



MEDICAL BOARD OF CALIFORNIA
Licensing Operations



Midwifery Advisory Council

Lake Tahoe Room
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815

April 7, 2011

MINUTES

NOTE: The recording of the April 7, 2011 Midwifery Advisory Council meeting was inadvertently destroyed. The minutes of the meeting were created from staff notes and may or may not be complete.

Agenda Item 1 Call to Order/Roll Call

The Midwifery Advisory Council (MAC) of the Medical Board of California was called to order by Chair Karen Ehrlich at 12:02 p.m. A quorum was present and notice had been mailed to all interested parties.

Members Present:

Karen Ehrlich, L.M., Chair
Ruth Haskins, M.D., Vice Chair
William Frumovitz, M.D.
Faith Gibson, L.M.
Carrie Sparrevohn, L.M.
Barbara Yaroslavsky

Staff Present:

Letitia Robinson, Manager, Licensing Program
Jennifer Simoes, Chief of Legislation
Kurt Heppler, Legal Counsel
Cheryl Thompson, Analyst, Licensing Program
Linda Whitney, Executive Director
Curt Worden, Chief of Licensing

Members of the Audience:

Bruce Ackerman, Midwives Alliance of North America (MANA)
Heather Baker, L.M.,
Claudia Breglia, L.M., California Association of Midwives (CAM)
Jennifer Brown, L.M.
Shannon Smith-Crowley, American College of Obstetricians and Gynecologists (ACOG)
Frank Cuny, California Citizens for Health Freedom (CCHF)
Renee Hanevold, C.N.M.
Jennifer Heystek, L.M.

Diane Holzer, L.M.
Tanya Khemet, L.M.
Constance Rock, L.M., California Association of Midwives
John Toth, M.D., California Citizens for Health Freedom
Veronica Ramirez, California Medical Association

Agenda Item 2 Public Comments on Items Not on the Agenda

No public comment was offered.

Agenda Item 3 Approval of Minutes from the December 9, 2010, Meeting

Ms. Yaroslavsky made a motion to approve the minutes from the December 9, 2010 meeting with minor edits; s/Sparrevohn; motion carried.

Agenda Item 4 Midwifery Program Update

Ms. Thompson reported during the second quarter of FY 2010/11, 11 applications were received and 13 licenses were issued, bringing the total number of licenses issued in FY 10/11 to 23. She noted that the number of licenses issued in the first half of 2010/2011 already exceeded the number issued in all of FY 2009/2010.

At the last MAC meeting, information was requested on the number of licenses that were automatically canceled after five years delinquency. There were no canceled licenses in FY 09/10 and none so far this fiscal year.

As of March 6, 2011, there are 240 renewed and current licensed midwives in CA and 19 in delinquent status.

The Board hosted the NARM exam, which serves as California's licensing exam, at its offices on February 16, 2011. Nineteen individuals sat for the exam. The next exam will be held on August 17, 2011.

Ms. Thompson reported on updates to the midwifery information on the Board's website. The Midwife License Application and LiveScan fingerprinting form are now posted and available for downloading on the midwife home page. A link to the 2010 Licensed Midwife Annual Report (LMAR), along with a helpful user guide developed by the Information Services Branch, is also posted.

At the December 9, 2010 MAC meeting, Claudia Breglia, L.M., CAM President, distributed an updated ACOG Practice Bulletin on VBACs. Staff contacted ACOG and asked for permission to post or link the update on our website, but the request was denied as only members are allowed internet access to Practice Bulletins. However, ACOG may be implementing changes to its website that will allow non-members to view the Bulletins.

At the December 2010 MAC meeting, Ms. Whitney reported the Manual of Model Disciplinary Guidelines that was established for physicians is currently being revised. She requested that any discussion on how these guidelines might apply to midwives be postponed until the revisions were adopted. Staff is currently finalizing the file, which will then be sent to the Department of Consumer Affairs, the State and Consumer Services Agency, and the Department of Finance for

approval before the Guidelines can be filed with the Office of Administrative Law. Once the Guidelines are adopted, staff and legal counsel will contact and work with Ms. Gibson, who volunteered at the last meeting to assist in identifying appropriate sections that could apply to midwives. The findings will then be presented to the Council for consideration after a full review.

Agenda Item 5 Licensed Midwife Annual Report

A. Update on OSHPD / MBC Interagency Agreement

A Memorandum of understanding (MOU) between the Medical Board and OSHPD was reviewed by staff counsel and signed by both OSHPD and MBC. This MOU clarifies the duties and responsibilities of both OSHPD and MBC as it relates to the midwife data collection and reporting to ensure compliance with the Licensed Midwifery Practice Act.

B. Update on Online 2010 Annual Report Survey

OSHPD reported that, as of April 4, 2011, of the 257 midwives expected to complete the LMAR (this includes midwives in delinquent status), 158 midwives have submitted their reports and 99 have not.

There was a glitch that occurred in the LMAR that prevented submissions after the March 30th due date, but this was quickly corrected. A letter will be sent to midwives who have not submitted their reports by April 30, 2011 to notify them of non-compliance and inform them that a hold will be placed on their ability to renew their license until their 2010 report has been submitted. All data submitted prior to the date OSHPD delivers its final report to MBC in July will be included in the aggregate data that will be reported to the Legislature. Based on the comments and questions she has received from midwives completing their reports, Ms. Thompson indicated that the changes that were made in the 2010 LMAR to improve accuracy and internal consistency appear to be working.

A suggestion was made to structure the online reporting mechanism so that the midwife must review the definitions and frequently asked questions sections before beginning the actual reporting of data. It was also suggested that a task force be formed to review the LMAR statistics and reporting process.

C. Update on Legislative Revision to Add Neonatal and Maternal Death to Statutory Reporting requirements

Jennifer Simoes, Chief of Legislation, reported that the requested changes have been included in the omnibus language which will hopefully be amended into the Senate omnibus bill for 2011.

D. Update on MANA Statistics Project for the Mandated Collection of Midwifery Data

At the December 2010 MAC meeting, Bruce Ackerman from the MANA Statistics Project delivered a presentation on MANA's data collection system which allows midwives to report their data in a prospective manner. He reported that MANA Stats is working with the state of Oregon to develop a shortened reporting form that Oregon midwives can use to satisfy their mandated reporting requirements. The MAC members expressed interest in pursuing a similar collaboration with MANA Stats to fulfill California reporting requirements. Any change in the current reporting process will require a full review. In addition, statutory changes will likely be required as the reporting requirements are specified in law. Staff will follow the outcomes of the Oregon collaboration project and this information will be considered in any review.

Agenda Item 6 Discussion and Possible Consideration of ACOG Legislative Agenda, District IX Proposals in Regard to Improving the Health Care and Outcomes for All California Pregnant Women

Dr. Haskins presented the Collaborative Practice Statement issued by the American College of Obstetricians and Gynecologists (the College) and the American College of Nurse Midwives (ACNM). The College and ACNM have published a new "Joint Statement of Practice Relations" between ob-gyns and certified nurse midwives/certified midwives. The document highlights key principles to facilitate improved communication, working relationships, and seamlessness in the provision of maternity care and other vital women's health services. According to the joint statement, "Ob-gyns and CNMs/CMs are experts in their respective fields of practice and are educated, trained, and licensed, independent providers who may collaborate with each other based on the needs of their patients. Quality of care is enhanced by collegial relationships characterized by mutual respect and trust, as well as professional responsibility and accountability." The announcement was greeted with enthusiasm by the MAC and the midwives present at the meeting.

Agenda Item 7 Update on Barriers to Care

A. Lab Accounts

Letitia Robinson, Licensing Manager, reported she attended a meeting of the Clinical Laboratory Technology Advisory Committee (CLTAC) meeting on January 14, 2011 in order to address the difficulty midwives are experiencing in opening lab accounts. In many instances, midwives are being asked to provide documentation of their supervising physician prior to opening an account. The CLTAC, which is composed of 22 members representing the various interest groups related to clinical laboratories, advises the California Department of Public Health on matters related to clinical laboratories. Although the members were in agreement that, based on the definition of a licensed health care provider in law, licensed midwives are allowed to order lab tests, they cautioned that it is the decision of the independent lab on whether or not to accept a midwife's business.

B. Discussion on Addressing Physician Supervision Via Regulations to Define the Appropriate Level of Supervision

Council members discussed the near impossibility of obtaining physician supervision since malpractice insurance carriers generally prohibit physicians from supervising, consulting with, or backing-up any midwife for homebirth. The requirement for physician supervision in Section 2507 of the Business and Professions Code means that almost all licensed midwives are practicing outside the law. There are a few midwives who are also licensed physician assistants or other licensed health care providers who have physician supervision via their other license, but the vast majority of midwives do not. California is the only state in the nation requiring physician supervision; most states require physician collaboration. The requirement for physician supervision creates difficulties for midwives in the provision of care, including problems in obtaining necessary supplies and tests, transferring care in emergency situations, among others.

Mr. Heppler reported the Board was charged with developing regulations defining the appropriate level of supervision required for the practice of midwifery no later than July 1, 2003. All previous attempts to fulfill this requirement have been unsuccessful, as a consensus could not be reached by the Board and interested parties on what the appropriate level of supervision should be.

Council members, encouraged by ACOG's collaborative practice statement, felt it was timely to make another attempt at regulations.

Dr. Haskins made a motion to ask the Board for permission to pursue regulations to define the appropriate level of supervision; s/Sparrevohn; motion carried.

C. Discussion on Pursuing Regulations in Order to Provide Authority for Licensed Midwives to Obtain Necessary Supplies

Mr. Hepler reported that Section 1379.30 of Title 16 of the California Code of Regulations (CCR) provides that midwifery education programs shall prepare the midwife for management of the normal pregnancy, management of normal labor and delivery in all birth settings, management of the normal postpartum period, newborn care, and family planning and routine gynecological care. This educational preparation includes the administration of intravenous fluids, analgesics, postpartum oxytocics, RhoGAM, vitamin K, eye prophylaxis, diaphragms and cervical caps. While the regulations require preparation for using these substances/drugs and equipment, the law does not specifically authorize the midwife to obtain or administer them. Regulations specifically authorizing midwives to obtain and administer specific formulary drugs, while excluding other legend drugs, may be helpful in addressing the difficulty some midwives are facing in obtaining necessary supplies.

Ms. Sparrevohn made a motion that the MAC request the Board for authorization explore regulations to enhance 16 CCR §1379.30.

D. Status of Petition(s) Filed by Outside Entities to Change Regulations

Ms. Simoes directed members to page 32 of the meeting packet for the sections of California Government Code relating to petitions by outside entities to change existing regulations. She suggested that the California midwifery community, rather than the Medical Board, would be the more appropriate entity to petition the particular regulatory agencies to make changes to existing regulations that they view as restrictive toward midwives, as this is the usual pathway to regulatory change. Ms. Simoes asked if the midwifery community had submitted any petitions, but was told that none had been submitted to date.

Agenda Item 8 MAC Membership

A. Nominations to Fill MAC Termed Positions

Ms. Ehrlich reported that a letter requesting applications for the vacant Council positions was sent to all licensed midwives and interested parties on the MAC's mailing list. Five applications were received for the licensed midwife position and four applications were received for the public member position. Applicants were invited to address the Council. Upon learning of Ms. Sparrevohn's and Ms. Yaroslavsky's desire to continue their service on the MAC, the other applicants present requested that their applications be withdrawn.

1) Licensed Midwife 3-Year Term (expires 2014)

Dr. Haskins nominated Carrie Sparrevohn to be recommended to the Board for reappointment for a three-year term on the Midwifery Advisory Council; s/Yaroslavsky; carried.

2) Public Member 3-Year Term (expires 2014)

Ms. Sparrevohn nominated Ms. Yaroslavsky to be recommended to the Board for reappointment for a three-year term on the Council; s/Haskins; carried.

Ms. Sparrevohn's and Ms. Yaroslavsky's names will be submitted to the Medical Board for consideration at the Board's July 2011 meeting.

B. Discussion and Possible Consideration of Limits of Years/Terms for Council Members

Prior to consideration of possible term limits for MAC members, staff was requested to provide the members with information on member terms and limits for other committee members within the Department of Consumer Affairs. The discussion will be placed on the agenda for the next MAC meeting.

Agenda Item 9 Election of Officers for Term Beginning with August 2011 Meeting

This item was tabled until the August 2011 meeting in Sacramento.

Agenda Item 10 Agenda Items for the August 11, 2011 Meeting in Sacramento

The following items were requested for the next MAC meeting:

- Increasing the size of the MAC by adding a public and licensed midwife member.
- Possible formation of a task force to review the Licensed Midwife Annual Report.
- Report by staff on midwifery enforcement data.
- Review of midwifery schools that do not have an approved challenge mechanism that are allowing students to complete units by examination only (no instruction). Staff was requested to research this practice.
- Review of possible updates or enhancements to the Board's midwifery website.

Agenda Item 11 Adjournment

Upon the conclusion of business, Ms. Ehrlich requested a motion to adjourn; m/Yaroslavsky; s/Sparrevohn; carried.