



## Direct-Entry Midwifery Policy & Regulations Subcommittee Meeting

March 31, 2014

6:00-8:00 PM

### Summary Notes

(FINAL – Approved as corrected 4/10/14.)

**Subcommittee Members in Attendance:** Jennifer Antonik, Consumer; Kristin Bennett, DPH Nursing Director; State Rep. Paul Baumbach, Dr Garrett Colmorgen, Perinatologist; Jodi Dampier-Moore; DSU Nursing Faculty; Patricia Gallagher, CPM; Ally Heiger, RN, Delawarean for Safe Births; Dr Richard Henderson, OB-GYN; Kathleen McCarthy, CNM, Birth Center of DE; Dr David Paul, Neonatologist; Lindsay Robinson, CNM, Dedicated to Women; Jephtha J VanDunk, Consumer, Attorney; Karen Webster, NARM CPM. **Absent:** Bonnie Perratto, CNO, Bayhealth.

#### I. Welcome and Introductions

Co-Chair Garrett Colmorgen led meeting with support of Co-Chairs Jen Antonik and Pat Gallagher. Members introduced themselves to the public attendees.

#### II. Review/Approval of 3/11/14 Summary Notes

There was concern expressed that there was not consensus on two points as noted in the 3/11/14 draft meeting summary notes. Correctly stated: 1) There was agreement by the subcommittee to establish a Midwifery Board or Council but not on its placement. 2) There was discussion about the accredited program portion of 4.1 (Title 16 4106) but no agreement. These points will be corrected in the summary notes. Summary notes for 3/11/14 meeting approved as corrected by consensus.

#### III. Updates on Issues Potential Legislative Language - Delineate Components Needed

- A. Direct-entry Midwife Definition Clarification<sup>1</sup>  
(See Direct-entry/ non-nurse midwife definition in footnote.)

Group agreed that focus for the purpose of committee work was on Nationally Certified Midwives - CPMs and CMs - as defined in current DE regulations: (see next page)

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1. Current Delaware regulations (Title 16 HEALTH AND SOCIAL SERVICES, DELAWARE ADMINISTRATIVE CODE, 4100 Family Health Services, 4106 Practice of Non-Nurse Midwifery, see link below) include this definition: **“Direct Entry /non-nurse Midwife”** A midwife that has entered the profession directly through midwifery education and training and not through a prerequisite program of nursing and has met the qualifications and received a permit from the Delaware Division of Public Health to practice midwifery in DE.  
<http://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Public%20Health/Family%20Health%20Services/4106.pdf>

**“Nationally Certified Midwife”** a direct entry midwife that has met national certification from North American Registry of Midwives (Certified Professional Midwife CPM) or American College of Nurse Midwives (Certified Midwife)

Most of the group did not see continued need for the definition of Direct-entry/non-nurse midwife as defined in current Delaware regulations. See footnote on the previous page.

B. Establishment of Board or Council

Licensure Requirements

License Renewal/Maintenance of Competence

Complaint/Disciplinary Process

Subcommittee discussed the establishment of Midwifery Board or Council under Board of Medical Licensure and Discipline (BOMLD) vs DPH (Division of Public Health).

Discussion ensued regarding state agencies which license various facilities (DPH OHFLC and DLTCRP) vs licensure of professionals under DOS, Division of Professional Regulations.

It was noted that Midwifery Board or Council under BOMLD would facilitate/satisfy collaboration with physicians without collaborative agreement. There was concern expressed re: having full autonomy.

Concern noted re: Midwifery Board or Council's recourse if there were a difference of opinion with Board. Board was reported to support Councils under it.

It was also noted that Boards regulate and make sure minimum standards are in place. The BOMLD provides a licensure process, and when presented with complaint, the Board reviews/disciplines if not without standard of practice.

Rep Baumbach - noted we don't necessarily agree on everything but need to move forward.

As proposed - Midwifery Council/Board tilts in favor of home birth advocates.

Midwifery Council (or Board) may set (up) guidelines, regulations and practice limits.

General support exists in subcommittee for NARM standards of care.

(Two handouts were distributed to subcommittee at this time re: Medication and Licensed Midwifery. The first noted CPMs who are licensed are allowed to carry and administer certain meds in 24 of 27 states that legally recognize CPMs. It listed states and medications allowed in each. The second handout provided additional detail/wording related to the use of drugs or medication by licensed direct-entry midwife in those states. )

Public member recalled past history with compromise. Midwives compromised in agreeing to collaborative agreement. Physicians said they would work with midwives but it didn't happen. So unless feet held to fire - physicians/midwives all wasting time.

Noted Council can specify guideline source (vs develop).

There was some discussion on draft legislation with sunset date so if (legislation) was found unworkable it could be allowed to expire.

### C. Child Abuse Registry and Criminal Background Checks

Limited discussion but general consensus would be as per DPR.

### D. Regulations: Scope of Practice/Guidelines/Record Keeping

Rep Baumbach noted he had asked someone to attend meeting to address liability.

Attorney Bart Dalton introduced. Discussed scope of practice what can and can't do. Standard of care observed range of practice and in literature of the time.

Attorney Laura Bower discussed power of licensing standards. Responsibilities described. Board creates mechanism for review /report for patient safety.

Noted the Council would/could write regulations but still need to comply with public regulation process (public hearings and comment).

Attorney Jephtha VanDunk asked if we are creating a sustainable model...Is it realistic?

Dr Colmorgen noted current BOMLD has 1 OB, 1 Pediatrician – most are Family Practice, interested in medicine in general. Specialties not designated/guaranteed. Midwifery Board/Council unlikely to garner opposition.

Attorney Laura Bower noted we can't regulate mom's choice. We regulate practice. She gave example of disciplinary process if rogue midwife (made poor choice) to deliver diabetic mom. If unlicensed would be sent to BOMLD; if licensed sent to (Midwifery) Council.

Need to develop respect, need to keep talking was noted.

Rep Baumbach requested looking into posting information on DPH website.

Given progress made – (wondered) is it time to throw to Legislative.

Dr Paul noted standards are important, need to look at big picture.

Group consensus was to hold an additional meeting.

### E. Informed Consent

See discussion from previous meeting.

F. Vicarious liability (99%/1% Liability Rule)

Attorney Dalton addressed Joint & Several (Liability 1% rule). (Problems) usually (stem from) bad communications between several (well-intended) health professionals. No case without negligence. Would not have occurred but for your percentage.

IV. Potential Legislative Language - Delineate Components Needed

Proposed legislation re: practice of midwifery drafted by Andrew Wilson, MSD, in collaboration with others, along with a second document: ACOG comments/suggested edits were distributed at meeting. (Attached.)

V. Action Steps

This Subcommittee requested to review proposed legislation, return with comments and suggestions for revision. It is anticipated that the Subcommittee's next meeting may be its last.

VI. Schedule Next Meeting

Members in attendance agreed that the next (and possibly last) meeting will be held on Thursday, April 10, 6-8 pm, at the same location, DPH Offices, Large Training Room, Edgehill Shopping Center, Dover.

VII. Public Comment

There was much respectful discussion with, and comment from the public attendees throughout the meeting. Members of public did not elect additional comment at this time.

Public Attendance (elective sign-in): Laura Bower, Shannon Burdeshaw, Susan DiNatale, Sandy Elliott, Joseph Fulgham, DE State House; Leigh Ann Harrison, DE State Senate; Stephanie Godrey; Rep. Harvey Kenton, Wendy Mathews; Joy Pinder, Yvonne Steele, Andrew Wilson, Medical Society of Delaware.

VIII. Adjournment

Meeting was adjourned at approximately 8:15 PM.