

## MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: January 19, 2017  
ATTENTION: Members, Medical Board of California  
SUBJECT: Midwife Assistants – Modified Text for Proposed Regulations  
FROM: Kerrie Webb, Senior Staff Counsel

REQUESTED ACTION:

After review and consideration of the attached language modifying proposed regulations Title 16 of the California Code of Regulations (CCR) sections 1379.01 through 1379.09 (Attachment A), make a motion to approve the modified language, and authorize staff to notice the modified language for a 15-day comment period. If no substantive negative comments are received, authorize the executive director to make any non-substantive changes and complete the rulemaking process.

BACKGROUND:

Senate Bill (SB) 408, Morrell, created Business and Professions Code (B&P) section 2516.5 authorizing licensed midwives and certified nurse midwives to use midwife assistants in their practices. Midwife assistants are unlicensed individuals who must meet specific requirements pursuant to B&P section 2516.5, and any other requirements established by regulations adopted by the Board.

At the May 6, 2016 Board meeting, the Board reviewed proposed regulations consistent with B&P section 2516.5, and authorized staff to proceed with the rulemaking process. The proposed regulations were noticed for a 45-day comment period and a hearing was held at the October 28, 2016 Board meeting. No comments were received from the public.

Upon further review, however, the following edits are recommended (see Attachment A for specific language):

- 1) Add the authority and reference note below each proposed regulation;
- 2) Under multiple proposed sections, strike references to “supervising” licensed midwives to clarify that this is not a special title, as any licensed midwife can supervise a midwife assistant.
- 3) Under proposed section 1379.01, strike subsection (1) as a typographical error, so that the B&P section referenced is 2516.5(b), since the entire subsection (b) was meant to be referenced, and not just 2516.5(b)(1);
- 4) Under proposed section 1379.04, incorporate the 1998 Guidelines for Infection Control in Health Care Personnel by reference, and add certified nurse midwives as supervisors;

- 5) Under proposed section 1379.05, restructure the training requirements to improve clarity;
- 6) Under proposed section 1379.06(a)(1) and (c), add language defining a “qualified midwife assistant” and his or her ability to train other midwife assistants, consistent with what is permitted by qualified medical assistants; and under 1379.06(a)(2) strike the reference to postsecondary programs authorized by the Department of Education, since postsecondary programs are authorized by the Bureau for Private Postsecondary Education;
- 7) Under proposed section 1379.07, clarify that an approved certifying agency must be accredited by the National Commission for Certifying Agencies or an equivalent agency; cross reference to the definition of a “qualified midwife assistant” under 1379.06(c)(1) requiring certification by a certifying organization approved by the Board; and cross reference to training programs under 1379.06(a)(2); and
- 8) Make additional non-substantive clarifying changes to multiple proposed sections.

**STAFF RECOMMENDATION:**

Staff recommends the Board approve the modifications to the proposed regulations, 16 CCR sections 1379.01 through 1379.09, and authorize staff to notice the modified language for a 15-day comment period. Staff further recommends the Board authorize the executive director to make any non-substantive changes and complete the rulemaking process if no substantive negative comments are received.

**Exhibit A**

**MEDICAL BOARD OF CALIFORNIA  
MIDWIFE ASSISTANTS**

**MODIFIED TEXT**

**Legend**

Underlined text indicates language contained in the original notice.

~~Strikeout text~~ indicates proposed deletions to the originally-noticed language.

Red double underlined text indicates additions to the originally proposed language.

Add Sections 1379.01, 1379.02, 1379.03, 1379.04, 1379.05, 1379.06, 1379.07, 1379.08, and 1379.09, Article 6, of Chapter 3, Division 13, of Title 16 of the California Code of Regulations to read as follows:

**§ 1379.01 Licensed Midwife Supervisor**

The supervising A licensed midwife or certified nurse midwife authorizes the midwife assistant under his or her supervision to perform the services referenced in section 2516.5(b)(4) of the code, and shall be responsible for the patient's treatment and care.

Note: Authority Cited: Sections 2018 and 2516.5, Business and Professions Code.  
Reference: Sections 2069 and 2516.5, Business and Professions Code.

**§ 1379.02 Certification in Neonatal Resuscitation**

Each midwife assistant shall maintain current certification in Neonatal Resuscitation. Certification shall be obtained from the American Academy of Pediatrics.

Note: Authority Cited: Sections 2018 and 2516.5, Business and Professions Code.  
Reference: Sections 2069 and 2516.5, Business and Professions Code.

**§ 1379.03 Certification in Basic Life Support**

Each midwife assistant shall maintain current certification in Basic Life Support. Certification shall be obtained from the American Heart Association or the American Safety and Health Institute.

Note: Authority Cited: Sections 2018 and 2516.5, Business and Professions Code.  
Reference: Sections 2069 and 2516.5, Business and Professions Code.

**§ 1379.04 Training in Infection Control**

Each midwife assistant shall receive training in the Center for Disease Control “Guidelines for Infection Control in Health Care Personnel” (1998), which is hereby incorporated by reference, and shall demonstrate to the satisfaction of the supervising licensed midwife, certified nurse midwife, or instructor that he or she understands the purposes and techniques of infection control.

Note: Authority Cited: Sections 2018 and 2516.5, Business and Professions Code.  
Reference: Sections 2069 and 2516.5, Business and Professions Code.

**§ 1379.05 Training to Perform Services**

(a) Minimum Training. In addition to completing the requirements under sections 1379.02, 1379.03, and 1379.04, ~~In~~ in order to perform the services of a midwife assistant, the individual shall have completed the minimum training as prescribed herein, pursuant to subsections (a), (b), (c), and (i). ~~In order to place a device used for auscultation of fetal heart tones during labor, administer medications by intramuscular, subcutaneous, or intradermal injection, perform skin tests, or perform venipuncture or skin puncture for the purpose of withdrawing blood, a midwife assistant shall have completed the minimum training prescribed herein for the service to be performed pursuant to subsections (d), (e), (f), (g), (h) and (i). Training shall be for the duration required for the midwife assistant to demonstrate to the supervising instructor, supervising licensed midwife, or certified nurse midwife providing the training, as referenced in section 2516.5(a)(1) of the code, proficiency in the procedures to be performed as authorized by section 2516.5(b) of the code, where applicable, but shall include no less than:~~

- ~~(a) (1) Five (5) clock hours of midwifery didactic training.~~
- ~~(b) (2) Two (2) clock hours of training in administering oxygen by inhalation.~~
- ~~(c) (3) Ten (10) clock hours of satisfactory demonstration of immediate newborn care.~~
- ~~(d) Five (5) clock hours and ten (10) demonstrations of satisfactory placement of the device used for auscultation of fetal heart tones during labor or by simulation.~~
- ~~(e) Ten (10) clock hours of training in administering injections and performing skin tests.~~
- ~~(f) Ten (10) clock hours of training in venipuncture and skin puncture for the purpose of withdrawing blood.~~
- ~~(g) Satisfactory performance of ten (10) each of intramuscular, subcutaneous, and intradermal injections.~~
- ~~(h) Satisfactory performance of ten (10) each of skin tests, venipunctures and skin punctures.~~
- ~~(i) Training in (a) through (h) above, shall include instruction and demonstration in:~~
  - ~~(1) pertinent anatomy and physiology appropriate to the procedures;~~
  - ~~(2) choice of equipment;~~
  - ~~(3) proper technique including sterile technique;~~
  - ~~(4) hazards and complications;~~
  - ~~(5) patient care following treatment or test;~~
  - ~~(6) emergency procedures;~~
  - ~~(7) California law and regulations for midwife assistants.~~

(b) Additional Training for Specific Services. In order to perform the services of a midwife assistant identified below, an individual shall have completed the additional training prescribed herein for the service to be provided. Training shall be for the

duration required for the midwife assistant to demonstrate to the instructor, licensed midwife, or certified nurse midwife providing the training proficiency in the procedures to be performed as authorized by section 2516.5(b) of the code, where applicable, but shall include no less than:

- (1) Five (5) clock hours of training on the device used for auscultation of fetal heart tones and ten (10) demonstrations of satisfactory placement of the device used for auscultation of fetal heart tones during labor or by simulation.
- (2) Ten (10) clock hours of training in administering injections and performing skin tests, and satisfactory performance of ten (10) each of intramuscular, subcutaneous, and intradermal injections, and skin tests.
- (3) Ten (10) clock hours of training in venipuncture and skin puncture for the purpose of withdrawing blood, and satisfactory performance of ten (10) each of venipunctures and skin punctures for the purpose of withdrawing blood.
- (c) Training in (a) and (b) above shall include instruction and demonstration in:
  - (1) pertinent anatomy and physiology appropriate to the procedures;
  - (2) choice of equipment;
  - (3) proper technique including sterile technique;
  - (4) hazards and complications;
  - (5) patient care following treatment or test;
  - (6) emergency procedures;
  - (7) California law and regulations for midwife assistants.

Note: Authority Cited: Sections 2018 and 2516.5, Business and Professions Code. Reference: Sections 2069, 2070, and 2516.5, Business and Professions Code.

**§ 1379.06 Administration of Training**

(a) Training required in section 1379.05 may be administered in either of these settings:

(1) Under a ~~supervising~~the supervision of a licensed midwife or certified nurse midwife, who shall ascertain the proficiency of the midwife assistant, or under a “qualified midwife assistant,” as defined under subsection (c) of this section, acting under the direction of a licensed midwife or certified nurse midwife and who shall be responsible for determining the content of the training and the proficiency of the midwife assistant;

or

(2) In a secondary, ~~postsecondary~~, or adult education program in a public school authorized by the Department of Education, in a community college program provided for in Part 48 of Division 7 of the Education Code, or a postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education under sections 94885 and 94887 of the Education Code and any regulations adopted pursuant to those sections. A licensed midwife or certified nurse midwife shall serve as advisor to the midwife assistant training program. The instructor in a public school setting shall possess a valid teaching credential issued by the Commission on Teacher Credentialing. The instructor in a private postsecondary institution shall meet the requirements of section 94885(a)(5) of the Education Code and ~~any~~all regulations adopted pursuant to that section.

(b) The ~~supervising~~-licensed midwife or certified nurse midwife, pursuant to subsection (a)(1) or the instructor pursuant to subsection (a)(2) shall certify in writing the place and date such training was administered, the content and duration of the training, and that

the midwife assistant was observed by the supervising-licensed midwife, certified nurse midwife, or instructor, to demonstrate competence in the performance of each such task or service, and shall sign and date the certification. More than one task or service may be certified in a single document; separate certifications shall be made for subsequent training in additional tasks or services.

(c) For purposes of this section only, a “qualified midwife assistant” is a midwife assistant who:

(1) is certified by a midwife assistant certifying organization approved by the Board pursuant to 1379.07; or

(2) is authorized to teach in a midwife assistant training program at a community college; or

(3) is authorized to teach in a midwife assistant training program in a private postsecondary institution accredited by an accreditation agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary Education.

Note: Authority Cited: Sections 2018 and 2516.5, Business and Professions Code. Reference: Sections 2069, 2070, and 2516.5, Business and Professions Code.

### **§ 1379.07 Approved Certifying Organizations**

(a) An organization that certifies midwife assistants may apply to the Board for approval. This application shall include the following information:

(1) Name and address of the applicant;

(2) Applicant's federal employee identification number (FEIN), social security number (SSN), or Individual Taxpayer Identification Number (ITIN);

(3) Name, address and telephone number of a contact person for the applicant;

(4) ~~Documentation establishing that the applicant is accredited by the National Commission for Certifying Agencies, or an accrediting organization that is equivalent thereto; Name, address and telephone number of the accrediting organization that accredited the applicant;~~

(5) Name, address and telephone number of the organization that validated the applicant's certifying examination;

(6) Information sufficient to establish that the certifying organization meets the standards set forth in subsection (b).

(b) For purposes of section 1379.06(c)(1), an organization that certifies midwife assistants shall be approved if it meets all of the following standards:

(1) Is a non-profit, tax-exempt organization;

(2) Requires all applicants for certification ~~as a midwife assistant~~ to successfully complete a psychometrically valid examination that is secure, is occupationally relevant and tests for the skills and procedures outlined in section 2516.5 of the code;

(3) Has a requirement for certification of a midwife assistant in one or more of the following:

(A) Graduation from a midwife assistant training program ~~meeting the requirements under section 1379.06(a)(2);~~ accredited by an accreditation agency recognized by the United States Department of Education;

(B) Graduation from a midwife assistant training program in a postsecondary institution accredited by an accreditation agency recognized by the United States Department of

Education or an institution approved by the Bureau for Private Postsecondary Education;

(~~C~~B) A minimum of two (2) years of experience as a practicing midwife assistant within five (5) years immediately preceding the date of examination;

(~~D~~C) Military training or schooling equivalent to that described in subsections (A) or (B) above;

(~~E~~D) Employment at the time of certification as an instructor in an accredited midwife assistant program or institution meeting the requirements under section 1379.06(a)(2).

(4) Requires its each certificate holders to renew his or her certification at least every five (5) years and obtain a minimum of 60 hours of continuing education related to the practice of midwife assistants over a each five (5)-5-year period.

Note: Authority Cited: Sections 2018 and 2516.5, Business and Professions Code. Reference: Sections 2069, 2070, and 2516.5, Business and Professions Code.

**§ 1379.08 Report of Changes by Certifying Organization; Review by Board**

(a) An approved certifying organization shall notify the Board within ~~thirty (30)~~30 days thereafter of any changes related to the standards contained in section 1379.07.

(b) The Board shall review each approved certifying body at least once every five (5) years for compliance with the standards set forth in section 1379.07. The Board may, in its discretion, review any certifying organization that has submitted a notice of changes as required by subsection (a).

Note: Authority Cited: Sections 2018 and 2516.5, Business and Professions Code. Reference: Sections 2069, 2070, and 2516.5, Business and Professions Code.

**§ 1379.09 Permit Processing Times - Approved Certifying Organizations**

(a) Within ~~sixty (60)~~60 working days of receipt of an application pursuant to section 1379.07 for an approved certifying organization registration, the Board shall inform the applicant in writing whether it is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application. An application is considered complete if it is in compliance with the requirements of section 1379.07.

(b) Within 100 calendar days from the date of filing of a completed application, the Board shall inform the applicant in writing of the decision regarding the application for an approved certifying organization registration.

Note: Authority cited: Sections 2018 and 2516.5, Business and Professions code. Reference: Sections 2069, 2070, and 2516.5, Business and Professions Code.