this requirement. The Board receives supplemental reports from the DOJ and FBI following the initial submittal of fingerprints should future criminal convictions occur post licensure. Supplemental reports will be reviewed by the Enforcement program to determine if any action should be taken against the licensee.

A midwifery applicant must disclose all current and/or previous licenses held and provide a Letter of Good Standing (LGS) from each state or province to be sent directly to the Board verifying the applicant's licensure information and whether any action has been taken against the license. If the LGS indicates action has been taken, certified documents from the state or province must be provided detailing the circumstances related to the action and the outcome.

Pursuant to B&P Code section 2512.5(a)(1), upon successful completion of the education requirements, the applicant shall successfully complete a comprehensive licensing examination adopted by the board which is equivalent, but not identical, to the examination given by the American College of Nurse Midwives. The examination for licensure as a midwife may be conducted by the Division of Licensing under a uniform examination system, and the division may contract organizations to administer the examination in order to carry out this purpose.

The comprehensive licensing examination developed by the North American Registry of Midwives' (NARM) was adopted by the Board in May 1996, and satisfies the written examination requirements as outlined in law.

School Approvals

The Board approves midwifery schools by independently conducting a thorough and comprehensive assessment to evaluate the school's educational program curriculum and the program's academic and clinical preparation equivalent. Schools wishing to obtain approval by the Board must submit supporting documentation to verify that they meet the requirements of B&P Code section 2512.5 (2). Currently BPPE does not provide any role in approval of midwifery schools.

Currently there are 11 approved midwifery schools. The three year program at each approved school has been accepted as meeting the educational requirements for a license as a midwife in California. Approval was granted based on the program meeting the qualifications listed in B&P Code section 2512.5 (2) and CCR. The re-assessment of approved schools is not currently mandated by law or regulation as it pertains to the midwifery program; however, the Board has begun looking into ways in which the re-assessment process could be completed to ensure approved schools are maintaining compliance with B&P Code section 2512.5 (2).

If an international midwifery school were to apply for approval by the Board it would be required to submit the same documentation and requirements as a U.S. school. As of this date, the Board has yet to receive an application for approval of an international midwifery school.

Continuing Education/Competency Requirements

Under Article 24 of the Medical Practice Act commencing with section 2518 of the B&P Code, the Board has adopted and administers standards for the continuing education (CE) of midwives. The Board requires each licensed midwife to document that the license holder has completed 36 hours of CE in areas that fall within the scope of the practice of midwifery as specified by the Board.

Each midwife is required to certify under penalty of perjury, upon renewal, that she has met the CE requirements. CCR section 1379.28 requires the Board to audit a random sample of midwives who have reported compliance with the continuing education requirements. The Board requires that each midwife retain records for a minimum of four years of all continuing education programs attended which may be needed in the event of an audit by the Board.

Due to limited staffing resources, the Board does not currently conduct CE audits on midwives. CCR section 1379.28 does require the Board to audit once every two years, a random sample of midwives who have reported compliance with the CE requirement. The Board is currently reviewing ways in which this process can be implemented.

If a midwife fails the audit by either not responding or failing to meet the requirements as set forth by section 1379.28 of CCR, the midwife will be allowed to renew her license one time following the audit to permit her to make up any deficient CE hours. However, the Board will not renew the license a second time until all of the required hours have been documented to the Board. It is considered unprofessional conduct for any midwife to misrepresent her compliance with the provisions of CCR, section 1379.28.

Approved CE consists of courses or programs offered by: the American College of Nurse Midwives, the Midwives Alliance of North America, a midwifery school approved by the Board, a state college or university or by a private postsecondary institution accredited by the Western Association of Schools and Colleges, a midwifery school accredited by the Midwives Education Accreditation Council, programs which qualify for Category 1 credit from the California Medical Association or the American Medical Association, the Public Health Service, the California Association of Midwives, the American College of Obstetricians and Gynecologists, and those approved by the California Board of Registered Nursing or the board of registered nursing of another state in the United States.

The Board approves the CE programs that offer the CE courses. CCR section 1379.27 defines the criteria for approval of courses. The Board has not received any recent applications for CE providers or courses. The Board has previously approved several programs as noted above.

CCR section 1379.27 (b) requires the Board to randomly audit courses or programs submitted for credit in addition to any course or program for which a complaint is received. If an audit is made, course providers will be asked to submit to the Board documentation concerning each of the items described in section 1379.27 (a) of the CCR.

The Board is currently reviewing ways in which the CE policy is carried out and the procedures related to the certification and auditing of approved programs and courses of CE hours is being performed. The Board anticipates that the auditing function of the Board will be carried out in the current fiscal year to insure that all licensed midwives are in compliance with the current requirements.

Section 5 – Enforcement Program

The licensee population in the Midwifery Program is small and the number of disciplinary actions filed against licensees is also proportionally small with a total of 5 disciplinary actions being filed over the past three fiscal years. Of the four disciplinary actions that have been adjudicated, all have been resolved with either a revocation or a license surrender. With this volume of activity it is difficult to identify trends or patterns.

The majority of the complaints received regarding licensed midwives relate to the care provided during labor and delivery which resulted in an injury to the infant or mother. These complaints are considered to be the highest priority. The Board also receives complaints regarding the unlicensed practice of midwifery which are also considered "urgent" complaints. The Program's complaint prioritization policy is consistent with DCA's guidelines.

There are currently no mandatory reporting requirements for licensed midwives with the exception of statistical information that is collected by the Office of Statewide Health Planning.

The Midwifery Program does not have a statute of limitations established in statute but recognizes public protection as its highest priority and strives to investigate each complaint as quickly as possible.

The licensee population in this category is fairly small, however, there have been some complaints related to unlicensed practice. The Board utilizes its investigative resources to pursue and prosecute, if appropriate, individuals providing midwifery services without the proper credentials.

The Midwifery Program utilizes the Medical Board's disciplinary guidelines as a model for disciplinary actions imposed on midwives.

Table 9a. Enforcement Statistics			
	FY 2009/10	FY 2010/11	FY 2011/12
COMPLAINT			
Intake (Use CAS Report EM 10)			
Received	7	9	22
Closed	0	0	0
Referred to INV	8	9	22
Average Time to Close	9	10	12
Pending (close of FY)	0	0	0
Source of Complaint (Use CAS Report 091)			
Public	4	5	16
Licensee/Professional Groups	2	3	4
Governmental Agencies	1	2	6
Other	0	0	0
Conviction / Arrest (Use CAS Report EM 10)			
CONV Received	0	1	4
CONV Closed	0	1	4
Average Time to Close	0	3	9
CONV Pending (close of FY)	0	0	0
LICENSE DENIAL (Use CAS Reports EM 10 and 095)			
License Applications Denied	0	0	0
SOIs Filed	0	0	0
SOIs Withdrawn	0	0	0
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0
Average Days SOI (from case referred to AG's Office to one of outcomes above--withdrawn, dismissed, declined)	0	0	0
ACCUSATION (Use CAS Report EM 10)			
Accusations Filed	0	2	3
Accusation Filed--Average Days from Case Referred to AG's Office to Accusation Filed	0	66	164
Accusations Withdrawn	0	0	0
Accusations Dismissed	0	0	0
Accusations Declined	0	0	0
Average Days Accusations (from case referred to AG's Office to one of the outcomes above--withdrawn, dismissed, declined)	0	0	0
Pending-Accusation Filed (close of FY)	0	1	0
Pending-No Accusation Filed (close of FY)	1	1	3

Table 9b. Enforcement Statistics			
	FY 2009/10	FY 2010/11	FY 2011/12
DISCIPLINE			
Disciplinary Actions (Use CAS Report EM 10)			
Proposed/Default Decisions	0	1	1
Stipulations	0	0	0
Average Days to Complete	0	874	878
AG Cases Initiated	1	2	2
AG Cases Pending (close of FY)	1	2	3
Disciplinary Outcomes (Use CAS Report 096)			
Revocation	0	1	1
Surrender	0	0	0
Suspension	0	0	0
Probation with Suspension	0	0	0
Probation	0	0	0
Probationary License Issued	0	0	0
Other	0	0	0
PROBATION			
New Probationers	0	0	0
Probations Successfully Completed	0	0	1
Probationers (close of FY)	1	1	0
Petitions to Revoke Probation	0	0	0
Probations Revoked	0	0	0
Probations Modified	0	0	0
Probations Extended	0	0	0
Probationers Subject to Drug Testing	0	0	0
Drug Tests Ordered	0	0	0
Positive Drug Tests	0	0	0
Petition for Reinstatement Granted	0	0	0

Table 9c. Enforcement Statistics			
	FY 2009/10	FY 2010/11	FY 2011/12
INVESTIGATION			
All Investigations (Use CAS Report EM 10)			
First Assigned	8	10	26
Closed	8	11	25
Average days to close	212	269	210
Pending (close of FY)	7	6	7
Desk Investigations (Use CAS Report EM 10)			
Closed	5	7	19
Average days to close	48	116	78
Pending (close of FY)	1	0	3
Non-Sworn Investigation (Use CAS Report EM 10)			
Closed	n/a	n/a	n/a
Average days to close	n/a	n/a	n/a
Pending (close of FY)	n/a	n/a	n/a
Sworn Investigation			
Closed (Use CAS Report EM 10)	0	4	0
Average days to close	0	537	0
Pending (close of FY)	0	6	0
COMPLIANCE ACTION (Use CAS Report 096)			
ISO & TRO Issued	0	0	0
PC 23 Orders Requested	0	0	1
Other Suspension Orders	0	0	1
Public Letter of Reprimand	0	0	0
Cease & Desist/Warning	0	0	0
Referred for Diversion	0	0	0
Compel Examination	0	0	0
CITATION AND FINE (Use CAS Report EM 10 and 095)			
Citations Issued	0	0	0
Average Days to Complete	0	0	0
Amount of Fines Assessed	$0	$0	$0
Reduced, Withdrawn, Dismissed	$0	$0	$0
Amount Collected	$0	$0	$0
CRIMINAL ACTION			
Referred for Criminal Prosecution	1	0	1

Table 10. Enforcement Aging						
	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	Cases Closed	Average %
Attorney General Cases (Average %)						
Closed Within:						
1 Year	0	0	0	0	0	0%
2 Years	0	0	0	0	0	0%
3 Years	0	0	1	1	2	100%
4 Years	0	0	0	0	0	0%
Over 4 Years	0	0	0	0	0	0%
Total Cases Closed	0	0	1	0	2	100%
Investigations (Average %)						
Closed Within:						
90 Days	8	4	3	11	26	47%
180 Days	2	1	4	6	13	24%
1 Year	0	0	1	2	3	6%
2 Years	1	3	1	4	9	16%
3 Years	0	0	2	2	4	7%
Over 3 Years	0	0	0	0	0	0%
Total Cases Closed	11	8	11	25	55	100%

Cite and Fine

The Midwifery Program has not utilized its citation and fine authority primarily because there are no technical violations which would be appropriate to resolve through this administrative remedy.

Cost Recovery and Restitution

Two disciplinary actions were taken against licensees over the past 3 fiscal years which resulted in cost recovery. In both cases, the penalty imposed as a result of the disciplinary action was license revocation. The former licensees are continuing to make payments to the Board for the ordered costs.

The Board also has the ability to seek cost recovery for investigations referred for criminal prosecution. The following chart identifies the costs ordered and received for criminal investigations.

Fiscal Year	FY 08/09	FY 09/10	FY 10/11	FY 11/12
Criminal Cost Recovery Ordered	$0	$0	$0	$18,356
Criminal Cost Recovery Received	$0	$0	$0	$1,620

The Board does not seek restitution from the licensee for individual consumers. However, cases involving unlicensed practice can be referred by the Board to the local district attorney for prosecution. Restitution has been ordered by a judge as a part of the criminal case prosecuted by the district attorney. The restitution identified in Table 12 was ordered due to these unlicensed cases.

The Board is unable to identify how much is collected for the victim/patient because the court receives the funds and provides it to the victim/patient and the Board is not notified.

Table 11. Cost Recovery

	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13**
Potential Cases for Recovery *	0	0	0	0
Cases Recovery Ordered	0	1	1	0
Amount of Cost Recovery Ordered	$0	$11,565	$12,530	$0
Amount Collected	$0	$150	$5,880	$10,165

* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the license practice act.
**As of 9/30/12

Table 12. Restitution

	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12
Amount Ordered	$0	$0	$0	$1,500
Amount Collected	$0	$0	$0	$0

Section 6 – Public Information Policies

Refer to Full 2012 Medical Board Sunset Report

Section 7 – Online Practice Issues

Refer to Full 2012 Medical Board Sunset Report

Section 8 – Workforce Development and Job Creation

Refer to Full 2012 Medical Board Sunset Report

Section 9 – Current Issues

Refer to Full 2012 Medical Board Sunset Report

Section 10 – Board Action and Response to Prior Sunset Issues

Refer to Full 2012 Medical Board Sunset Report

Section 11 – New Issues

Physician Supervision

Section 2057 of the B&P Code authorizes a licensed midwife, *under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics*, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother and immediate care for the newborn. B&P Code section 2507(f) requires the Board *by July 1, 2003* to adopt regulations defining the appropriate standard of care and level of supervision required for the practice of midwifery. Due to the inability to reach consensus on the supervision issue, the Board bifurcated this requirement and in 2006 adopted Standards of Care for Midwifery (CCR section 1379.19). Three previous attempts to resolve the physician supervision issue via legislation and/or regulation have been unsuccessful due to the widely divergent opinions of interested parties and their inability to reach consensus.

Although required by law, physician supervision is essentially unavailable to licensed midwives performing home births, as California physicians are generally prohibited by their malpractice insurance companies from providing supervision of licensed midwives who perform home births. According to these companies if they supervise, or participate, in a home birth they will lose their insurance coverage resulting in loss of hospital privileges. The physician supervision requirement creates numerous barriers to care, in that if the licensed midwife needs to transfer a patient/baby to the hospital, many hospitals will not accept a patient transfer from a licensed midwife as the primary provider who does not have a supervising physician. California is currently the only state that requires physician supervision of licensed midwives. Among states that regulate midwives, most require some sort of collaboration between the midwife and a physician. For example, in New York, licensed midwives are required to establish and maintain a collaborative relationship with a physician. The midwife is required to maintain documentation of such collaborative relationships and make information about such collaborative relationships available to his or her patients. However, documentation of the collaborative relationship does not have to be submitted to the licensing authority.

In New Jersey, the licensed midwife is required to establish written clinical guidelines with the affiliated physician which outlines the licensee's scope of practice, circumstances under which consultation, collaborative management, referral and transfer of care of women between the licensee and the affiliated physician are to take place. Theses clinical guidelines must include provisions for periodic conferences with the affiliated physician for review of patient records and for quality improvements. The licensed midwife is required to provide this information to the licensing authority upon request. It is considered professional misconduct to practice without established clinical guidelines.

States such as Arkansas and South Carolina provide a very detailed list of situations where physician intervention or referral is required. Other states, such as Virginia and New Mexico, have laws requiring collaboration between a physician and a midwife, but limit physician liability, stating that any consultative relationship with a physician does not by itself provide the basis for finding a physician liable for any acts or omissions by a licensed midwife. New Mexico law requires that each woman

accepted for care must be referred at least once to a duly licensed physician within four (4) weeks of her initial midwifery visit. The referral must be documented in the chart.

The Board, through the Midwifery Advisory Council has held many meetings regarding physician supervision of licensed midwives and has attempted to create regulations to address this issue. The concepts of collaboration, such as required consultation, referral, transfer of care, and physician liability have been discussed among the interested parties with little success. There is disagreement over the appropriate level of physician supervision, with licensed midwives expressing concern with any limits being placed on their ability to practice independently. The physician and liability insurance communities have concerns over the safety of midwife-assisted homebirths, specifically delays and/or the perceived reluctance of midwives to refer patients when the situation warrants referral or transfer of care. It appears the physician supervision requirement needs to be addressed through the legislative process.

Lab Orders and Obtaining Medical Supplies

Licensed midwifes have difficulty securing diagnostic lab accounts, even though they are legally allowed to have lab accounts. Many labs require proof of physician supervision. In addition, licensed midwives are not able to obtain the medical supplies they have been trained and are expected to use: oxygen, necessary medications, and medical supplies that are included in approved licensed midwifery school curriculum (CCR section 1379.30). The inability for a licensed midwife to order lab tests often means the patient will not obtain the necessary tests to help the midwife monitor the patient during pregnancy. In addition, not being able to obtain the necessary medical supplies for the practice of midwifery adds additional risk to the licensed midwife's patient and child.

The Board, through the Midwifery Advisory Council held meetings regarding the lab order and medical supplies/medication issues and has attempted to create regulatory language to address this issue. However, based upon discussions with interested parties it appears the lab order and medical supplies/medication issues will need to be addressed through the legislative process.

Midwife Students, Apprentices and Assistants

Section 2514 of the B&P Code authorizes a "bona fide student" who is enrolled or participating in a midwifery education program or who is enrolled in a program of supervised clinical training to engage in the practice of midwifery as part of her course of study if: 1) the student is under the supervision of a physician or a licensed midwife who holds a clear and unrestricted California Midwife License and that midwife is present on the premises at all times client services are provided; and 2) the client is informed of the student's status. There has been disagreement between the Board and some members of the midwifery community regarding what constitutes a "bona fide student". However, the current statute is very clear regarding a student midwife.

Some members of the midwifery community hold that an individual who has executed a formal agreement to be supervised by a licensed midwife but is not formally enrolled in any approved midwifery education program qualifies the individual as a student in apprenticeship training. Many midwives consider that an individual may follow an "apprenticeship pathway" to licensure. The original legislation of the Midwifery Practice Act, included the option to gain midwifery experience that will then allow them to pursue licensure via the "Challenge Mechanism" detailed in B&P Code section 2513(a) which allows an approved midwifery education program to offer the opportunity for students

to achieve credit by examination for previous clinical experience. This was included to allow for those who had been practicing to meet the requirements for licensure. The statute clearly states a midwife student must be formally enrolled in a midwifery educational institution in order to participate in a program of supervised midwifery clinical training. This may have been included with the assumption that midwifery education programs would be created statewide for individuals seeking this career path. There is currently one approved education program in California. A written agreement between a licensed midwife and a "student" does *not* qualify as a "program of supervised clinical training". Accordingly, these types of arrangements are not consistent with the provisions of B&P Code section 2514. A Task Force consisting of members of the Midwifery Advisory Council has recently been formed to examine this issue. However, the issue of students/apprenticeships may need to be addressed through the legislative process.

A similar concern revolves around the use of "assistants" by a licensed midwife and the duties the assistant may legally perform. It has been brought to the attention of the Board that licensed midwives use midwife assistants. Currently, there is no definition for a midwife assistant, the specific training requirements or the duties that a midwife assistant may perform. Some licensed midwives only use another licensed midwife as an assistant. Other licensed midwives use a midwife student who is enrolled in a recognized midwifery school and who has an official agreement with the student and midwifery school to provide clinical training to the student midwife. Other licensed midwives use someone who may or may not have formal midwifery training and/or someone that the licensed midwife has trained. The duties that a midwife assistant performs vary from midwife to midwife. Some midwife assistants only setup the birthing area prior to the baby being born and then cleanup the birthing area after the baby has been born. Some midwife assistants also hand supplies to the midwife during the delivery of the baby. Other midwife assistants (unlicensed individuals and not an official midwife student) actually assist the midwife with the birth of the baby. Current statute and regulations do not address the use of a midwife assistant, the need for formal training or not, or the specific duties of an assistant. Current statute does not provide a licensed midwife with the authority to train or supervise a midwife assistant who is actually assisting with the delivery of an infant. The issue of a midwife assistant is not an issue that can be addressed with regulation with the current statutes that regulate the practice of midwifery. The issue of the midwife assistants should be addressed with legislation.

Section 12 – Attachments

Refer to Full 2012 Medical Board Sunset Report

programming. RCCI also provides advice on issues involving human resources and health system reform.

Based upon the information available, it appears RCCI may move into the accreditation of postgraduate training residency programs in other countries. The initial programs likely will be in the UK and Australia since the postgraduate training programs in those countries are similar to Canada's. To date, RCCI has not accredited any international postgraduate training programs.

RCCI has already taken the first step of consulting and setting up new international postgraduate training programs to be equivalent to RCPSC accredited postgraduate training programs. It is safe to assume that RCCI accreditation to these new postgraduate training programs will be following in the near future.

These two new programs were presented to the Licensing Committee at its meeting on January 31, 2013. The Board will continue to review and assess these new programs to determine how to address them when considering postgraduate training for purposes of California licensure.

Allopathic and Osteopathic Postgraduate Training Programs (New)

Currently the Board recognizes Accreditation Council Graduate for Medical Education (ACGME) accredited postgraduate training for the purposes of allopathic medical school students' clinical clerkship training and for the required postgraduate training for licensure as a physician and surgeon. ACGME accredited postgraduate training programs are at institutions that are accredited by the Joint Commission. Recently ACGME has accredited postgraduate training programs in hospitals that are accredited by the American Osteopathic Association-Healthcare Facilities Accreditation Program (AOA-HFAP). B&P Code section 2089.5 specifically references the "Joint Commission on Accreditation of Hospitals" as the hospital accreditation agency for ACGME postgraduate training programs.

American Osteopathic Association (AOA) accredits postgraduate training for licensure purposes for osteopathic medical school graduates. AOA accredited postgraduate training programs are usually obtained in hospitals that are accredited by the AOA-HFAP.

ACGME and AOA have reached an agreement for ACGME to approve all postgraduate training programs for both Allopathic medical schools (M.D. degrees awarded) and Osteopathic medical school (D.O. degrees awarded) graduates. This change will require an amendment to B&P Code section 2089.5 to include the AOA-HFAP as an approved accreditation agency for hospitals offering ACGME accredited postgraduate training programs.

The need to amend B&P Code section 2089.5 was presented to and approved by the Licensing Committee and the Full Board at the Board's January 31, 2013meeting.

Midwifery Program (New)

In addition to the new issues listed in Appendix 1 – Midwifery Program of the Sunset Review Report, the Midwifery Advisory Committee (MAC) identified two additional issues at its December 6, 2012 meeting. The MAC determined that Business and Professions Code (B&P) section 2514 does not include certified nurse midwives (CNM) as being able to supervise midwifery students. The MAC supported amending B&P section 2514 to include CNMs, who are licensed by the Board of

Registered Nursing (BRN), as individuals who can supervise midwifery students. The Board will need to seek the BRN's input on this issue too.

Currently both physicians and CNMs are identified as being able to sign off on clinical experience for license midwife students pursuant to B&P section 2513, but supervision of training is not specifically identified in law.

Another issue discussed at the MAC's December 6, 2012 meeting was a proposal to change the current retrospective method of collecting data for the required annual reporting of licensed midwife statistics. These statistics are currently being reported to the Office of Statewide Health Planning and Development (OSHPD). The reporting system that the MAC evaluated is from Midwives Alliance of North America (MANA). MANA is a private organization and the MANA data reporting system is a prospective data collection system. The Board will continue to look at the feasibility and desirability of this change and determine if it should move forward to request a statutory change to Business and Professions Code Section 2516 in order to change the methodology used for collection of data and the mechanism for reporting this to the Legislature.