



# MEDICAL BOARD OF CALIFORNIA

Protecting consumers by advancing high quality, safe medical care.

## Agenda Item 3

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Gavin Newsom, Governor, State of California | Business, Consumer Services and Housing Agency | Department of Consumer Affairs

### MIDWIFERY ADVISORY COUNCIL WebEx Meeting Thursday, March 30, 2023 MEETING MINUTES

**Due to timing for invited guests to provide their presentations, the agenda items below are listed in the order they were presented.**

#### **Members Present:**

Claudia Breglia, L.M., Chair  
Tesa Kurin, L.M., Vice Chair  
Madeleine Wisner  
Barbara Woodley

#### **Staff Present:**

Katherine Agbayani, Staff Services Manager II  
Aaron Bone, Chief of Legislation and Public Affairs  
Sean Eichelkraut, Information Technology Manager I  
Tonya Morairty, Associate Governmental Program Analyst  
Marina O'Connor, Chief of Licensing  
Kathryn Taylor, Staff Services Manager I  
Kerrie Webb, Staff Counsel

#### **Agenda Item 1 Call to Order/Roll Call/Establishment of a Quorum**

Ms. Breglia called the meeting of the Midwifery Advisory Council (MAC) of the Medical Board of California (Board) to order on Thursday, March 30, 2023, at 1:10 p.m. A quorum was present and due notice was provided to all interested parties.

#### **Agenda Item 2 Public Comments on Items not on the Agenda**

There were no public comments regarding items not on the agenda.

#### **Agenda Item 3 Approval of Minutes from the January 5, 2023, Midwifery Advisory Council Meeting**

Ms. Breglia asked if anyone in attendance had corrections to the January 5, 2023, meeting minutes. No additions or corrections were requested.

***Ms. Kurin made a motion to approve the January 5, 2023, meeting minutes; s/Ms. Wisner. Motion carried unanimously. 4-0***

#### **Agenda Item 4 Report from the Midwifery Advisory Council Chair**

Ms. Breglia stated that Ms. Webster has resigned from the MAC and will be moving with her family to New Zealand. She thanked Ms. Webster for her time as a member of the MAC.

Ms. Breglia commented that this will be her last MAC meeting as a member of the council and stated she has been privileged to be a member of the MAC for two consecutive terms. She stated she has been in attendance at most of the MAC meetings since its inception. Ms. Breglia went on to say in its early days the MAC was vibrant and active. In more recent years due to COVID and online meetings the nature of the meetings has changed and in her opinion the meetings don't have as many people attending. She believes the MAC is still doing good work and is really important in maintaining the midwifery community and having a presence within the Board. Ms. Breglia stated she encourages the MAC to continue to be a relevant force in California midwifery. She also believes it may be time to reconsider how the MAC is meeting, perhaps less frequently but in person. She encourages the MAC members to continue to gain new members and talk publicly about what the MAC does and figure out ways to bring the MAC back to being an active and vibrant force in California midwifery like it was in the beginning. Ms. Breglia thanked the Board staff and the MAC.

Ms. Wisner thanked Ms. Breglia for all her work on the MAC and how Ms. Breglia has the context to have watched the evolution of the MAC over a very long time and the evolution of midwifery licensure in California, and everyone appreciates her.

Ms. Breglia responded that she really appreciates the newer midwives stepping up and continuing to improve midwifery in California.

Ms. Rosanna Davis made a public comment and thanked Ms. Breglia for her service to the MAC, not only in her capacity on the MAC, but also on behalf of the profession in California and nationally.

#### **Agenda Item 5 Establishing Goals for the Midwifery Advisory Council**

Ms. Breglia went over some of the goals the MAC is currently working on, such as Medi-Cal issues, LMAR reporting language, LMAR worksheet, Licensed Midwife school application information on the Board's website and issues with birth registration.

Ms. Breglia stated that since she will no longer be on the MAC, she will let the current members discuss other goals that they may want to revisit, including a possible goal on where to go with the MAC.

Ms. Kurin stated she would like to see the birth registration issues continue to be a goal of the MAC. In the southern part of the state, there is a lot of issues with midwives getting the right information from vital statistics and each county is having different requirements and a lot of the midwives work in multiple counties.

Ms. Wisner agreed with working with individual counties for the birth registration, as well as the social security enumeration. Ms. Wisner stated the last time the MAC met with Vital Records a few years ago, they told them that they could not be let into their computer program. Ms. Wisner would like to revisit it given that there is a substantial rise in midwife-attended births in the state and it would result in more of the children being registered. Ms. Wisner believes it would be through the California Department of Public Health (CDPH), which is a state agency. She mentioned the possibility of the

Board setting up a meeting with CDPH and the MAC, or the MAC can involve CALM (California Association of Licensed Midwives).

Ms. Morairty stated the MAC can add this as an agenda item for the next meeting for more discussion.

Ms. Kurin suggested adding access to newborn screening equipment to the goals list and on the agenda for the next meeting. She stated this would involve finding some kind of universal access, finding out what the problems are, and possibly some grants that can provide midwives the hearing screening equipment that have larger practices and they can perform the hearing screenings geographically for midwives in their area.

Ms. Breglia agreed it is a good subject to add to the goals list.

### **Agenda Item 6      Report from the Task Force and Possible Action on Medi-Cal Related Issues**

Ms. Kurin stated there was an update released on supervision changes for non-physician medical practitioners on the Department of Health Care Services website. Certified nurse midwives and licensed midwives no longer have physician supervision requirements.

Ms. Kurin stated San Bernardino County licensed midwives have been dealing with dire situations with their practices not being paid for services rendered related to facility payments. This has been an ongoing issue with Medi-Cal and is the number one reason why licensed midwives are reluctant to become Medi-Cal providers. Ms. Kurin stated she has heard of practices closing in the past for this situation in particular. Ms. Kurin mentioned there are not a lot of paths for midwives to use to represent themselves in this area with Medi-Cal, and midwives are still having issues with this managed care plan and they are not being paid facility payments at this time because the managed care plan is stating they are not licensed facilities.

Ms. Wisner commented facility payments for exempt from licensure birth centers are a problem issue right now statewide. Any outpatient birth centers are not included in the division of financial responsibility. The California Department of Public Health won't recognize midwife run birth centers because the Board has not promulgated regulations for licensed midwives yet.

Ms. Kurin stated unfortunately it will come down to some birth centers not providing these services to the public because it's not viable to provide the services for free. Ms. Kurin urged everyone to rally and sit at the table.

Ms. Kurin stated she has been a stakeholder for the last year with the California Midwifery Learning Collaborative. The Institute for Medicaid Innovation has funded a project where there are five states trying to collaborate and bring Medicaid services to the forefront for maternity care. The California collaborative is comprised of a number of managed care plans, a number of certified nurse midwife practices, licensed midwife practices, alternative birthing centers around the state and advocacy groups as well. Ms. Kurin stated the goal of the collaborative is to improve access to care for the midwifery practice. They are working on an alternative payment model, to get these instituted into the system where midwives can actively use them. Ms. Kurin stated they are working side by side with insurance companies where midwives can get paid for services that they are performing, not like history where they are being underpaid to the point they cannot sustain their businesses. The California Midwifery Learning Collaborative is working to establish an actual working model and

seeking a practice, health plan, and a hospital to come together and develop a model that works for everyone.

Ms. Kurin stated the plan is to start this out in the Los Angeles County area. She stated there is more to come in the future, as to what payment models are actually working. Ms. Kurin stated midwives are sitting at the table and saying what they need to make this work. The numbers they are projecting are coming from practices that have been taking Medi-Cal and they know what it takes to make it work. It will take a while and won't happen overnight, but there are a lot of stakeholders who are interested in this process. The goal moving forward is to streamline the contracting process for midwives to make it less abrasive and intrusive on their time and resources, and to make a straight across the board example to have a set of standards to go to an insurance company and state what they expect to get paid and get contracted with.

Ms. Breglia thanked Ms. Kurin for all her work on this project. She is excited about all that has been accomplished on this task force. Ms. Breglia welcomed Ms. Wisner since she also has a lot of experience working with this and a lot of history.

Ms. Kurin stated she does not know the ability of the MAC with the Board and what the MAC can do as a committee. She explained the need for a committee that is working on helping midwives file complaints. Ms. Kurin stated a lot of these midwives don't have a recourse for doing all the work and having no payment. Midwives are losing money when accepting these clients into their care but not getting paid, even though they have letters of agreement with these insurance companies.

Ms. Webb stated this is a tough issue, as the role of the Board handles licensing and enforcement. Ms. Webb stated she believes getting paid for services is hugely important but not sure that it would fall under the role the Board serves. Ms. Webb stated she believes this would be an association project as she sees it, but it's an interesting update, especially how it intersects with regulations.

Ms. Kurin stated it sounds as if it is not really a place for the MAC and that it's more of a California Association of Licensed Midwives (CALM) issue and they have an active group working towards these types of issues.

Ms. Breglia stated it would be a good idea to brainstorm on this matter. Ms. Breglia asked what the MAC can do and stated this may be more of a consumer access issue.

Ms. Wisner stated that midwives who want guidance on recourse can contact CALM because it is a purview of their organization. She further stated CALM walks midwives through the complaint process, and hearing process, as well as advocating for access to this care as a covered benefit. Ms. Wisner stated licensed midwives need regulations for a lot of things for billing. Ms. Wisner stated midwives may contact CALM if they are interested. Consumers also have organizations they can contact to help as well.

#### **Agenda Item 7      Update and Possible Action on Proposed Regulatory Language for the Licensed Midwife Annual Report (LMAR)**

Ms. Webb provided an update regarding the proposed changes to the LMAR on the submission of race and ethnicity, the proposed language was submitted to Department of Consumer Affairs (DCA), and DCA has substantive edits to the proposal that are still being worked through. Ms. Webb stated the Board is working through the details of this, including having a framework of how race and ethnicity will be collected. Ms. Webb stated staff is working through DCA's recommendations to

create a draft for the MAC's review and approval. Ms. Webb will provide a further update at a later MAC meeting.

Ms. Wisner asked if MAC members or members of the public could look at the proposed changes.

Ms. Webb stated it is not yet ready and the proposed changes will be presented to the MAC at a later meeting.

Ms. Abe thanked Ms. Webb for the update. Ms. Abe stated she has the same question if the public can have any type of information. She believes this data is key for equity to share and there is specific funding based on who midwives are serving. Ms. Abe stated speaking as someone who is black and who serves the black community and someone who had a midwife for her own birthing experience, she has been working on it for a while as it's important to know. Ms. Abe commented for Sacramento County, there were zero preterm births, zero low birth weights, no babies died, no moms died and if we can say how many black women midwives are serving, it would change the trajectory in the work they are providing.

Ms. Breglia thanked Ms. Abe for calling in and acknowledged she spent an entire term on the MAC trying to accomplish this. Ms. Breglia stated if there is any way that members of the MAC or the public can be involved in this to try to help move it forward, or if there is language from other people who need to report on race and ethnicity, it would be really great to get this to actually happen while they are all still practicing.

#### **Agenda Item 8 Update on Midwifery Related Legislation and Sunset Review**

Mr. Bone provided an update stating in January the Board published its sunset review report and sunset review is a comprehensive legislative review of the Board's activities and statutes. He further stated that this process provides the opportunity for the Board to ask the legislature to change the law in various ways to further the mission of the Board. Mr. Bone reported that the Board has renewed its request for the legislature to establish a separate Board to regulate licensed midwives. Mr. Bone stated the Sunset review report is also on the Board's website.

Mr. Bone commented that as part of the Sunset review, the Board's leadership and executive staff appeared before the legislature for a public oversight hearing. During the hearing, the legislature asked the Board's representatives various questions about the operations and the proposals. An archive of that hearing is available online through the website of the California State Senate.

Mr. Bone stated Senate Bill 815 will be addressing the Board's ongoing financial challenges and provide the Board with various tools to help the Board more effectively protect consumers.

Mr. Bone stated Senate Bill 667, allows licensed midwives to direct and supervise Clinical Laboratory Improvement Amendments of 1988 (CLIA) waived tests.

#### **Agenda Item 9 Program Update**

Ms. Morairy referred Council members to the Licensing Statistics, indicating in the second quarter of fiscal year 2022/2023, the Board received four new applications, issued six new licenses, and renewed 54 licenses.

Ms. Morairy stated in the second quarter of fiscal year 2022/2023 the Board received 60 Transfer of Planned Out-of-Hospital Delivery to Hospital Reporting forms for licensed midwives.

Ms. Morairty stated in the second quarter of fiscal year 2022/2023, the Board received four complaints for licensed midwives and referred none for investigation.

Ms. Morairty stated in the second quarter of fiscal year 2022/2023, the Board received one complaint for unlicensed midwives.

Ms. Morairty reviewed the enforcement statistics for Transfer of Planned Out-of-Hospital Delivery to Hospital Reporting forms for licensed midwives.

In the second quarter of the 2022/2023 fiscal year, 60 Transfer of Planned Out-of-Hospital Delivery to Hospital Reporting forms were received by the Board and none were referred for investigation.

Ms. Morairty stated in the second quarter of the 2022/2023 fiscal year, the Board did not receive any Transfer of Planned Out-of-Hospital Delivery to Hospital Reporting forms for unlicensed midwives and none were referred for investigation.

#### **Agenda Item 10 Discussion and Possible Action on LMAR Reminder Letter and Worksheet**

Ms. Kurin discussed the LMAR worksheet she developed and provided as materials.

Ms. Kurin stated she developed this worksheet to give midwives an opportunity to collect this data as they are working throughout the year, rather than having to gather all the information at the last-minute right before they have to submit the report.

Ms. Kurin stated there is a lot of data that goes into the report, and she is hoping this document will help with the reporting each year.

Ms. Kurin went over the details of the worksheet. The details on the worksheet include important data that is required to complete the LMAR. This includes the clients, their date of delivery, whether it was breach, precipitous breach, by the county they were born in, their gestational age, and their birth weight. There is also separate information for Vaginal Birth After Cesarean (VBAC) information as well as transfer information. Ms. Kurin stated this is to give midwives a way to document the data throughout the year and she hopes this worksheet will help midwives get the report done more effectively and efficiently.

Ms. Kurin recommends the Board send email reminders to midwives at 90 days, 60 days, 30 days, and 10 days. Ms. Kurin stated she hopes this form can be placed on the Board's website for use.

***Ms. Breglia made a motion to approve this document and recommend it be listed on the midwifery section of the Board's website as a tool for gathering information for submitting the licensed midwife report annually. s/Ms. Wisner.***

***Motion carried unanimously. 4-0.***

#### **Agenda Item 11 Discussion and Possible Action on Midwifery School Information listed on the Board's Website**

Ms. Morairty stated in March 2022, the MAC requested more information on the Board's website as to how a midwifery school can apply to be listed as a Board-approved midwifery school. The MAC stated they would like to see more information that outlines the requirements with links added to the website to make it more user friendly for schools to apply.

Ms. Morairty stated the Board agreed to add information to the website regarding the process of becoming a Board-approved midwifery school.

Ms. Morairty explained the materials for this agenda item include the Midwifery School Approval Requirements and the Midwifery School Matrix, which are documents the Board proposes making available on its website to provide information on how a midwifery school may obtain Board approval. Ms. Morairty stated these documents are currently in DRAFT form and once finalized will be posted on the Board's website. The agenda item materials also include the draft webpage where the documents will be posted. Ms. Morairty stated she is also working on updating the midwifery education program application form that programs must submit.

Ms. Morairty then gave an overview of the midwifery school application requirements and the school matrix that were provided as materials.

Ms. Kurin commented that everything looks thorough, but the list of schools appears to not be updated. Ms. Wisner commented that Board staff should also double check the list of approved schools, because it includes several that have recently closed. Ms. Wisner thanked Ms. Morairty for creating the Matrix and for including clinical preparation equivalent, but not identical to that provided by ACNM, as it's very important for midwives who wish to be practicing in other places in the world.

Ms. Ferroni asked if a MEAC school is approved why doesn't the Board put a link to the MEAC website.

Ms. Breglia stated not all MEAC approved schools have been approved by the Board. Ms. Breglia pointed out that in order to be listed on the Board's website as an approved school, the school must first go through the approval process.

Ms. Rosanna Davis stated that it was very well done and it will be very helpful for future programs applying, and thanked the Board for providing the documents.

## **Agenda Item 12 Selection of three new MAC members, two Licensed Midwives, and one Licensed Physician**

Ms. Morairty stated the Board received one application for the licensed midwife position and one application for the licensed physician position on the MAC. The licensed physician application was received from Dr. Kenneth James. The licensed midwife application was received from Mason Wilson-Tanev.

Dr. James was present on WebEx for the meeting and provided a statement regarding his background history.

Dr. James stated in part that he is a Board certified OBGYN in Irvine California, he is currently the Director of Midwifery services at Hoag Hospital in Orange County and was the founder and Director of Midwifery Services at Providence Hospital in Mission Viejo. He is presently responsible for eight certified nurse midwives.

Ms. Kurin asked Dr. James how he sees himself relating to out-of-hospital births as most licensed midwives work out of hospital. Dr. James replied that one of the birth centers he was collaborating with had two licensed midwives that were delivering out of hospital. He stated that he does not have much experience with licensed midwives, but he appreciates the midwife model of care and

appreciates midwives. They have helped him tremendously and they are vital in his area. The midwives' model of care is his focus more than just the degree beyond their names. He is willing to learn, he is an advocate, and his voice can be heard as loud as anyone else's and maybe with MD behind his name, it can help promote things further.

Ms. Wisner asked Dr. James how he heard about the MAC. Dr. James replied he heard about it by email. He saw the opportunity and felt like it was his calling ever since he moved to California.

Ms. Rosanna Davis stated she appreciated Dr. James stepping forward and applying for this position and she feels he is a good candidate for this position and thanked him for volunteering his time.

***Ms. Breglia made a motion to nominate Dr. Kenneth James.***

***Motion to nominate Dr. Kenneth James carried unanimously. 4-0.***

Ms. Wilson-Tanev was also present on WebEx for the meeting and provided a statement regarding her background history.

Ms. Wilson-Tanev stated in part that she has been a licensed midwife in California for over 20 years and is currently a staff midwife at the San Francisco Birth Center. She is also a member of the California Association of Midwives and the Midwives Alliance of North America.

Ms. Kurin thanked Ms. Wilson-Tanev for coming back (for applying for the vacant midwife position).

***Ms. Breglia made a motion to nominate Ms. Wilson-Tanev.***

***Motion to nominate Ms. Wilson-Tanev carried unanimously. 4-0.***

### **Agenda Item 13 Appointment of Officers on the MAC**

Ms. Breglia stated that it is her last meeting and Ms. Kurin is currently the Vice Chair of the MAC, and she would like to nominate her to be the Chair of the counsel.

Ms. Morairty stated that Ms. Kurin has not applied for a second term.

Ms. Kurin turned down the nomination as she is not applying for a second term.

***Ms. Breglia made a motion to nominate Ms. Wisner as Chair of the MAC.***

***Motion to nominate Ms. Wisner carried unanimously. 4-0.***

### **Agenda Item 14 Discussion on New Notice to Consumer Requirements Under Title 16 of the California Code of Regulations, Section 1379.4**

Ms. Webb stated this report is intended to provide the MAC with an update on recently enacted regulations requiring all the Board's licensees and registrants to provide notice to their patients and clients on the Board's role in licensing and regulating its licensees, as well as on how to check up on a license and to file a complaint.



Pursuant to BPC section 2026, the Board was required to develop regulations to require its licensees and registrants to provide notice to their patients or clients that the practitioner is licensed or registered by the Board, that the practitioner's license can be checked, and that complaints against the practitioner can be made through the Board's website or by contacting the Board.

In response to BPC section 2026, the Board added Title 16 of the California Code of Regulations (CCR) section 1379.4 applicable to licensed midwives.

As of January 1, 2023, all licensed midwives must provide notice to each client that they are licensed and regulated by the Board, and their license can be checked and complaints against their license can be made through the Board's website or by contacting the Board.

The notice shall include a quick response (QR) code that leads to the Board's Notice to Consumer webpage.

Further details regarding this requirement are included in the meeting materials.

Ms. Wisner asked if the document can be included in the client's informed consent documents that they sign before they come into care.

Ms. Webb stated yes, that it is an acceptable way to provide the document.

Ms. Wisner asked if the QR code directs to other languages.

Ms. Webb stated the QR code directs to an information page and has directions on how to see the notice in other languages.

#### **Agenda Item 15 Future Agenda Items**

Ms. Breglia recommended the following agenda items for the next board meeting:

- Approval of minutes from the March 30, 2023, MAC meeting;
- Report from the MAC Chair;
- Establishing goals for the MAC;
- Report from the Task Force on Medi-Cal related issues;
- Update on proposed regulatory language for the Licensed Midwife Annual Report (LMAR);
- Update on midwifery related legislation and Sunset Review;
- Update on the Midwifery Program and LMAR;
- Selection of two new MAC members, one licensed midwife, and one public member;
- Appointment of officers on the MAC;
- Overview of the Enforcement Process;
- Discussion on Birth Certificate and Social Security Registration Issues;
- Discussion on midwife access to screening equipment for newborns;
- Discussion and possible action regarding 2024 Midwifery Advisory Council meeting dates.

**Agenda Item 16    Adjournment**

Ms. Breglia adjourned the meeting at 2:56 p.m.

DRAFT