



# Board of Certified Direct-Entry Midwives

Alaska Division of Corporations, Business and Professional Licensing  
Minutes of the meeting held April 10, 2024 via videoconference

**These minutes have been approved by the board in accordance with PL-12/online voting.**

Members present: Bethel Belisle, CDM; Hannah St. George; Darcy Lucey, APRN

Staff present: Sara Chambers, Boards and Regulations Advisor

## Call to Order

The chair called the meeting to order at 10:02 a.m. A quorum was present to conduct business, and all members declared they had no conflicts of interest to disclose.

**Motion by Ms. Lucey to approve the agenda as presented. Seconded by Ms. St. George. Upon a roll call vote, the motion passed unanimously.**

## Public Comment

The chair opened the floor for public comment, and no member of the public wished to speak. She thanked the board and public for their support during the executive order process earlier this year.

## Discuss Unlicensed Practice

The chair stated she had initiated this discussion regarding the current movement of "birth keepers," "birth photographers," and "birth doulas" who are charging for and performing midwifery duties.

Ms. Lucey said she was aware of similar activities by unlicensed persons such as doulas, birth assistants, and birth educators. She suggested the board make a statement regarding when a license is required to help the public know the difference. Chair Belisle was concerned about patients who seek unlicensed care and then are "dropped at the door of the ER" when things go wrong. Ms. Chambers clarified that the board could refer to their statutes and regulations in a statement of the web site since anything they wish to defend would need to be based on one of those sources of authority. She recommended the board determine if anything is unclear that they could seek a regulations change and discuss with their attorney through that process.

Chair Belisle explained Oregon's two-tiered approach. Ms. Chambers walked through the statute (AS 08.65.130-190) and explained that the definition of midwifery and the title and practice protections were clearly in law. Ms. St. George raised concern that people will continue to practice midwifery without a license unless criminally prosecuted and asked how that process happened. Ms. Chambers described the board's ability to refer serious concerns about unlicensed practice to the Office of Special Prosecutions (OSPA) after a division/board investigation.

Ms. Lucey said that “preventative measures” and “education” may be gray areas; doulas often provide this type of support. She said that postpartum doulas often “physical, social, and emotional needs of the newborn and the woman” and refer clients to professional help. The chair raised concerns that the investigator may not understand the practice protections of the law and would like to tighten up the understanding between the board and investigator. Ms. Chambers offered to forward the board’s concerns to investigative team and schedule for a future meeting.

Ms. Lucey recommended a possible change to AS 08.65.190 to clarify where unlicensed persons could practice, such as certain types of educational situations. Ms. Chambers said that AS 08.65.190 provided the board the ability to refine the practice of midwifery in regulation. The chair suggested the possibility of adopting a regulation allowing delegation to unlicensed birth assistants, similar to the Medical Board and Board of Nursing, and she agreed to draft a regulation outlining what may be acceptable for unlicensed personnel and present it at the next meeting. Hannah and Darcy agreed to this approach. Ms. Chambers recommended the board hold an oral public comment session if the regulation is introduced to allow wide input on the proposal.

### **Legislative Discussion**

#### *HB 175 – Midwifery*

Ms. Chambers explained the current status of HB 175, stating it was in House Finance during a busy budget season and with approximately five weeks left in the Session. Chair Belisle said she had reached out to the sponsor and hasn’t heard back. She said the bill may need reworking with MAA this summer/fall.

#### *HB 314/SB 225: Occupational Licensing Fees*

Ms. Chambers explained that the bill would remove investigative expenses from the calculation of licensing fees, potentially dramatically reducing this board’s licensing fees. Those expenses would be covered by business licensing and corporations fees, which typically generate more than \$6 million in deposits to the General Fund. This would not increase fees for those entities and would result in the public sharing the burden of their own protection. The board expressed excitement.

**Motion by Ms. Lucey to support HB 314/SB 225 and to send a letter to the committees using the template provided. Seconded by Ms. St. George. Upon a roll call vote, the motion passed unanimously.**

#### *HB 371/SB 249: Medical Review Organizations*

Ms. Chambers provided a brief overview, stating that these bills did not dramatically affect this board but that the board itself might be considered a medical review organization due to its peer review requirement. She said she mentioned it for the board’s awareness, not as an action item.

Ms. Chambers mentioned that there were various bills affecting direct-entry midwives, and a couple affecting the board itself but not gaining traction. A spreadsheet was included in the meeting materials for the board’s information, and they were welcome to share it with others.

## **Board Administrative Business**

### *Review of Potential Regulations*

The board reviewed the new item on their pending regulations list, which suggested they consider regulations to take action when a Report of Death of a Client was filed. She stated that staff had received a few questions about the numbers of deaths, as well as the process to review situations surrounding deaths, and there is no process other than a standard investigation is a complaint is filed.

Ms. St. George said she felt it was important to review if a death occurs, especially in an out-of-clinic setting that may not have a quality review process, since midwives are very different than other providers. She felt midwives need to be accountable and held to a high standard. Ms. Lucey asked if any other health care board required this type of report; Ms. Chambers said she would research and report back.

The chair said any such discussion should be in executive session to protect the midwife and the personal information of the client. Ms. Chambers said that type of discussion would meet the legal standards for executive session. Ms. Lucey asked if the current midwife peer review regulations required review of a death or emergency transport; the chair said it was no longer mandatory. The chair explained that peer review can't be performed by someone involved in the requesting midwife's practice, and that in her experience, it is a very thorough and detailed discussion of the entire chart. Ms. St. George asked if a client death was mandatory to be included in peer review, and the chair said it was not. Ms. St. George asked if there is any mandatory process for the board or division to review a client death. The chair said that board's power within the peer review process was repealed with the 2021 regulations. Both renewal of an Alaska certificate and a NARM certificate require midwives to attest that they performed the required peer review, and the Alaska board audits 10% of its licensees. Ms. St. George felt that a review should be automatic if a death has occurred.

Ms. Lucey suggested the board adopt regulations making review the Reports of Death of a Client mandatory, as well as making it mandatory in peer review. The chair suggested HIPAA release forms be used or for the board to clarify whether client privacy was assured in regulation. She also thought the medical review organization statutes would be useful to review in case they apply to this situation. Ms. Chambers suggested the regulations could be drafted for in time for the board to review at its next meeting. The chair suggested looking at prior peer review regulations to see what relevant requirements might be added back in. Ms. Lucey said she would take responsibility for a first draft and asked Ms. Chambers to provide her with any past regulations or similar requirements of other health care boards, to which Ms. Chambers agreed.

### *Annual Report*

Ms. Lucey agreed to draft this year's annual report. The chair thanked her and stated her appreciation for her excellent work on it the previous year. Ms. Chambers said that it is preferable for board documents to be reviewed and approved on the record, and that could happen at any meeting prior to the mid-June internal deadline for the report to be finalized.

### *Legislative Audit*

Ms. Chambers confirmed that the legislative audit was ongoing.

*Board Member Appointment*

Ms. Lucey asked if there was an update on the possibility of new members to be appointed. Ms. Chambers said the legislative reappointment process was winding up, at which time it was likely the governor's office would be able to review applications for the many vacancies on boards across the state. She said that she did know that there have been no physician applicants to the governor's office, and she encouraged members who believed they knew of potential candidates to please apply.

The board set its next meeting date for June 5, 2024, at 10:00 a.m. via Zoom.

**Motion by Ms. Lucey to adjourn at 11:52. Seconded by Ms. St. George. Upon a roll call vote, the motion passed unanimously.**