



MEDICAL BOARD OF CALIFORNIA

Licensing Program

MIDWIFERY ADVISORY COUNCIL

March 16, 2017

Medical Board of California
Hearing Room
2005 Evergreen Street
Sacramento, CA 95815

MEETING 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 1:05 p.m. A quorum was present and notice was sent to interested parties.

Members Present:

Carrie Sparrevohn, L.M., Chair
Anne Marie Adams, M.D.
Jocelyn Dugan
Diane Holzer, L.M.
Tosi Marceline, L.M.
Barbara Yaroslavsky

Staff Present:

April Alameda, Staff Services Manager II
Natalie Lowe, Staff Services Manager I
Elizabeth Rojas, Staff Services Analyst
AnnaMarie Sewell, Associate Governmental Program Analyst
Jennifer Simoes, Chief of Legislation
Kerrie Webb, Legal Counsel

Members of the Audience:

Bruce Ackerman, Midwives Alliance of North America
Megan Bochum, L.M., C.P.M.
Rosanna Davis, L.M., California Association of Licensed Midwives
Karen Ehrlich, L.M., Midwives Education Accreditation Council
Rachel Fox-Tierney, L.M., C.P.M.
Nancy Greenwood
Jessica Johnson, L.M.
Kaleem Joy, L.M., C.P.M.
Anne Jurach, Office of Statewide Health Planning and Development
Jennifer Kamel, VBAC Facts
Rachel Kiene, L.M., C.P.M.

Sarah Mason, Senate Business, Professions and Economic Development Committee
Laura Maxson, L.M., C.P.M., Birth Network of Santa Cruz County
Krystal Moreno, American College of Obstetricians and Gynecologists
Lesley Nelson, L.M., C.P.M.
Kelly Olmstead, L.M.
Chemin Perez, L.M., C.P.M.
Tanya Smith-Johnson, California Families for Access to Midwives
Linda Walsh, R.N., California Nurse-Midwives Association
Sue Wolcott, L.M., C.P.M.

Agenda Item 2 **Public Comment on Items not on the Agenda**

Ms. Mason representing the Senate Business, Professions and Economic Development Committee, introduced herself and stated that she was available to be a resource to the MAC, the midwifery profession, and to stakeholders, as they navigate through the legislative process.

Ms. Ehrlich informed the MAC that there was a new bill being introduced for certified nurse-midwives and requested updates be provided regarding the bill at future meetings.

Agenda Item 3 **Approval of the December 1, 2016 Midwifery Advisory Council Meeting Minutes**

Ms. Yaroslavsky motioned to approve the December 1, 2016 meeting minutes; s/Ms. Sparrevohn. Motion carried unanimously.

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

Ms. Sparrevohn informed the midwifery community that American River College in Sacramento was working toward opening a midwifery program.

Agenda Item 5 **Update on Midwifery Task Force**

Ms. Webb provided an update on the Midwifery Task Force meeting held on March 6, 2017, stating that the American College of Obstetricians and Gynecologists (ACOG), California Association of Licensed Midwives (CALM), Board staff, and two Board members, Dr. Levine and Dr. Bholat, met to discuss the status of regulations needed to define pre-existing maternal disease or condition likely to affect the pregnancy, and significant disease arising from the pregnancy, pursuant to Business and Professions Code section (B&P) 2507.

Ms. Webb stated that the parties discussed the challenges created by the language in B&P 2507(b)(2), which requires a licensed midwife to refer a client with a pre-existing maternal disease or condition likely to affect the pregnancy, or a significant disease arising from the pregnancy, to a physician and surgeon for an examination, and a determination by the physician that the risk factors presented by the woman's disease or condition were not likely to significantly affect the course of the pregnancy and childbirth if the midwife was to be allowed to continue care.

Ms. Webb stated that the Task Force had been informed that the requirement to have a physician make a determination could place physicians in a difficult position, causing reluctance and challenges for collaboration and access to care for midwifery clients. Ms. Webb continued, stating that it was acknowledged that the issue could not be resolved through regulations, and that the plan would be to propose language for a legislative fix, so that if the client had a pre-existing maternal disease or condition likely to affect the pregnancy, or a significant disease arising from the pregnancy, the midwife would be required to refer the woman to a physician trained in obstetrics for an assessment of the risk factors that may adversely affect the outcome of the pregnancy or childbirth. Ms. Webb stated that the midwife would then have to include the assessment when evaluating whether the client's disease or condition would likely significantly affect the course of the pregnancy or childbirth. Ms. Webb stated that it would be the midwife making the determination within the midwifery standard of care rather than the physician, as to whether the client should continue with midwifery care.

Ms. Webb stated that staff did not anticipate any other changes to the existing language in B&P 2507. Ms. Webb continued, stating that if the statute was successfully changed, Board staff would move forward with proposed regulations to define pre-existing maternal disease or condition likely to affect the pregnancy, and significant disease arising from the pregnancy. Ms. Webb stated that conditions falling within the definitions put forth in regulations, which would include a prior cesarean section, would prompt a referral to a physician for an assessment of the risk factors, and when appropriate, for a transfer of care. Ms. Webb added that the meeting was beneficial, and hoped that a compromise could be reached that serves the paramount mission of consumer protection while not creating unnecessary hurdles for access to midwifery care.

Ms. Dugan felt that self-determination was of great importance to the consumer as it would allow access to care and allow women to self-determine their care, or at least to choose their provider.

Ms. Webb stated that if the midwife determined that the client had one of the conditions that would take the woman out of normal, the midwife would have to make a referral to a physician for an assessment.

Ms. Marceline questioned what guidance midwives had until the statute changes.

Ms. Webb indicated that midwives should review the current laws and the midwifery standard of care to determine whether a client's condition would be considered normal. Ms. Webb stated that there was not currently any regulations that would help determine what was "normal;" however, if a complaint was filed with the Board, a midwife consultant would review the information available and evaluate the decisions and actions made by that midwife to determine whether he or she acted within the standard of care in taking on that client, and retaining that client, and if there was a change during the course of pregnancy. Ms. Webb added that if the standard of care was not followed, then that could progress for further disciplinary action as appropriate.

Ms. Sparrevohn questioned if midwives should use the guidelines as a way to have informed decision-making about what could be considered outside the scope of midwifery care.

Ms. Webb indicated that midwives should utilize their training, experience, and tools that would be at their disposal, including the guidelines. Ms. Webb stated that midwives should be aware of the

requirements that exist in statute and comply with them. Ms. Webb added that the mentioned documents should be utilized to inform the midwife's decision as to whether they would be in compliance with the statute.

Ms. Rosanna Davis stated she had attended the task force meeting, and her understanding was that after the examination was made by the physician, there was consensus that then it would be the client's decision whether to return to midwifery care or not.

Dr. Adams stated that it was always the woman's choice whether she decides to stay with the physician or not.

Ms. Rosanna Davis stated that women should have a choice to return to the midwife if it was within the midwife's scope of practice; however, the language as written made it so that the woman could only return to midwifery care if the physician examined the woman, and determined that it was appropriate.

Dr. Adams thought that if a client, upon referral to a physician, requested that the physician document in their chart how likely a condition would affect the course of pregnancy and delivery, and what the risk factors were, the physician would not write the assessment in that way. Dr. Adams stated the levels of risk in a pregnancy were not well delineated, which meant that it would be incumbent on the midwife to make the determination, after evaluating the records that were obtained from the physician. Dr. Adams thought one could not legislate the physician to write a specific kind of statement.

Ms. Sparrevohn recommended performing outreach with state representatives to discuss important matters in the bill and to get consumer groups to advocate for what was important for women, in order to obtain a better working arrangement between midwives and physicians.

Ms. Ehrlich stated that she was unable to see any difference between the suggested changes and the existing statute, and requested further clarification.

Ms. Webb clarified that the physician would assess the client's risk factors, but would not make a determination if the risk factors presented by the woman's disease or condition would be likely to significantly affect the course of pregnancy and childbirth. Ms. Webb added that the midwife would obtain the information and be responsible for making the assessment that the client was appropriate for continued midwifery care.

Ms. Yaroslavsky stated that midwives should be aware of the proposed changes so that they could be more engaged in the process. Ms. Yaroslavsky added that she would like the word "normal" to be changed to a different word when rewriting legislation.

Ms. Sparrevohn stated that it was important for midwives to stay engaged and to make sure that their representatives understood their concerns.

Ms. Holzer questioned what would be in statute.

Ms. Webb stated that the concept was that the physician would assess the risk factors; the midwife would then obtain the information, and based on the information provided, would determine whether the

client would be appropriate for continued midwifery care.

Ms. Sparrevohn questioned if a prior cesarean section would be included in the statute, or if it would be added in regulation.

Ms. Webb indicated that a prior cesarean section would likely be one of the triggering factors that would require a client to have a physician consult and would likely be included in regulation.

Ms. Sparrevohn commented that it would be easier to get the consult if statute did not require the physician to make a determination on a risk status.

Ms. Bochum questioned if there would be language in statute that would protect the midwife when a referral was made, and a physician refuses to consult.

Ms. Webb responded that without obtaining a consult, midwifery care could not continue; however, there were additional resources available that could be utilized to obtain a consult, such as telehealth.

Ms. Perez thought that it was a great rewording of the language, because it would place the liability and the responsibility on the midwife to determine whether the woman falls into the midwifery scope of practice, and the midwife would determine if the woman would be a good candidate for an out-of-hospital delivery. Ms. Perez added that it would assist her in having a better relationship with her local physicians because liability would be removed from the physician.

Ms. Olmstead stated that she agreed with the discussion and supported Ms. Dugan's input concerning women's autonomy and being able to make their own healthcare decisions.

Dr. Adams stated that the focus for midwives should be meeting with their clients, coming up with a list of questions to ask, obtaining those answers from the physician, and then using that information to make an informed determination.

Ms. Marceline questioned if breach and twins would be added to the list.

Ms. Webb indicated there was not a discussion on removing breach and twins from the list that exists in statute.

Ms. Smith-Johnson stated that California Families for Access to Midwifery (CFAM) was in support of new language that would remove liability from physicians.

Agenda Item 6 **Update on Continuing Regulatory Efforts Required by Assembly Bill 1308**

Ms. Webb stated that the regulations to define pre-existing maternal disease or condition likely to affect the pregnancy, and significant disease arising from the pregnancy, have not moved forward in light of the impasse. Ms. Webb added that if a legislative change was successful, Board staff would then move forward with regulations.

Agenda Item 7 **Update on Midwifery Assistant Regulations**

Ms. Webb stated that the midwife assistant regulations went through some minor amendments, requiring a 15-day comment period, resulting in no public comment. In addition to some non-substantive changes, the amendments were made to incorporate the Center for Disease Control and Prevention (CDC) infection control guidelines by reference, and to reorganize the training requirements for clarity. Ms. Webb indicated that staff included a definition for a qualified midwife assistant and clarified the requirements for accrediting organizations that certify midwife assistants.

Ms. Webb stated that the regulations were with the Department of Consumer Affairs for review and once they completed the review, the regulations would be reviewed by the Business Consumer Services and Housing Agency, the Department of Finance, and finally the Office of Administrative Law for review and approval. Ms. Webb indicated that once approved, the regulations would go to the Secretary of State for formal incorporation into the California Code of Regulations, which could take an estimated 90 to 120 days for the Office of Administrative Law to approve. Ms. Webb stated that staff requested the approval date to become effective on the date of submission to the Secretary of State.

Agenda Item 8 **Update on Midwifery Legislation**

Ms. Simoes provided an update on legislation indicating that the only bill pending was the certified nurse-midwife spot bill, Assembly Bill (AB) 1612, Burke. Ms. Simoes stated the bill would be similar to AB 1306 and if there was a consensus on the legislative changes previously discussed, staff would begin working with the Senate Business, Professions and Economic Development Committee to include it in the Sunset bill.

Agenda Item 9 **Update, Discussion, and Possible Action on the Licensed Midwife Annual Report (LMAR) Task Force**

Ms. Lowe provided an update on the Licensed Midwife Annual Report (LMAR) Task Force indicating that at the December 1, 2016 MAC meeting, staff provided a brief update on the survey sent to midwives in October 2016, requesting feedback on how midwives would like to report the required data for their LMAR. Ms. Lowe stated that due to the limited responses to the survey, it was recommended that staff provide additional outreach to obtain feedback, prior to making any changes to the LMAR. Ms. Lowe stated that Board staff created an online survey which was accessible from the Board's website and was attached to the LMAR login link.

Ms. Lowe stated that because several midwives had not yet submitted their LMAR for the year, comprehensive survey data was not available to indicate which direction staff would take on revising the LMAR, and that until the LMAR closed at the end of March it would be preliminary to make any decisions at this time.

Ms. Sparrevohn questioned what the MAC's options for action were.

Ms. Webb suggested that the MAC could direct staff to present a draft proposal at the August 2017 meeting reflective of the results of the vote.

Ms. Holzer suggested that the MAC create a task force to meet regardless of which option was chosen.

Ms. Yaroslavsky thought the MAC should wait until the end of March 2017 to obtain the statistics if they intended on utilizing the statistics to inform their judgment before directing staff.

Ms. Sparrevohn indicated that her preference would be to have a task force review the results and make a decision, and then make a recommendation to the MAC in August.

Ms. Webb suggested appointing a task force to review the results once the LMAR closes, and to work with staff to develop proposals for the August meeting.

Ms. Sparrevohn stated that her proposal would be that the task force convene and hear responses from all interested parties, then the task force would make a recommendation to the MAC in August, and then the MAC would ultimately make a decision about which direction to go.

Ms. Webb indicated that the task force meeting should be held first, then an interested parties meeting could be scheduled to discuss the survey results.

Ms. Holzer volunteered to be a part of the task force.

Ms. Sparrevohn motioned to hold an Interested Parties meeting following discussion of the survey results, and make a recommendation to the MAC; s/Ms. Yaroslavsky. Motioned carried unanimously.

Agenda Item 10 Midwifery Advisory Council Three-Year Term Vacancy

Ms. Lowe stated that in December 2016, Board staff sent notice to all licensed midwives, subscribers on the Board's subscriber's alert list, and posted information on the Board's website, indicating that the Board was seeking applications from licensees to fill one licensed midwife position on the MAC for a term set to expire June 30, 2020.

Ms. Lowe stated that following the meeting, the nominee would be presented to the Board at the April 27-28, 2017 Quarterly Board meeting for final approval. Ms. Lowe stated that staff received four applications for the licensed midwife vacancy. Applications were submitted by Megan Bochum, L.M., Jessica Johnson, L.M., Kelly Olmstead, L.M., and Chemin Perez, L.M. Ms. Lowe allowed any of the applicants present, the opportunity to address the MAC.

Ms. Olmstead addressed the MAC, stating that her area of the state was well represented by the existing MAC, and withdrew her application in favor of having someone from a different area of the state, such as Southern California, be appointed to the MAC.

Ms. Perez addressed the MAC and stated that she was from Southern California, worked as a midwife, and worked with other midwives as an assistant. In 2013, she graduated and became a licensed midwife working in home birth settings and birth centers. Ms. Perez indicated that her desire as a midwife was to serve a population of women who have not been served in Los Angeles, and to serve the women of color in the community. Ms. Perez stated that she has had great experiences with the obstetricians in her area, and would like to represent the Southern California community, and the women of color.

Ms. Sparrevohn inquired if Ms. Perez would have coverage at her practice and be committed to attending the MAC meetings three times a year.

Ms. Perez indicated that she had coverage and would be committed to attending the MAC meetings three times a year.

Ms. Bochum addressed the MAC and stated that she was from the central coast where there was a smaller population and a relatively hostile working environment. Ms. Bochum stated that the idea of representing an area that has very different experiences than what the MAC might be accustomed to seeing or hearing, was intriguing to her, because sometimes the recommendations and the changes to statutes did not always coincide with the community where she practices. Ms. Bochum stated that in her experience, if she needed a physician consultation she would need to contact a physician in Southern California, as she does not have physicians that would consult with her, or she would need the client to drive a great distance, so it was a different situation for her. Ms. Bochum added that she was a certified lactation consultant through International Board Certified Lactation Consultant, had a small practice, and was an ardent supporter of VBAC.

Ms. Sparrevohn inquired if Ms. Bochum would have coverage at her practice and be committed to attending the MAC meetings three times a year.

Ms. Bochum indicated that she would have coverage and be committed to attending the MAC meetings three times a year.

Ms. Johnson addressed the MAC and stated that she was from Modesto. Ms. Johnson stated that she was extremely conservative both medically and culturally, and where she practiced was a very different climate, one in which sometimes the laws did not always coincide with the community she practices in, and often times physicians are unwilling to comply with them because of their personal beliefs. Ms. Johnson indicated that it was very difficult for midwives to practice in their area. Ms. Johnson added that she has worked on developing legislation that made her feel like her region was being represented, and would like the opportunity to continue working with legislation while on the MAC.

Ms. Sparrevohn inquired if Ms. Johnson would have coverage at her practice and be committed to attending the MAC meetings three times a year.

Ms. Johnson stated that she has a very tight midwifery collective in the area, and they are able to back each other up for circumstances such as this.

Ms. Yaroslavsky made a motion to nominate Chemin Perez, L.M. Dr. Adams nominated Megan Bochum, L.M. for the licensed midwife position to be recommended for approval at the next Quarterly Board meeting; Ms. Holzer seconded the motion for Ms. Perez. Motion carried in support of nomination of Chemin Perez, L.M. 5-1 (Opposed: Dr. Adams)

Agenda Item 11 Program Update

Ms. Lowe reminded midwives who have not yet submitted their Licensed Midwife Annual Report

(LMAR) to do so as soon as possible, as any LMAR reports submitted after the deadline would not be compiled into the annual report.

A. Licensing Statistics

Ms. Lowe provided an update on the licensing statistics indicating that in the last quarter there had been a significant increase in the number of applications received.

Ms. Yaroslavsky questioned how long a license stays in delinquent status, and what was the purpose of having a license that was delinquent not removed.

Ms. Lowe stated that once a license expires, it goes into delinquent status and would remain in delinquent status for up to five years from the expiration date, which would allow the midwife to renew their license during that time by completing a renewal form and paying any past renewal fees. After five years from the expiration date, the license would go into canceled status automatically, and if the midwife wished to come back and practice in California, they would have to submit an initial application and go through the initial application process.

Ms. Yaroslavsky questioned if there was an education component of continuing education that a midwife would have to provide.

Ms. Lowe stated that at the time of renewal, the renewal form asks if the midwife complied with the continuing education requirements, which is 36 hours for the previous renewal period. Ms. Lowe stated that proof of completion of the 36 hours of continuing education was not required at the time of renewal; however, midwives could be randomly selected for a continuing education audit in which they would then need to show documentation of compliance.

Ms. Sparrevohn questioned how long midwives should retain their continuing education documentation.

Ms. Lowe indicated that a midwife should retain their continuing education documentation for a minimum of four years, as that was the timeframe in which they could be audited.

Ms. Ehrlich questioned if there was a retired status for midwives.

Ms. Lowe stated that there was a retired status available to licensed midwives, which exempts them from the renewal fees; however, while on retired status no practice was allowed.

Ms. Sparrevohn questioned if there was a process to change from retired status to active status.

Ms. Lowe stated that in order to reinstate a midwifery license from retired status, the midwife would have to submit an application to restore the license to full and active status from retired status along with the current renewal fees.

Ms. Sparrevohn questioned if the continuing education requirement applied to the previous two years.

Ms. Lowe confirmed that continuing education would be for the past two years.

B. Hospital Reporting Form Statistics

Ms. Lowe provided an update on the hospital transfer reporting form statistics indicating that during the last quarter the Board received 47 hospital reporting forms for licensed midwives, two hospital reporting forms for certified nurse-midwives, and zero hospital reporting forms for unlicensed individuals.

Ms. Yaroslavsky questioned if the Board received the forms from hospitals.

Ms. Sparrevohn indicated that the hospital reporting forms were submitted to the Board by hospitals.

Ms. Yaroslavsky questioned if the numbers were true.

Ms. Lowe stated that the only data staff had to compare the numbers to was from the LMAR which reflects how many planned out-of-hospital births resulted in a transfer to hospital. In the past when the numbers were compared there were several more transfers reported in the LMAR than the Board received transfer forms for.

Ms. Yaroslavsky was concerned that the hospitals were not reporting and stated that if more midwives were reporting than hospitals were reporting, then the hospitals would need to be better educated. Ms. Yaroslavsky suggested that staff should do outreach to hospitals, and hospitals need to start returning the forms in order to have a more accurate picture.

Ms. Lowe stated that an article was included in the Board's newsletter regarding the practice of midwifery and included information regarding the hospital transfer reporting form.

Ms. Yaroslavsky suggested reprinting the article and sending it to the California Hospital Association (CHA) with a cover letter requesting the CHA share the information with their contacts.

Ms. Marceline stated that the advantage of outreach was that the hospitals would be informing the Board what they like and dislike about the form, and how the form would serve their needs.

Ms. Rosanna Davis stated that CALM encourages midwives to do individual outreach, but they do not have the resources to reach out to the hospitals. Ms. Davis added that she recalls the CHA indicating that they were doing outreach regarding the hospital reporting form.

C. Enforcement Statistics

Ms. Lowe provided an update on the enforcement statistics indicating that the number of complaints received during the second quarter was minimal. Ms. Lowe added that there were no referrals for disciplinary action or criminal action.

Agenda Item 12 Agenda Items for the Next Midwifery Advisory Council Meeting in Sacramento

- Update on the Midwifery Task Force
- Update on Assembly Bill 1308
- Update on Midwifery Assistant Regulations
- Update on Midwifery Legislation

- Update on the LMAR Task Force
- Update on the Midwifery Program
- Update on the American River College Midwifery Program
- Presentation by CALM on Obstacles to Care for Licensed Midwife Clients

Agenda Item 13 **Adjournment**

Ms. Sparrevohn adjourned the meeting at 2:31 p.m.

The full meeting can be viewed at http://www.mbc.ca.gov/About_Us/Meetings/2017/.