



## Direct-Entry Midwifery Policy & Regulations Subcommittee Meeting

April 10, 2014

6:00-8:00 PM

### Summary Notes

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

#### I. Welcome and Introductions

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

David Mangler, Director, Division of Professional Regulation, was given time to provide overview information helpful to our discussion this evening. In summary:

- Only one board under the Delaware Division of Professional Regulation has councils – that is the Board of Medical Licensure and Discipline.
- Councils have ability to make recommendations on which Board votes.
- Board is required to make reasonable decisions.
- Every council has physician and professional member
- None have any public members
- Members are appointed out of population, not voted
- Discipline is the purview of Board not Council
- Legislation soon to be signed by Governor. Across all professions will be ability to temporarily suspend for no more than 60 days.
- Typically there is a state residency requirement.
- Code opens with primary purpose which is public health, safety and welfare and secondary purpose which is to establish standards of practice. Does not exist to create unfair practice or self-serve board or profession.

## **II. Review/Approval of 3/31/14 Summary Notes**

The following corrections were suggested: include first name of Attorney B. Dalton (Bart), revise sentence under IV to read: "... Andrew Wilson, MSD, in collaboration with others..." delete duplicate line "Dr Paul noted... above III E. These points will be corrected in the summary notes. Summary notes for 3/31/14 meeting approved as corrected.

## **III. Potential Legislative Language - Review modifications of the draft document distributed at 3/31/14 meeting**

Proposed legislation drafted by Andrew Wilson, MSD, in collaboration with others, along with a second document: ACOG comments/suggested edits were distributed at the 3/31/14 meeting and distributed with the subcommittee meeting summary notes.

During the afternoon prior to this evening's meeting, draft legislation was submitted to DPH by Rep. Paul Baumbach on behalf of Laura Bower. She wrote,

*"This is a draft that the midwives believe very nearly reflects the consensus reached by doctors and midwives on those areas of conflict where we are at or close to consensus. But due to time constraints, the doctors have not reviewed this and may have a draft of their own that flags additional issues that will require some further discussion. Both the doctors and midwives may have further comment but this draft represents a great deal of progress in the conversation and we hope that the subcommittee will recognize and agree with that progress."*

Laura Bower's draft legislation and another draft submitted later this afternoon by Andrew Wilson, MSD with additional comments from physicians were each emailed to subcommittee and cc list, as well as distributed at this meeting to committee and public attendees.

Earlier draft legislation was declared defunct. Laura Bower 041014 Draft Legislation and Andrew Wilson 041014 Draft Legislation were described as 97% the same. Group elected to work through 2<sup>nd</sup> 041014 Andrew Wilson Legislation as it had the most comments.

As review commenced David Mangler provided additional guidance including noting typically outside organizations are not referenced to establish standard for state. Identify standard for state in general terms so as standards change (profession) not tied down. Professions are empowered to set standards; Boards investigate complaints, place scope of practice in code.

### **Group consensus to make the following edits:**

On page 3 comment ABW3 lines 60-65 replace with standard language re: reasonable – such as if doesn't accept or reject within 60 days accepted.

On p4 lines 86-91 including collect and maintain statistics. Divisions of Professional Regulation/ Boards do not collect statistics. (Division of Public Health collects vital statistics.)

**Group consensus to make the following edits:** (continued from previous page)

On page 5 (lines) will be superseded by standard language.

On p6 add to North American Registry of Midwives “or successor”.

(Noted typically Boards/Councils have odd number of members otherwise problem with quorum.)

On page 7 delete line 187 “be of good moral character”.

On page 7 delete lines 191-193 re: liability insurance. Discussion: state does not require liability insurance but agencies/medical insurers may or do. Typical requirement is \$1 million/ 3 million. (This is what Medicaid requires of its providers.)

On page 8, change shall to may re: include training both in facilities and alternative birth settings. Delete lines 214-214 re: council facilitating access to hospital and facility training.

On page 8, line 217, promptly needs to be defined (re: reporting termination or suspension by licensee.)

On page 8, line 218-219. Place period after years. Delete remaining portions of line 218 and 219 re: notice.

On pages 8-9 delete 220-290 informed consent section belongs in regulations; except for page 9 line 261-262 re: scope of practice.

(Noted council will promulgate own rules and regulations. Discussion re: codifying as protection. Discussion re: VBACs as example of an issue on which Board and Council may not agree. It was noted that the Board can reject Council’s recommendations but can’t rewrite. It was also noted that there is a need to outline what the Council needs to regulate.)

On page 10-11, lines 291-320 re: Physician Midwife Relationship .include in document location per attorneys.

On page 11 line 321-322 need to move to area of line 83.

On page 11, line 323-325 re: obtaining supplies, devices and medications needs to be better defined. In addition Board of Pharmacy and Controlled Substance statutes need to be drafted.

Need to add lines re: professionals on council need to meet requirements for licensure and become licensed no later than...

Need to add lines re: Rules and Regulations must be in place by 180 / agreed upon numbers of days from enactment.

Rules and regulations comment process described as 6 months in length if there are no problems. If there are substantial changes, then there would be need to go back for second round of public hearings.

**Group consensus to make the following edits:** (continued from previous page)

Public member needs to be removed from Council. (As per standard practice DPR.)

On page 12 lines 335-344 needs to be removed. Attempt to cure defect in compliance and void cease and desist cannot be done as proposed.

Representative Baumbach will work with Department of State, Division of Professional Regulations Director David Mangler to address draft legislation edits per DPR standard practice.

It was noted that sometime in the future current public health regulations re: midwifery will need to be repealed. We will need house attorney (Deputy Attorney General) assistance. This will likely happen in the next Legislative session.

Discussion ensued re: interim possibilities. Interest expressed in stopgap measure to allow CPMs to deliver without collaborative agreement in interim time (year) expected between (anticipated) legislation passage and regulations finalized under DPR. DHSS representative indicated we (DHSS/DPH representatives) could not make commitment to this on behalf of agency.

Suggestion made that midwives might use up good will on passage of short term legislation – and might better focus on long term and big picture.

After further discussion Rep. Baumbach indicated he planned to submit long term and stopgap legislation.

**IV. Report of findings of the Subcommittee (to be completed)**

Co-Chairs will continue work begun on draft report distributed via email and at this meeting after submission of these summary notes.

**V. Public Comment**

Public comment. Joy Pinder elected brief comment. In summary stated we are putting moms at risk with unassisted home birth.

Public Attendance (elective sign-in): Laura Bower, Shannon Burdeshaw, Sarah Culver, DFSB, Susan DiNatale, CPM, Stephanie Godfrey; Deborah Gottschalk, Chief Policy Advisor, DHSS; David Mangler, Director, Division of Professional Regulation, DE DOS; Wendy Mathews, Student Midwife; Joy Pinder, Lauren Riodeur, Andrew Wilson, Medical Society of Delaware.

**VI. Adjournment**

Meeting was adjourned at approximately 8:20 PM.