



Board of Certified Direct-Entry Midwives

Alaska Division of Corporations, Business and Professional Licensing

Meeting Minutes

February 7, 2024, at 10:00 AM AKST via Zoom and Conference Room A, State Office Building, Juneau

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

Members Present: Bethel Belisle, CDM, chair; Rachel Pugh, CDM; Darcy Lucey, APRN; Hannah St. George
Staff Present: Sara Chambers, Boards and Regulations Advisor

Several members of the public were in attendance.

Call to Order

Chair Belisle called the meeting to order. All members were present. Each member declared she had no conflicts of interest. Seeing Representative Eastman in the gallery, the board elected to change the agenda.

Ms. Pugh moved to place HB 214 at the top of the agenda. Ms. St. George seconded. **Approved unanimously.**

Discussion of HB 214

Representative Eastman presented an overview of his bill to prohibit female genital mutilation by a health care provider. He clarified that there was no group promoting this legislation; he noted that most states have legislation in place to protect women in this manner. It was clarified that it did not prevent practitioners from performing medically necessary practices, such as episiotomies.

Ms. Lucey moved to support HB 214 as written. Ms. Pugh seconded. **Approved unanimously.**

Discussion about Primary Preceptor Acceptance Verification form

Deputy Director Glenn Saviers presented a draft of the updated preceptor form, which reflected the current statutory and regulatory requirements for preceptors. She stated that since the statutes and regulations have various requirements for preceptors under various conditions, the division appreciated the board's review of the form. Recognizing this would be difficult to accomplish as a group, she asked for board members to each send her their thoughts and recommendations, to which the board agreed.

Public Comment

Four members of the public spoke against the executive orders.

Potential Regulations Changes

Ms. Chambers requested the board review suggestions for regulations changes. Some have been pending for a while, and others were discovered during staff's work on the preceptor form:

- Remove continuing education requirements in 12 AAC 14.120(b)(8) because these standards are no longer applicable after the board's previous regulations changes.
- Clarify "in good standing" per 12 AAC 14.130(g). She explained the division uses a standard of active licensure with no encumbrances, such as probation or condition. Any discipline would need to have been resolved. Having a clear standard in regulation would ensure the division understands the board's expectation.
- Eliminate or change 12 AAC 14.210(a)(5) because it is dissonant with AS 08.65.090(b)(1) and AS 08.65.070.
- Consider whether 12 AAC 14.210(a)(2) is necessary.
- Clarify the period of time to retain peer review records in 12 AAC 14.445.

- Consider aligning supervisor requirements across statutes and regulations.

The board discussed that some of these changes might be more beneficial to make after HB 175 is passed. Ms. Pugh anticipated many additional regulations changed if HB 175 is passed, and Ms. Lucey agreed. Ms. Chambers asked the board to keep it on their radar because they must manage the requirements as they are under law, not according to what they would like to see changed. The chair indicated she wanted the board to review these and perhaps other changes at their next meeting.

Legislation Discussion

The board discussed HB 175, the bill Representative Allard introduced at their request. Ms. Pugh said she had spoken with Rep. Allard, who was working with House Labor and Commerce Committee to hear it in the coming couple of weeks. Chair Belisle asked how Executive Order 130 and HB 175 work together. Ms. Chambers stated that HB 175 could continue to move forward even if EO 130 became effective. The sponsor would likely need to revise the language to reflect the change from a board to the department, but the remaining aspects of the bill could be passed. Ms. Pugh said she hoped supporters would write letters to the committee itself, as well as its members. Chair Belisle said that MAA had stated its support for HB 175.

Chair Belisle said the public was having trouble locating the phone number to call in for public testimony. Ms. Chambers said she was unaware since the legislature maintains their own web site. She said they could try the LIO chat feature in the bottom right of the screen and that she would resend the annual legislative call-in guidance to board members.

The chair moved to discussion of the Executive Order 130. Ms. Chambers said she had requested and placed in the board packet the letters from Department of Health and Division of Insurance stating that Medicaid and insurance qualifications would not be affected by the executive orders. These letters had also been sent to the committees hearing the executive orders. She clarified that coverage was based on certification or licensure, not whether a board or the department issues that credential. She said that handbooks are created according to law, not the other way around. She said that while there may be other concerns about the executive order, the department asked for these letters to allay unrelated fears midwives were expressing in hearings and in the news.

Ms. Pugh said she spoke with the midwife who championed initial creation of the board and said that the primary reason for certification was to become Medicaid eligible. Ms. St. George said a board is important to champion those types of topics. Ms. Pugh said that prior to that legislation, midwives were unlicensed and could not bill Medicaid or insurance or use medication. Ms. Chambers encouraged the board to be clear when using the term “board” when they actually mean the licensing program. Ms. Pugh said that there is currently nothing in state law allowing midwives to bill insurance.

Ms. St. George said there were many concerns expressed by midwives and clients because the executive orders came out of nowhere, making it very difficult to process real and potential changes. She said a board is important to advocate for legislative change for the industry. Ms. Chambers said she understood there were many questions and concerns, and her goal in the meeting was to help the board understand these processes and get the information they needed to make decisions.

Chair Belisle said that the reason for the executive order was fiscal and wondered what to expect. Ms. Chambers said the reason stated in the executive order was to improve efficiency, not necessarily to improve the financial state of the program. She said that the program is going to be expensive regardless of the governance structure because there are only approximately 50 licensees—the economy of scale is meaningful. Ms. Chambers said that the board was aware that multiple conflicts of interest on the board have created additional legal expenses. Chair Belisle said the reasons for the excessive cost was due to a delay by the department at the beginning of the licensing process. Ms. Chambers said that a delay due to staff turnover was unrelated to the problems created by the board.

Chair Belisle said there is currently an autoresponder stating there may be delays due to multiple vacancies on staff. Ms. Chambers said that was a standard message that was added during COVID, when all workplaces faced multiple vacancies and an immense increase in workload. Those issues have subsided with the division's restructure, which started in 2022 with reclassification of supervisors, additional positions added by the legislature, and is in its final phases under the current director. She explained that these changes will not dramatically affect this program because it has such a low number of license applications. She said she would mention to the director to change the autoresponder.

Ms. St. George asked how the division would solicit input from midwives on matters the board currently advises. Ms. Chambers said she was already talking to the commissioner about options for a new structure to proactively and voluntarily offer input on regulations and seek appropriate confidential application and investigation matters. The benefits would be elimination of some of the barriers of conflicts of interest and coordinating meetings. Ms. St. George said the delays are important to make sure regulations are done well.

Chair Belisle asked what happens between March-July if the executive order goes into effect. How will the new structures for input be determined? Ms. Chambers said she would work with the board to ensure the board had the opportunity to offer their ideas about those options, as well as continue any regulations they may have in progress. The board's authority wouldn't change until July 1.

Ms. St. George asked why this board was "lumped in" with two other boards. Ms. Chambers explained that they are individual executive orders but that committees have decided to hear them together. Ms. Chambers said the department was not part of the process determining which boards to eliminate; that was a decision made by the governor's office.

Ms. Pugh asked what would happen with HB 175 if it doesn't pass this year and the executive order goes into effect. She asked who would put the bill together if there is no board. Ms. Chambers explained that legislators craft their own legislation, hear from industry groups like MAA, concerned citizens, etc. Industry associations are usually the drivers behind legislative change for the profession, not licensing boards. Everyone still has access to the legislature. Ms. Pugh said that she is being told that legislators are not interested in hearing their bill because they don't have a lobbyist. Chair Belisle said if that happened, MAA might need to hire a lobbyist since boards can't hire lobbyists. Ms. Pugh said they might be fighting a department that didn't want the legislation. Ms. Chambers said the division director is always at the table to address pros/cons of any legislation affecting AS 08. Ms. Pugh said that it only took one letter from a physician to defeat the legislative auditor's proposed extension of the board last year. Ms. Chambers said that occurred pre-executive order and could happen post-executive order: The process of affecting legislation doesn't change.

Ms. Chambers reiterated that if the board or industry had any questions to let her know. Although she is the person testifying about the bill, her job includes providing assistance to the board. She wants to ensure accurate information is provided and that midwives are not worrying about problems unrelated to the executive order.

The board took a short break at 11:55 a.m. Upon return, a quorum was established.

Legislative Audit

The chair noted that the board was currently being audited and that she expected it to take a couple of months. Ms. Chambers thanked the auditors for being present at the meeting and reminded the board that the contents of the audit are confidential until released by the Legislative Budget and Audit Committee, usually late in the year. She said that if the board needed to discuss the audit prior to release, it could do so in executive session.

Review of FY24 Q2 Fiscal Report

Ms. Chambers reviewed the fiscal report that is effective through December 31, 2023. The report reflected a small amount of revenue for the fiscal year so far since the program is not in a renewal cycle. She advised reviewing previous comparable fiscal years on the report to gauge whether revenues are typical. She reviewed

the various expenses of the program and reminded the board that they are not currently being charged for licensing staff and board support since she and Deputy Director Saviers are not directly charging the program for their time. It is likely those costs will go up if the program moves to a junior staff member who maintains positive timekeeping. She showed the board the legal, investigative, and Office of Administrative Hearings expenses incurred for regulations, general advice, and various cases. She explained that indirect expenses are an estimate based on FY23 and are true-up and reviewed in the fall. The program has a surplus, and she expressed appreciation to the industry for being willing to overcome their historical deficit. She said the surplus would be diminished during the non-renewal year.

Ms. Pugh asked what would happen to the surplus if the board went away. Ms. Chambers said all licensing surpluses and deficits stay with the licensing program; expenses, revenues, and fees would be calculated the same way they are now.

Ms. St. George asked if the program would be audited if there is no board. Ms. Chambers said that boards are required to be audited, but the department is not. The legislature can decide to audit a department anytime, if they wish. The senior auditor, who was present, concurred.

Administrative Business

Ms. Chambers encouraged the board to consider whether it wants to elect officers since it hasn't been discussed. With two board member terms ending in March, it is a good time to consider changes. Chair Belisle said she believed she would be reconfirmed and was willing to let someone else serve as chair. Ms. Pugh said she requested reappointment and was willing to serve as chair. The board agreed to take up the topic at the next meeting, pending the executive order and confirmation hearings.

The chair asked for input on the next board meeting. Ms. Chambers reinforced the existing travel policy in the board training materials and said she would let the director know that HB 175 was expected to be scheduled soon. All board members said they were unavailable to travel in March. The board discussed options and selected 10:00 a.m. on April 10 as their next meeting. Ms. Chambers said the board could meet in the meantime over Zoom with ample public notice if they needed to discuss any pending issues.

Chair Belisle reminded members to encourage supporters to send letters to legislative committees, not just individuals.

Ms. Pugh moved to adjourn at approximately 12:15 p.m. Ms. St. George seconded. Approved unanimously.