

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: April 12, 2017
ATTENTION: Members, Medical Board of California
SUBJECT: Midwifery Task Force Update and Proposed Statutory
Change
FROM: Kerrie Webb, Senior Staff Counsel

REQUESTED ACTION:

After review and consideration of the language below amending Business and Professions Code (BPC) section 2507, make a motion to approve the proposed changes, and authorize staff to submit the amendments to the Senate Business, Professions, and Economic Development Committee.

BACKGROUND AND ANALYSIS:

On Monday, March 6, 2017, the Members of the Midwifery Task Force, Dr. Bholat and Dr. Levine, met with Board staff and representatives from the California Association of Midwives/California Association of Licensed Midwives (CAM/CALM) and the American College of Obstetricians and Gynecologists (ACOG) to discuss the current status of regulations to define “preexisting maternal disease or condition likely to affect the pregnancy,” and “significant disease arising from the pregnancy” under BPC section 2507.

The parties discussed the challenges created by the current language under 2507(b)(2) requiring a licensed midwife to refer a client with a preexisting 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 client’s disease or condition are not likely to significantly affect the course of pregnancy and childbirth. The task force was informed that requiring physicians to make this determination puts physicians in a difficult position causing reluctance and challenges for collaboration and access to care for midwifery clients.

It was acknowledged that this issue could not be resolved through regulations, and a statutory change is necessary. Proposed language was discussed at the Midwifery Task Force meeting. Board staff then prepared a draft, and circulated it to interested parties, including the individuals from CAM/CALM, ACOG, and CMA. Board staff received additional comments on the proposed language, incorporated additional changes, and recirculated the language to the interested parties and to Dr. Bholat and Dr. Levine on March 28, 2017.

Under the proposed changes to BPC section 2507, if the client has a preexisting maternal disease or condition likely to affect the pregnancy, or a significant disease arising from the pregnancy, the midwife will still be required to refer the client to a physician trained in obstetrics for an assessment of the risk factors that may adversely affect the outcome of the pregnancy or childbirth. The midwife would have to include the physician’s assessment in evaluating whether

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the client's disease or condition are likely to significantly affect the course of the pregnancy or childbirth. It would ultimately 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.

If the client does have a preexisting maternal disease or condition likely to affect the pregnancy, or a significant disease arising from the pregnancy likely to significantly affect the course of pregnancy or childbirth, the midwife would have to refer the client to a physician and surgeon for care, with the midwife providing collaborative care, as appropriate.

If the proposed amendments are made to the statute, then Board staff will move forward with the regulatory process to define "preexisting maternal disease or condition likely to affect the pregnancy," and "significant disease arising from the pregnancy." Conditions falling within the definitions put forth in regulations, which would include prior cesarean section, would prompt the referral to the physician for the assessment of the risk factors, and when appropriate, for the transfer of care.

The proposed language is included below for the Board's review and consideration. The proposed deletions are identified with ~~strikethrough~~ text, and the proposed additions are identified with underlined text.

Business and Professions Code

2507. Practice of midwifery; Scope; Physician referral; Adoption of regulations

(a) The license to practice midwifery authorizes the holder to attend cases of normal pregnancy and childbirth, as defined in paragraph (1) of subdivision (b), and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn.

(b) As used in this article, the practice of midwifery constitutes the furthering or undertaking by any licensed midwife to assist a woman in childbirth as long as progress meets criteria accepted as normal.

(1) Except as provided in paragraph (2), a licensed midwife shall only assist a woman in normal pregnancy and childbirth, which is defined as meeting all of the following conditions:

(A) There is an absence of both of the following:

(i) Any preexisting maternal disease or condition likely to affect the pregnancy.

(ii) Significant disease arising from the pregnancy.

(B) There is a singleton fetus.

(C) There is a cephalic presentation.

(D) The gestational age of the fetus is greater than 37⁰/₇ weeks and less than 42⁰/₇ completed weeks of pregnancy.

(E) Labor is spontaneous or induced in an outpatient setting.

(2) If a potential midwife client meets the conditions specified in subparagraphs (B) to (E), inclusive, of paragraph (1), but fails to meet the conditions specified in subparagraph (A) of

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paragraph (1), and the woman still desires to be a client of the licensed midwife, the licensed midwife shall provide the ~~woman~~ client with a referral ~~to for an examination by a physician and surgeon trained in obstetrics and gynecology for an assessment of risk factors that may adversely affect the outcome of the pregnancy or childbirth.~~ A licensed midwife may assist the ~~woman~~ client in pregnancy and childbirth only if ~~an examination by a physician and surgeon trained in obstetrics and gynecology is obtained and the physician and surgeon who examined the woman determines that~~ the risk factors presented by ~~her~~ the client's disease or condition are not likely to significantly affect the course of pregnancy ~~and or~~ or childbirth.

(3) The board shall adopt regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) specifying the conditions described in subparagraph (A) of paragraph (1).

(c) (1) If at any point during pregnancy, childbirth, or postpartum care a client's condition deviates from normal, the licensed midwife shall immediately refer or transfer the client to a physician and surgeon. The licensed midwife may consult and remain in consultation with the physician and surgeon after the referral or transfer.

(2) If ~~a physician and surgeon determines that~~ the client's condition or concern has been resolved such that the risk factors presented by ~~a woman's~~ the client's disease or condition are not likely to significantly affect the course of pregnancy or childbirth, the licensed midwife may resume primary care of the client and resume assisting the client during her pregnancy, childbirth, or postpartum care.

(3) If ~~a physician and surgeon determines~~ the client's condition or concern has not been resolved as specified in paragraph (2), the licensed midwife may provide concurrent care with a physician and surgeon and, if authorized by the client, be present during the labor and childbirth, and resume postpartum care, if appropriate. A licensed midwife shall not resume primary care of the client.

(d) A licensed midwife shall not provide or continue to provide midwifery care to a woman with a risk factor that will significantly affect the course of pregnancy ~~and or~~ or childbirth, regardless of whether the woman has consented to this care or refused care by a physician or surgeon, except as provided in paragraph (3) of subdivision (c).

(e) The practice of midwifery does not include the assisting of childbirth by any artificial, forcible, or mechanical means, nor the performance of any version of these means.

(f) A midwife is authorized to directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing, and receive reports that are necessary to his or her practice of midwifery and consistent with his or her scope of practice.

(g) This article does not authorize a midwife to practice medicine or to perform surgery.

(Amended by Stats. 2014, Ch. 71, Sec. 3. Effective January 1, 2015.)