



Board of Certified Direct-Entry Midwives Meeting - October 30, 2024 Minutes

Alaska Division of Corporations, Business and Professional Licensing
10/30/2024 9:00 AM AKDT

Board Members:

- Holly Steiner, RN, CDM, CPM
- Darcy Lucey, APRN, CNM
- Hannah St. George - Public Member

Staff Present:

- Shane Bannarbie- Program Coordinator 1
- Reid Bowman-Program Coordinator 2
- Stefanie Davis- Regulations Specialist
- Sara Chambers-Boards and Regulations Advisor

1. Call to Order

Holly Steiner called the meeting to order. All members were present, and each stated they had no conflicts to report.

2. Accept Agenda

MOTION by Ms. Lucey to approve the agenda as presented. Second by Ms. St. George. Approved unanimously.

- A. Approve Minutes - 9-4-2024 + 10-10-2024

MOTION by Ms. Lucey to approve the minutes for September and October. Second by Ms. St. George. Approved unanimously.

3. Public Comment

Felicity Smith, Direct Entry Midwife, commented on the opinion from the board regarding birth assistants. Ms. Smith states the language that we use as midwives is that we often have birth assistants at births with us as a second attendant, so I want to make sure that there's no confusion in the language that a birth assistant, (somebody attending birth independently for compensation), as implied in that documentation that Ms. Chambers just had up is different from having somebody that they pay that comes, and is the second attendant at the birth that they are in charge of, and delegating tasks to. They are two separate people and roles and responsibilities. Ms. Smith also expressed concern that if we add language that we

are really careful with it, that it's not interpreted in a way that could be more restrictive to what we can currently do versus the protective nature that I think Ms. Belisle wants to put in place for us as midwives. Currently, we have nothing in statute or regulations regarding the need for a second attendant at birth. I don't want that to change. Because of the nature and the state that we work in, it would be prohibitive to a lot of midwives in the areas that they work to guarantee that there is another certain type of a second attendant at their births with them. The other thing is, if we add any language, I would like it to be that we have the authority under our license to direct people present at birth, to provide medical care as necessary. It provides some coverage for us if we are giving direction when we are physically present to another person that's also at that birth to provide medical care.

Onica Sprokkreeff, Midwife, and President of the Midwives Association of Alaska also presented public comment. Ms. Sprokkreeff expressed that she also would like to comment in regard to that same subject. She supported ensuring the primary midwife can utilize people at their discretion to assist at delivery. She expressed she would like the board to be very careful of any language that is used that might restrict us further. I don't think it's the desire of the Midwives Association as a whole, from the comments that were posted throughout basecamp (to require a second attendant), and she doesn't know if that was the intention of the board either. Also, just having some caution around how far we go as midwives about unlicensed providers or people practicing without a license. Ms. Sprokkreeff further stated, I do think that that historically, it has been an issue in our state and across states. I do think there's a significant difference between a primary midwife bringing someone to safeguard the space who has training in birth skills but might not be licensed or trained in life-saving skills and neonatal resuscitation. I think the primary midwife should be able to utilize whomever she desires to assist her in delivery at that time as needed.

4. Notice Regarding Unlicensed Practice of Midwifery - Draft (Presenters: Sara Chambers)

Ms. Chambers presented the memo notice to the board and explained it has been reviewed by LAW and was drafted at the request of Chair Belisle. The request was to develop a document for the board to review and share it on the board website for the Midwife community to understand the board's position on unlicensed practice. The board has discussed reports of people performing activities that only midwives and permitted apprentices have authority to provide. Ms. Chambers clarified that this does not include those in a support role, only those directly performing activities they are not licensed to. Ms. Chambers informed the board that Ms. Belisle informed her that there have been conversations in the basecamp platform around

misunderstandings in the field and the board's position. It was this experience that prompted Ms. Belisle to request help from Ms. Chambers to draft this memo presented to the board today for discussion and approval to post to the public.

After public comment, Ms. Steiner, stated her opposition to the memo going out to the public and stated several reasons: I absolutely do not want the terms birth keeper and birth assistant to be as if they're the same thing in any way, shape or form, going on a document There's no secret that birth assistants have always existed. Birth assistants get training, and often are hired to do simple tasks to help the midwife under the direct supervision of a midwife; so, they're under our license. They are never the primary care provider. I agree with the Midwives Association of Alaska, and what Onica shared. If we're going to put in language, it needs to be minimal, and I may even keep the term birth assistant out of it, but just that we have the right to delegate tasks to any person at the birth to help us. Ms. Steiner opined that birth keepers should be dealt with under the Department of Health, they are not midwives, and are totally different from birth assistants. Our board should not have to deal with them. I don't think we should go after them. Ms. Steiner added, she believes the birth assistant issue can be dealt with through regulation or statute.

Ms. Chambers invited other board members to voice their position on the memo and informed the board that there is nothing in the current statutes that gives midwives the authority to delegate to an unlicensed person, so that will need to be part of your statute change. And I think that's one of the tasks the work group was asked to have done before this meeting. Ms. Lucey stated: There's a difference between birth keepers and birth assistants. The intention is that people who are attending births alone without a license in the role where they are implying that that are assisting a woman in labor in some way that is in medical. That's where I feel like the birth keeper title kind of falls into that gray area. If they're not saying they're midwives but there's an implication that they're going to provide some kind of protection or safety net for this woman in labor, and they don't have a license for that, and they're not going with another midwife. I do agree. Maybe we should not address birth assistants in this because I think the birth assistant issue might be a separate category that we to talk about for statute or regulation change. Ms. Steiner commented: My fear is that if we took out birth assistants and we just posted about birth keepers, then we are as a board saying we're taking responsibility for this. She questioned, is it possible for the Department of Health to put this letter out about birth keepers? Ms. Chamber answered, It's not the Department of Health's responsibility. They don't have any oversight unless there's a birth keeper working in a licensed clinic. Ms. Chambers added, I would always advise a board to lean on the side of caution and responsibility. There's no requirement to post the memo or circulate it. The board can say Ms. Belisle wasn't here, so we didn't get to hear her

viewpoint, but we didn't agree with what was presented. Ms. Chambers also informed the board you can just push pause on the topic, there's no requirement to get this out. It's in the minutes and recording. Ms. Chambers also made a point to mention that social media conversations and posts are not an official method to communicate with the board.

MOTION by Ms. Lucey to table the Unlicensed Practice of Midwifery – Draft letter for discussion at the next meeting . Second by Ms. St. George. Motion passed unanimously.

5. Regulations - Research on Regulations Cleanup - Darcy Lucey

Ms. Lucey provided the following recommendation:

- Eliminate 12 AAC 14.210(a)(5) and 12 AAC 14.210(a)(2)

After her research, Ms. Lucey found 12 AAC 14.210(a)(5) and 12 AAC 14.210(a)(2) are redundant to statute and adds confusion. These were the two sections she stated she spent the most time on. After brief discussion and staff suggestion, the board established that regulations project concerning all the sections within the Regulations Cleanup document should be started.

I, Darcy Lucey move to initiate a regulations project regarding all of the sections in the Regulations Cleanup document. Seconded by Ms. St. George. Motion passed unanimously.

Ms. Steiner suggested there was enough time to begin working on the draft regulation project edits and language during this meeting after the motion was passed.

Break - the board recessed at 10:03 and reconvened at 10:08 all member present.

Ms. Steiner began the meeting with questions to Ms. Lucey on which sections of the document she reviewed. Ms. Lucey stated she feels 12 AAC 14.120-130 (b)(7)(8), Section 1 is not needed in its entirety. Subsections 7 and 8 were discussed at the last meeting so she did not spend too much time on them. Ms. Lucey, provided that the fact that you have to have NARM certification, which means you have to have passed the NARM exam is just redundant. Also, subsection 8 was the continuing competency requirements which were also covered under the NARM certification. She feels that subsection 7 and 8 of the document should be removed from regulation because they are covered elsewhere in regulation. Ms. Steiner, questioned if a motion was needed for every section of the Regulations Cleanup

document edits? Staff explained that a motion was already moved to edit the document, and another motion may be moved to accept all the edits within the document once updates are complete.

The board addressed 12 AAC 14.130(g), Section 2 of the document. The board chose to keep Section 2 as is, but add a definition for “in good standing”. Stefanie Davis provided guidance to the board that the regulations currently referred to “in good standing” in quite a few places. Her recommendation would be to define what “in good standing” means to the board, then adding that to your regulations, so that all occurrences of “in good standing” can remain; then, at the end of the regulations, one can see the definition for what exactly it means. Ms. Lucey questioned if “in good standing” was defined elsewhere in regulation. Ms. Davis commented she believed that it was not currently defined and recommend adding the definition to 12 AAC14.990.

The board chose to add the “in good standing” definition to 12 AAC14.990 as item 7, and keep the definition listed in Section 2. “In good standing” means: “(7) A license that is not conditioned, limited, or restricted in any way. Discipline may have been present in the past but has been resolved and any terms satisfied”. 12 AAC 14.130(g) will remain the same.

Ms. Lucey then addressed Section 3 and Section 4 of the Regulations Cleanup document, and posed to eliminate the sections as recommended within the document. Ms. Lucey commented that basically subsection 2 and subsection 5 of 12 AAC 14.210(a) are redundant with statute. Ms. Steiner concurred.

Ms. Lucey then addressed Section 5 of the document, 12 AAC.14.145. Ms. Steiner began the discussion by questioning, if the board needs to have “peer review” spelled out for the State when it's already spelled out for NARM? Ms. Lucey responded that she is not sure. After discussion between the members, there was still confusion on what needed to happen with the Section topic. Ms. Lucey, proposed to table discussion on Section 5 of the Regulations Cleanup document. She expressed she would like to completely eliminate all of 12 AAC.14.145, but further research is needed. Ms. Lucey concurred and questioned what the NARM requirements are and stated more research is needed on the matter. Ms. Davis suggested the board should review minutes from the March 2020 board meeting for background on the peer review topic. She stated it looks like there was a separate peer review section that was repealed back in, I believe, 2022, maybe 2021.

Ms. Steiner, suggested to move on to Section 6 and 7 of the Regulations Cleanup document. In review, both Ms. Steiner and Ms. Lucey expressed they did not understand the context of this Section. The presumption of the board was that this section is referring to birth assistants. Ms. Lucey suggested dealing with Section 7 in

a statute project, but believes Section 6 needs more clarification on what is needed. The board chose to task the licensing examiner with providing a clarification to Section 6. It was concluded that the document was written prior to the licensing examiner working with the board. Ms. Lucey volunteered to go back and review meeting minutes from around February 7th timeframe for clarification on Section 6. It was posed by Ms. Steiner to remove Section 7 completely because it will be addressed in a statute project. Ms. Lucey concurred.

The board moved onto Section 8 of the Regulations Cleanup document. Ms. Steiner commented that if we need to report a death that shouldn't belong under peer review. Ms. Lucey added, she believes this came from two different things. It came from the legislative hearings where they were asking how a death in the midwifery community was dealt with, and she thinks maybe the board didn't have an answer for the legislature at that moment, or one that they were happy with. It could have also come from a piece of paper that we were looking at multiple times that was like a record of death or record of client death, or something to that effect. The paper would essentially get sent into the state, and then it basically goes in a folder. There's no next step with that piece of paper. So, the question was, do we get rid of that piece of paper, since it doesn't really do anything. Ms. Steiner questioned what type of document was this? Was it a Department of Health paper or Board paper? In an effort to clarify what document Section 8 may be referring to, Ms. Steiner, read regulation 12 AAC 14.540(f), which says not later than 14 days after the delivery or transfer of care of a client for whom the CDM had primary responsibility, the CDM shall report to the board on a form provided by the department. If the client died, is that the form? Ms. Lucey confirmed Section 8 is referring to the form mentioned in the regulation. She went on to state, the question is, what do we do with the form? From her experience there was no action on what needed to happen with the form from the board. Ms. St. George asked Ms. Steiner her opinion on if there is a death should it be brought to the board? Ms. Steiner explained her position is the board can't do anything with that information other than an investigation. Ms. Steiner also questioned what goes on outside of the board with regard to patient death, because she doesn't really know. She posed that, there could be a case for an investigation if a midwife did not report a death to the Department of Health, if that is a requirement. Ms. Lucey added, who should be keeping track of that? Ms. Steiner added, can the form be sent to the Department of Health for checks and balances? Ms. Lucey added is the form serving a purpose? Ms. St. George, added, she feels as if there should be some type of oversight on the matter. Ms. Lucey responded that, the complaint process is a type of oversight used by the board and the only way the board can be made aware of issues within the community. After discussion on the history of the form, Ms. Steiner questioned Where is that requirement? And what does that look like? Mr. Bowman cited Midwife Statute; Section 08.65.140(3) says

you have to follow Department of Health statutes regarding fetal death registration. Ms. Steiner found, 12 AAC 14.540(f) is the regulation that deals with the form in question. Ms. Steiner went on to recommend eliminating 12 AAC 14.540(f) from regulation. She stated a regulation could be added that refers to statute if this matter needed to be addressed. It was settled to not remove 12 AAC 14.540(f), but instead edited to read:

“12 AAC 14.540(f) Not later than 3 days after the delivery or transfer of care of a client for whom a certified direct-entry midwife had primary responsibility, the certified direct-entry midwife shall report to the Department of Health as required in AS 08.65.140 (3) if that client died.”

MOTION by Ms. Lucey to approve board edits made to the Regulations Cleanup document. Second by Ms. St. George. Motion passed unanimously.

6. Legislative Discussion

Ms. Steiner began the discussion by stating she does not believe the report recommendations have been made to HB0175. Ms. Steiner proposed tabling the discussion on HB0175 for additional feedback from other work group members (Bethel, Felicity, and Maddie). Ms. Lucey agreed to waiting and voting on the document in OnBoard to allow other members to make comments and recommendations. Regarding Sponsorship, Ms. Steiner suggested to wait to hear from the board chair, to see if she had any leads on who could sponsor the bill.

MOTION by Ms. Lucey to set another meeting date to review and approve revision to statute recommendation HB0175. Second by Ms. St. George. Motion passed unanimously.

Ms. Steiner and Ms. Lucey began addressing the sunset bill needs. The board is set to sunset in June of 2025. The board had previously determined this should be a separate bill. Ms. Steiner stated she will need help drafting language for the sunset bill. Ms. St. George commented that she recently submitted her resignation from the board and wanted to mention that she hopes Ellie could take over for her.

MOTION by Ms. Lucey to table all legislative discussion topics, including sunset audit, and sunset bill to the next meeting. Second by Ms. St. George. Motion passed unanimously.

7. Board Administrative Business

Set Next Meeting Date: Monday December 2, 2024, 12:00p.m.-1:30p.m.

8. Next Steps

- A. Add Regulations Cleanup edits to OnBoard for motion to approve edits.
 - B. Ms. Steiner present NARM requirement for peer review and legislative action items at next meeting.
 - C. Add Birth Assistant statute language at next meeting.
9. Adjourn

MOTION by Ms. Lucey to adjourn the meeting. Second by Ms. St. George. Motion passed unanimously.

Board minutes approved unanimously by board vote 11/27/2024.