

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: April 15, 2016
 ATTENTION: Members, Medical Board of California
 SUBJECT: Midwife Assistants Regulations
 STAFF CONTACT: Curtis J. Worden, Chief of Licensing

REQUESTED ACTION:

After review and consideration of the attached proposed midwife assistant regulatory language, make a motion to direct staff to proceed with preparing the necessary regulatory documents to submit to the Office of Administrative Law (OAL) to formally notice the proposed regulatory language and schedule a hearing on the rulemaking to add Title 16, Division 13, Chapter 3, Article 6, California Code of Regulations (CCR), sections 1379.01 through 1379.09. The new regulation would further define California Business and Professions Code (BPC) section 2516.5 regarding midwife assistants.

BACKGROUND AND ANALYSIS:

Senate Bill (SB) 408, Morrell, was signed by Governor Brown and filed with the Secretary of State on September 8, 2015, with an effective date of January 1, 2016. SB 408 created BPC section 2516.5 regarding midwife assistants. Midwife assistants are unlicensed individuals (similar to a medical assistant) who must meet specific requirements pursuant to BPC section 2069 and any other requirements established by regulations adopted by the Board to assist licensed midwives or certified nurse-midwives.

On February 3, 2016, the Board held an interested parties meeting to draft proposed regulations for midwife assistants. The Board received input from the interested parties.

Staff prepared the draft language for the midwife assistants proposed regulations based upon the information received at the February 3, 2016 interested parties meeting.

On March 10, 2016, the proposed draft midwife assistants regulations were presented to the Midwifery Advisory Council (MAC). Additional input was received and the MAC approved the proposed draft regulations with edits to be presented to the Board at the May 6, 2016 Board meeting.

STAFF RECOMMENDATION:

Staff recommends the Board authorize staff to proceed with preparing the necessary regulatory documents to submit to OAL to formally notice proposed CCR sections 1379.01 through 1379.09 and schedule a regulatory hearing at a future Board meeting. The suggested language is identified with underlined text below. BPC section 2516.5 is attached (**Attachment A**) for reference.

PROPOSED REGULATION LANGUAGE:

California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 13. Medical Board of California
Chapter 3. Affiliated Healing Arts
Article 6. Midwife Assistants

§ 1379.01 Licensed Midwife Supervisor

The supervising licensed midwife or certified nurse midwife authorizes the midwife assistant to perform the services referenced in section 2516.5(b)(1) of the code, and shall be responsible for the patient's treatment and care.

§ 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.

§ 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.

§ 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" and shall demonstrate to the satisfaction of the supervising licensed midwife or instructor that he or she understands the purposes and techniques of infection control.

§ 1379.05 Training to Perform Services

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, 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) Five (5) clock hours of midwifery didactic training.
- (b) Two (2) clock hours of training in administering oxygen by inhalation.
- (c) 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.

§ 1379.06 Administration of Training

- (a) Training required in section 1379.05 may be administered in either of these settings:
 - (1) Under a supervising licensed midwife or certified nurse midwife, who shall ascertain the proficiency of the midwife assistant and 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 regulations adopted pursuant 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.

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

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

(E) Employment at the time of certification as an instructor in an accredited midwife assistant program or institution.

(4) Requires its certificate holders to obtain a minimum of 60 hours continuing education related to the practice of midwife assistants over a 5 year period.

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

(a) An approved certifying organization shall notify the Board within thirty (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).

§ 1379.09 Permit Processing Times - Approved Certifying Organizations

(a) Within sixty (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.

ATTACHMENT A

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 2. HEALING ARTS [500 - 4999.129]

(Division 2 enacted by Stats. 1937, Ch. 399.)

CHAPTER 5. Medicine [2000 - 2525.5]

(Chapter 5 repealed and added by Stats. 1980, Ch. 1313, Sec. 2.)

ARTICLE 24. Licensed Midwives [2505 - 2521]

(Article 24 repealed and added by Stats. 1993, Ch. 1280, Sec. 3.)

2516.5.

(a) As used in this section, the following definitions apply:

(1) "Midwife assistant" means a person, who may be unlicensed, who performs basic administrative, clerical, and midwife technical supportive services in accordance with this chapter for a licensed midwife or certified nurse-midwife, is at least 18 years of age, and has had at least the minimum amount of hours of appropriate training pursuant to standards established by the board for a medical assistant pursuant to Section 2069. The midwife assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required training. Each employer of the midwife assistant or the midwife assistant shall retain a copy of the certificate as a record.

(2) "Midwife technical supportive services" means simple routine medical tasks and procedures that may be safely performed by a midwife assistant who has limited training and who functions under the supervision of a licensed midwife or certified nurse-midwife.

(3) "Specific authorization" means a specific written order prepared by the supervising midwife or supervising nurse-midwife authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record, or a standing order prepared by the supervising midwife or supervising nurse-midwife authorizing the procedures to be performed. A notation of the standing order shall be placed in the patient's medical record.

(4) "Supervision" means the supervision of procedures authorized by this section by a licensed midwife or certified nurse-midwife, within his or her scope of practice, who is physically present on the premises during the performance of those procedures.

(b) Notwithstanding any other provision of law, a midwife assistant may do all of the following:

(1) Administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical support services upon the specific authorization and supervision of a licensed midwife or certified nurse-midwife. A midwife assistant may also perform all these tasks and services in a clinic licensed in accordance with subdivision (a) of Section 1204 of the Health and Safety Code upon the specific authorization of a licensed midwife or certified nurse-midwife.

(2) Perform venipuncture or skin puncture for the purposes of withdrawing blood upon specific authorization and under the supervision of a licensed midwife or certified nurse-midwife, if the

midwife assistant has met the educational and training requirements for medical assistants as established in Section 2070. Each employer of the assistant shall retain a copy of any related certificates as a record.

(3) Perform the following midwife technical support services:

(A) Administer medications orally, sublingually, topically, or rectally, or by providing a single dose to a patient for immediate self-administration, and administer oxygen at the direction of the supervising licensed midwife or certified nurse-midwife. The licensed midwife or certified nurse-midwife shall verify the correct medication and dosage before the midwife assistant administers medication.

(B) Assist in immediate newborn care when the licensed midwife or certified nurse-midwife is engaged in a concurrent activity that precludes the licensed midwife or certified nurse-midwife from doing so.

(C) Assist in placement of the device used for auscultation of fetal heart tones when a licensed midwife or certified nurse-midwife is engaged in a concurrent activity that precludes the licensed midwife or certified nurse-midwife from doing so.

(D) Collect by noninvasive techniques and preserve specimens for testing, including, but not limited to, urine.

(E) Assist patients to and from a patient examination room, bed, or bathroom.

(F) Assist patients in activities of daily living, such as assisting with bathing or clothing.

(G) As authorized by the licensed midwife or certified nurse-midwife, provide patient information and instructions.

(H) Collect and record patient data, including height, weight, temperature, pulse, respiration rate, blood pressure, and basic information about the presenting and previous conditions.

(I) Perform simple laboratory and screening tests customarily performed in a medical or midwife office.

(4) Perform additional midwife technical support services under regulations and standards established by the board.

(c) (1) Nothing in this section shall be construed as authorizing the licensure of midwife assistants. Nothing in this section shall be construed as authorizing the administration of local anesthetic agents by a midwife assistant. Nothing in this section shall be construed as authorizing the board to adopt any regulations that violate the prohibitions on diagnosis or treatment in Section 2052.

(2) Nothing in this section shall be construed as authorizing a midwife assistant to perform any clinical laboratory test or examination for which he or she is not authorized under Chapter 3 (commencing with Section 1200).

(d) Notwithstanding any other law, a midwife assistant shall not be employed for inpatient care in a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(Added by Stats. 2015, Ch. 280, Sec. 1. Effective January 1, 2016.)