



MEDICAL BOARD OF CALIFORNIA

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MIDWIFERY ADVISORY COUNCIL

Medical Board of California

2005 Evergreen Street

Sacramento, CA 95815

March 7, 2019

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:

Diane Holzer, L.M., Chair
Claudia Breglia, L.M.
Jocelyn Dugan
Anne Marie Adams, M.D.
Chemin Perez, L.M.

Staff Present:

April Alameda, Chief of Licensing
Julie Brown, Associate Governmental Program Analyst
Charlotte Clark, Information Technology Supervisor I
Sean Eichelkraut, Information Technology Supervisor II
Kimberly Kirchmeyer, Executive Director
Christine Lally, Deputy Director
Tonya Morairty, Associate Governmental Program Analyst
Monique Murray, Staff Services Manager I
Regina Rao, Associate Governmental Program Analyst
Jennifer Simoes, Chief of Legislation
Kevin Valone, Staff Services Analyst
Kerrie Webb, Staff Counsel

Members of the Audience:

Donyale Abe, Childbirth Professionals International
Rosanna Davis, L.M., California Association of Licensed Midwives
Karen Ehrlich, L.M., Midwifery Education Accreditation Council
Nancy Greenwood, L.M.
Jennifer Kamel, VBAC Facts
Rachel Kiene, L.M.
Tosi Marceline, L.M.

Lesley Nelson, L.M.
Madeleine Shernock, L.M., Welcome Home Midwifery
Renee Sicignano, L.M.
Carrie Sparrevohn, L.M.

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

Diane Holzer called the meeting of the Midwifery Advisory Council (MAC) of the Medical Board of California (Board) to order on March 7, 2019 at 1:06 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

No public comment was provided.

Agenda Item 3 Approval of Minutes from the August 16, 2018 and December 6, 2018 Midwifery Advisory Council Meetings

Ms. Breglia motioned to approve the August 16, 2019 meeting minutes; s/Ms. Dugan. Motion carried unanimously. (5-0)

Dr. Adams motioned to approve the December 6, 2018 meeting minutes; s/Ms Dugan. Motion carried unanimously. (5-0)

Agenda Item 4 Report from the Midwifery Advisory Council Chair

Ms. Holzer stated she attended the quarterly Board meeting on February 1, 2019.

Ms. Holzer noted she worked with the Board on pilot testing of the new Licensed Midwife Annual Report (LMAR) system. Ms. Holzer pointed out that she has been receiving favorable feedback regarding the new LMAR system. She commended those that worked on the LMAR for a job well done.

Ms. Holzer announced the passing of Ms. Yaroslavsky, a previous MAC member. Ms. Holzer expressed that Ms. Yaroslavsky was an inspiration to all and will be greatly missed.

Agenda Item 5 Update on Midwifery Legislation

Ms. Webb stated that there has not been any new legislation introduced.

Agenda Item 6 Discussion and Possible Action on Establishing 2019 Goals for the Midwifery Advisory Council

Ms. Holzer stated that one of the 2019 goals she would like the MAC to work on is educating physicians on midwifery. Ms. Holzer indicated one of the ways awareness could be brought to midwifery in California would be by the use of brochures along with social media.

Ms. Holzer stated an item that has been on the agenda in the past for the MAC was to revise the Transfer of Planned Out-of-Hospital Delivery to Hospital Reporting Form and develop a protocol that should be followed in California. Ms. Holzer suggested the MAC develop a sample protocol from home to hospital transfers that could be sent to hospitals and midwives.

Ms. Dugan suggested developing an educational campaign to bring awareness to midwifery in California.

Ms. Holzer asked if any of the MAC members would be interested in working on a task force to develop an educational campaign.

Ms. Dugan and Ms. Perez both indicated their interest in working on the task force.

Ms. Perez suggested developing an informational form to clarify the instructions of the Transfer of Planned Out-of-Hospital Delivery to Hospital Reporting Form.

Ms. Sparrevohn stated a fact sheet for midwives is currently posted on the Employment Development Department website. Ms. Sparrevohn suggested this fact sheet be updated.

Ms. Sicignano suggested grand rounds, getting people in front of people.

Dr. Adams agreed that grand rounds is an excellent suggestion. Dr. Adams also stated it would be great experience for physicians to attend a home birth. However, because this cannot be required, grand rounds is a good alternative.

Ms. Abe suggested the MAC develop a three year strategic plan.

Ms. Sparrevohn stated that the MAC attempted to revise the Transfer of Planned Out-of-Hospital Delivery to Hospital Reporting Form. However, it was determined it would require revising regulation in order to do so.

Ms. Breglia stated the Home Birth Summit came out with a consensus document about transport and forms for maternal and newborn transport. She suggested the MAC take a look at the form and adopt it for California.

Dr. Adams suggested appointing a strategic plan task force.

Dr. Adams made a motion to add an agenda item to the next MAC meeting to form a strategic planning committee; s/Ms. Dugan. Motion carried unanimously (5-0).

Ms. Holzer appointed two MAC members, Dr. Adams and Ms. Perez to a task force to conduct research on the development of a strategic plan and bring that information back to the August 22, 2019 MAC meeting.

Agenda Item 7 Discussion and Possible Action on Approaches to Improve Services by Physicians for Midwifery Clients

Ms. Breglia stated she would like to work on the ability to get high quality care for clients when interface with the medical community is required.

Ms. Breglia stated she has spoken to midwives throughout the state that have encountered issues with transports and physicians in Health Maintenance Organizations (HMO). A large number of patients are claiming that once it is determined they are considering home birth, their care is being terminated.

Ms. Shernock shared that she had a spreadsheet with data collected regarding midwifery patients that have been denied care by their HMO.

Ms. Holzer asked Ms. Davis, California Association of Licensed Midwives (CALM), if she would be willing to bring this data to the next MAC meeting so that it can be discussed further.

Dr. Adams made a motion to table this discussion until the task force report on a strategic plan is completed; s/Ms Breglia. Motion carried unanimously (5-0).

Agenda Item 8 Discussion and Possible Action on an Administrative Procedures Manual for Midwifery Advisory Council Members including but not limited to General Rules of Conduct, Meeting Protocols, Recruitment for Midwifery Advisory Council Membership, Term Limits and Selection of Officers and Mandatory Training and Policies

Ms. Alameda stated at the August 16, 2018 MAC meeting there were questions and discussion related to vacancies, recruitment eligibility, and education for new MAC members.

As a result of that discussion, it was suggested that an administrative manual for MAC members be developed, similar to what the Board Members use and have adopted.

Ms. Alameda stated Board staff developed a draft administrative manual for the MAC to review. Ms. Alameda provided an overview of each section of the manual at the December 6, 2018 MAC meeting, however, a quorum was not present. Therefore, Ms. Alameda again provided an overview for those that were not present at the December 2018 MAC meeting.

Ms. Alameda stated that Ms. Webb provided additional information regarding term limits at the December 6, 2018 MAC meeting.

Ms. Webb stated that Business and Professions Code section 131, provides that for any committee, no member shall serve more than two consecutive full terms. That would apply to a member of a Board committee or council under the Department of Consumer Affairs.

Ms. Webb explained that members have to take a break between terms if they have reached the maximum term limit.

Ms. Webb expressed this makes recruitment and educating potential members all the more important, because there must be movement in the membership.

Ms. Sparrevohn questioned why the Practice Guidelines for California Licensed Midwives is included in the manual. Ms. Sparrevohn stated that the guidelines have not been updated since 2014.

The MAC agreed that the Practice Guidelines for California Licensed Midwives should be updated and added to the agenda for the August 22, 2019 MAC meeting.

Ms. Holzer made a motion to approve the Administrative Procedural Manual with the removal of the Practice Guidelines for California Licensed Midwives; s/Dr. Adams. Motion carried unanimously (5-0).

Agenda Item 9 Discussion and Possible Action on a Midwifery Advisory Council Vice Chair

Ms. Holzer nominated Ms. Breglia to the vice chair; s/ Dr. Adams. Motion carried unanimously (5-0).

Ms. Breglia stated that per the newly adopted Administrative Procedures Manual, another vote on chair and vice chair will take place at the August 22, 2019 MAC meeting.

Agenda Item 10 Discussion and Possible Action on Midwifery Advisory Council Vacancies

Ms. Morairty stated that in January 2019, 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, to announce that the Board was seeking applications from licensees, physicians, and interested parties to fill four positions on the MAC.

Ms. Morairty indicated that the vacancies included one licensed midwife, two public member positions and one licensed physician and surgeon. Ms. Morairty stated that staff received three applications for the licensed midwife vacancy, three applications for the public member vacancy and one application for the physician and surgeon vacancy.

Ms. Morairty presented on the licensed midwife position, a three-year term, set to begin July 1, 2019. The three applications received for the licensed midwife position were from Diane Holzer, Sara Howard, and Angelica Nugent.

Ms. Morairty asked if any applicants in attendance would like to address the MAC.

Ms. Howard was not present, however, Ms. Sicignano read a statement on behalf of Ms. Howard. Ms. Howard is from Los Angeles, she could not be present because she is currently

expecting her second set of twins. Ms. Howard is a licensed midwife, Certified Professional Midwife, and an International Board Certified Lactation Consultant. Ms. Howard opened her own private midwifery practice this past year and has been working in multiple Los Angeles area hospitals as a lactation consultant. Ms. Howard is a founding member of the Queer and Transgender Midwives Association. She has also served as a board member for an American nonprofit organization supporting the advancement of humanized birth in Mexico. Ms. Howard has a background in healthcare advocacy and has worked for nonprofit organizations in Los Angeles for over 10 years prior to becoming a midwife.

Ms. Holzer introduced herself and stated that she reapplied to serve one final term on the MAC. She indicated she feels she can be more effective in a second term due to her experience on the MAC and would like to continue serving. She indicated she is excited about the strategic plan and would like to continue her work on the MAC.

Ms. Breglia nominated Ms. Holzer for the licensed midwife position to be recommended for approval at the next Quarterly Board meeting; s/Ms. Perez. Motion carried unanimously (5-0).

Ms. Morairty presented on the two public member positions, both three-year terms, set to begin July 1, 2019. The three applications received for the public member positions were from Donyale Abe, Wendy Root Askew, and Jocelyn Dugan.

Ms. Morairty asked if any applicants in attendance would like to address the MAC.

Ms. Abe introduced herself and shared that she started working as a doula in 1996 for Kaiser Permanente and in maternity health education. She stated she has been working as a doula trainer, training student midwives. Ms. Abe has a master's degree in medical education leadership from the University of New England and she now works as a lead professor teaching the community health worker certificate program at Sacramento City College. Ms. Abe went on to state that her two daughters were born at home using a midwifery service. Ms. Abe concluded she is passionate about expanding midwifery education and increasing the number of licensed midwives in California.

Ms. Dugan introduced herself and stated that she has served one term on the MAC and would like to continue and serve a second term. She indicated she would like to continue to advocate for midwifery care in California.

Ms. Dugan nominated Ms. Abe for the public member position to be recommended for approval at the next Quarterly Board meeting; s/Ms. Perez. Motion carried unanimously (5-0).

Dr. Adams nominated Ms. Dugan for the public member position to be recommended for approval at the next Quarterly Board meeting; s/Ms. Perez. Motion carried unanimously (5-0).

Ms. Morairty presented on the physician and surgeon position, a three-year term, set to begin July 1, 2019. One application was received for the licensed physician and surgeon position from Dr. Adams

Ms. Morairty asked if any applicants in attendance would like to address the MAC.

Dr. Adams introduced herself and stated she would like to continue with a second term on the MAC. Dr. Adams continued by stating she is excited about the strategic planning and looking forward to achieving her vision of licensed midwives gaining more respect in the medical community.

Ms. Holzer nominated Dr. Adams for the physician and surgeon position to be recommended for approval at the next Quarterly Board meeting; s/Ms. Dugan. Motion carried unanimously (5-0).

Agenda Item 11 Program Update

Ms. Murray referred to the Licensing Statistics, indicating that in the second quarter of the fiscal year 2018/2019 the Board received 11 new applications, issued nine new applications and renewed 47 licenses. As of December 31, 2018, there were 412 current midwife licenses.

Ms. Murray reviewed the Transfer of Planned Out-of-Hospital delivery forms, indicating the Board received 35 hospital reporting forms, all of which were for licensed midwives. Ms. Murray reviewed the enforcement statistics for licensed midwives, indicating that seven complaints were received in the second quarter. One complaint was referred for criminal action, investigation, or to the Attorney General's Office.

Ms. Murray stated there were no complaints for unlicensed midwives received in the second quarter.

Ms. Sparrevohn addressed the MAC regarding enforcement issues pertaining to California Code of Regulations (CCR) 1379.19, and two accusations that she was aware of against licensed midwives that had been reviewed by physicians. Ms. Sparrevohn questioned why expert review of complaints against licensed midwives were being conducted by physicians. Ms. Sparrevohn indicated midwives have been told on multiple occasions, primarily by Ms. Webb, that the entirety of CCR 1379.19 was no longer valid because its authorizing language was removed when Assembly Bill (AB) 1308 was passed. Yet it remains on the Board's website. Ms. Sparrevohn questioned why there is no disclaimer informing the public CCR 1379.19 is no longer supported by statute. Ms. Sparrevohn stated she was told by a Deputy Attorney General (DAG) working for the Board that the Board is using CCR 1379.19 as if it is still in effect. Ms. Sparrevohn stated the standard of care has not been updated since its creation in 2005. Ms. Sparrevohn indicated on at least one occasion Ms. Webb informed her by email that midwives would not be in violation of the standard of care if the Practice Guidelines for California Licensed Midwives were not followed.

Ms. Sparrevohn stated the Practice Guidelines for California Licensed Midwives are being supplied to physician reviewers of licensed midwife cases as if they are the standard of care, and accusations against midwives are being based on these standards. In the two cases against licensed midwives, the midwives were accused of failing to refer clients with a history of a prior single low transfer cesarean to a physician. Ms. Sparrevohn stated on December 15, 2014, at an interested parties meeting, Mr. Worden, previous Chief of Licensing for the Board, stated that one prior low transfer cesarean would never be on the list of conditions for which a licensed midwife would have to seek a physician consult. Ms. Sparrevohn believes the Board has failed in their duty to create regulations pursuant to AB 1308. She stated there is no list of conditions licensed midwives are required to refer clients to a physician. Ms. Sparrevohn stated licensed midwives continue to treat women who have had prior cesarean, making it by definition, part of the standard of care. Ms. Sparrevohn asked why it is acceptable for midwives to be evaluated by the medical model of care, however, it is not acceptable for a medical doctor to be evaluated by the midwifery model.

Ms. Webb stated Ms. Sparrevohn mischaracterized what she said. Ms. Webb stated the communication she had with Ms. Sparrevohn was more detailed. Ms. Webb stated each case would need to be looked at individually and is very complicated.

Ms. Webb stated Ms. Kirchmeyer gave a presentation on the enforcement review process at the December 6, 2018 MAC meeting. Ms. Kirchmeyer addressed the enforcement review process and explained that a DAG can call on other experts when necessary, similar to when reviewing physician standard of care cases.

Ms. Sparrevohn asked if a DAG would ever hire a licensed midwife to review a physician standard of care issue.

Ms. Webb stated that she could not answer that question, however, indicated the possibility.

Ms. Sparrevohn stated she did not believe that would ever happen. Ms. Sparrevohn stated she believes the problem is the medical model and the midwifery model intersect. Ms. Sparrevohn indicated that using a physician to review a complaint against a midwife, places midwives in a subordinate position. Ms. Sparrevohn stated that midwives are not required to have a physician supervisor, and midwives have been assured on countless occasions that licensed midwife cases would be reviewed by a licensed midwife. Regarding these two accusations, Ms. Sparrevohn believed this is not a case where a licensed midwife reviewed the matter and then it went to a physician. Ms. Sparrevohn indicated that the issue was never looked at by a licensed midwife and asked why. Ms. Sparrevohn further questioned the status of removing CCR 1379.19, so that it no longer appears on the Board's website.

Ms. Webb stated this item is in a queue with other regulations that need to be finalized.

Ms. Sparrevohn asked if it was possible to let the DAG's and regional Board offices know that it no longer has the force of statute behind it.

Ms. Kirchmeyer stated the Board will take all of the information given by Ms. Sparrevohn and discuss it with the AG's office and review the issues that were brought forward.

Agenda Item 12 Discussion and Possible Action on 2019 Midwifery Advisory Council Meeting Dates

After discussion by the MAC, the proposed dates for the 2019 MAC meetings are August 22, 2019 and December 5, 2019.

Ms. Holzer made a motion to approve the August 22, 2019 MAC meeting date; s/Ms. Dugan. Motion carried unanimously (5-0).

Ms. Holzer made a motion to approve the December 5, 2019 MAC meeting date; s/Ms. Breglia. Motion carried unanimously (5-0).

Agenda Item 13 Agenda Items for the Next Midwifery Advisory Council Meeting in Sacramento

Ms. Holzer recommended strategic planning, licensing updates, program updates, and revisions to the Practice Guidelines for California Licensed Midwives, a vote on MAC chair and vice chair, presentation of the CALM survey findings on denial of patient care, and the LMAR update as agenda items for the August 2019 MAC meeting.

Agenda Item 14 Adjournment

Ms. Holzer adjourned the meeting at 3:20 p.m.